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Senate

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Today, on Abraham Lincoln's birthday, we remember some of the most powerful things he said about prayer. ''I have been driven many times to my knees,'' he said, ''by the overwhelming conviction that I had nowhere to go but to prayer. My own wisdom and that of all about me seemed insufficient for the day.'' When asked whether the Lord was on his side, he responded, ''I am not at all concerned about that, for I know that the Lord is always on the side of the right. But it is my constant anxiety and prayer that I—and this nation—should be on the Lord's side.''

Let us pray. Holy, righteous God, so often we sense that same longing to be in profound communion with You because we need vision, wisdom, and courage no one else can provide. We long for our prayers to be an affirmation that we want to be on Your side rather than an appeal for You to join our cause. Forgive us when we act like we have a corner on truth and our prayers reach no further than the ceiling. In humility, we spread our concerns before You and ask for Your marching orders and the courage to follow the cadence of Your drumbeat. Through Him who taught us to pray, ''Your will be done on Earth as it is in heaven.'' Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator NICKLES, is recognized.

Mr. NICKLES. Mr. President, the Senate pro tempore, thank you very much.

THANKING THE CHAPLAIN

Mr. NICKLES. Mr. President, I want to thank our Chaplain again for a beautiful opening prayer and excellent way to start a day which I believe is going to be a beautiful day.

SCHEDULE

Mr. NICKLES. Mr. President, this morning the Senate will be in a lengthy period of morning business through the hour of 2 p.m. for a number of Senators to speak. Following morning business, the Senate may proceed to any legislative or executive business cleared for action. Therefore, votes are possible during today's session of the Senate. As always, announcement will be made as soon as any rollcall votes are scheduled. As previously stated by the majority leader, there will be no rollcall votes during Friday's session of the Senate. I thank all Senators for their attention.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. SANTORUM). Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 2 p.m. with Senators permitted to speak for not to exceed 10 minutes each.

Under the previous order, the Senator from Oklahoma is recognized to speak for up to 20 minutes.

The Senator from Oklahoma.

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

HEALTH CARE QUALITY

Mr. NICKLES. Mr. President, I want to make some statements dealing with health care. There has been a lot of discussion on health care and improving the quality of health care. Some of our colleagues have introduced legislation dealing with the quality of health care. I think that is important. But I think it is also very important that we actually improve quality, not improve the number of regulations.

Today, Mr. President, Americans enjoy the highest quality of health care in the world.

In 1993, President Clinton proposed a plan that would have devastated health care quality. It would have limited the amount of health care that Americans could receive by limiting the amount of money, whether private or public, that could be spent on health care services. It would require that everyone have the same one-size-fits-all package of health insurance benefits. And it would have enrolled everyone in managed care plans.

Had President Clinton had his way, Americans would now be trapped in a health care system with the efficiency of the post office and the compassion of the IRS at Pentagon prices. The Republicans led the fight against President Clinton's health care plan because we believe Americans deserve the best. We believed it then and we believe it today.

Now President Clinton wants to lead an assault on private managed care plans. The man who wanted to put everyone in an HMO now wants the Government to wage war on HMOs. That is a pretty dramatic change. But one thing has not changed: President Clinton still wants Government-run health care. As he said to the Service Employees International Union less than 5 months ago regarding his rejected universal health care program:

> If what I tried before won't work, maybe we can do it another way. That's what we've tried to do, a step at a time, until we eventually finish this.

President Clinton is now attempting to impose on you his newest attempt at Government-run health care and masking his efforts with the name ''quality.''

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

Mr. President, Republicans want only the highest quality health care. But I have not seen anything to convince me that bigger Government, more regulations, and expanded bureaucratic control is the means to higher quality.

Look at just one example of Government-controlled health care: The Medicare system. I am a member of the Finance Committee, the tax-writing committee of the Senate. We have been looking at the IRS and its treatment of taxpayers. There are 12,000 pages that deal with tax policy. I might mention, that is about 10 times the size of the Bible and, unlike the Bible, has no good news.

Well, there are 12,000 pages dealing with tax policies. That is a lot. But, Mr. President, do you know how many pages govern Medicare? Forty-five thousand, about four times as much as we have on tax policy. That comes from Dr. Robert Waller, the Mayo Clinic, Health Care Leadership Council. Forty-five thousand pages, yet the system is archaic, inefficient, and on the path of bankruptcy despite astronomical tax increases.

We know many people have believed they were denied coverage that their plans were supposed to cover. We recognize that some individuals fear that their health care plans will not give them access to specialists when they need them. We know that some Americans think their health care plans care more about cost than they do about quality. These are real fears of unacceptable conditions. We must do better. I think we can do better.

But the way to do better is not by politicizing health care quality or entrusting Government bureaucrats with policing health insurers. The way to do better is to emphasize what makes our system the best in the world—employers who insist their employees have access to the best plans, doctors and hospitals who aspire to excellence, and informed consumers who will not settle for anything less than the best. Quality health care cannot be managed and directed from Washington, DC.

Unfortunately, Mr. President, in the rush to respond to both real and perceived problems in managed care, members of both parties have introduced comprehensive proposals which potentially threaten—not enhance—the quality of health in our health care system.

Some of my colleagues may ask how I can make such a statement. You only have to look back to the end of the 104th Congress to illustrate my point. A majority of Congress supported an effort last year to mandate that all insurance plans cover 48-hour maternity stays in hospitals. Many of my colleagues on both sides of the aisle felt that it was socially unacceptable to discharge newborns and mothers from the hospital after only 24 hours and crafted legislation largely around social opinion.

Many Members felt great about voting for something positive for women and children. However, several months following the passage of that legislation an article appeared in the Journal of the American Medical Association. And here is what the clinical researchers and physicians had to say about what Congress accomplished.

> While the spirit of the current legislation may be laudable, its content does not solve the most important problems regarding the need for early postpartum/postnatal services.
>
> The legislation may give the public a false sense of security. It may call into question the reasonableness of relying on legislative mechanisms to micromanage clinical practice.
>
> Good clinical judgment, based on careful consideration of available evidence, suggests that the difference between a postpartum stay of 24 hours and a stay of 48 hours is unlikely to be a critical determinant of newborn or maternal health outcomes.

In other words, Congress made a nice, laudable attempt. We said we are going to mandate 48 hours, but it has had no appreciable improvement on the quality of health care.

It appears that our so-called victory in passing 48 hours may have in fact done more harm than good in helping women and newborns. This experience, and others like it, should have taught us what not to do. So what should our guiding principles be? I believe that there are three.

Whatever the proper role for Government in the health care debate, we must assure that it does not increase health insurance premiums, reduce the number of people who have health insurance coverage, or create massive new bureaucracies that will harm health care quality.

Why are these things important? Well, let us take a look at cost. We have a bill pending in Congress—the Patients Access to Responsible Care Act—and that is a pretty nice title. It is one of many that attempts to address health care by expanding Government control. But a recent study concluded that provisions in that bill alone would raise premiums by an average of 23 percent. That was done last year, 1997, by Milliman and Roberts.

Let us take a look at what that means. To the average family, that is an increase of about $1,220 per year. That is over $100 per month. That is real money. And I think a lot of families cannot afford that.

Cost is a very real issue. We do not want health care costs and prices to rise. We already know from the Congressional Budget Office that without any additional regulations at all, the growth in private health care premiums will be about 5.5 percent in 1998. That is up from 3.8 percent in 1997. So why in the world would we want to do anything that would accelerate the increase? I do not think we should.

No. 2, we do not want to do anything that will drive people from health insurance.

For a long time we have heard people beat up employers for not offering health care to their employees. But what are the facts? Well, someone looked into it and now we know that more employers than ever are offering health insurance. The problem is that employees are choosing not to take advantage of it because of cost. That came out from a study in 1997 by Cooper and Schone.

A separate study concludes that every 1 percent increase in private health insurance premiums results in 400,000 additional uninsured Americans. That was from a 1997 Lewin study. So, 400,000 additional uninsured Americans every time health insurance premiums increase 1 percent in real terms.

Now, wait a minute. If the PARCA bill—the Patient Access to Responsible Care Act—is estimated to increase costs by 23 percent, and every one of those percentage points equals 400,000 additional uninsured Americans, my calculations work that out to over 9 million Americans would lose their health insurance.

Mr. President, we do not want to do that. That may not be sound science, but the potential for such an outcome would be a disaster. It is too big of a gamble, in my opinion. Higher prices and more uninsured Americans does not sound like better health care quality to me. So let us not do that.

Thirdly, and finally, we want to make sure that the very best entity is monitoring the health care industry. And what are the options?

Many in Congress seem to think the answer is Government, so let us talk about Government overseeing health care. I can think of a few examples of the government's bad track record. We have the Indian health care in New Mexico and Oklahoma. There is an Indian hospital in Oklahoma right now that provides, I am going to say, pathetic service. And it happens to be bankrupt. We have had this problem, in addition to Medicaid and veterans hospitals and on and on and on. I mention that Government facilities, 100 percent Government-run facilities, are not the solution. It is probably some of the poorest quality of health care, not the best quality of health care. We want to improve quality, not reduce quality.

Some of the Nation's leading health care facilities today are expressing their concerns about Government oversight. I am thinking of the Mayo Clinic, Baylor Health Care System, and the Cleveland Clinic. They are all raising their voices in opposition to more Federal regulation of health care quality. I would like to share with my colleagues a few of their comments. I will ask unanimous consent that their letters be printed in the RECORD following my statement.

Baylor Health Care System—I will just read a couple of the paragraphs. It says:

> There has been an enormous commitment on the part of Baylor Health Care System and providers throughout the country to evaluate and put in place the processes for continuous quality improvement. We believe it must be done at this level. Providers of care are in the unique position, based on their personal commitment to the well-being

of the individual patient, to drive quality improvement initiatives. Nothing could stifle innovation quicker than external mandatory standards.

* * * * *

We strongly believe that the private sector is heavily committed and working very diligently on continuous quality improvement and that this will bring about the best outcome for the patients and communities we serve.

The Cleveland Clinic—one paragraph says:

Second, we are already subject to extensive federal, state and private regulations through oversight by private payors and accrediting bodies. Adding yet another layer of regulation will only further complicate matters, add administrative costs to our organization, and in all likelihood have little or no effect on the actual quality of care provided.

Dr. Bob Waller of the Mayo Clinic has stated:

Quality is a continuous process that must be woven into the fabric of how we think, act and feel. Government regulation places a stake in the ground that freezes in place a quality standard that may become obsolete very quickly. The Government simply cannot react quickly to the changing quality environment. The goal of quality is to continuously improve patient care—not to achieve some defined regulatory standard.

On January 28, several organizations—including the Joint Commission on Accreditation of Health Care Organizations, the National Committee for Quality Insurance and the American Medical Association—sent a letter to the President and Republican leadership stating their concern and opposition to the Federal Government preempting the private sector and creating new Federal agencies and entities. Specifically, they said quality would:

* * * become hamstrung by political considerations, with the practical effect of retarding innovation and advance in the field of accreditation and performance measurement. In our experience, the private sector is more capable of keeping pace with the rapid changes in health care delivery and medical practice that affect quality of care considerations. Therefore, we cannot support proposals that might have the unintended effect of undermining marketplace incentives for rigorous accreditation programs and robust performance measures.

Mr. President, I don't think the Government is the best caretaker of health care quality. I'm much more inclined to trust the independent organizations like the Joint Commission on Accreditation of Health Care Organizations and the National Committee for Quality Insurance. Because the Government alternatively leaves oversight to the folks at the Department of Labor and the Health Care Finance Administration—who, I might mention, took 10 years to implement a 1987 law establishing new nursing home standards; who have not bothered to change the fire safety standards for hospitals since 1985; and—in a most egregious instance—who are running end-stage renal disease facilities under Medicare using 1976 health and safety standards.

I think the answer is plain. We will not and we must not create massive new bureaucracies that will harm health care quality.

We have a real challenge ahead. We have to figure out how we can best address the very real complaints and concerns of the American people while not rushing to pass legislation that will exacerbate the problems or create new problems altogether.

To that end, our majority leader has instructed me to take a hard, honest look at issues that affect health care quality. At his instruction, I have put together a health care quality task force to examine the problems in our current system. Senators ROTH, CHAFEE, COATS, COLLINS, FRIST, SANTORUM, HAGEL and myself will be working together to find real answers to hard questions.

I know some of my colleagues have introduced legislation and they have very good intentions. We want to work with those colleagues, but again we want to make sure that we don't pass legislation that increases health care costs, we want to make sure we don't pass legislation that will put millions of people into the uninsured category for the first time. That would be a real mistake, and we don't want to pass legislation that will increase bureaucracy and reduce quality health care.

Mr. President, we have a big challenge: We will ask what the real-life impact of proposals like PARCA and President Clinton's Consumer Bill of Rights has on cost and on coverage. What will it mean to quality? We will ask whether Americans, given the choice, would rather have cutting edge institutions like Johns Hopkins setting trends in health care quality or the folks at the Department of Labor, or the Health Care Finance Administration. We will ask whom Americans should trust to monitor health care quality. Should the Federal Government do it or independent organizations who have been studying the issue and setting the pace for many years?

It is incumbent upon us as elected leaders to address these questions fairly, honestly, openly, and with an eye toward what is best for the health of a nation and not what is politically expedient.

Our objective at the very minimum is to do this: Ensure that Congress in its haste to do good does not cause an increase in the cost of health insurance, that we do not pass legislation that will unintentionally force individuals to give up their coverage, and we want to protect consumer quality by ensuring that the best possible caretakers are monitoring the quality of your health care, and not bureaucrats at the Department of Labor or at HCFA.

Mr. President, I want to make something very clear. This Republican Congress will not hijack the quality of our Nation's health care for political gain. We will, however, thoroughly and thoughtfully debate this issue and ensure that Americans continue to enjoy the highest quality health care in the world.

I ask unanimous consent the letters previously mentioned be printed in the RECORD, in addition to a letter that is signed by the American Medical Accreditation Program, the Joint Commission on Accreditation of Health Care Organizations, and the National Committee for Quality Insurance.

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

AMERICAN MEDICAL ACCREDITATION PROGRAM,

January 28, 1998.

Hon. DON NICKLES,
Senate Majority Whip and Assistant Majority Leader,
Washington, DC.

DEAR MAJORITY WHIP NICKLES: As the nation's leading independent health care accrediting organizations, we are writing to recommend an alternative approach to certain quality oversight provisions contained both in proposals now before Congress and in the preliminary recommendations of the Presidential Advisory Commission on Consumer Protection and Quality in the Health Care Industry.

First, we would like to commend both this Congress and the Commission for taking up the issue of health care quality and consumer protections. Our health care system continues to undergo dramatic change, and there is a pressing need to answer the public's concerns with better information, improved oversight, and increased choice. Critical to these efforts will be enhanced consumer protections, and all three of our organizations stand ready to work with this Congress and the Administration to see that this happens.

Separate from the issue of consumer rights and protections, however, is the attempt by some to preempt private sector accreditation and performance measurement activities with proposals that favor the creation of new federal agencies and entities. Because these proposed federal agencies and entities would be charged with establishing minimum criteria for accreditation and core sets of performance measures, we have a keen interest in their potential outputs. Our basic concern is that this output will become hamstrung by political considerations, with the practical effect of retarding innovation and advances in the field of accreditation and performance measurement. In our experience, the private sector is more capable of keeping pace with the rapid changes in health care delivery and medical practice that affect quality of care considerations. Therefore, we cannot support proposals that might have the unintended effect of undermining marketplace incentives for rigorous accreditation programs and robust performance measures. We believe that the work of accreditors should be highlighted and encouraged.

As an alternative to these new federal bureaucracies, we are intent on together developing a comprehensive quality measurement and reporting strategy that engages consumers and private and public sector purchases; minimizes duplication; and maximizes the incentives for organizations and individuals to undergo accreditation and report standardized performance information. Our organizations have recently engaged in some noteworthy collaborative efforts such as the National Patient Safety Foundation; the Joint NCQA–JCAHO Work Session on Protecting Patient Confidentiality in a Managed Care Environment; cross-representation on the AMAP governing body; and coordination among our respective performance measurement councils. We intend to build on these ventures and ones already ongoing with others to keep excellence in patient care our number one priority.

We believe the federal government should reward high quality health plans and providers. As the largest purchaser of health care services, the federal government must take a leadership role in value-based purchasing. The federal government is already benefiting from closer coordination with private sector accreditation bodies, and the Balanced Budget Act of 1997 contains provisions for even greater collaboration. However, in addition to using those private sector accreditation and performance measurement tools developed by organizations such as ours, the federal government must progressively adopt the posture of leading private-sector purchasers and insist on high quality care for the 67 million Medicare and Medicaid beneficiaries and the 9 million federal employees, retirees, and their dependents.

We appreciate your consideration, and stand ready to work with this Congress and the Commission to build upon the successes of private sector accreditation without interfering in the operation of a marketplace that has produced programs as rigorous as ours. Please do not hesitate to contact any of our offices.

Sincerely,

DENNIS S. O'LEARY, MD,
President, Joint Commission on the Accreditation of Healthcare Organizations.
MARGARET E. O'KANE,
President, National Committee for Quality Assurance.
RANDOLPH D. SMOAK, JR., MD,
Chair, American Medical Accreditation Program.

BAYLOR HEALTH CARE SYSTEM,
Dallas, TX, February 11, 1998.

Hon. DON NICKLES,
Assistant Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR NICKLES: First, let me thank you very much for your leadership and for your commitment to health related issues, specifically the matter of quality health care.

There has been an enormous commitment on the part of Baylor Health Care System and providers throughout the country to evaluate and put in place processes for continuous quality improvement. We believe it must be done at this level. Providers of care are in the unique position, based on their personal commitment to the well being of the individual patient, to drive quality improvement initiatives. Nothing could stifle innovation quicker than external mandatory standards.

Quality improvement is the key strategic objective for Baylor Health Care System. An example is the creation of our Institute for Quality which is driven by the board of trustees, physicians and senior management and extends throughout our organization. On a community level, we are involved with the Dallas-Ft. Worth Business Group on Health in building quality initiatives.

We strongly believe that the private sector is heavily committed and working very diligently on continuous quality improvement and that this will bring about the best outcome for the patients and communities we serve.

Again, we appreciate your support and look forward to working with you on this important issue.

Sincerely yours,

BOONE POWELL, JR.,
President.

CLEVELAND CLINIC FOUNDATION,
Cleveland, OH, February 11, 1998.

Hon. DON NICKLES,
U.S. Senate, Washington, DC.

DEAR SENATOR NICKLES: The Cleveland Clinic Foundation, a not-for-profit health care organization devoted to patient care, education and research in care for the ill, has serious reservations about many of the bills now pending in Congress to regulate quality in health care delivery. Our reservations are twofold.

First, quality is an elusive matter to quantify. Individual's versions of quality may vary considerably from their perspective of the health care system. A physician's emphasis, for example, is on the content of the care provided; a patient may judge quality more by the process of care delivered. In both instances, the standards are in flux as both the quality and process are constantly changing in response to new learning and new ways of better relating to patients and their families.

Second, we are already subject to extensive federal, state and private regulations through oversight by private payors and accrediting bodies. Adding yet another layer of regulation will only further complicate matters, add administrative costs to our organization, and in all likelihood have little or no effect on the actual quality of care provided.

We would urge that Congress proceed cautiously as it begins its debate about whether federal authority should be expanded in this important but necessary complex area of patient care.

Sincerely,

FLOYD D. LOOP, M.D.

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico is recognized to speak up to 45 minutes.

Mr. DOMENICI. Mr. President, I may not use that 45 minutes. I expect five or six Senators to join me and they have given me their statements. If they do not come I will place their statements in the RECORD.

(The remarks of Mr. DOMENICI, Mr. CLELAND, Mr. DODD, Mr. COCHRAN, Ms. MIKULSKI, AND Mr. KEMPTHORNE pertaining to the introduction of S. Res. 176 are located in today's RECORD under ''Submission on Concurrent and Senate Resolutions.'')

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has one hour.

Mr. BYRD. Mr. President, I ask unanimous consent that any time that I do not use of my hour be reserved for later in the day.

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

THE INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT

Mr. BYRD. Mr. President, I rise to commend the members of the Committee on Environment and Public Works, and especially the distinguished chairman of the committee, my lovable colleague from Rhode Island, Senator JOHN CHAFEE, that old crusty New Englander, whom I greatly admire, for including some very important provisions in S. 1173, the Intermodal Surface Transportation Efficiency Act of 1997, or ISTEA II. In my statement today, I will focus on the important provisions in the committee-reported bill that will expedite the delivery of desperately needed transportation projects to the American people—that is, if we ever get the opportunity to debate and amend and adopt this important bill.

I think most members would agree that addressing environmental issues in this body in a strong bipartisan way is—to say the least—difficult. Yet, Senator CHAFEE has managed to accomplish what few Senators have been able to do—craft legislation that enjoys strong support from Senators on both sides of the aisle that would help put order and efficiency in the way transportation projects are reviewed by both state and federal agencies, and as a result, reduce the time it takes to plan a project by as much as three years.

The ISTEA bill as reported by the Environment and Public Works Committee, recognizes that every day counts when planning and constructing a highway or bridge in this country are undertaken. The problem that was addressed in S. 1173 is a serious one. It now takes ten years to plan, design, and construct a typical transportation project in this country. I am sure that if Senators contacted their own state transportation departments, they would be disturbed to find the number of transportation projects that are being delayed due to overlapping and often redundant regulatory reviews and processes. These delays increase costs and postpone needed safety improvements that would save lives. One of the lives it saves may be yours. Think about it. I can tell my colleagues that, in my state of West Virginia, these numerous regulatory reviews have delayed critical improvements to the two most dangerous segments of roadway in the state.

Why does it take so long to plan a project? These delays are occurring because the development of a transportation project involves multiple federal and state agencies evaluating the impacts of the project and possible alternatives, as required by the National Environmental Policy Act (NEPA). While it would seem that the NEPA process would establish a uniform set of regulations and procedures for the submission of documents nationwide, this has not been the case.

For example, the Environmental Protection Agency, U.S. Corps of Engineers, U.S. Coast Guard, U.S. Fish and Wildlife Service, and their companion state agencies each require a separate review and approval process, forcing separate reviews guided by separate regulations and requiring planners to answer separate requests for information. Moreover, each of these agencies issues approvals according to separate schedules. The result: the time period

from project beginning to completion has grown to at least 10 years in many instances, and that assumes that the project is not controversial and that adequate funding is available. If either of these assumptions is not the case, the time period may be even longer.

The highway bill reported by the Environment & Public Works Committee effectively improves the project planning process by establishing a coordinated environmental review procedure within the U.S. Department of Transportation. This change would allow all reviews, all analyses, and all permits to be performed concurrently and cooperatively within a mutually-agreed-upon schedule, by both the federal and state agencies with jurisdiction over the project. Effective environmental coordination, as envisioned under the ISTEA bill, would result in less staff time and less expense for all the agencies and stakeholders in the NEPA process and reduce the time it now takes in reaching a final decision with respect to receiving project approvals and permits.

The committee studied a problem, the committee sought a solution, and the committee put that solution in their bill. I understand that further improvements to those provisions may be offered on the Senate floor, if and when we finally take up and debate S. 1173, the 6-year highway authorization bill. But here is the problem: we are not considering S. 1173. We are not considering the 6-year highway authorization bill. When will the bill be brought up? How long, Mr. President, must we wait? Every day counts when planning and constructing a transportation project. But soon, there will be no more days to count because the program—the short-term, 6-month highway authorization measure—will have expired and the funds will have dried up. Counting today—counting today—there are only 42 session days remaining through May 1.

So, we count today, and we count the day of May 1. And counting these 2 days, there are only 42 session days remaining. The time bomb is ticking. You can hear it tick. And with every tick a minute, an hour, a day will be gone. The time bomb is ticking—tick, tick, tick, tick. No projects will be delivered under any review process after May 1, because that is the drop-dead date in the short-term extension legislation presently in place, beyond which no State may obligate any Federal dollars.

Let's pause to read the language that is in the law—the law which Congress passed last November and which was signed by President Clinton on December 1 of last year. Read the language in the law. Read the language, I say to the Governors and the mayors and the highway agencies and to Senate and House Members. Read it. Here it is. I now read from Public Law 105–130: The Surface Transportation Extension Act of 1997. Here it is. Read it. Hear me as it is:

'' . . . a State shall not—

It doesn't say ''may not.''

'' . . . a State shall not obligate any funds for any Federal-aid highway program project after May 1, 1998 . . . .''

Let me read it again. This is the language in the law which the Senate and House passed and which the President signed. Here is the language:

'' . . . a State shall not obligate any funds for any Federal-aid highway program project after May 1, 1998 . . . .''

As I say, counting today, and May 1, also, we have only 42 days in which the Senate will be in session, not counting Sundays, not counting Saturdays, not counting holidays. We have 42 session days. The time bomb is ticking.

The clock is ticking. The days are counting down now before this deadline. If an ISTEA reauthorization bill is not enacted by midnight on May 1, highway program obligations will cease and projects will not move forward.

Any delay in the planning and construction phases of a project may cause the price of the project to rise considerably. In addition, a delay in federal funding can cause a logjam of projects to be let for bidding, resulting in a ''crowding'' of a large number of proposed projects into the latter part of a construction season.

The construction seasons are soon going to be upon us, when

The lark's on the wing;
The snail's on the thorn;
God's in his heaven—
All's right with the world.

Spring will be here. But will a 6-year highway authorization bill have been passed?

This increased workload may strain the capacity of the construction industry and subsequently increase the cost of projects.

Stopping the Federal-aid highway program, even for a brief period, will also impact project delivery schedules in the long run. If preliminary engineering and design work is not allowed to proceed, then construction will not occur and, in fact, will be deferred into a second construction season, thus crowding out and delaying projects that were planned for the second year. Such a delay would have a ripple effect—a ripple effect—from which it may take years for states to fully recover. Remember, we are talking about critical transportation projects designed to improve highway safety, reduce traffic congestion, and clean our air.

We hear much about global warming—much about global warming. This is the place to start. Pass a highway bill. Cut down on the traffic congestion, the traffic jams, and the long lines of cars. Cut down on the pollution that is filling the air while those cars sit and idle and the time bomb ticks away.

The programmatic reforms in the committee-reported bill that I have discussed here are very important. They will save time, they will save money, and they will save lives. Yet, because we have not begun consideration of the bill in this session, not one of these gains has become a reality. The single most important factor that will determine the timeliness of project delivery in 1998 will be the timely reauthorization of ISTEA —the 6-year highway reauthorization bill.

So the time bomb is out there. It is in that language that I read a moment ago from the law. The American people cannot afford to wait even 1 day past May 1 for the United States Congress to reauthorize ISTEA. The U.S. Senate has the time now to consider ISTEA, and that is what we should do.

How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 43 minutes remaining.

Mr. BYRD. I thank the Chair.

Let me close for now with a passage from the Book of Isaiah, 58th chapter and the 12th verse. And I read only from the King James version of the Bible. In all probability, that is the version that our forefathers brought over on the *Mayflower*—the King James version. Read these other versions, and they will say, ''In my father's House are many dwelling places.'' But the King James version says ''In my father's House are many mansions.'' Ah, how much more beautiful is that elegant language!

I read now from the King James version of the Bible, 58th chapter and the 12th verse.

And they that shall be of thee shall build the old waste places:
thou shalt raise up the foundations of many generations;
and thou shalt be called, The repairer of the breach,
The restorer of paths to dwell in.

Mr. President, I urge the majority leader to be the ''Repairer of the Breach'' by calling up ISTEA now, so that we may be one step closer towards enacting the provisions called for in S. 1173 that would help accelerate the delivery of vitally-important transportation projects to the American people.

Let me say again as I have said here before, I have been majority leader. I was majority leader during the years 1977, 1978, 1979, and 1980, and I was again the majority leader during the 100th Congress in 1987–1988. I know the pressures that are on any majority leader. I have felt them. I have walked in those same footprints that other majority leaders have tread on the sands of time. I know that it is very difficult, and many times impossible, to adhere to the wishes, to the pleas of those who implore, those who beseech, those who importune the majority leader to do this, to do that, to do something else. The majority leader cannot please everybody.

This is not a partisan bill. This is a nonpartisan bill. There is no partisanship in this bill. There is no partisanship in the amendment that I have offered with Senator Gramm, Senator Baucus, and Senator Warner as the

chief cosponsors. There are 54 Members of the Senate who are cosponsoring the Byrd-Gramm-Baucus-Warner amendment, and they are from both sides of the aisle. They are Republicans and Democrats, about evenly divided, I would say, among those names that are on that amendment.

There is no partisanship here. There is no partisanship in my urging the majority leader to call up ISTEA—no partisanship. I know he is under great pressure from some of the Senators on the Budget Committee, including, I am sure, the distinguished chairman, Mr. DOMENICI, a man who has one of the finest brains in this Senate. He does not want the ISTEA bill brought up, he and Mr. CHAFEE. Mr. CHAFEE has said so. So I am not saying anything behind their backs that I would not say anywhere. They prefer to wait until the budget resolution is called up.

Mr. President, the country needs a 6-year highway authorization bill, and the time is ticking. Failure to call it up will only undermine the very necessary progress that this bill is designed to make.

I believe that if the majority leader were left to his own pursuits—he has not told me this—he would call this bill up. But my good friend, Senator DOMENICI, is a very powerful Senator. He was here a moment ago. He will be back later today. And I am not saying anything to make him feel that I am taking any advantage of him. But if he would just leave it to the majority leader, I think we would get this bill up. That is my own opinion.

Mr. President, failure to take up the bill, as I say, will undermine the very necessary progress that that bill is trying to make, and it deprives me and other Senators from calling up amendments to that bill. Our transportation system, our people's safety, and the country's economy all await action by the Congress on the 6-year highway authorization bill. What are we waiting for? How long, Mr. President, how long will we have to wait? How long?

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 35 minutes remaining.

Mr. BYRD. How many minutes?

The PRESIDING OFFICER. Thirty-five minutes.

Mr. BYRD. I thank the Chair. I reserve that time until later in the day.

The PRESIDING OFFICER. The Senator has that right.

Mr. BYRD. I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAMS. 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. GRAMS. Mr. President, I also ask unanimous consent to be allowed to speak for up to 10 minutes.

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

Mr. GRAMS. I thank the Chair.

THE LINCOLN LEGACY

Mr. GRAMS. Mr. President, I rise today, on the 189th anniversary of his birth, to pay tribute to an American of commonsense ways and uncommon character.

Let me read to you from the autobiography of Abraham Lincoln, which he penned in December of 1859.

> I was born February 12, 1809, in Hardin County, Kentucky. My parents were both born in Virginia, of undistinguished families. . .
>
> There was absolutely nothing to excite ambition for education. Of course, when I came of age I did not know much. Still somehow, I could read, write, and cipher to the Rule of Three; but that was all. I have not been to school since.
>
> The little advance I now have upon this store of education, I have picked up from time to time under the pressure of necessity.

Lincoln concluded his autobiography just four paragraphs later with these words: ''There is not much of it, for the reason, I suppose, that there is not much of me.''

That was in 1859, one year before the election that thrust Abraham Lincoln into the Presidency—before the Civil War broke out and helped crystallize all that he believed about his nation—before everything he believed about himself was tested.

Never again could Abraham Lincoln truthfully make the claim that ''there is not much of me.''

Mr. President, on the 150th anniversary of Lincoln's birth, poet and biographer Carl Sandburg traveled here to the Capitol in 1959 to address a joint session of both Houses of Congress.

The description he painted that day of the man born in Hardin County, Kentucky, was delivered in words far more eloquent than any I could offer up:

He said,

> Not often does a man arrive on earth who is both steel and velvet, who is as hard as rock and soft as drifting fog, who holds in his heart and mind the paradox of terrible storm and peace unspeakable and perfect. . .
>
> The people of many other countries take Lincoln now for their own. He belongs to them. He stands for decency, honest dealing, plain talk, and funny stories. . . Millions there are who take him as a personal treasure. He had something they would like to see spread everywhere over the world.
>
> Democracy? We cannot say exactly what it is, but he had it. In his blood and bones, he carried it. In the breath of his speeches and writings, it is there. Popular government? Republican institutions?
>
> Government where the people have the say-so, one way or another telling their elected leaders what they want? He had the idea. It is there in the lights and shadows of his personality, a mystery that can be lived but never fully spoken in words.

Mr. President, there are many American leaders I admire—for their convictions, their passion, and their pursuit of truth—but Abraham Lincoln towers above most all of them.

At a troubled moment in our nation's history, he gave a voice to the growing number of Americans who felt out of place with the politics of the time. America is a place of inclusion, they argued, not exclusion. A place of freedom, not of slavery. The United States must stay united, they said, not severed into disparate parts. Abraham Lincoln spoke for what America was meant to be when he spoke of inclusion, unity, and equality, and by the sheer force of his single-minded dedication, his voice kept the Union from splintering forever apart.

If any one man is responsible for preserving the nation during the Civil War, that man is Abraham Lincoln.

''Important principles may and must be inflexible,'' said President Lincoln in his last public address, delivered in Washington, and for that unflinching commitment, his detractors hated him.

Lincoln was unfit, they said, ''shattered, dazed, utterly foolish'' . . . ''a political coward'' . . . ''timid and arrogant.'' And those were the words of his fellow Republicans. Outside his party, they labeled him ''a mole-eyed monster with a soul of leather'' and ''the present turtle at the head of the government.''

But his simple words and powerful resolve endeared him to the people, who looked on him as ''Honest Abe,'' a straightforward and sympathetic leader. He was their president, but he was also one of them. So, it was a brutal shock to the country when he was shot to death just ten blocks from here, during an evening performance at FORD's Theater.

Mr. President, poised on the edge of the Reflecting Pool on the National Mall, overlooking Washington from its place of honor, rests a graceful tribute to our sixteenth president. Outside, the Lincoln Memorial possesses the lines of a classic Greek temple—inside, you will find the soul of an American patriot. Lincoln himself rises 19 feet toward the sky, sculpted in Georgia White marble, larger than life, his eyes forever focused forward. He cannot speak, but the walls speak for him. Etched into the stone around him are his words, and each time I visit I am struck by the visual marriage of man and message. One phrase in particular always makes me pause, a quotation from Abraham Lincoln's Second Inaugural Address, spoken just 28 days before his assassination:

> With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us strive on to finish the work we are in.

We have come so far as a nation since those words were first spoken. More than one hundred years have passed since brother last took up arms against brother, and we are no longer divided by allegiance to a Confederate or Union flag. By heritage, we are black Americans, white Americans, Italian Americans, Polish Americans, Norwegian Americans—and united under the Constitution, we are simply Americans.

Abraham Lincoln did not live to finish the work he began, but the pursuit of liberty and inclusion he inspired in a nation has endured.

More than once in the million recorded words he left behind, Abraham Lincoln considered his death and the reputation that history would accord him. In keeping with everything else we know about the man, however, he sought not a legacy, but his place in humanity. ''Die when I may, I want it said of me that I plucked a weed and planted a flower wherever I thought a flower would grow.'' Mr. President, Abraham Lincoln plucked many weeds during his too-brief life, and sowed a great garden of humanity in their place. On the anniversary of his birth, we celebrate the towering truths we have reaped from his planting.

I thank the Chair. I yield the floor.

Mr. GREGG. Mr. President, I understand we are in morning business. I seek recognition.

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

ADDRESSING IRAQ IN CONTEXT

Mr. GREGG. Mr. President, we as a nation are obviously wrestling with the issue of how to address the events presently occurring in the Middle East, specifically as they relate to Iraq. The Congress has considered taking up a resolution, which has been passed around and reviewed by many of us, but for a variety of reasons it does not appear that we are going to take such a resolution up during this week, and since we are adjourning, we will not be taking it up next week either. So I did want to make a few comments on this issue, because it is clearly the question of most significance that faces our country at this time.

I do not believe that we can address the question of how we deal with a dictator such as Saddam Hussein in isolation. We have to look at the question in the context of the other nations which surround Iraq and in the context of the history which has led us to this point. This is especially true when we deal with Iraq—or any nation in that region of the world—because the history of that region is so convoluted and involves so many crosscurrents, it being, quite literally, the crossing point of thousands of years, of generations of individuals, of numerous cultures both East and West, Bagdad specifically being the center, for literally centuries, of commerce from the east to the west and from the north to the south. As a result, it was a place where many cultures merged.

Therefore, when we as a nation, a new nation in the context of dealing with the Middle East, set ourselves down in the center of that part of the world, I think we have to be aware of the variety of forces which come to bear as a result of the historical events and prejudices and attitudes and cultures and religions that confront us there. I am not sure that we have been, really, in dealing with this issue.

For example, let's begin at the outer reaches of the question from a territorial or geographic perception. Let's look at Russia. Clearly our capacity to deal with Iraq requires our capacity to encourage support amongst other nations for our position. We have had fairly limited success in that. In fact, you might almost call this administration's approach to alliance relative to Iraq as the English-speaking approach, because, as far as I can tell, it appears to be only English-speaking countries who are supporting this administration's present policies in an open manner.

There are a few of the gulf states that have supported us, which is something we should not underestimate. But as a practical matter, I have noted with a great deal of sadness, actually, that the White House was taking great pride in the fact that yesterday it had been joined by Australia in support of its position. That's what they were heralding. We greatly appreciate Australia's support and admire them as a nation. But I think we also recognize that in the issue of the Middle East, it is not Australia that is important; it is nations such as Russia and our former Arab allies. I say former Arab allies because it appears that that is no longer the case—such as Saudi Arabia and Egypt, who are critical, and Turkey.

But in the area of Russia, for example, this administration appears to think that they can go to the Soviets—to Russia, my mistake—and demand that Russia follow our policies in Iraq and insist on their support on Iraq, but at the same time this administration proposes an expansion of NATO. You have to recognize, if you were a Russian leader, you would find a certain irony in a request that was coupled in that terminology. Because, of course, an expansion of NATO, especially to Poland, is an expression that can only be viewed in Russia with some concern and possibly viewed by some as an outright threat.

NATO expansion is represented to us here in the United States as simply: Well, let's ask these three nice nations in Eastern Europe to join us in our alliance. But, of course, NATO is a security issue. It is an alliance made for the purposes of defending nations from threat, military threat. It is not an economic group, as everybody has noted for many years. As a practical matter, the capacity to expand NATO means that you are essentially saying to these nations that they are joining, for the purposes of their own national security, against some threat. What is the threat in Eastern Europe? Of course, the threat in Eastern Europe has always been either Russia or Germany. Since Germany is a member of NATO and is not a threat, clearly an expansion of NATO is addressing the threat from Russia. Therefore, when we ask Poland especially to join us in NATO, we are saying to Poland that we are giving you security against Russia, and clearly we are implying, certainly indirectly if not directly, that Russia may be the threat.

So you can understand that Russia might view a push to expand NATO at the same time as we are asking them to support us in Iraq as being inconsistent and a bit ironic. And it reflects, unfortunately, I think, this administration's failure to understand the linkage—and linkage is the right term—between working with a nation like Russia and our capacity to do things in the Middle East and moving forward with the NATO expansion at the exact same time. Yet, if you were to listen to the leadership of this administration, they will tell you that there is no relationship, they have no overlap on those two issues. Of course that is not true, and that is one of the reasons we are having problems with Russia.

It is equally a reason that we are having problems with our former Arab allies. Just yesterday or the day before yesterday—I lose track of the calendar here when we go to Egypt—but the Arab League met in Cairo, and they endorsed the French and Russian proposal, which was essentially a restatement, to a marginal degree, of the Iraqi proposal, as a league. The Arab League endorsed that as a league. Why would they do that? Because the Arab League essentially is dominated by Egypt, which has been our ally and which certainly, in many ways, is a friend of our Nation. I am a great admirer of the Egyptian people. They have certainly worked hard as a nation to try to bring about a constructive result, or progress in the Middle East in their relationship to Israel ever since President Sadat and through the present leadership in Egypt.

You wonder why the Arab League would openly endorse the French and Russian program? Essentially, they do it because of the situation that presently exists in Israel and Palestine, the fact that the peace process is, for all intents and purposes, dead. Yet, if you were again to listen to this administration, as the Senator in the chair has pointed out in a number of conferences that we have had, this administration's attitude is that there is no relationship between the peace process in Israel and Palestine and the question of Iraq. Of course, there is. They are intimately related. In fact, if we were able to make progress or to get back on line the process of peace between Israel and Palestine, we would probably relieve dramatically the tension in that part of the world and it would inevitably lead to having support from Egypt and Saudi Arabia, the key allies, on the issue of how we address Iraq.

So the failure of this administration to understand, again, the linkage between those two issues is a failure of fundamental proportions in their capacity to address the Iraq issue.

The third area that this also reflects is the issue of Turkey. Turkey is not

discussed a great deal in our Nation and it should be discussed more because Turkey is a unique and special nation in relationship to ourselves. Throughout the cold war, Turkey was essentially the front line. It was a nation which did not really ask for much, yet gave us its alliance and its assistance. We have truly, as a nation, and this administration, as an administration, has truly treated Turkey poorly. This goes to the issue of Cyprus and it goes to the issue of Greece. Yet if you were to ask this administration, what is the relationship between the Turkish-Greek issue and the Cyprus issue and the capacity to deal with Saddam Hussein, they would say that there is none, that there is no relationship there. That is maybe why they have abandoned the effort to bring to resolution that very critical issue of international importance. Yet we find today that Turkey, again, is hesitant to allow us to use its bases in order to address the Iraq issue.

So, three major elements of the capacity to address the Iraq issue in a coordinated and effective way are tied to a variety of different historical and geographic and national and international confrontations, which this administration either, No. 1, doesn't appreciate or, No. 2, is actively ignoring. As a result, our capacity as a country to unite a coalition which can effectively address Saddam Hussein has been undermined.

Mr. President, I ask unanimous consent for an additional 10 minutes?

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

Mr. GREGG. Most critical, of course, to this is the issue of how we deal with Iran and the fact that, once again, this administration has failed to reflect effectively on the policy dealing with that nation. Iran, as we recognize, has been dominated by a fundamentalist leadership which has viewed its purpose as promoting an aggressive religious philosophy internationally. It has viewed the United States as its enemy in this undertaking. But this fundamentalism cannot survive forever. It is much like when we confronted the Communist leadership after World War II and President Truman and President Eisenhower recognized that, through the process of constructive containment, we would be able to bring down that system of government because it would fall of its own weight because at some point, after a certain period of years, the fundamental flaws of that system and that philosophy would simply undermine it and decay it from within. And that is true also of the fundamentalist movement in Iran.

The Muslim religion is an extremely powerful and great religion, and it is a religion that is based on some very wonderful precepts. But the fundamentalism that captured a certain element of the Muslim believers is, as it is practiced in Iran, inherently self-destructive. If we are able to contain Iran but at the same time encourage within Iran the more moderate elements, we will, over a period of time, see, I believe, a collapse of the fundamentalist energy from within and a rising of a state which will be responsible. But this administration has passed over a series of opportunities to promote that option, which has been unfortunate.

If you are going to contain Iraq, then you must understand that in the process of containing Iraq, you must neutralize Iran as a threat to the region. Because if you were to eliminate Iraq as a force within their region, you would create a vacuum into which a fundamentalist Iran would step and be a threat to its neighbors of even greater proportions—greater proportions—than Iraq is. So, reflecting adequately on how we deal with Iran, and approaching Iran as part of the solution to how we deal with Iraq, is critical, critical to the capacity to take on the Iraqi issue. Yet this administration, in my opinion, has once again left the ball on the side of the field when it comes to understanding or pursuing that course of action.

So, where does that leave us? Unfortunately, where it leaves us is with a 19th century dictator who has 20th century weapons of mass destruction, in Saddam Hussein, an individual who lives by a code which is horrific to the sensibilities of a civilized world. It is a code that follows in the course of people like Adolph Hitler and Mussolini and others, who sought to promote themselves in the name of some cause which was really just superficial to their own megalomania.

But our capacity to address Hussein and to be able to deal with the situation in Iraq is fundamentally undermined by our inability, one, to focus on the situation with an international alliance and, two, to have the capacity, because we do not have an international alliance, to take action which will end up being definitive.

So we find ourselves with this administration stating that we are building up an arms capability to make an attack on Iraq without an alliance supporting it with a stated objective that nobody understands, because Secretary Cohen has said that a military attack will not replace Saddam Hussein, and the President said it is not our goal to replace Saddam Hussein. Secretary Cohen has stated that a military attack will not eliminate the weapons of mass destruction, and we know that to be the case. So what is the result of the military attack?

There is no clear understanding as to what it is. It will not be that Saddam Hussein is replaced. It will not be that the weapons of mass destruction are eliminated. It will not be that the alliance we had in the gulf war of 1991 are being reinstated. I have no idea what the conclusion of a military attack would be.

I think the unintended consequences of it will be dramatic. Some may be positive. We may successfully eliminate some weaponry that might otherwise be used against our neighbors. Some may be horrific. We may find that Saddam Hussein uses his weaponry in some other theater or some other place. It may even be here in the United States. But those are unintended consequences, because there appears to be no intended consequences.

Literally, there are no intended consequences. If the intended consequence is not to replace him and the intended consequence is not to destroy the weapons, what is the intended consequence of military action? I don't know what it is. Therefore, before we go forward with a resolution in this body—and I understand that we are not going to do that this week—before we go forward with a resolution in this body, I believe we have to bring some definition to the purpose of the process.

I believe, first, we have to recognize and we have to retouch our allies and our friends and people who should be our allies and our friends. We have to go back to Russia and understand their concerns. We have to go back to Turkey and understand their concerns. We have to go back to Egypt and understand their concerns. We have to go to Israel and talk about the need to get the peace process started again and to return to the concepts of Rabin as versus the concepts of Netanyahu.

More important, we, as a nation, have to know what is our purpose and what is our goal.

I believe our purpose and goal should be, first, to create a united approach on this to bring into the effort an alliance which is broader and more substantive than what we presently have, something more than an English-speaking alliance.

Second, it must be to remove Saddam Hussein and his government. We should have as our stated goal and purpose of any military action that we intend to have a democratic government in Iraq.

And, third, it should be that the weapons of mass destruction are destroyed; not that they will survive, but that they are destroyed.

These should be our goals, and I hope as we move down the road to considering the issue of what we do in Iraq and before we move forward with military action that we at least get some clarity of the process, hopefully along the lines I stated.

I appreciate the patience of the Chair, and I especially appreciate the patience of the Senator from Iowa.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Iowa.

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

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

TEN STEPS TO FIGHTING DRUGS

Mr. GRASSLEY. Mr. President, as I have noted on earlier occasions, this country continues to face a major drug

problem. It is a problem that affects us all. No community escapes the consequences of drug use. Our streets and neighborhoods are made dangerous and unwelcoming by those who peddle illegal drugs. Our places of work are not drug free. Today, we live in a country where even our schools are not safe havens from the ravages of drugs.

In just a few days, the Administration will release its newest drug strategy. It will be welcome, even though it is two weeks late. I look forward to it, even as the Administration undertakes efforts to do away with an annual drug strategy. The budget for drugs will be increased. That, too, is welcome. But we need to remind ourselves that despite steady increases in our counter-drug spending, we have seen increases in drug use by kids.

This is a fact that the Administration has tried to sugar coat. It has tried to disguise the fact that drug use among kids has steadily increased throughout its tenure. Despite recent efforts by the Administration to paint over this fact with rhetoric, the facts remain.

We cannot fight drug use among our kids by being less than honest. We should not even try. But there is another lesson in our current and growing problem. I believe that the Administration has not done as much as it ought to do. I believe it has left undone much that it should do. But, our drug problem is a national concern that must go beyond what government can do. We must remind ourselves that this is a problem that we must all confront. Parents, community and religious leaders, the business community, local politicians, the media, Hollywood, and our opinion leaders must come together. We need more than just money. We need commitment. We need more than rhetoric.

Every day more of our kids start using illegal drugs. We need to roll up our sleeves and get to work.

For these reasons, I am today presenting a ten-point program to fight back. This is my agenda to try to get our counter-drug efforts back on the front burner. We need to better define the problem, and we need to be doing more. As Chairman of the International Narcotics Control Caucus, I will work to push a more visible and effective national counter-drug effort.

The first item on my agenda is to continue work to strengthen local community counter-drug problems. Last year, I sponsored legislation in the Senate, later signed into law, that provides funding to local community counter-drug coalitions. I will continue my efforts to ensure that this legislation is fully, speedily, and responsibly implemented.

Second, I will continue to work on implementing a statewide coalition effort in Iowa that I began last year. The aim of this effort is to help create a framework to complement state and local efforts to combat illegal drugs in communities across Iowa. Working with such national organizations as Community Anti-Drug Coalitions of America, we are engaged in a project that can become a template for other states. The coalition will foster input and guidance from a non-political steering committee and six task forces. These include members from Iowa business and union leaders, the education community, religious leaders, and representatives from law enforcement. They also involve contributions from the media, doctors, and community anti-drug groups.

Third, I will be calling upon our national business leaders and advertisers to renew their commitment to drug-free advertising. We have seen in recent years a decline in this commitment. That decline lead to the use of public money to pay for advertizing.

But more to the point, I am concerned about what it says about the declining commitment of our business community to support a national effort to fight drug use. This is especially true given the problems that drug use creates in the workplace.

Fourth, I will be seeking more resources for communities across the country to deal with an emerging drug problem. This is the double whammy of methamphetamine. Communities in the West and Middle West face not only growing meth use problems. They also face a new trend: Mexican criminal organizations are increasingly building meth labs in our communities and rural areas. Meth is being funneled into Iowa by these organizations. Labs are also increasingly being discovered. These create an environmental hazard that is often beyond the resources of local police or fire organizations to deal with. Last year, I co-sponsored an effort to increase funding to these communities for meth lab clean up. I will expand that effort to ensure sustainable funding to help local communities.

Fifth, I will continue to press the Administration for a comprehensive drug strategy. One of the major deficits in our current effort is not a lack of funding but a lack of focus. I propose to deal with that through greater oversight of our national efforts. In particular, I will push for a more comprehensive southern tier approach. Too often, our efforts to control access to our southern border have been piecemeal and fragmented. The forthcoming national drug strategy will perpetuate that imbalance.

While we build a dyke in one area, the traffickers open a hole someplace else. We need a more focused effort that brings resources to bear consistently. We also need to ensure that our major drug control agencies receive adequate resources that implement consistent, well-conceived and integrated plans.

As part of this effort, I will pursue more vigorous oversight of our counter-drug programs.

I will do this through insisting that we maintain a strong commitment to the annual certification process on international drug control. I will continue efforts to investigate specific programs and activities to ensure that our efforts are on track and producing results. I will also seek to ensure that our efforts to protect the integrity of our law enforcement activities is a priority.

I will also pursue legislation that will provide greater authority to our law enforcement community to break the link between drug trafficking and alien smuggling. Many of our local communities find that drugs are introduced or produced by illegal aliens. I have supported increased resources to both U.S. Customs and the INS. I will continue my personal efforts to ensure adequate resources and focus at our borders and in our local communities.

As the eighth point in my agenda, I will pursue tougher penalties for those who traffic and sell drugs. In particular, I will seek enhanced penalties for trafficking or selling near our schools and for peddling drugs to minors.

As an integral part of this effort, I will also seek to toughen, not weaken, cocaine sentencing guidelines. I believe it sends an entirely wrong signal to lessen mandatory minimum sentences for those who traffick in crack cocaine. The Administration is proposing to weaken sentencing at a time when drug use is increasing. It is typical of the disconnect between the rhetoric we hear and the reality we see. Like the Administration, I will support efforts to bring powder cocaine sentencing into line with crack cocaine. But I will seek to do this by supporting Senator Abraham's efforts to enhance the sentences for trafficking powder cocaine, not by weakening our efforts.

Finally, as part of my action plan, I will continue to work to strengthen our ability to deal with money laundering and organized criminal activities. The drugs that reach our streets and target our kids do not get there by accident. They are directed there by well-organized, international criminal gangs. Their purpose is to make money at the expense of our kids. I will work to pass legislation that I introduced last year to go after the profits of these drug thugs. I will also continue to press the Administration to develop comprehensive legislation to go after international criminals wherever they may hide.

This agenda is my personal commitment to do what one Senator can do to deal with this nation's drug problem. I will pursue this agenda as Chairman of the Drug Caucus. In the coming days and weeks, I will be introducing specific legislation to deal with many of the things I have talked about today. I will be coming to my colleagues for support. I will be expecting the Administration to live up to its obligations.

I yield the floor.

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

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, is there an order?

The PRESIDING OFFICER. The Senator is recognized for 10 minutes in morning business.

Mrs. HUTCHISON. Thank you, Mr. President.

25TH ANNIVERSARY OF THE RETURN OF AMERICAN POWS FROM VIETNAM

Mrs. HUTCHISON. Mr. President, I rise today to pay tribute to my Congressman. The House of Representatives is paying tribute today to our Vietnam prisoners of war. It was 25 years ago this month that those brave men began returning home to America.

Among those heroes was SAM JOHNSON. SAM was a prisoner 6 years 10 months 18 days and 23 hours, which he can tell you to this day.

All of us who know SAM know he is a fighter. He was called ''diehard'' by his North Vietnamese captors.

SAM was one of 11 prisoners whose total defiance to prison authority resulted in banishment to a high security prison that was dubbed ''Alcatraz.'' The prisoners were placed in tiny cubicles in an earthen-walled facility that was dug out of the center courtyard of the North Vietnam Ministry of Defense in downtown Hanoi. SAM and the other 10 wore leg irons and suffered from severe malnutrition.

SAM's defiance continued to the end, until February 13, 1973, when SAM boarded a plane at Gia Lam Airport to return home.

Our Nation recognized SAM JOHNSON's contributions by making him one of the most highly decorated aviators of his era. During SAM's military career, he was awarded two Silver Stars, two Legions of Merit, the Distinguished Flying Cross, one Bronze Star with Valor, two Purple Hearts, four Air Medals, and three Outstanding Unit awards.

Mr. President, I would like to note also that here in the Senate there are many heroes from among us from World War II, the Korean war and the war in Vietnam.

Today, 25 years after the POWs in Vietnam began to come home, it is also appropriate to recall the sacrifice made by our own colleague, my good friend, JOHN MCCAIN. JOHN returned from Vietnam after his own capture and imprisonment 25 years ago next month.

Patriots like Senator JOHN MCCAIN and Congressman SAM JOHNSON remind us of what makes America great—honor, courage, and duty. They enrich the Congress and remind us every day of the important responsibility we have as stewards of the young men and women in our armed forces. As we prepare for a possible conflict in Iraq, I have no higher priority than that those troops will get everything they need to do the job if they are sent.

As Americans we have many things for which to be thankful. But perhaps we should be most thankful for the brave Americans throughout our history who have fought the wars to keep America free. It is their sacrifice that has preserved democracy. It is their sense of patriotism and duty that Americans must always embrace if we are to remain free. Commemorating this 25th anniversary is one way that we will make sure that Americans do not forget the sacrifices that have been made for us to be able to stand here in this Senate Chamber and speak on an unfettered basis and openly and freely.

I want to say that I am proud that SAM JOHNSON is my Congressman. I also want to pay tribute to his wife, Shirley. Shirley and SAM are friends of Ray's and mine, and have been for years.

But Shirley is a hero, too. Sometimes we do not talk about those who were left home for 6 years to raise the children, to give them the hope and strength and love that both parents would normally give. It is to the Shirley Johnsons, also, that we owe a great debt of gratitude, because she was there never giving up, making sure that America never forgot that some were missing and some were imprisoned. She, too, should be commended today on this 25th anniversary.

I am honored to serve with SAM JOHNSON and Senator JOHN MCCAIN. As we honor them, we make sure that those who came home know how much we appreciate them. And, most of all, we remember those who did not come home.

Thank you, Mr. President.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Under the previous order, the Senator from Alaska is recognized to speak for up to 20 minutes.

Mr. MURKOWSKI. I thank the Chair and wish the President a good morning.

(The remarks of Mr. MURKOWSKI pertaining to the submission of S. Con. Res. 76 are located in today's RECORD under ''Submission of Concurrent and Senate Resolutions.)

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Texas.

Mr. GRAMM. I believe I reserved a block of time.

The PRESIDING OFFICER. The Senator has 30 minutes.

Mr. GRAMM. Let me say to my dear colleague I will not take all of that time.

HAPPY ANNIVERSARY, SAM JOHNSON

Mr. GRAMM. Mr. President, I come to the floor today to speak on on two topics. The first is that our dear friend and colleague, Congressman SAM JOHNSON, one of America's great warriors and one of America's great individuals, came home from Hanoi 25 years ago today, having been held as a prisoner of war for almost 7 years.

SAM grew up in Dallas. He graduated from Southern Methodist University. He went into the Air Force. He became one of the great pilots in the postwar period. He commanded the Top Gun school. He was a Thunderbird.

In fact, Senator MCCAIN loves to tell the story about the time when he and SAM were campaigning together in Texas—as all of you know, Senator MCCAIN was a great aviator in his own right and a great warrior and a real American hero—and he loves to tell the story when he and SAM were on a plane riding in the back and they came in pretty fast, and SAM calmly turned to Senator MCCAIN and said, ''We're going to run off the runway.'' Senator MCCAIN said, ''What makes you think so?'' just as they hit the railing and went off the runway.

The point being that SAM JOHNSON was a great aviator. He was flying a mission over North Vietnam. He was shot down. He was taken to prison in Hanoi. The North Vietnamese correctly concluded that he was a diehard and a recalcitrant, so they put him in solitary confinement year after year, basically a dugout, a little dungeon.

After 7 years in prison, enduring almost unbelievable hardship, he came home 25 years ago.

Now, the remarkable thing about all this is not all the medals that SAM JOHNSON won. We honor those and we should. It is not really the hardship that he endured, though I doubt many of us would be capable of doing it. But what is remarkable to me is that after 7 years in a dungeon in Hanoi, SAM JOHNSON came home and started his life again. He never complained about the 7 years he lost. You never see him that he doesn't have a smile on his face. He is a sweet, gentle, loving man. It is remarkable to me that somebody could go through 7 years of that kind of hardship—hunger, exhaustion, fear, physical and mental abuse—and yet come back home and be all the things that SAM JOHNSON is.

I wanted, on this 25th anniversary of the day that he came home to America, to stand on the floor of the Senate today and say to our colleague, Congressman SAM JOHNSON, that we are proud of him and that we are proud to associate with him. For most of us, the highest credential we are ever going to have other than being members of our family and being associated with our kinfolks is that we served in Congress. Many of us get whatever stature we might have from the position we hold, a position that was given to us in trust by the voter. But SAM JOHNSON is one of those rare people who brought stature to Congress with him when he came. He is a wonderful man. I love SAM JOHNSON.

I think in an era where there are a lot of people who kind of think politicians don't represent the best that America has to offer, that somehow politicians aren't exactly the kind of people you want your children to grow up to be, I ask them to look at Congressman SAM JOHNSON. He is the kind

of person I want my sons to grow up to be.

On this very special day for him, 25 years ago coming home to America, being set free in Hanoi, I wanted to congratulate SAM and thank him not just for the service he provided during 29 years in the Air Force, not just for 7 years in a dungeon in North Vietnam, but I want to thank him for the service he is providing for America today. We appreciate that. I am very proud to have him as one of my Congressman representing me and my State. I am also proud to have him as a friend.

Mr. ALLARD. Will the Senator yield?

Mr. GRAMM. I am happy to yield.

Mr. ALLARD. My wife, Joan, and I are pleased to recognize that both Shirley and SAM are very close friends of ours. I had come to the floor to speak on another matter but I feel so fortunate to have been here at the time you are making these comments.

You are right on the mark. He is a tremendous individual. He suffered in a way that many of us cannot imagine. Both Joan and I are so enthralled with his positive attitude—both Shirley and SAM—that it makes him stand out as a remarkable individual, remarkable Americans.

I second your comments.

Mr. GRAMM. I thank my dear colleague from Colorado for adding to my comments.

THE HIGHWAY BILL

Mr. GRAMM. Mr. President, let me turn to my final subject today. As all Members of the Senate know, Senator BYRD and I have embarked on what for us is a crusade. It is a crusade to try to force the Federal Government to live up to the commitment that it makes to Americans when they go to the gas pump and fill up their car or truck and pay about a third of the cost of a gallon of gasoline in taxes, and they are told the taxes are being used to build roads, that this is a user fee tax where the money is dedicated to road construction.

As those of us who serve in Congress, as those who follow these matters very closely know, that commitment is not being fulfilled. Between 25 and 30 cents out of every dollar of gasoline tax that is paid by American motorists goes not for transportation needs, not to new roads, but instead is spent on everything but highway construction. This is a diversion of funds that violates the commitment that we have made to American taxpayers. At a time when many Americans this morning got up and drove to work and waited in what seemed to be endless lines of congestion, when people drove over potholes that were dangerous and, in some cases, caused damage to their car, and when people endured unsafe conditions. There are 31,000 miles of road in my State that are substandard. We have thousands of bridges that are structurally unsound. I think people are rightly outraged when they discover that over 25 cents out of every dollar they paid in gasoline taxes, which they thought was going to highway construction, is in fact being spent on other things in Government.

Senator BYRD and I now have 54 cosponsors on our bill, with the objective of trying to force the Government to live up to the commitment it makes to the American people and require that when money is collected in gasoline taxes for the purpose of building roads, that that money actually be spent for that purpose.

Now, many of the things that we work on here have an effect, but after a long period of time, from the time that the actual work is done, and often especially when you are working on big issues that affect economic growth and inflation, it's hard to sort of pinpoint the positive impact on it. But if we can bring up the new highway bill and pass the Byrd-Gramm amendment, on May 2 States across America will get roughly a 25 percent increase in the amount of money that is available to fill up these potholes, to build new roads, to modernize the existing system, to reduce the delays and traffic jams and hazards that we all face on the road every day, and do it by taking the money away from all the programs that never should have gotten the highway money to begin with and spending the money for the purpose that it is being collected.

Senator BYRD and I, all week, have reminded our colleagues that we are running out of time. The highway bill expires on May 1. And all over America today, States are beginning to cancel contracts. Michigan canceled a major contract yesterday. We are having employees notified by highway builders that they are going to be laid off as of the 1st of May when this highway bill expires. Senator BYRD and I want to move on with this issue, bring it up. If people want to vote no, if they want to continue to take highway trust fund money collected in gasoline taxes, where we tell people the money is being spent for roads but where we spend it on something else, if people want to vote to continue that diversion, they have the right to vote for that. But 54 Members of the Senate have already said that they want to change it.

So I urge our leadership to bring up this bill and give us an opportunity to let the Senate work its will. It is very important that we not let the highway bill expire. It is very important that we get on with highway construction, which the country desperately needs. I also believe it is important, especially in this era of cynicism about Government that when we tell people that money is being collected in gasoline taxes, to go into a highway trust fund to be spent on roads, that that money be spent on roads, that it not be spent on other things. Fundamentally, that is what this issue is about.

So I am hopeful that in the week when we come back—we are going on recess, perhaps tonight, and we will be back a week from this coming Monday—that we are going to be able to bring up the highway bill and let people decide where they stand on this issue.

And let me, as a final point, say that the Byrd-Gramm amendment does not bust the budget. The Byrd-Gramm amendment does not raise the spending caps. But what it does do is say that all these other programs that have been beneficiaries from the piracy that has occurred in the highway trust fund are going to have to give up that money so that it can be spent on roads.

Now, I know some of our colleagues have said: Great, if you spend this money on roads, we were planning to spend it otherwise. I have likened their attitude to a cattle rustler who steals your cattle and you come out and you arrest him and you catch him redhanded stealing your cattle, and his only response is, ''OK, so you make me stop stealing your cattle, but where am I going to get my beef?'' Well, that's not my problem. What we are talking about is doing what we tell people we are doing. So I'm not saying the programs that have pirated the trust fund aren't, in some cases, worthy. In some cases they are not worthy, but in other cases they are very worthy.

The point is that we collected the money to build roads, not to pay dues to the U.N.; we didn't collect money to pay for Legal Services Corporation; we didn't collect the money to use in welfare; we collected the money for the purpose of building roads. That's the purpose to which the money should be put and only that purpose.

Mr. President, I yield the floor.

Mr. ALLARD addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, it is my understanding that I have 20 minutes of time set aside.

The PRESIDING OFFICER. That is correct.

The Senator from Colorado is recognized.

(The remarks of Mr. ALLARD pertaining to the introduction of S. 1636 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. ALLARD. Mr. President, I yield the remainder of my time.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BENNETT). 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, at 12:30 p.m. today Senator MOYNIHAN and I wish to make some remarks on the floor. I ask unanimous consent that at 12:30 I be recognized.

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

Mr. BYRD. Mr. President, I thank the Chair, and 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. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ABRAHAM LINCOLN

Mr. DURBIN. Mr. President, no Senator from the State of Illinois could rise on February 12 without noting the birth date of Abraham Lincoln. Abraham Lincoln never served in the Senate, although he did serve in the U.S. House of Representatives. One of his most famous political experiences was in 1858 when he ran against Stephen Douglas for the Senate seat which I am honored to occupy. Lincoln lost that election. Of course, following the course of the lengthy debates with Douglas, which became part of the legend of American politics and an important part of our history, by 1860 Lincoln was elected President. And we all know his leadership was so critical in one of our Nation's greatest hours.

We in Illinois dote on Abraham Lincoln. We have his name on license plates. In my hometown, we are consumed with the Lincoln legend and with all that he has given to the State and to the Nation. I hope that those who are witnessing the events in this Chamber today will reflect for a moment on this great man and the great legacy he left to the United States. Lincoln was known very well for his leadership at the time the Nation was in great peril with the Civil War. He did so many things with vision, and I think it is a perfect lead in to my reason for standing before the Senate today. I hope those of us who are in successor generations to Abraham Lincoln can rise to the challenges and can show the same type of vision and leadership on the challenges now facing Americans across the country.

QUALITY CHILD CARE IN AMERICA

Mr. DURBIN. Mr. President, I just left a meeting, partisan meeting, Democrats, Senators and Congressmen, with the President and Vice President where we discussed our agenda for this year. At the end of the meeting, President Clinton said that he hoped we could reach across the aisle to the Republican side and find common ground, concede honest differences of opinion but move forward on an agenda which is critically important to all of America's population and families.

I know it is ambitious to think that in a year with an abbreviated schedule we will achieve even a majority of the ideas that were propounded at this meeting or that the Democrats stand for—for that matter, that the Republicans stand for—but we would be remiss if we didn't try. I think we were all sent here to use our best efforts to find common ground and to resolve those difficulties that ordinary Americans face.

One of them I have taken a special interest in and over the last month or so have really focused on in the State of Illinois is the issue of child care. I have visited 16 or 18 child care centers in my State from far south in Cairo, as we pronounce it, to Chicago and across the length and breadth of a very diverse State, my home State of Illinois.

What I find in child care for working families in Illinois is extraordinary diversity. Just about every community in which you stop has a little different approach. It seems that some are blessed with the support of larger institutions. Maybe the most modern, up-to-date and impressive facility was at a U.S. Air Force base, Scott Air Force Base near Belleville, IL. But, of course, the Federal Government has made a rather substantial investment so that the children of the men and women who are working on that base have the very best in child care. I then went as well to the Belleville Community College and saw where the community college made the same type of commitment. It makes a difference. You can just feel it in terms of what is being offered.

That is not to diminish the efforts being made in a lot of different settings. When I would go down to Marion, IL, into the back of a church and find a very small and crowded room with the happiest kids I have ever run into, being supervised by a lady who is probably close to 60 years of age but who truly is devoted to these children, it tells you that what is part of the success of child care in America has to do more with the people involved in it than any Government program or any structure or building or any bricks or mortar.

But having said that, I came away from this tour sensitized to the fact that this is a real issue. So many people in America look at the Senate and the House of Representatives and wonder what newspapers we are reading, what people we are talking to, as we are consumed with issues that seem totally irrelevant.

Now, some of those issues are truly important, but for the average working family their concerns are much more down to earth. I have yet to meet a working mother or a working family with small children where I don't find a genuine concern about day care. My wife and I raised three kids, and we were fortunate; my wife was able to stay home until the kids were all off to kindergarten at least. And I think that was the very best that we could give to them. I look back on it as something that really made a positive impression, a positive difference in their life, and yet we know today that so many parents cannot make that choice, that both parents have to work or if it is a single parent that there is just no alternative but to turn the children over to a care giver during the day. And we also know that care giving in day care is occurring at a critical moment in that child's development. Seventy-five percent of the human brain is developed in the first 18 months on Earth. Most of the day care centers I visited would not accept a child until they had reached the age of 2 or until they were out of diapers. And so for the first 2 years of critical brain development in these children it was a gamble. Was there someone nearby that could be counted on, a neighbor or relative, perhaps some other setting where the child would get honest, good, safe care?

What the President has proposed in his State of the Union Address and I hope that Democrats and Republicans can debate is what we can do to help working families provide for quality child care. I honestly believe that the investment in early childhood development is the best investment this Nation can make. You often wonder how a child born in ordinary or even poor circumstances has much of a chance. They usually have a chance if they have loving parents with the skills and the time and the resources to make their living meaningful. I came from a family of modest means but, thank goodness, had a mother and father who cared, and I think that is why I am standing here today.

But for a lot of kids that option is strained because a lot of parents do not have resources, and as a consequence they look around in the system and find precious few alternatives. First, most child care is expensive. It is expensive for families that are trying to get by and trying to pay the bills.

What the President has suggested is that we, through money raised in the tobacco bill, send those revenues back to States to make available to working families. So that those families that are out struggling, trying to get by will have a helping hand from the Government to pay for child care. I think that is money well spent, and there is no two ways about it.

Secondly, we have to ask who will work in these child care centers. It is a fact of life that most of the people working there receive precious more than the minimum wage, and they look for alternatives. The turnover rate nationally is 40 percent and in some communities even higher each year as child care workers move on to another job.

In Illinois, we demand of these workers 2 years of college education and then give them a minimum wage. High school dropouts are paid a minimum wage. These students who stayed in school and worked hard to pass the courses are basically being asked to work for the same. Then, of course, we know that businesses that invest in child care really do bond with their employees. Employees value this as one of the most important benefits of work.

So the President has said not only money to help families pay for child

care, also some resources to make certain we can help the students who want to get the education, qualify to be child care assistants but encouragement as well in the Tax Code to businesses to set up child care centers.

Each day, three out of five children under the age of 6 in America including almost half of the babies and toddlers spend some or all of their day being cared for by someone other than their parents. In my home State, we estimate about 600,000 children each day under the age of 6 are in child care. The cost—$4,000 to $10,000 a year. Think about a person struggling by on a low-wage job and facing $4,000—$80 a week—that has to be out of pocket and paid for child care.

In our agenda, the Democratic agenda, we set out to change this, to try to make certain that working families are given a helping hand.

I have tried to reflect about the course of history when it comes to caring for children in America. We all remember child labor laws and things that have been done to help kids, but in the 19th century we made the most significant decision when we said in America that we would embark on creating a system of public education so that if you happened to be a child from a family of modest means you still had a fighting chance. America cared and America made a commitment through the State and local units of Government to make certain that public education would be there starting at the age of 6 and it was a sensible commitment, not only for the good of the child but the good of the Nation.

Here today as we embark on the 21st century we know so much more. We know that by the age of 6 many children have gone through important formative years, many children have been trained, for good or bad, and that that training is going to be part of that child for years to come.

So what more can we do? What more should we do? We have created a Head Start program which is designed to give these kids, at least those from 3 to 5, a chance to have a structured, positive learning environment. It is a very good program and one that needs to be funded at higher levels. But now we know even more is needed. Are we ready in this Chamber, Democrats and Republicans alike, to really engage in a national debate about whether the model for the 19th century of public education is adequate for the 21st century for America?

Most educators, if they give you an honest appraisal, will say, if they were given the option of one additional year of mandatory education, they would not put it after high school, they would put it before kindergarten. Bring the children in earlier.

Talk to teachers, if you will, who are in classrooms every day. They can identify kids who come from a good family and home, where one parent stayed home to help raise the child or they went through some good child care and received the right training, and they can identify those kids who did not. Some of them fall behind, never to catch up. So one of the things we are striving for this year is to follow the President's lead and make sure we make a commitment here in the Senate and the House of Representatives to help these families.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is now recognized.

Mr. DURBIN. Mr. President, if I might ask unanimous consent to have 5 additional minutes?

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

Mr. DURBIN. I thank the Senator from West Virginia for yielding this time.

Crucial to this question of providing help for child care is providing the revenue. I find it curious that a year ago, in my first year in the Senate, if you would have come to this Chamber about this time, you would have seen Senator ORRIN HATCH, our colleague from Utah, standing at that desk with a stack of budget books almost up over his head, saying this is the legacy of deficits, these are the unbalanced budgets that we cannot come to grips with, and arguing for the passage of a new constitutional amendment to force us to come to balance in our budget. That was a year ago. That amendment did not pass.

A year later, where are we? We are at a point where the Congressional Budget Office gave us their forecast yesterday that, indeed, we would balance the budget. We have reached the point where the budget is in balance. Ironically, instead of talking about a constitutional amendment to force a balanced budget, we are now engaged in a debate about spending a surplus. Imagine, 12 months later we have gone from deficit talk to surplus talk. The President counsels us to be patient, to make sure the surplus is true and honest and to first dedicate it to Social Security.

So, of course, you are going to say, ''Senator DURBIN, having said that, how are you going to pay for child care? How will the President pay for it? These are good ideas, but they have to be paid for.''

The money is to come from the tobacco bill. This is a bill I have supported both as introduced by Senator KENNEDY and yesterday by Senator CONRAD, because it is a bill which addresses the reality of what we face today with tobacco. This bill imposes a $1.50 health fee on each package of cigarettes. We know that discourages kids from buying them. They are too expensive. It takes the revenues from that to not only educate young people about the dangers of smoking but also to use it for other good purposes: for example, to increase the number of public school teachers across America to 100,000 so that no child in the first, second or third grade will have a classroom with more than 18 students, or to put money into medical research.

Let me tell you that has to be the most widely popular Federal expenditure there is. Not a family touched by cancer, heart disease, diabetes, HIV, would ever suggest that that is not a good investment, to put the money into medical research. But, also, a portion of it for child care.

So, in order to make this work, it is not enough for us, as Democrats and Republicans, to make speeches about child care. We have to roll up our sleeves and pass this tobacco legislation, and we have to do it on a bipartisan basis. The tobacco companies will resist us every step of the way. They have. They will continue to. But I think the American people have decided they have had enough of the tobacco companies and the fact that they have had unreasonable sway over Washington for too long a period of time.

This year, 1998, is a year of political testing for Senators and Congressmen as to whether they will rise to the challenge and join in passing tobacco legislation, reducing the scourge of children who are taking up smoking, and raising revenues for things that are critically important for America's future—like child care.

I am happy to support the legislation that has been introduced, and I hope that we come up with bipartisan approval to make sure that it is passed. It is not just a question of raising this revenue, but the core reason for the tobacco legislation is to discourage the young Americans each day who take up smoking. Today in the United States of America, and every single day this year, 3,000 children will start smoking cigarettes for the first time. I have never, repeat never, met a parent who has said to me, ''I got the best news last night. My son came home and announced he started smoking.'' I have never heard that. In fact, just the opposite. Parents are concerned because they know this is a health concern.

Tobacco companies have deceived the public. They have deceived Congress. They have gone after kids for decades. Now we have a chance to call an end to that and to hold these companies accountable to reduce sales to minors and to make certain that our kids have a fighting chance for a bright future.

So, I will conclude by saying our agenda is filled this year. We may have more items on the agenda than they have days in session. But we need to pick and choose those that are critically important. I hope my colleagues, Democrats and Republicans alike, will agree that passing the tobacco bill is the first important step, then taking the revenues from that to help working families bring their children up under the best circumstances and to give these children a fighting chance to enter school ready to learn and to have a bright future.

I yield the remainder of my time.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I ask unanimous consent that Mr. MOYNIHAN and I may speak for not to exceed 30 minutes. I do not think we will use all that time, but I make that request.

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

LINE ITEM VETO ACT FOUND UNCONSTITUTIONAL

Mr. BYRD. Mr. President, as many of my colleagues may already be aware, in a decision announced today by Judge Thomas F. Hogan of the United States District Court for the District of Columbia, the Line Item Veto Act has been found to be unconstitutional, an unconstitutional delegation of the Congress' power over the purse. While I congratulate each of the plaintiffs and their attorneys, this victory does not belong to them alone. This is a victory for the American people. It is their Constitution, it is their Republic, and their liberties that have been made more secure.

Judge Hogan's opinion parallels a previous decision by Judge Thomas Penfield Jackson, also for the U.S. District Court for the District of Columbia, in Byrd v. Raines, as well as the opinions expressed by Supreme Court Justice John Paul Stevens in that same earlier case. While I fully expect this decision today to be appealed and I, therefore, recognize this as a first step, I nevertheless regard it as an important step.

For the benefit of my colleagues, I would like to take just a few moments to read pertinent excerpts from Judge Hogan's decision. I read now, beginning with that section titled ''Procedural Requirements of Article I.''

I continue to read from Judge Hogan's opinion:

The Constitution carefully prescribes certain formal procedures that must be observed in the enactment of laws. The Line Item Veto Act impermissibly attempts to alter these constitutional requirements through mere legislative action. Because the act violates Article I's ''single, finely wrought and exhaustively considered, procedure,'' . . . it is unconstitutional.

* * * * *

Both Houses of Congress, through a process of discussion and compromise, had agreed upon the exact content of the Balanced Budget Act and the Taxpayer Relief Act. These laws reflected the best judgment of both Houses. The laws that resulted after the President's line item veto were different from those consented to by both Houses of Congress. There is no way of knowing whether these laws, in their truncated form, would have received the requisite support from both the House and the Senate. Because the laws that emerged after the Line Item Veto are not the same laws that proceeded through the legislative process, as required, the resulting laws are not valid.

Furthermore, the President violated the requirements of Article I when he unilaterally canceled provisions of duly enacted statutes. Unilateral action by any single participant in the law-making process is precisely what the Bicameralism and Presentment Clauses were designed to prevent. Once a bill becomes law, it can only be repealed or amended through another, independent legislative enactment, which itself must conform with the requirements of Article I. Any rescissions must be agreed upon by a majority of both Houses of Congress. The President cannot single-handedly revise the work of the other two participants in the lawmaking process, as he did here when he vetoed certain provisions of these statutes.

* * * * *

Whatever defendants wish to call the President's action, it has every mark of a veto.

* * * * *

Finally, Congress' ''indirect attempt[] to accomplish what the Constitution prohibits . . . accomplishing directly'' cannot stand. . . . ''To argue otherwise is to suggest that the Framers spent significant time and energy in debating and crafting Clauses that could be easily evaded.'' Congress knew that a single Line Item Veto, performed prior to the President's signature, would violate Article I's requirement that the president sign or return the bills *in toto*. This limitation on the President has been clear since George Washington's tenure.

Let me quote the words of George Washington as they are quoted in Judge Hogan's opinion:

(''From the nature of the Constitution, I must approve all the parts of a Bill, or reject it in toto.'') Congress cannot evade this long-accepted requirement by merely changing the timing of the President's cancellation.

Because the Line Item Veto Act produced laws in violation of the requirement of bicameral passage, because it permitted the President unilaterally to repeal or amend duly enacted laws, and because it impermissibly attempts to evade the requirement that the President sign or reject a bill *in toto*, the Act violates the requirements of Article I. For that reason alone, the Line Item Veto Act is unconstitutional.

Now, under the heading ''Separation of Powers,'' in Judge Hogan's opinion, I find these words, and I quote from his opinion:

Furthermore, the Line Item Veto Act is unconstitutional because it impermissibly disrupts the balance of powers among the three branches of government. The separation of powers into three coordinate branches is central to the principles on which this country was founded. . . . The declared purpose of separating and dividing the powers of government was to ''diffuse power the better to secure liberty.''

* * * * *

Pursuant to the doctrine of separated powers, certain functions are divided between the legislative and executive branches. Article I, section I vests all legislative authority in Congress. Legislative power is the authority to make laws[,]

Says Judge Hogan.

Executive power, on the other hand, is to ''take Care that the Laws be faithfully executed.''

* * * * *

With regard to lawmaking, the President's function is strictly a negative one: to veto a bill in its entirety.

While it is Congress' duty to make laws, Congress can delegate certain rulemaking authority to other branches, as long as that delegation is appropriate to the duties of that branch. (''[T]he lawmaking function belongs to Congress . . . and may not be conveyed to another branch or entity.'');

* * * * *

The Line Item Veto Act impermissibly crosses the line between acceptable delegations of rulemaking authority and unauthorized surrender to the President of an inherently legislative function, namely, the authority to permanently shape laws and package legislation. The Act——

Writes Judge Hogan,

enables the President, in his discretion, to pick and choose among portions of an enacted law to determine which ones will remain valid. The Constitution, however, dictates that once a bill becomes law, the President's sole duty is to ''take care that the laws be faithfully executed.'' His power

Writes Judge Hogan,

cannot expand to that of ''co-designer'' of the law—that is Congress' domain. Any subsequent amendment of a statute falls under Congress' responsibility to legislate. The President cannot take this duty upon himself; nor can Congress relinquish that power to the Executive Branch.

I shall not quote further excerpts from the opinion of Judge Hogan, but I ask unanimous consent to have printed in the RECORD the entire opinion, following the remarks of Mr. MOYNIHAN and my remarks. I understand the Government Printing Office estimates it will cost $1,532 to print this opinion in the RECORD.

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

(See exhibit 1.)

Mr. BYRD. Mr. President, next Monday is the official observance of the birthday of our first President, George Washington, who so wisely observed, as did Judge Hogan, ''From the nature of the Constitution, I must approve all the parts of a bill or reject it in toto.'' How right George Washington was! I can think of no greater tribute to his wisdom than this decision today.

Mr. President, I yield to my distinguished colleague who joined in preparing the amicus and who has, all the way from the beginning of these debates, which have gone on for years now, stood like the Irish oak in opposition to giving the President of the United States—any President, Republican or Democrat—a line-item veto.

I salute my friend, and I am very grateful to him for the work that he has done and for his constant support and leadership as we have stood together with Senator CARL LEVIN, who cannot be here today because he is in Europe. If Senator MOYNIHAN had been at the Constitutional Convention, even though Judge Yates and Mr. Lansing left the Convention early, leaving only Alexander Hamilton to sign that great document, Senator MOYNIHAN would have been there to attach his signature. And not only that, he would have joined with Hamilton and Madison and Jay in writing one of the greatest documents of all time, the Federalist Papers. I yield to my friend.

Mr. MOYNIHAN. Mr. President, it is an honor to speak following the statement by our revered, sometime President pro tempore, ROBERT C. BYRD of West Virginia, a man who has brought to our Chamber a sensibility concerning the Constitution that, I would argue, is unequaled since those awful days that led to the Civil War, days in

which his lucidity and courage could have produced a very different outcome.

We have a matter before us of equal consequence. I would offer the personal judgment that in the history of the Constitution, there has never come before us an issue considering the relations between the executive and the legislative branches as important as this one. It is a course of a peculiar inexplicability that this Chamber is empty—the distinguished Presiding Officer from Utah, our President pro tempore sometime from West Virginia and myself—empty because of a particular politics that for a long time said this was a desirable measure and enacted it and now faces the court saying, ''But it's unconstitutional.''

The courts, I dare to say, at the level of those asides that are well known in our judicial history, the court is also saying, ''Don't you know your Constitution? Don't you understand what is at stake for you?'' The courts are not themselves directly involved here, but they are trying to tell us, in brilliant decisions by Judge Jackson, now by Judge Hogan, singularly literate decisions.

Judge Hogan begins his historical analysis, if you will, with a citation from Gibbon's ''Decline and Fall of the Roman Empire'':

> The principles of a free constitution are irrecoverably lost when the legislative power is nominated by the executive.

That is how he saw the decline of the Roman Senate, inexorably followed by the decline of Roman civilization. That is what we are dealing with here today.

As Senator BYRD has so forcefully stated, George Washington, whose birthday we observe on Monday, who presided over the Constitutional Convention, in his later writings put it as explicitly as only he could do with that clarity and simplicity he had. Washington said:

> From the nature of the Constitution, I must approve all the parts of a Bill or reject it in toto.

That could not be more plain. And we find the courts saying to us—I don't presume to say this is obiter dicta, but I can see the courts pleading: ''Senators, do you not know what is at stake?''

As for the claims of efficiency and economy and this and that—legitimate claims—but the court refers in this particular decision, Judge Hogan refers to a wonderful passage from Chadha, which was so true about the original understandings of the political and Government process of the founders. He said in the Immigration and Naturalization Service v. Chadha, a decision in 1983—as I recall, it is on the one-House veto—the court said:

> The fact that a given law or procedure is efficient, convenient and useful in facilitating functions of government standing alone will not save it if it is contrary to the Constitution. Convenience and efficiency are not the primary objectives or the hallmarks of democratic government.

That was the great perception of our founders. In the Federalist Papers, which Senator BYRD has so generously mentioned, they ask openly, given the fugitive and turbulent existence of earlier republics, the Roman Republic, what makes you think this Republic will work?

They said, fair question, but we have a new science of politics. It is a science that does not assume virtue in men, it assumes conflict, and it provides for the resolution of conflict by equal and opposing forces. It does not fear debate. It welcomes it, it assumes self-interest on the part of regions, of sectors in the economy, of groups in the population. No fear.

And here is a central idea which was part of our amicus brief and which we find, I think, echoed in Judge Hogan's remarks, which I don't assert but I offer the thought. When we put together on the Senate floor a bill—I will say a Finance Committee bill, as I am now ranking member, was one time chairman of Finance—we think of balancing interests, conflicting or often unrelated, but there are 100 Members of this Chamber. They represent 50 States and 550 different points of view. We accommodate them. We provide for this interest and for that interest and hope and, I think, in the main see that the public interest is served by the opportunities of governing.

If you were to take one of those provisions out or two or three, it would be quite possible you would not have the votes to pass the bill. There could be a filibuster, or there simply could not be the 51 votes.

However, with the line-item veto, the President can subsequently take out such provisions such that the statute books will contain a law which never could have passed the U.S. Congress.

How say we, the statute books will have a law that could not have passed the Congress? Here it is, this is the arrangement. The courts are so clear on this, and I so look forward to a final decision by the Supreme Court.

It is interesting, if I may say, just to give an illustration of the compound interests of people involved, on the one hand we have two plaintiffs here, the City of New York, et al. The City of New York being the Greater New York Hospital Association, those great hospitals and the union of hospital employees which work there. The city, great science centers, ordinary persons who clean floors and care for patients. They are one group.

Across the continent, another group, the Snake River Potato Growers, Incorporated—about 30 farmers. They grow potatoes. They have an interest. It was in a bill, and it was taken out. That interest, I think, would have had real effect on the decision how to vote of the two Senators in this Chamber who represent those potato growers.

So you have radiologists and potato growers and people who scrub floors and people who go beyond the limits of conceivable knowledge in the biological and medical sciences. All these interests are always represented here, and only here.

Congress makes the laws. The President is required to see that they are faithfully executed. But, sir, and in closing, if nothing else will bring this Chamber to its wits, perhaps this will. The President's power under this line-item veto is likely rarely to be directly exercised. It will be threatened.

A President will say to a Senator, ''You know, I would so very much like to be of assistance to Utah as regards irrigation and other matters which are so important to me, but there's a foreign policy matter which also is important to me. And cannot I expect, in the spirit of exchange and understanding, that I will have your support here in return for my choice not to veto a measure now enacted by Congress?'' It will go on over and over again. It is the formula for executive tyranny.

Sir, within this day, one of the most learned, experienced men I know in Washington said, ''If LBJ,'' meaning Lyndon B. Johnson, ''had had this power, we would have had Nero.'' I mean no disrespect; I was a member of President Johnson's subcabinet, and served him as well as I could do. But you have to have experienced Lyndon Johnson close up, without this power, to know what the powers of persuasion of a President can be.

But given this power, you produce an imbalance in your constitutional system which the founders pleaded with us not to do. They produced a system that has worked well. We are the oldest continuous constitutional government on Earth. If we wish to change the Constitution there is a way to do that, too, but not through statute. And that is what the court has now for the second time ruled, and I hope that the Supreme Court will agree.

I would particularly like to thank Mayor Rudolph W. Giuliani of New York, who stepped right up to this issue when many people suggested he not do. And most particularly, to the counsel who have served us pro bono so well: Michael Davidson; Charles J. Cooper; Paul A. Crotty, former Corporation Counsel of the City of New York; Louis R. Cohen, Lloyd N. Cutler, Alan Morrison. And finally, sir, any number of professors of law have offered their counsel. Most particularly Laurence H. Tribe, of the Harvard Law School, and Michael J. Gerhardt, the dean of Case Western Reserve Law, have been unstinting in their willingness to advise us in a matter they consider just as important as we do.

Mr. President, I thank the Chair for its courtesy. I thank my leader, my beloved and revered leader, Senator BYRD.

I yield the floor.

EXHIBIT NO. 1

[United States District Court for the District of Columbia, Civ. No. 97–2393 (TFH)]

CITY OF NEW YORK, *ET AL.*, PLAINTIFF, *v.* WILLIAM J. CLINTON, *ET AL.*, DEFENDANT

[United States District Court for the District of Columbia, Civ. No. 97–2463 (TFH)]

SNAKE RIVER POTATO GROWERS, INC., *ET AL.*, PLAINTIFF, *v.* ROBERT E. RUBIN, *ET AL.*, DEFENDANT

MEMORANDUM OPINION

This case requires the Court to adjudge the constitutionality of the Line Item Veto Act. Before reaching the constitutional challenge, however, the Court must first conclude that it has jurisdiction to hear the case, by determining that Plaintiffs in this action have Article III standing. Based on the briefs and exhibits submitted by the parties and *amici curiae*,[1] and argument at a hearing conducted on January 14, 1998, the Court finds that these Plaintiffs have demonstrated the requisite injury to have standing; furthermore, it finds that the Line Item Veto Act violates the procedural requirements ordained in Article I of the United States Constitution and impermissibly upsets the balance of powers so carefully prescribed by its Framers. The Line Item Veto Act therefore is unconstitutional.

I. Background

A. The Line Item Veto Act[2]

Unable to control its voracious appetite for ''pork,'' Congress passed, and the President signed into law, the Line Item Veto Act. Pub. L. No. 104–130, 110 Stat. 1200 (1996).[3] The Act is designed as an amendment to, and an enhancement of, Title X of the Congressional Budget and Impoundment Control Act of 1974 (''ICA''). 2 U.S.C. §§681 *et seq*. The ICA authorized the President to defer spending of Congressional appropriations during the course of a fiscal year or other period of availability, as long as Congress intended for those appropriations to be permissive rather than mandatory. *Id*. The President also could propose the total rescission of an appropriation to Congress, but unless Congress approved the rescission, the President was obligated to release the funds. *Id*. §§683(b), 688. Because it generally failed to make the rescissions recommended by the President, Congress found this arrangement to be an unsatisfactory mechanism for controlling deficit spending.[4]

As large deficits persisted, Congress considered various amendments to the ICA to alleviate its perceived defects. One proposal, called ''expedited rescission,'' would amend the ICA to streamline the process for Congressional approval of rescissions proposed by the President. *See e.g.*, H.R. 2164, 102d Cong. (1991). Other proposals included amending the Constitution to give the President a line item veto, *see e.g.*, H.R.J. Res. 6, 104th Cong. (1995); H.R.J. Res. 4, 103d Cong. (1993), or adopting a congressional procedure for presenting each spending provision to the President as a separate bill, for approval or veto. *See, e.g.*, S. 137, 104th Cong. (1995); S. 238, 104th Cong. (1995). Congress settled on an ''enhanced rescission'' proposal, codified in the Line Item Veto Act, that makes Executive rescissions automatic in defined circumstances, subject to congressional disapproval. By making appropriations ''conditional'' during the period in which the President has authority to veto provisions, and ''by placing the onus on Congress to overturn the President's cancellation of spending and limited tax benefits,'' H.R. Conf. Rep. No. 104–491, at 16 (1996), the Line Item Veto Act reverses the appropriation presumptions under the 1CA.

The Line Item Veto Act gives the President the authority to ''cancel in whole,'' at any time within five days (excluding Sundays) after signing a bill into law, (1) ''any dollar amount of discretionary budget authority;'' (2) ''any item of new direct spending;'' and (3) ''any limited tax benefit.'' 2 U.S.C. §691a (1997).

A ''dollar amount of discretionary budget authority'' is defined as ''the entire dollar amount of budget authority'' that is specified in the text of an appropriations law or found in the tables, charts, or explanatory text of statements or committee reports accompanying a bill. *Id*. at §691e(7). An ''item of new direct spending'' is a specific provision that will result in ''an increase in budget authority or outlays'' for entitlements, food stamps, or other specified programs. *Id*. at §§691e(8), 691e(5). A ''limited tax benefit'' is a revenue-losing provision that gives tax relief to 100 or fewer beneficiaries in any fiscal year, or a tax provision that ''provides temporary or permanent transitional relief for ten or fewer beneficiaries in any fiscal year''[5] *Id*. at §691e(9).

With respect to any dollar amount of discretionary budget authority, the Act defines ''cancel'' as ''to rescind.'' *Id*. §691e(4)(A). Cancellation of an item of new direct spending or a limited tax benefit prevents it from having ''legal force or effect.'' *Id*. at §691e(4)(B). Canceled funds may not be used for any purpose other than deficit reduction. *Id*. at §§691c(a)-(b).

To exercise cancellation authority, the President must submit a ''special message'' to Congress within five calendar days of signing a bill containing the item being canceled. *Id*. at §691a(c)(1). The President's special message must set forth the reasons for the cancellation; the President's estimate of the ''fiscal, economic, and budgetary effect'' of the cancellation; an estimate of ''the . . . effect of the cancellation upon the objects, purposes and programs for which the canceled authority was provided;'' and the geographic distribution of the canceled spending. *Id*. at §691a(b). The President may exercise this authority only after determining that doing so will ''(i) reduce the Federal budget deficit; (ii) not impair any essential Government functions; and (iii) not harm the national interest.'' *Id*. at §691(a)(A).

A cancellation takes effect upon Congress' receipt of the President's special message. *Id*. at §691b(a). Congress can restore a canceled item by passing a ''disapproval bill,'' which is not subject to the President's Line Item Veto authority, but is subject to the veto provisions detailed in Article I. *Id*. Disapproval bills must comport with the requirements prescribed in Article I, section 7, although the Line Item Veto Act provides for expedited consideration of these bills. *Id*. at §§691e(6), 692(c). If a disapproval bill is enacted into law, the President's cancellation is nullified and the canceled items become effective. *Id*. at §691b(a).

In terms of judicial review, the Line Item Veto Act provides that ''[a]ny member of Congress or any individual adversely affected . . . may bring an action in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of [the Act] violates the Constitution.'' *Id*. at §692(a)(1). The Act provides for direct appeal to the Supreme Court and directs both Courts ''to expedite to the greatest possible extent the disposition of any matter brought under [this provision.]'' *Id*. at 692(b)-(c).

B. Factual Background in New York City v. Clinton

The City of New York plaintiffs consist of the City itself, two hospital associations (Greater New York Hospital Association, or GNYHA, and New York City Health and Hospitals Corporation, or NYCHHC), one hospital (the Jamaica Hospital Medical Center), and two unions that represent health care employees (District Council 37, American Federation of State, County and Municipal Employees and Local 1199, National Health and Human Service Employees).

The City of New York Plaintiffs' claims arise out of a dispute over Federal Medicaid payments to the State of New York. The Health Care Financing Administration of the Department of Health and Human Services (''HCFA'') provides federal financial participation (''FFP'') to match certain state Medicaid expenditures. (*See* Brown Decl., Defs.' Ex. 1 at ¶3.) The FFP provided by the Federal Medicaid program to match state expenditures is reduced by the revenue that the state receives from health care related taxes. *Id*. at ¶4. The FFP is not reduced, however, by tax revenue that meets specific criteria, including that the taxes are ''broad-based'' (*i.e.*, applied to all health care providers within the same class) and ''uniform'' (*i.e.*, applied equally to all taxed providers). *Id*.

New York State taxes its health care providers and uses this tax revenue to pay for health care for the poor. (*See* Wang Decl., Pls.' Ex. 2 at ¶4.) The State exempts certain revenues (*e.g.*, those derived from particular charities) of some health care providers (*e.g.*, the plaintiff health care providers) from the health care provider tax. (*See* van Leer Decl., Pls.' Ex. 3 at ¶3.) That is, New York exempts plaintiff health care providers from taxes that other health care providers must pay.

On December 19, 1994, HCFA notified New York State that 19 of its tax programs violated HCFA's requirements. (*See* Dear State Medicaid Director Letter, Pls.' Ex. 2D.) Since then, New York has submitted over 60 waiver applications to HCFA, which to date have neither been approved nor denied. (*See* Wang Decl., at ¶7.) A finding by HCFA that a State's taxes are impermissible effects a disallowance of the State's Medicaid expenditures and allows HCFA to recoup the matching funds that it has already paid to the State. *Id*. at ¶6. If HCFA denies a waiver request, the State may appeal the denial to the Departmental Appeals Board. (*See* Brown Decl. at ¶6.)

If HCFA ultimately deems New York's taxes impermissible, New York State law provides that those health care providers that were previously excluded from the taxes must pay them retroactively. (*See* Wang Decl. at ¶8.) For example, NYCHHC's tax liability is estimated to be more than $4 million for each year at issue. In total, $2.6 billion may be subject to recoupment from New York State. *Id*. at ¶¶7–8.

The Balanced Budget Act of 1997, Pub. L. No. 105–33, included a provision, section 4722(c), that would have alleviated this exposure to liability. It established that New York State expenditures derived from certain health care provider taxes qualified for FFP under the Medicaid program. *Id*. at ¶9. This section signified that New York State would not have to return the funds in question to HCFA; for Plaintiffs, it meant that they were relieved of their liability to New York State should HCFA deny New York's waiver requests.

The President signed the Balanced Budget Act into law on August 5, 1997. Six days later, he identified section 4722(c) as an item of new direct spending and canceled it, thus reinstating Plaintiffs' exposure to liability. Cancellation No. 97–3, 62 Fed. Reg. 43,263 (1997). The President adopted the Congressional Budget Office's estimate that the cancellation of section 4722(c) would reduce the federal deficit by $200 million in FY 1998. *Id*.

Footnotes at end of exhibit.

C. Factual Background in Snake River Potato Growers, Inc. v. Rubin

Snake River Potato Growers, Inc. is, according to Plaintiffs, an ''eligible farmers' cooperative'' within the meaning of section 968 of the Taxpayer Relief Act. (*See* Cranney Decl., Pls.' Ex. 2 at ¶9.) Its membership consists of approximately 30 potato growers located throughout Idaho, who each owns shares of the cooperative. Plaintiff Mike Cranney, a potato grower with farms located in Idaho, is a member, Director and Vice Chairman of the cooperative. *Id.* at ¶2. Snake River was formed in May 1997 to assist Idaho potato growers in marketing their crops and stabilizing prices, in part though a strategy of acquiring potato processing facilities. *Id.* at ¶9. These facilities allow individual growers to aggregate their crops and process and deliver them to market jointly. Furthermore, they allow members to retain revenues formerly paid out to third-party processors. *Id.* at ¶13.

On August 5, 1997, the President signed into law the Taxpayer Relief Act, Pub. L. No. 105–34, 111 Stat. 788 (''TRA''). Section 968 of the TRA amended the Internal Revenue Code to allow the owner of the stock of a qualified agricultural refiner or processor to defer recognition of capital gains on the sale of such stock to an eligible farmers' cooperative. That is, it would have allowed a processor to sell its facilities to an eligible cooperative without paying tax currently on any capital gain. The stated purpose of section 968 was to aid farmers' cooperatives in the purchase of processing and refining facilities.[6] (*See* Dear Colleague Letter by Reps. Roberts and Stenholm of 12/1/95, Pls.' Ex. 5.) On August 11, 1997, the President identified this provision as a ''limited tax benefit,'' within the meaning of the Line Item Veto Act, and canceled it. Cancellation No. 97–2, 62 Fed. Reg. 43,267 (1997). In his cancellation message, the President estimated that sellers could have used section 968 to defer paying $98 million in taxes over the next five years, and $155 million over the next ten. *Id.*

Snake River had actively pursued at least one transaction that could have taken advantage of section 968. In May 1997, when Congress initially was considering the proposals in section 968, Mike Cranney and another officer of Snake River discussed with Howard Phillips, a principal owner of Idaho Potato Packers (''IPP''), the purchase by Snake River of the stock of a company that owned an IPP potato processing facility in Blackfoot, Idaho. (*See* Cranney Decl. at ¶19.) Plaintiffs contend that this company would have been a ''qualified processor'' under section 968 and that a deal with Phillips could have been structured so as to comply with all requirements of section 968. *Id.* at ¶¶21–23. Plaintiffs maintain that Phillips was interested in pursuing the sale because he could defer taxes on his gain if section 968 passed. *Id.* at ¶23. The negotiations did not continue after the President canceled section 968. *Id.* at ¶24.

II. Justiciability

Before tackling the merits of this case, the Court must first determine whether it has jurisdiction to hear it. Under Article III, section 2 of the Constitution, the federal courts have jurisdiction over a dispute only if it is a ''case'' or ''controversy.'' *See Raines v. Byrd*, 117 S.Ct. 2312 (1997). The Supreme Court has regarded the case or controversy prerequisite as a ''bedrock requirement'' and has observed that ''[n]o principle is more fundamental to the judiciary's proper role in our system of government than the constitutional limitation of federal-court jurisdiction to actual cases or controversies.'' *Id. citing Valley Forge Christian College v. Americans United for Separation of Church and State, Inc.*, 454 U.S. 464, 471 (1982).

The central jurisdictional requirement that controls the analysis of these consolidated cases is the doctrine of standing. The Supreme Court has emphasized that the standing inquiry is ''especially rigorous when reaching the merits of the dispute would force us to decide whether an action taken by one of the other two branches of the Federal Government was unconstitutional.'' *Raines*, 117 S.Ct. at 2317–18. It has cautioned,

''the law of Art. III standing is built on a single basic idea—the idea of separation of powers.'' In the light of this overriding and time-honored concern about keeping the Judiciary's power within its proper constitutional sphere, we must put aside the natural urge to proceed directly to the merits of this important dispute and to 'settle' it for the sake of convenience and efficiency.

It is with these admonitions soundly in mind that this Court proceeds with its standing analysis regarding the plaintiffs now before it.

A. Standing

While the Supreme Court has candidly acknowledged that ''the concept of 'Article III Standing' has not been defined with complete consistency in all of the various cases decided by this Court which have discussed it.''[7] *Valley Forge Christian College*, 454 U.S. at 475, certain basic principles have been distilled from the Court's decisions:

To establish an Art. III case or controversy, a litigant first must clearly demonstrate that he has suffered an ''injury in fact.'' That injury, we have emphasized repeatedly, must be concrete in both a qualitative and temporal sense. The complainant must allege an injury to himself that is ''distinct and palpable,'' as opposed to merely ''abstract,'' and the alleged harm must be actual or imminent, not ''conjectural'' or ''hypothetical.'' Further, the litigant must satisfy the ''causation'' and ''redressability'' prongs of the Art. III minima by showing that the injury ''fairly can be traced to the challenged action'' and ''is likely to be redressed by a favorable decision.'' The litigant must clearly and specifically set forth facts sufficient to satisfy these Art. III standing requirements. A federal court is powerless to create its own jurisdiction by embellishing otherwise deficient allegations of standing.

Whitmore v. Arkansas, 495 U.S. 149 (1990) (internal citations omitted). Here, the principal standing inquiry is whether Plaintiffs can demonstrate sufficient injury, ''actual or threatened.'' *See Valley Forge Christian College*, 454 U.S. at 472.

Although these plaintiffs do not neatly fit into any category of plaintiffs that the Supreme Court has already found to have standing, this Court finds that they meet the Article III requirements. The President directly injured both the City of New York plaintiffs and the Snake River plaintiffs when he canceled legislation that provided a benefit to them.

1. City of New York Plaintiffs[8]

Plaintiffs suffered an immediate, concrete injury the moment that the President used the Line Item Veto to cancel section 4722(c) and deprived them of the benefits of that law. The Court thus finds that Plaintiffs have suffered sufficient injury to have Article III standing.

When the President signed the Balanced Budget Act of 1997, section 4722(c) became law. *See La Abra Silver Mining Co. v. United States*, 175 U.S. 423, 454 (1899). Consequently, every New York State tax program held not to meet HCFA's requirements was deemed permissible by federal legislation. The State's liability was eliminated and the hospitals upon which that liability would fall were exonerated of their burden. Plaintiffs possessed a valuable protection against any liability that otherwise might befall them. This protection constituted a benefit to Plaintiffs. When the President canceled section 4722(c), Plaintiffs were divested of the benefit conferred upon them by the legislation. In the simplest terms, Plaintiffs had a benefit, and the President took that benefit away. That is injury.

Defendants argue that, because there are still administrative options available to Plaintiffs, Plaintiffs were not injured by the President's cancellation of this legislative solution. The Court disagrees. Plaintiffs had two independent avenues that they could have pursued to avoid potential liability: one legislative and one administrative. The legislative approach yielded complete success. The fact that there are two mechanisms that could produce a result does not mean that a party is not injured when one of those mechanisms produces the desired result, and then that result is obliterated. Analogously, if Plaintiffs were pursuing a challenge to a final agency action, the fact that there might also be pending legislation would not deprive them of standing to challenge the final agency action. *See INS v. Chadha*, 462 U.S. 919, 936–37 (1983) (Burger, C.J.) (finding that the existence of other speculative avenues of relief does not constitute a prudential bar to the Court's consideration of a case). The Court finds that the availability of administrative relief does not eliminate Plaintiff's injury in the legislative arena.

Plaintiffs also have shown with reasonable certainty that they will be liable for millions of dollars now that Section 4722(c) has been canceled. Under the current law, it is highly likely that the State of New York will be required to return to HCFA at least some of the funds that HCFA paid to the State. First of all, HCFA has already deemed the taxes impermissible. HHS has stated that in the absence of legislation (like Section 4277(c)), by August 1998, ''the Secretary will move forward to complete the process already begun to apply with full force the current law.'' (Dear State Medicaid Directors Letter, Pls.' Ex. 2D.) Next, to exercise Line Item Veto authority, the President was required to certify that the veto *would* reduce the federal deficit; he complied with that requirement by certifying that cancellation of Section 4277(c) *would* result in a reduction in federal outlays in FY 1998 of $200 million. Cancellation No. 97–3, 62 Fed. Reg. 43,263 (1997). Finally, at a press briefing on the cancellation, Office of Management and Budget Director Franklin Raines described Section 4722(c) as ''a provision that provided special relief to the State of New York for provider taxes that *had been determined by HCFA to be illegal* under a 1991 statute.'' (Pls.' Ex 2C (emphasis added).) Raines added that ''New York will not be able'' to use the taxes to increase its FFP. *Id.* Thus, this Court concludes that it is more likely than not that the State of New York will be required to refund at least some of the payments it has received from HCFA.

Likewise, the Court finds that Plaintiffs are highly likely to be required to indemnify the State for its HCFA recoupments. Defendants do not dispute that New York State law imposes automatic liabilities upon hospitals and nursing homes upon a finding that New York's provider taxes are not permissible. (*See* Wang Decl., Pls.' Ex. 2 at ¶8). Plaintiffs would avoid liability only in the unlikely event that the State of New York would rescind these laws or decline to enforce them. Again, the Court finds that this scenario is less likely than one in which Plaintiffs are required to indemnify the State.

Therefore, by finding that the City of New York plaintiffs have demonstrated sufficient

injury, the Court concludes that they have standing to challenge the constitutionality of the Line Item Veto Act.

2. Snake River Plaintiffs

Like the City of New York plaintiffs, the Snake River plaintiffs suffered an immediate, concrete injury when the President canceled section 968. Section 968 conferred a benefit on Plaintiffs by putting them on equal footing with investor-owned businesses. Before section 968 was passed, investor-owned businesses could structure acquisitions of processing facilities as tax-deferred stock-for-stock exchanges. Farmers' cooperatives could not exchange their stock because a cooperative's stock can be held only by its members. Section 968 would have allowed sellers to defer capital gains taxes on sales to farmers' co-ops, thus putting co-cops in the same competitive position as investor-owned businesses.[9]

The Supreme Court has held that the inability to compete on an equal basis in the bidding process is injury in fact. *See Northeastern Florida Chapter of the Associated Gen. Contractors of America v. City of Jacksonville*, 508 U.S. 656 (1993). In that case, the Court found that contractors that regularly bid on, and performed, construction work for the City of Jacksonville, and would have bid on designated set-aside contracts but for the restrictions imposed, had standing, even though they failed to allege that they would have been awarded a contract but for the challenged ordinance. Here, regardless of whether Plaintiffs can prove that they would have actually consummated purchases under section 968, they are injured by the fact that section 968 put them on equal footing with their competitors and its cancellation disabled them from competing on an equal basis. When the President canceled section 968, Plaintiffs were divested of the benefit conferred upon them by the legislation and therefore were concretely injured.

In addition, it is highly likely that the Snake River plaintiffs would have been able to take advantage of the benefits conferred by section 968 and that they therefore will be injured by the President's cancellation of it. Snake River Potato Growers, Inc. was formed for the purpose of acquiring potato processing facilities. Although the sellers of processing and refining facilities would be the direct beneficiaries of the capital gains tax deferral, it is likely that the fact that the processors would be able to defer these taxes would benefit Plaintiffs in a concrete way.[10] For example, in a deal in which there are not other prospective purchasers, even if a seller chose to completely absorb the monetary benefits of the capital gains tax deferral, the fact that the seller would be able to defer the taxes would, at the very least, likely give Plaintiffs some room to negotiate in terms of price; in a competitive situation, it would allow Plaintiffs to pay a lower purchase price than they would have in a scenario in which they were not on equal footing with the other would-be purchasers.[11]

While Plaintiffs cannot demonstrate with certainty that they would be able to take advantage of the benefits provided by section 968, such certainty is not required. In *Bryant v. Yellen*, 447 U.S. 352 (1980), for example, farm workers wishing to purchase land had standing even though they could not with certainty establish that they would be able to purchase it. In that case, a reclamation law forbid delivery of reclamation project water to any irrigable land held in private ownership by one owner in excess of 160 acres. If this law were enforced, owners of land in excess of 160 acres would probably sell their excess acreage and would probably be forced to sell at below current market prices. The Court reasoned that farm workers who desired to purchase farmlands in the area had standing, because it was ''unlikely'' that the owners of excess lands would sell at below-market prices without the law, and it was ''likely'' that excess lands would become available at less than market prices if the law were applied.

Likewise, the Snake River plaintiffs need only show that the existence of section 968 would have made it more likely that they could acquire processing and refining facilities. As illustrated above, by putting Plaintiffs on equal footing with other bidders, it is likely that Plaintiffs would be able to make a purchase by offering less than they would have without the benefit of section 968. Also, the tax deferral would, at the very least, give Plaintiffs more room to negotiate in terms of price. Thus, section 968 would have helped the Snake River plaintiffs in their efforts to purchase processing and refining facilities.

Defendants argue that Plaintiffs cannot meet the redressability requirement of the standing doctrine. They cite *Simon v. Eastern Ky. Welfare Rights Org.*, 426 U.S. 26 (1976), and *Allen v. Wright*, 468 U.S. 737 (1984), to support their contention that there is no way for the Court to know whether any sellers would be motivated by the benefits of section 968 to sell to Plaintiffs. This case is distinguishable from *Simon* and *Allen*, however, because here, Plaintiffs have sufficiently demonstrated that if this Court struck the Line Item Veto Act and reinstated section 968, they would be more likely to be able to competitively bid on, and prevail in purchasing, processing and refining facilities.

In *Simon*, the Supreme Court determined that low-income plaintiffs lacked standing to challenge a tax regulation establishing the amount of free medical care that a charitable hospital must provide to maintain its tax-exempt status. The Supreme Court explained that it was ''purely speculative'' to assume that the challenged regulation caused charitable hospitals to provide less service that they would otherwise provide free of charge, and it was ''equally speculative'' to assume that increasing the amount of free service required for tax exemption would in fact increase the amount of free service provided. *Simon*, 426 U.S. at 42–43. The Court commented that the hospitals might elect to forgo favorable tax treatment to avoid the financial drain of providing more free treatment.

In *Allen*, the Supreme Court concluded that parents of public school children lacked standing to challenge the legality of a tax exemption that benefitted racially discriminatory private schools. The plaintiffs claimed that the tax exemption made it easier for white children to enroll in private schools, the result being that the public schools were less diverse, to the plaintiffs' detriment. The Supreme Court indicated that it would be ''entirely speculative'' to conclude that withdrawal of the tax exemption would lead any private school to change it exclusionary policies. *Allen*, 468 U.S. at 758.

In both of these cases, there was arguably some disincentive to the institutions' taking advantage of the tax benefit. The hospitals in *Simon* would have to admit more non-paying patients; the schools in *Allen* would have to admit a more diverse student body, against their wishes. In these cases, it may indeed have been speculative to attempt to determine whether the hospitals and schools would be willing to make these changes in order to take advantage of the tax incentive. Here, Defendants do not allege that there is any ''cost'' to the selling processors and refiners in taking advantage of the tax benefits that section 968 would offer. Unlike the schools and hospitals in *Allen* and *Simon*, the sellers' decision likely would be a purely financial one.

Defendants also contend that Plaintiffs' submissions regarding Mike Cranney's planned purchase of the IPP processing facility are barren of facts that would demonstrate whether section 968 would have had any impact on that transaction, because of the specific requirements of section 968.[12] While the Court will not speculate as to whether Cranney's deal with Phillips would have been brought to fruition but for the President's cancellation of section 968, or even if that particular deal would have satisfied the requirements of section 968, the negotiations at the very least make it clear to the Court that Plaintiffs were actively spending their time and money pursuing purchases and that the President's cancellation of section 968 interfered with those plans. *Compare, Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1991) (holding that plaintiffs lacked standing to challenge an environmental regulation because, although plaintiffs had a desire to return to the habitat of certain endangered species, they failed to present any concrete plans of an actual visit).

The Court finds that the Snake River plaintiffs suffered an injury when the President canceled Section 968. Plaintiffs lost the benefit of being on equal footing with their competitors and will likely have to pay more to purchase processing facilities now that the sellers will not be able to take advantage of section 968's tax breaks. The Court therefore concludes that the Snake River plaintiffs have demonstrated sufficient injury to have Article III standing.

III. Constitutional Analysis of the Line Item Veto Act

Having determined that it has jurisdiction to hear this case, the Court now turns to the merits of Plaintiffs' constitutional challenges. The Court begins with the presumption that the Line Item Veto Act is valid. *See e.g., INS v. Chadha*, 462 U.S. 919, 944 (1983). The *Chadha* Court cautioned, however,

The fact that a given law or procedure is efficient, convenient, and useful in facilitating functions of government, standing alone, will not save it if it is contrary to the Constitution. Convenience and efficiency are not the primary objectives—or the hallmarks—of democratic government . . .

Id.

The Court's constitutional analysis is twofold. First, the Court examines the Line Item Veto Act in terms of the procedural requirements set forth in Article I, section 7; next, the Court discusses the doctrine of separation of powers. The Court concludes that the Line Item Veto Act fails both of these examinations.

A. Procedural Requirements of Article I

The Constitution carefully prescribes certain formal procedures that must be observed in the enactment of laws. The Line Item Veto Act impermissibly attempts to alter these constitutional requirements through mere legislative actions.[13] Because the Act violates Article I's ''single, finely wrought and exhaustively considered, procedure,'' *Chadha*, 462 U.S. at 951, it is unconstitutional.

Article I, section 7 of the Constitution sets forth dual requirements for the enactment of statutes: bicameral passage and presentment to the President. *See* U.S. Const. art. I, §7, cl. 2 (''Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return in . . .'') (the Bicameralism and Presentment Clauses). The considerations behind the Great Compromise, under which one House was viewed as representing the People and the other, the States, dictated that the

Bicameralism and Presentment Clauses would serve essential constitutional functions. ''By providing that no law could take effect without the concurrence of the prescribed majority of the Members of both Houses, the Framers reemphasized their belief . . . that legislation should not be enacted unless it has been carefully and fully considered by the Nation's elected officials.'' *Chadha,* 462 U.S. at 948–49. At the heart of the notion of bicameralism is the requirement that any bill must be passed by both Houses of Congress in exactly the same form.

The Constitution requires that both the amendment and repeal of statutes also conform with these Article I requirements. *Chadha,* 462 U.S. at 954. It makes only four narrow exceptions to this single mechanism by which the provisions of a law may be canceled. *See* U.S. Const. art. I, §2, cl. 6; art. 1, §3, cl. 5; art. II, §2, cl. 2; art. II, §2, cl. 2. Congress may not add to this exclusive list without amending the Constitution. In the words of the *Chadha* court,

The bicameral requirement, the Presentment Clauses, the President's veto, and Congress' power to override a veto were intended to erect enduring checks on each Branch and to protect the people from the improvident exercise of power by mandating certain prescribed steps. To preserve those checks, and maintain the separation of powers, the carefully defined limits on the power of each Branch must not be eroded. To accomplish what has been attempted [here] requires action in conformity with the express procedures of the Constitution's prescription for legislative action: passage by a majority of both Houses and presentment to the President.

Chadha, 462 U.S. at 957–58.

Here, while the initial passage of the Balanced Budget Act and the Taxpayer Relief Act complied with the Article I requirements, the Line Item Veto Act then authorized the President to violate those requirements by producing laws that had not adhered to those requirements. Both Houses of Congress, through a process of discussion and compromise, had agreed upon the exact content of the Balanced Budget Act and the Taxpayer Relief Act. These laws reflected the best judgment of both Houses. The laws that resulted after the President's line item veto were different from those consented to by both Houses of Congress. There is no way of knowing whether these laws, in their truncated form, would have received the requisite support from both the House and the Senate. Because the laws that emerged after the Line Item Veto are not the same laws that proceeded through the legislative process, as required, the resulting laws are not valid.

Furthermore, the President violated the requirements of Article I when he unilaterally canceled provisions of duly enacted statutes. Unilateral action by any single participant in the law-making process is precisely what the Bicameralism and Presentment Clauses were designed to prevent. Once a bill becomes law, it can only be repealed or amended through another, independent legislative enactment, which itself must conform with the requirements of Article I. Any rescissions must be agreed upon by a majority of both Houses of Congress. The President cannot single-handedly revise the work of the other two participants in the lawmaking process, as he did here when he vetoed certain provisions of these statutes.

Defendants, curiously, contend that, despite its title, the Line Item Veto Act does not authorize the President to ''veto'' anything. They maintain that under the Act, ''[t]he Bill stays as law, unless the President were to exercise his constitutional power to veto. Nothing changes about the bill. The law remains law. . . . The law remains on the books and the law remains valid.'' (Tr. of Mot. Hr'g, Jan. 14, 1998 at 71, 78.) The Court does not follow Defendants' logic. In the words of Richard Cardinal Cushing, ''When I see a bird that walks like a duck and swims like a duck and quacks like a duck, I call that bird a duck.'' Whatever defendants wish to call the President's action, it has every mark of a veto. The Line Item Veto Act states explicitly that ''cancel'' means ''to rescind'' or to render the provision as having no ''legal force or effect.'' How a ''canceled'' provision ''remains on the books'' and ''remains valid'' defies logic. The only way to restore these canceled provisions is for Congress to pass and present new bills according to the procedure prescribed in Article I. Clearly, this is an indication that the canceled law no longer exists. Therefore, despite Defendants' contentions, the Court finds that when the President canceled these provisions pursuant to his Line Item Veto authority, he unilaterally repealed duly enacted provisions and amended duly enacted laws, which Article I does not permit him to do.

Finally, Congress' ''indirect attempt[] to accomplish the Constitution prohibits . . . accomplishing directly'' cannot stand. *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779, 829 (1995). ''To argue otherwise is to suggest that the Framers spent significant time and energy in debating and crafting Clauses that could be easily evaded.'' *Id.* at 831. Congress knew that a simple Line Item Veto, performed prior to the President's signature, would violate Article I's requirement that the president sign or return the bills *in toto*. *See Line Item Veto: The President's Constitutional Authority, Hearing on S. Res. 195 Before the Subcomm. on the Constitution of the Comm. on the Judiciary*, 103d Cong. (1994). This limitation on the President has been clear since George Washington's tenure. *See* 33 *Writings of George Washington* 96 (John C. Fitzpatrick ed. 1940) (''From the nature of the Constitution, I must approve all the parts of a Bill, or reject it in toto.'') Congress cannot evade this long-accepted requirement by merely changing the timing of the President's cancellation.

Because the Line Item Veto produced laws in violation of the requirement of bicameral passage, because it permitted the President unilaterally to repeal or amend duly enacted laws, and because it impermissibly attempts to evade the requirement that the President sign or reject a bill *in toto*, the Act violates the requirements of Article I. For that reason alone, the Line Item Veto Act is unconstitutional.

B. Separation of Powers

Furthermore, the Line Item Veto Act is unconstitutional because it impermissibly disrupts the balance of powers among the three branches of government.[14] The separation of powers into three coordinate branches is central to the principles on which this country was founded. *See, e.g., Mistretta v. United States*, 488 U.S. 361, 380 (1989). The declared purpose of separating and dividing the powers of government was to ''diffuse power the better to secure liberty.'' *Youngstown Sheet & Tube Co. v. Sawyer,* 343 U.S. 579, 635 (1952). In writing about the principle of separated powers, Madison stated, ''No political truth is certainly of greater intrinsic value or is stamped with the authority of more enlightened patrons of liberty.'' *The Federalist No. 47,* at 324 (J. Cooke ed. 1961). Madison later wrote, ''But the great security against a gradual concentration of the several powers in the same department, consists in giving to those who administer each department, the necessary constitutional means, and personal motives, to resist encroachments of the others.'' *The Federalist No. 51,* at 349 (J. Cooke ed. 1961). The Framers ''regarded the checks and balances that they built into the tripartite Federal Government as a self-executing safeguard against the encroachment or aggrandizement of one branch at the expense of the other.'' *Buckley v. Valeo*, 424 U.S. at 122.

Pursuant to the doctrine of separated powers, certain functions are divided between the legislative and executive branches. Article I, section 1 vests all legislative authority in Congress. Legislative power is the authority to make laws. *Myers v. United States*, 272 U.S. 52 (1926). Executive power, on the other hand, is to ''take Care that the Laws be faithfully executed.'' U.S. Const., art. II, §3. With regard to lawmaking, the President's function is strictly a negative one: to veto a bill in its entirety.

While it is Congress' duty to make laws, Congress can delegate certain rulemaking authority to other branches, as long as that delegation is appropriate to the duties of that branch. *See Mistretta,* 488 U.S. at 388. Congress may not, however, delegate its inherent lawmaking authority. *See, e.g., Loving v. United States*, 116 S.Ct. 1737, 1744 (1996) (''[T]he lawmaking function belongs to Congress . . . and may not be conveyed to another branch or entity.''); *Field v. Clark,* 143 U.S. 649, 692 (1892) (''That Congress cannot delegate legislative power to the president is a principle universally recognized as vital to the integrity and maintenance of the system of government ordained by the Constitution.''); Edward Gibbon, *History of the Decline and Fall of the Roman Empire* 33 (1838) (''The principles of a free constitution are irrecoverably lost, when the legislative power is nominated by the executive.''); Sir William Blackstone, 1 *Commentaries on the Laws of England,* 146 (9th ed., reprinted 1978) (1783) (''In all tyrannical governments the supreme magistracy, or the right of both *making* and of *enforcing* the laws, is vested in one and the same man, or one and the same body of men; and wherever these two powers are united together, there can be no public liberty.'').

The line between permissible delegations of rulemaking authority and impermissible abandonments of lawmaking power is a thin one. As one court described the distinction, ''The legislature cannot delegate its power to make a law, but it can make a law to delegate a power to determine some fact or state of things upon which the law makes, or intends to make, its own action depend.'' *Field,* 143 U.S. at 694. Stated another way, ''The true distinction . . . is between the delegation of power to make the law, which necessarily involves a discretion as to what it shall be, and conferring an authority or discretion as to its execution, to be exercised under and in pursuance of the law. The first cannot be done; to the latter no valid objection can be made.'' *Hampton v. United States,* 276 U.S. 394 (1928).

The Line Item Veto Act impermissibly crosses the line between acceptable delegations of rulemaking authority and unauthorized surrender to the President of an inherently legislative function, namely, the authority to permanently shape laws and package legislation. The Act enables the President, in his discretion, to pick and choose among portions of an enacted law to determine which ones will remain valid. The Constitution, however, dictates that once a bill becomes law, the President's sole duty is to ''take care that the laws be faithfully executed.'' His power cannot expand to that of ''co-designer'' of the law—that is Congress' domain. Any subsequent amendment of a statute falls under Congress' responsibility to legislate. The President cannot take this duty upon himself; nor can Congress relinquish that power to the Executive Branch.

The Defendants contend that the Line Item Veto is no different than the many delegations of legislative authority that Congress has made in the past. *See, e.g., Field v. Clark,* 143 U.S. 649. Unlike other delegations of Congressional authority, however, the Line Item Veto Act authorizes the President to permanently extinguish laws. These laws cannot be revived even if the President (or his successor) feels that they are needed. Further, the Line Item Veto Act empowers the President to make permanent changes to the text of the Internal Revenue Code, as he did in the Snake River case. Such delegations are unprecedented.

Defendants further urge the Court to find that the Line Item Veto provides the President with ''intelligible standards'' as required by the delegation doctrine. *See Mistretta,* 488 U.S. at 372. While it is true that the delegation doctrine has enjoyed a liberal reading in the last 60 years or so, *see, e.g., Federal Radio Comm'n v. Nelson Bros.,* 289 U.S. 266 (1933) (upholding a delegation based on ''public convenience, interest or necessity''), by trying to bypass the maxim that Congress can delegate authority only if that authority is, in fact, delegable, the Government attempts to ''leap a chasm in two bounds.'' (Benjamin Disraeli, Earl of Beaconsfield.) It is irrelevant whether the Line Item Veto Act provides intelligible principles in its delegation of authority to the President because, as discussed above, the Act impermissibly attempts to transfer non-delegable legislative authority to the Executive Branch.

The separation of powers between the President and Congress is clear:

In the framework of our Constitution, the President's power to see that laws are faithfully executed refutes the idea that he is to be a lawmaker. The Constitution limits his functions in the lawmaking process to the recommending of laws he thinks wise and the vetoing of laws he thinks bad. And the Constitution is neither silent nor equivocal about who shall make laws which the President is to execute.

Youngstown, 343 U.S. at 587–88. By ceding inherently legislative authority to the President, the Line Item Veto Act violates this constitutional framework. For that reason, and for the reason that it violates the letter and spirit of the procedural requirements of Article I, the Line Item Veto Act is unconstitutional.

IV. Conclusion

Although the Line Item Veto Act may have presented an innovative and effective manner in which to control runaway spending by Congress, the Framers held loftier values. The *Chadha* Court recognized this tension between uncomplicated administration of government and the values honored in the Constitution:

The choices we discern as having been made in the Constitutional convention impose burdens on governmental processes that often seem clumsy, inefficient, even unworkable, but those hard choices were consciously made by men who had lived under a form of government that permitted arbitrary governmental acts to go unchecked. There is no support in the Constitution or decisions of this court for the proposition that the cumbersomeness and delays often encountered in complying with explicit Constitutional standards may be avoided, either by the Congress or by the President. With all the obvious flaws of delay, untidiness, and potential for abuse, we have not yet found a better way to preserve freedom than by making the exercise of power subject to the carefully crafted restraints spelled out in the Constitution.

Chadha, 462 U.S. at 959. Because the Line Item Veto impermissibly violates the central tenets of our system of government, it cannot stand.

Therefore, because the Court finds that Plaintiffs have demonstrated the requisite injury to have standing and, furthermore, that the Line Item Veto Act violates the provisions of Article I, section 7 of the United States Constitution and the separation of powers doctrine, this Court declares that the Line Item Veto Act is unconstitutional. Accordingly, the Court will grant Plaintiffs' Motions for Summary Judgment and deny Defendants' Motion to Dismiss and Motion for Summary Judgment. An Order will accompany this Opinion.

FOOTNOTES

[1] *Amici curiae* briefs were submitted by Senators Robert C. Byrd, Daniel Patrick Moynihan, and Carl Levin, in support of Plaintiffs' motions to declare the Line Item Veto Act unconstitutional; the United States Senate, in support of the constitutionality of the Act; and Congressman Dan Burton, in support of the constitutionality of the Act.

[2] The Constitutionality of the Line Item Veto Act was litigated in this court a mere six months before the complaints in this case were filed. *See Byrd v. Raines,* 956 F.Supp. 25 (D.D.C. 1997). In *Byrd,* Judge Jackson declared the Act unconstitutional. *Id.* On a direct appeal of that District Court decision, the Supreme Court held that appellees, six members of Congress, lacked standing to bring the suit, and therefore vacated the District Court opinion and directed that the complaint be dismissed. *See Raines v. Byrd,* 117 S.Ct. 2312, 2323 (1997).

[3] President Clinton signed the Line Item Veto Act into law on April 9, 1996, it became effective January 1, 1997, and it remains effective until January 1, 2005.

[4] Since 1974, Presidents have recommended $72.8 billion in rescissions, but Congress has passed legislation rescinding only $22.9 billion. S. Rep. No. 104–13, at 2 (1995).

[5] The Joint Congressional Committee on Taxation is responsible for identifying cancelable items in tax bills. *Id.* at §691f.

[6] Before the passage of section 968, farmers' cooperatives were at a competitive disadvantage vis à vis investor-owned businesses. Co-ops could not exchange their stock for the stock of processing companies, because a cooperative's stock can be held only by its members. (*See* Cranney Decl. at ¶15.)

[7] *But see* Ralph Waldo Emerson, *Essays: Self-Reliance* (1841), ''A foolish consistency is the hobgoblin of little minds.''

[8] The Court's standing analysis focuses on the plaintiff health care providers. As long as the Court determines that at least one of the New York plaintiffs has standing, it does not need to consider the standing issue as to the other plaintiffs in that action. *See Bowsher v. Synar,* 478 U.S. 714, 721 (1986).

[9] As a simplified example, if an investor-owned business and a farmers' co-op each offered $1 million for a processing plant, the investor-owned business would always prevail because the processor would actually net $1 million from that sale, whereas it would net less than $1 million from the sale to the farmers' co-op, because it would have to pay capital gains tax on that sale. Therefore, to compete for a piece of property with an investor-owned business, the farmers' co-op would have to offer more than the investor-owned business to make up for the capital gains tax that the purchaser would have to pay.

[10] Defendants argue that because Plaintiffs themselves would not have received the capital gains tax deferral, they are not the beneficiaries of section 968. The Court disagrees. The express purpose of section 968 was to help farmers to buy refining and processing facilities by eliminating a tax obstacle facing sellers who sell to them. Thus, although the direct recipient of the tax deferral was the sellers, it was plainly understood that the intention was to benefit the farmers; a cancellation of the tax deferral would really injure the farmers, not the owners of the processing plants, because the owners could already get the tax deferral simply by selling to investor-owned businesses.

[11] For example, in the illustration provided in footnote 9, *supra,* instead of having to offer, say, $1.3 million to compete with the investor-owned business, the co-op could offer an amount in the $1 million range.

[12] To qualify for a deferral of capital gains taxes under section 968(g), the seller must transfer 100% of the stock of the qualified processor to the farmers' cooperative. Section 968(a) requires that, during the one-year period preceding the date of sale, the qualified refiner or processor purchase at least 50% of the products to be refined or processed from the farmers who make up the eligible farmers' cooperative that is purchasing the corporations' stock or from the cooperative itself.

[13] This approach has been cautioned against since the founding of our democracy. ''If in the opinion of the People, the distribution or modification of the Constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance may be the instrument of good, it is the customary weapon by which free governments are destroyed.'' George Washington, Farewell Address, September 19, 1796 *in* 35 *The Writings of George Washington* 229 (John C. Fitzpatrick ed., 1940).

[14] While this analysis focuses on the balance of powers between the legislative and executive branches, the Line Item Veto could also affect judicial independence. It is possible that the President might use the Line Item Veto to manipulate the judiciary's budget, thus exerting pressure on its members. *See* Robert Destro, *Whom Do You Trust? Judicial Independence, the Power of the Purse & the Line Item Veto,* 44-Jan. Fed. Law. 26, 29 (1997).

February 12, 1998.

THOMAS F. HOGAN,
U.S. District Judge.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I hesitate to intrude on this debate, but confession is good for the soul.

I campaigned on behalf of a line-item veto. I worked on this floor for the passage of the line-item veto. I enthusiastically voted for the line-item veto. I learned one thing in basic training when I was in the military service of this country that has remained with me. One of the things they taught us was that the best time to escape is immediately after you are captured. Don't wait until you have been taken to the back lines. Don't wait until you have been put in a prison camp to try to plot your escape. Escape immediately after you are captured, when you are within 100 yards of your own lines. You are in the confusion of the battlefield, you are under the control of troops who are not trained to hold on to prisoners.

I have applied that principle in my life. When I make a mistake I want to escape from it as quickly as possible instead of waiting until I have been put into prison later on behind the enemy lines.

I reasoned that the experience of State Governors, 47 of whom have line-item vetoes, bade well for the line-item veto. My own Governor in the State of Utah has it. And it has not been the source of mischief in the process of legislation in the State.

I have seen that it has become the source of mischief here in this body. And, as I said to my revered colleague on the Appropriations Committee when this came up—and our chairman was expressing his usual enthusiasm; in this case in anger for his position—it may be that I will have to eat a little crow.

So as I receive the news of the action having been taken by the court in this case, I stand now to say that I would not support an effort to try to overturn that decision. The time to escape is immediately after you are captured. And we have been captured. And I will escape from my previous posture.

I apologize, albeit much too late, to my primary opponent who stood in opposition to the line-item veto. And this was a matter of difference between the two of us in the primary. I think I made some progress because as we got near the vote he recanted and came to my side so as to try to get the people who were in favor of a line-item veto to vote for him instead of me.

But I believe the arguments that have been repeated here, the information given here from the decision of the judge, are sufficiently persuasive that I need to make this apology and this recanting of a previous position. While I may not be with my two colleagues on many other matters, I try to be with them on constitutional matters.

It is on this basis that I opposed a constitutional amendment regarding flag burning. That puts me at odds with my senior colleague from Utah, which always distresses me. It is for this purpose that I oppose McCain-Feingold campaign finance reform because I think it is unconstitutional. I believe the courts have ruled in similar cases that the guts of the McCain-Feingold bill is in fact an intrusion on the first amendment.

But I think there is no more important function that we have in this Chamber, whatever our disagreements on the specifics, than the function of protecting the Constitution against the whims of the hour.

And so I thank Senator BYRD and Senator MOYNIHAN for their scholarship and for their leadership on this issue, and I, as one Senator at least on the other side of the issue, throw in the towel, eat a little crow, and declare my willingness to escape from a previous position.

Mr. BYRD. Mr. President, will the Senator yield very briefly?

Mr. BENNETT. I am happy to yield.

Mr. BYRD. Mr. President, I thank the distinguished Senator for his remarks.

Diogenes walked the streets of Athens in broad daylight with his lighted lantern. He was asked why. He answered, ''I am looking for a man.'' Plato, when visiting Sicily, was asked by Hiero, the tyrannical head of the Government, why he came to Sicily. He said, ''I am seeking an honest man.''

May I say, Mr. President, today I have found an honest man —the distinguished Senator from Utah.

Mr. BENNETT. I thank the Senator from West Virginia. There could be no higher tribute. I am grateful to him.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. May I add, not only honest but a courageous man. In some 21 years on the Senate floor I have not heard a more refreshing and inspiriting statement. It is not surprising coming from the Senator from Utah, but it is all the more amazing. There are few places in this world today where such a statement could be made and praised.

It is a tribute to you, sir; also a tribute to the U.S. Army, I believe. But we will not get into that. I thank you for your remarks, sir.

Mr. BENNETT. I thank the senior Senator from New York. Both of my senior friends are far too lavish in their praise, but I will accept it anyway in the spirit of the moment.

I yield the floor.

Mr. BROWNBACK. Mr. President, I ask unanimous consent to speak for up to 5 minutes, and further that Senator DORGAN have the 1 hour that has been allotted to him following at the end of my 5 minutes.

The PRESIDING OFFICER. Is there objection? Hearing none, without objection, it is so ordered.

Mr. BROWNBACK. Thank you, Mr. President.

RUSSIAN TRANSFER OF SENSITIVE TECHNOLOGY TO ROGUE NATIONS

Mr. BROWNBACK. Mr. President, today's article from today's Washington Post is yet more indication, unfortunately, of the bad faith with which Russia has been dealing with us on the transfer of sensitive technology to rogue nations, particularly, dual use and missile technology.

I am on the Foreign Affairs Committee and chair the Middle East Subcommittee. And something that has been very troubling to me is the introduction into the Middle East, particularly into Iran and into Iraq, of technology that can be used for missile development, for use of the delivery of weapons of mass destruction, even the development of weapons of mass destruction like biological warfare, biological and chemical warfare weapons.

Evidence was in the Washington Post, again, today, that once again—not just the first time—but once again Russian companies, with links to the Government, were involved in violating the U.N. authorized embargo on sales to Iraq of dual-use equipment. And this is outrageous. And it is preposterous that they would be doing it.

The transfer to Iraq—which is a rogue nation, with a leader who does not operate under internationally recognized civilized codes—of any dual-use technology is unacceptable. And yet once again today we have another example.

The transfer of equipment, such as the fermentation equipment, which was alluded to today, which can be used to develop biological weapons, and the possible collusion with the Iraqis against UNSCOM to hide technology and weapons, is proof of a cynical bad faith which is untenable. If this information is true—and I am told it is well grounded—the Russians are making a mockery of a very serious issue, and, more importantly, they are putting U.S. forces at increased risk.

This type of behavior has immense implications for a policy towards Iran as well and the administration's efforts to curb these sales of equipment that can be used to deliver or to develop weapons of mass destruction. This cynicism should not be rewarded.

I understand that we have been holding up Senate bill 1311, the Iran Missile Proliferation Sanctions Act, in deference to the Russians to give them time to prove their good faith and in deference to the Vice President's meeting with them in March. In view of the latest developments and this information, I believe such deference is misplaced. I request that Senate bill 1311 be moved up on the Senate calendar. I will make that request known to the leadership and ask that they proceed forward because this ''good faith'' that we are offering has obviously been received in a way of making bad-faith steps by the Russians and is further proof today this cannot be allowed to continue. Every day it is allowed to continue, more and more U.S. lives are at risk. It cannot be allowed to continue.

I yield the floor.

Mr. MCCAIN. I ask unanimous consent to address the Senate for 10 minutes as in morning business. I do that with the agreement of the Senator from North Dakota.

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

SITUATION IN IRAQ

Mr. MCCAIN. Mr. President, the Secretaries of Defense and State have been pursuing political support, both in the Congress and among our allies, for the use of military force against Iraq.

I come to the floor today to express my support for a military strike against Iraq and to urge our colleagues and our allies to join us in supporting our troops and our Commander-in-Chief. The unfortunate impasse which has precluded a full and conclusive Senate debate on a formal resolution of support should not be misconstrued. Clearly, when and if the time comes, an overwhelming majority in this body will support decisive action to end the threat to our security that Iraq continues to pose. Saddam Hussein should have no doubt about that.

We in government are frequently accused of demonizing our enemies in order to garner popular support here at home for the kind of actions we are currently contemplating with regard to Iraq. President Bush was accused of doing precisely that during Operation Desert Shield. There is a considerable wealth of information pertaining to Saddam Hussein's years in power, though, that clearly indicates that we are dealing with as ruthless and brutal a dictator as exists anywhere in the world today. That is not demonizing an individual; it is accurately describing a man with the moral and ethical foundation required to employ chemical weapons against his own population; to assassinate any and all political rivals; to have his own sons-in-law executed; to massacre Kurdish populations in the north and Shiite communities in the south; to invade Kuwait and impose a

barbaric occupation of that nation; and to continue to threaten neighboring countries despite the open revulsion with which much of the world has reacted to his years of rule.

This is a regime that recognizes no restraint upon its conduct save that which is imposed by force of arms. As I have repeatedly stated here on the floor of the Senate, the actions for which Saddam Hussein must be held accountable represent nothing more than what is expected of any country that seeks to exist within a community of civilized nations. The Government of Iraq has imposed untold hardships on its people solely so that it can continue to develop and stockpile weapons of mass destruction—weapons that it has no moral compunction about using at the earliest opportunity and against any nation or segment of society.

Linkages are repeatedly made between the U.S. posture toward Iraq and our role in the Middle East peace process. Mr. President, that argument cries out for denunciation at the highest levels of every government. We may not like the way every policy of or tactic by the democratically elected government in Israel, but the physical pain and psychological trauma that afflicted Israel as a result of completely unprovoked missile attacks by an Iraqi regime seeking to tear asunder the multinational coalition arrayed against it and Tel Aviv's refusal to retaliate despite ample justification for doing so stands in strong contrast to the Government of Iraq. There is no basis for comparison, and U.S. policy toward Iraq should not legitimize the perception of linkage by deferring to it.

The United Nations must enforce its resolutions and do so with conviction. And this body must acknowledge that only the United States possesses the capability to conduct the kind of military operations most of us agree are warranted and essential. That means conveying to the President, to the American people, and to the world, the message that Congress stands firmly behind the Commander-in-Chief in carrying out his responsibility to ensure that the threat to regional stability posed by Iraq is not permitted to endure in perpetuity.

Mr. President, we should make clear to the American people and to the world that the Congress agrees with the proposition that evil should not be permitted to triumph. The United States must respond forcefully, far more so than it has in the past, to Iraq's unceasing provocations and it must adopt whatever measures will ensure the removal from power of the ruling regime in Baghdad.

We must prepare the groundwork for a process that may take years to bear fruit and that will certainly entail loss of life. Opposition forces friendly to and supported by the United States were badly decimated by Iraq's 1996 incursion into supposedly protected territory in northern Iraq. Survivors are understandably bitter and reluctant to cast their lot with us again. That is why the air and missile strikes we launch against Iraq must be decisive and not the kind of exceedingly limited response characterized by the 27 cruise missiles launched against targets unrelated to that violation of the northern exclusion zone.

We must support a long-term operation involving opposition forces trained and equipped to conduct a successful revolution. This is not an easy course that I and others are recommending. But it is the only viable approach to removing a threat to the most volatile region in the world—a threat that could include the brandishing of chemical, biological, and some day, nuclear weapons. That is not a situation any of us want to see develop. But develop it will, if we do not act to prevent it.

Mr. President, I am confident the Congress will soon have the opportunity to express formally its support for the use of force to respond to that threat. Were there another way, I would gladly accept it, but experience teaches that there is not. I would never want to see myself viewed as beating the drums of war, but I would rather live with that image than look into the mirror and see a Member of Congress who failed to do his duty of supporting our troops in harm's way and our Commander-in-Chief in taking the kind of measures I sincerely believe are necessary to resolve the Iraqi problem once and for all.

Mr. President, I again express my appreciation for the courtesy of the Senator from North Dakota in allowing me to make this statement.

I yield the floor.

Mr. DASCHLE. Mr. President, I want to thank the distinguished floor leader of the Democratic caucus, the Senator from North Dakota, for allocating this time to talk about something that is very important.

I also want to commend as well the Senator from Arizona for his comments about Iraq. Certainly his experience and his leadership for these many years carries special weight with people on both sides of the aisle. I hope that we can continue to demonstrate the spirit that he has articulated today as we deal with this grave situation in that faraway place.

NEW SOLUTIONS FOR A NEW CENTURY: 1998 DEMOCRATIC AGENDA

Mr. DASCHLE. Mr. President, 10 days ago, the President delivered to Congress the first balanced budget in 30 years.

Yesterday we learned that the Federal deficit actually will be gone by the end of this year, four years ahead of schedule.

That remarkable accomplishment was set in motion five years ago, when congressional Democrats joined the administration to return fiscal discipline to Washington.

Because we did the right thing five years ago, our economy is stronger today than it's been in a generation.

Our foundation is solid.

Now we need to build on that foundation.

For the last six months, congressional Democrats have worked with the administration to develop a unified agenda for the American people. We talked a lot about what the options were, and what our priorities should be. After a great deal of deliberation, we agreed on a series of proposals that merit—that really demand—our action this year.

This morning, House and Senate Democrats met with the President and the Vice President and senior White House officials to ratify those proposals and begin the process of translating them into action, to confront real problems facing the American people with real solutions.

We call our agenda ''New solutions for a New Century.'' These proposals address the most urgent concerns facing the American people today. We want to reach across the aisle and work with our Republican colleagues to adopt them this year.

We need to increase the take-home pay of America's families. By breaking the wage cycle that continues to pay working women 71 cents on every $1 that a man earns. By making child care safer and more affordable. And by raising the minimum wage by $1 an hour over the next 2 years.

We need to make America's public schools the best in the world. By hiring 100,000 new teachers so we can reduce the average class size to 18 students per classroom in the first three grades. By making sure that every school in America is connected to the Internet so that computer screens are as common in classrooms as blackboards. And, by helping communities repair or replace school buildings that are overcrowded or obsolete or downright dangerous.

We also need to protect our children this year from the deadly epidemic of smoking. We need to say that the days when tobacco companies can spend millions of dollars to get kids hooked on cigarettes are over. From now on, they will pay to keep kids away from cigarettes.

America's families need to know their health insurance will be there when they need it, that they can go to a hospital emergency room when and where they need to. They need to know they can see a medical specialist if they need one. And they need to know that the things they tell their doctor in confidence will be kept confidential. We can give them that peace of mind this year by passing our Patient's Bill of Rights.

America's families need to be able to plan for their retirement. They need stronger private pension plans that are portable and protected. They deserve assurances that Medicare and Social Security will be there when they need

them. And early retirees and older displaced workers who have no way to buy private health insurance on their own deserve the opportunity to purchase health insurance through Medicare.

Finally, we need to make our neighborhoods safer this year. And we will. By helping communities create after-school safe havens to keep kids out of trouble. And by creating special juvenile courts and toughening the Federal penalties for gang violence so that the kids we can't reach, the hard-core few who are violent repeat offenders, will be locked up for a long time.

A sound economy, stronger schools, a secure retirement, safe neighborhoods. That is the Democratic agenda for America's families. They are not sound bites; they are sound policies. They are new ideas for a new century.

Today, we pledge to do all that we can to enact these new ideas into law and make a real difference in people's lives.

We have little time left in this Congress, Mr. President, to deal with this and all of the leftover elements of the agenda from last year. But let us be clear, we need to finish our unfinished business—the highway bill, IRS reform, strengthening family farms, and reforming our campaign finance system. We need to finish that business and pass this agenda this year.

Our economy is strong. Our foundation is solid. Now, brick by brick, we need to keep building to take this prosperity to the next level and give people the tools and the opportunities to make their lives better in a new century.

Mr. President, I want to reiterate my gratitude to the Senator from North Dakota for assuring that we could allocate the time for this very important discussion.

I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. I thank the Democratic leader. He has provided extraordinary leadership to this caucus and this Congress. The document that we developed over time and announced today with the President, the Vice President, Senator DASCHLE, Congressman GEPHARDT, and the joint Democratic caucuses of the House and Senate is one that I am enormously proud of and one that, if enacted, would substantially improve this country.

We come here, almost all of us, Democrats and Republicans alike, because we have a passion for public policy and feel very strongly about a range of issues and how those issues might affect our country's future. While we might have substantial differences in how we go about achieving certain goals, I think all of us understand that we sit in this Chamber as American citizens in a democracy wanting the best for our country. The question is, how do we achieve that? How do we achieve the goals that we establish for our country's future?

Senator DASCHLE mentioned the things that we have accomplished, the things that we have yet to do, the fiscal policy. I can recall, going back 5 years to 1993, when we had a very, very significant debate on the floor of the Senate about fiscal policy, what kind of policies would put this country back on track, heading in the right direction; what kind of policies would continue us in the direction that we had been moving in with higher debt, higher deficits, higher unemployment, higher inflation. So we had a significant debate about it. Those of us who felt very strongly that there was a better way and a better direction won by one vote—one vote here and one vote in the other body. A margin of one vote determined the new fiscal policy for this country. It was a tougher fiscal policy. It wasn't words; it was action. So it was controversial. For some, it was difficult. Some of my colleagues who voted for it are not here any longer; they lost their seats in Congress because of it. But it was medicine to cure what was wrong in this country's fiscal policy and to put this country on the right course. And it worked.

It substantially reduced the Federal budget deficit. It told all the American people that there was a new group of Members of Congress, a new President who said there is a better way and a different way, and we are going to tackle this fiscal policy and tackle the Federal budget deficit and change things. It's very interesting that, because this economy rides on a cushion of confidence, when we made that decision, the American people were confident about the future once again, and when they are confident, they make decisions like buying a home, buying a car, taking a vacation, buying a new refrigerator. When they are not confident about the future, they don't make those purchases and they don't make those decisions. When they feel like that, the economy contracts. When they feel confident about the future, the economy expands. Because the economy has expanded and because people have had more confidence, this budget deficit has shrunk. It is down, down, down, way down. We will balance the budget.

Crime is down, unemployment is down, inflation is down, welfare is down. All of the things that are important in our lives about how we are doing in this country show signs of substantial improvement and show signs that this country is moving in the right direction.

I want to make one other point about fiscal policy and some of the other problems we face. In our agenda, we talk about Social Security—''save Social Security first,'' the President proposes. And ''save Social Security first,'' we propose as a caucus. Some wring their hands every day of the week about Social Security. Some never liked it in the first place. Some think it doesn't work and they wring their hands and say, ''Woe, what are we to do with Social Security?''

I want them to understand, as many Americans do, that the Social Security problem that exists is born of enormous success. We would not have a problem financing Social Security for 150 years if we went back to the old mortality rates. In the 1930s, you were expected to live to age 63 in this country. Now you are expected to live, on average, to about 77 years in America. Why? Because we have done a lot of good things in this country. We have invested in health care, technology, and breathtaking medical research. Now people, when they reach a certain age and their knees wear out, they get new knees, or they get new hips, or have cataract surgery, or their heart muscle is unplugged on an operating table. Some people may be worth a million dollars after all that medical help. But the point is that people are living longer and better lives, and all of these problems are born of the success of greater longevity. Does that cause some pinching in Social Security and Medicare in the long term? Yes, but it is not catastrophic. Adjustments can be made that are not significant, which will provide solid, assured financing for Social Security and Medicare for the long term.

That is what this President says. As we tame the fiscal policy deficits, and as we begin to accumulate surpluses, let us use those surpluses to save Social Security first. Those who believe that is not a wise course, those who believe that is not appropriate fiscal policy, come to the floor of the Senate, because we are going to have a healthy and aggressive debate about that. Many of us feel very strongly that it is precisely what this country ought to do. We have tamed the Federal deficit. Now let's make the right investment. And the first commitment ought to be to save Social Security first.

Now, within the context of other spending we do in the budgets and other investments, there are other things we can do. I know we will have Members who don't want to do anything. They have never wanted to do anything. I mean, there are people who have said there is no role for Government. There are people who put seatbelts on when they drive through a car wash. They're so conservative they don't want to do anything ever. Much of what we have accomplished in this country has been because we have made the right kind of investments.

This proposal that we have developed jointly says that one of those investments that is very important is in the area of health care research down at the National Institutes of Health, where breathtaking, new medical research occurs. We are saying we can invest substantially more money and you can, as a result of that, save an enormous amount of money and save lives and improve the lives of the American people. I am very excited about that. What better investment is there in this country than to invest in the kind of medical and health care research at the

National Institutes of Health which has provided breakthroughs in medicine that have allowed people to live much longer and more productive lives?

Another investment that the President and we call for in our joint policy message is an investment in education. Education is our future. Our children are our future. Investment in our children represents our tomorrow. We talk about investing in schools, investing in good teachers, and deciding that we can do this country a significant amount of good by understanding that the priority is educating our children. Thomas Jefferson once said, ''Anyone who believes a country can be both ignorant and free believes in something that never was and never can be.'' He was right about that 200 years ago. The reason this country has done so well is because we have always established that education is a priority. It must remain a priority, and that is what our caucus and our policy choices are committed to doing.

A couple of other items—and I don't want to cover them all because some of my colleagues will cover some. Teen smoking is part of our agenda. We need to end that, to combat teen smoking. You have all heard the message that you don't find people deciding at age 25, as they sit around in a recliner thinking about life, or wondering what on Earth can I do to further enrich my life, or what is missing from my life, and they come up with the answer: Smoking; I would like to start smoking. Nobody does that at age 25 or 30. If you are not smoking by the time you are a kid, you are not going to be a future user of tobacco.

The tobacco companies have always known that, and that is why they have always targeted their future customers, who are the children. Does anybody know anybody who is 25 or 30 years of age who says, how can I enrich my life further? and then comes up with the answer that I would like to start smoking? Nobody does that. We also understand that we can save lives by combating teen smoking, and there are plenty of ways to do that. A thousand kids a day will die—3,000 kids a day will start smoking, and a thousand will die of that cause. We can save lives with a national campaign to combat teen smoking.

Drunk driving. This agenda of ours also deals with the question of drunk driving. That is not some mysterious illness or disease. We know what causes fatalities on the roads—drunk driving. Everyone in this Chamber and every family represented here knows that—friend, neighbor, relative, acquaintance. I am not even very logical about this question. The night that I got the call that my mother had been killed by a drunk driver, I'll never forget the moment, and I'll never forget how I have felt from that day forward. People who drink and drive turn automobiles into instruments of murder. The fact is, it's not just the .08 we are going to debate, the question of when are you drunk. There are six States in this country where you can get behind the wheel of a car and take a fifth of whiskey in one hand and the steering wheel in the other and drive off, and you are perfectly legal. That ought not happen anywhere in America. We can change that. There are some 20 States in which, if the driver can't drink, everybody else in the car can be drinking. Vehicles on roads in this country ought not to have open containers of alcohol in them, period. That is something we can address in this Congress.

Finally, campaign finance reform is also part of what our caucus is committed to doing. There are a lot of discussions about what pieces will work and what pieces will not work with respect to campaign finance reform. I want to describe one little piece that I think is important. The most significant kind of air pollution in America today is the 30-second political ad that does nothing but tear down someone's opponent. It is a 30-second slash and burn, cut and run ad that contributes nothing to our country. The first amendment gives everybody the right to do that. We won't change that. But there is a little thing we can change. We can, by Federal law, say that every television station is required to offer the lowest rates on the rate card during political advertising during a certain period. I propose that we change that law to say that low rate is only available to candidates who run advertisements that are at least 1 minute in length. Let's require people to say something significant in one in which the candidate himself or herself is in the advertisement 75 percent of that 1 minute.

Some people may not like that. I do. Can you think of any other business, other than American politics, where the competitor says—for example, can you conceive of a car company who does all of its advertising saying: By the way, if you buy a Chevrolet, you are going to kill yourself because they are not safe; or fly American, or United, or Northwest and, by the way, their mechanics are a bunch of drunks. Do we see that in any other part of our lives? No. That is not the way commercial enterprises compete against each other. But it is the way we compete in politics. Shame on us. We can change that. It ought to be a competition of ideas and about what we want for the future of this country. I hope one of these days we can have campaign finance reform that gets to that point. But at least a little proposal I am suggesting, on top of all of the other things that we are talking about in campaign finance reform as a caucus, might finally stop some of this air pollution or at least lessen the pollution that permeates every campaign in this country.

Then there is food safety, clean air, and clean water. Our caucus stands for things that are positive in the lives of the American people. Some say they want to debate politics with the same old stereotypes. Unfortunately, it won't work anymore. To those who say, ''There are the good guys, and there are the tax-and-spend people,'' I say that doesn't work. Our caucus, in this Congress, with this President, made a decision that we were going to do some awfully important things to put this country back on course, and we did it—at great cost and expense to our caucus. But the American people, 5 years later, see the results for this country of what we have done. We say that the job isn't finished. There is much to do to make this a better country. That is the purpose of the message and the purpose of the set of public policies that tell the American people: Here is why we are here and what we want to fight for to improve America's future.

I yield the floor to the Senator from Connecticut, Senator DODD.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Thank you, Mr. President. Let me commend our colleague from North Dakota for a very eloquent statement and the Democratic leader, Senator DASCHLE of South Dakota, for laying out one of the primary objectives of a Democratic agenda for this session of the 105th Congress.

I think there are issues that ought to enjoy and attract strong bipartisan support—sustained growth in our economy, a balanced budget, a growing surplus, and investments in the educational and health needs of young people. I certainly hope that on managed care issues, in particular, we can find consensus—making sure that people across this country have the right to choose their own doctors and are not going to be forced out of the hospital prematurely. A bill of rights for patients is something that is long overdue. I know that the people of American are hoping that this Congress will address these issues before we adjourn.

I want to commend those who are responsible for putting this agenda together and to address a few aspects of it more fully.

Shortly we will be hearing from our colleague from North Dakota, Senator CONRAD, who has led a task force over the past several months to fashion a bill to deal with the difficult issue of tobacco use by young people—a bill which I was pleased to cosponsor. As Senator DORGAN just discussed, the facts on youth smoking are not in controversy—3,000 young people start smoking every day, and 1,000 of those will die prematurely.

This is an issue that ought to unite Americans regardless of political persuasion or ideology. We all pay when children become addicted to tobacco. It is not just the children who pay with abbreviated lives that might have produced far more for themselves, for their families, and for their Nation. But all of us in a sense suffer when we, by our silence, by our inaction promote or at least don't try to retard the

growth of a problem that so negatively affects young people. So, I am hopeful in these few legislative days we have remaining, we will do something meaningful to reduce the harmful impact of tobacco on the children in this country.

We all know that a tax increase, which makes tobacco less affordable, is one of the ways to do that. I'd like to cite some facts from a recent survey done in my State—in Fairfield County, CT. This county is a one of great affluence—it contains the towns of Greenwich and Westport some of the more affluent communities in the Nation. It is also a county that is the home of Bridgeport, CT, one of the poorest cities in the Nation. In a relatively small area of geography, you have great diversity in income.

This survey looked at young people's smoking habits. Interestingly, about 30 to 35 percent of the young people in the more affluent suburbs in the communities of Fairfield have already begun to smoke or abuse alcohol. In Bridgeport, however, the percentage of teenagers was much lower—10 to 13 percent. Why? There are many factors, but, clearly economics play a major role. The people who conducted this survey concluded that money does make a difference—that the ability of a teenager to buy a pack of cigarettes actually does affect the likelihood that he or she will smoke.

Senator CONRAD has included in his bill a tobacco tax of $1.50—the amount that public health experts tell us is necessary to effect a decrease in youth smoking. Senator CONRAD has also laid out a plan for making use of the revenue raised by this increased tax on tobacco. I suspect that I was somewhat of a pest over the last 72 hours as he was getting ready to introduce this bill—in making repeated suggestions about how he could best make use of those funds. I am very pleased that Senator CONRAD will be directing $14 billion of the revenues—of the $80 billion that will be generated in the next 5 years or so—toward improving the affordability, availability and quality of child care.

My colleagues know, going back during the years of my tenure in the Senate, that I have spent a lot of time advocating for children's issues, particularly child care. So, I am deeply, deeply grateful to my colleague from North Dakota for agreeing to allocate such a substantial part of these dollars to the needs of children. I know my colleague from Rhode Island, JACK REED, who was one of the first cosponsors on our comprehensive child care bill introduced last week and an active member of the Democratic Strike Force—Right Start 2000 that we formed in the Senate here to focus on children's issues, joins me in expressing our appreciation.

While we are on the topic of child care, Mr. President, I'd like to share with my colleagues some new findings in the child care debate that relate to the issues of the cost and quality of child care.

Mr. President, after we passed the welfare reform package in 1996 I asked the General Accounting Office if they would do a survey of States and give us some idea of how this law would affect the child care needs of families in this country. The GAO, just in the last few days, completed its survey and issued a report to the Subcommittee on Children and Families, of which I serve as ranking member.

Let me just briefly share some of the conclusions of this GAO study about how welfare reform is affecting not only welfare recipients, but also working families. I think these findings highlight why the allocation that the Senator from North Dakota has directed to children's needs in his tobacco bill is so critically important.

This report's findings are based on a survey of several States—California, Louisiana, Oregon, Texas, Washington, and Connecticut. First, let me offer the good news. According to the GAO States have done a very good job in meeting the needs of welfare recipients. Most families who need child care assistance in order to begin to enter the workplace are receiving it. Now, for some of the bad news. In order to help all of the welfare recipients, States had to severely limit the access of working families to child care subsidies. People who are right on that margin—not on welfare, but just over the line—are not getting the assistance they need.

The survey indicates that access of working families to subsidies has been severely curtailed. Even if States draw down all of the Federal funds available, more than half—52 percent of working families in this country who need affordable child care—will be denied it.

In Texas, one of the seven States surveyed, this means that over 37,000 working families remain on waiting lists for child care assistance. In California, even more dramatically, 200,000 working families are on waiting lists for child care assistance—some for over 2 years. Tragically, in my State of Connecticut, we just stopped pretending. We don't even keep waiting lists for new families.

In this survey, the States also told the GAO about severe problems with the availability of child care. As we have known for years, certain types of care are not available at any cost—infant care, care for children with disabilities and care during nonstandard work hours.

The GAO found that States are particularly concerned that the work participation requirements of welfare could exacerbate the shortage of infant care. Under welfare reform, mothers with children over the age of 1 are told they must work. Some States have chosen even tougher standards. In Wisconsin and Oregon, mothers with children older than 3 months must work. I find it somehow ironic that we now have Republican legislation pending that would offer incentives for parents to stay home with children under the age of 3 years—a wonderful idea—but yet we have in place a work requirement for welfare recipients with children over 3 months in some States.

In many communities, child care for very young children is so limited that parents must sign up while they are still pregnant to have any chance of finding that care at all.

Welfare reform is also exacerbating, according to GAO, the lack of child care during nonstandard work hours. Many welfare parents are finding jobs in service industries where shift work is required. Yet in most communities child care on weekends or after 6 p.m. is nonexistent.

When it comes to improving the quality, it is clear that States are making an effort. States are trying to improve provider training, to incresae provider compensation and to help facilities meet licensing standards, but they are still concerned that they are falling short. They are concerned, and rightly so, that as work participation requirements rise, quality may be compromised.

This report is not about blaming the States. They are doing the best they can with a very big job. This is not about pitting welfare recipients against working families in the battle for limited child care dollars. It should be about making sure that the Federal Government provides sufficient resources so that parents who need safe and affordable child care in order to work can find it in this country.

Senator CONRAD's bill and the $14 billion in funding that it will provide will go a long way towards meeting those needs. I am pleased that the Senator from North Dakota has included in his tobacco legislation language directing these funds to the programs outlined in the Child Care A.C.C.E.S.S. bill which I introduced last week. I think it will go a long way toward ensuring that working families are going to get the kind of child care assistance and support they need.

Again, I want to say to my colleague from North Dakota that I commend him immensely for the tremendous job he did, and I apologize to him publicly for being the source of some annoyance to him as I tried to get more money out of him for child care over the last several days. He very generously doubled the investment in child care from $7 billion to $14 billion. I thank him for that. Hope springs eternal. There may even be some additional resources made available for child care as we go through this debate. I am grateful to him and members of the tobacco task force for their attention to the needs of children and child care in their legislation.

Mr. President, I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I want to thank my colleague from Connecticut for his gracious assistance, as we move to introduce the tobacco legislation. I also want to thank him for his

forceful advocacy. That is what this place is all about. And there is no more forceful advocate for children in this Chamber than the Senator from Connecticut, Senator DODD. He cares deeply about this subject. He fights for what he thinks is an appropriate allocation of resources to make the changes that are desirable.

So it is not a matter of irritation. It was a matter of tough negotiation, and he is a darned good negotiator. Anybody who is able to increase an allocation they care about by 100 percent—there is only one person in that category: The Senator from Connecticut. But it was for a good cause, and we very much appreciate his support for the legislation.

(The remarks of Mr. CONRAD, Mr. REED, Mr. KENNEDY, and Mr. BAUCUS pertaining to the introduction of S. 1638 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield to my very, very good friend, the distinguished senior Senator from West Virginia who is the ranking member of the Appropriations Committee and has held more titles around here than I can think of. It is an honor to yield to him.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I thank the Senator. Mr. President, how much time do I have remaining under my reservation?

The PRESIDING OFFICER. The Senator from West Virginia has 35 minutes remaining of his reservation.

Mr. BYRD. I thank the Chair. I may or may not use all of that today. Whatever I use at this point, I ask that it be taken off my time that has been reserved.

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

Mr. BYRD. I thank my friend, and I will be about 5 minutes.

SENATOR SPECTER'S 68TH BIRTHDAY

Mr. BYRD. Mr. President, it is an unfortunate fact of life in today's Senate that, as Members go about the business of fulfilling their duties, it is increasingly difficult to find time in our hectic schedules to acknowledge the personal milestones of our colleagues. I intend to rectify this situation in part today by taking just a few minutes to congratulate my friend from Pennsylvania, Senator ARLEN SPECTER, on the occasion of his 68th birthday.

Oh, Mr. President, only to be 68 again. Oliver Wendell Holmes said, ''Oh, just to be 70 again.'' Well, I feel very much in that same mode.

Born in the prairie town of Wichita, Kansas, at the start of the Great Depression, ARLEN SPECTER, through the diligent application of his intellect and his tenacity, has become the 1,750th individual to serve this great nation as a United States Senator.

Mr. President, Senators serve with Presidents. I hope Senators will remember that. Senators don't serve under Presidents. Senators serve with Presidents. President is another office, a high office, indeed, in the executive branch. But Senator SPECTER is the 1,750th individual to serve this great Nation as United States Senator, and he has served with Presidents in both parties.

Woodrow Wilson reportedly said, ''The profession I chose was politics; the profession I entered was law. I entered the one because I thought it would lead to the other.'' Mr. President, I do not know if, in Senator SPECTER's case, he came to the same conclusion or if politics was for him a natural calling, but whatever the case, the melding of politics and law in the person of this thoughtful, soft-spoken Pennsylvanian has resulted in an inspired result for the people of the Keystone State.

A graduate of the University of Pennsylvania and Yale University Law School, ARLEN SPECTER began his remarkable public career as an assistant district attorney in Philadelphia, where he won the first conviction in the Nation of labor racketeers, fought consumer fraud, and relentlessly prosecuted corrupt public officials. That willingness to take on the tough fights, no matter where they might lead, has become the hallmark of the senior Senator from Pennsylvania, Mr. SPECTER.

But dogged pursuit of righting criminal wrongs is only one facet of ARLEN SPECTER's many-faceted character. As a Member of the Appropriations Committee in the Senate, Senator ARLEN SPECTER has worked long hours, and with great determination, in an effort to see that Federal dollars are wisely usedto combat breast cancer, prostate cancer, heart disease, and Alzheimer's disease. Indeed, I believe it is fair to say that my friend from Pennsylvania takes a second seat to no one when it comes to his commitment to doing all that he can to provide a better, healthier life not only for those whom he represents in Pennsylvania, but also for all Americans.

Mr. President, it is this fortuitous combination of legal acumen, tenacity, and compassion for the difficulties of others that has made ARLEN SPECTER a highly-respected Member of this body, one whose counsel is so valuable to all who know him and work with him. As Henri Frederic Amiel noted in his Journal on April 7, 1851, ''man becomes man only by the intelligence, but he is man only by the heart.'' Senator SPECTER is a superior example of what Henri Frederic Amiel meant by that pronouncement. So I offer my friend and colleague my heartfelt congratulations, and also my thanks to him for his wisdom, his character, and his decency on this day which marks the beginning of his 68th—almost the beginning—I suppose it is the beginning of his 68th year. Oh, but to be 68 again.

So I say to my friend from Pennsylvania:

The hours are like a string of pearls,
The days like diamonds rare,
The moments are the threads of gold,
That bind them for our wear.
So may the years that come to you
Such wealth and good contain
That every moment, hour and day
Be like a golden chain.

Mr. President, I thank my friend from Montana for his kindness in yielding to me. I yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I join my colleague in congratulating our friend, Senator SPECTER from Pennsylvania, on his 68th birthday. I have watched Senator SPECTER over the years, and I can say I do not think there is a Senator with a finer legal mind than the Senator from Pennsylvania, particularly from a criminal law perspective, constitutional law perspective, and a prosecutorial perspective as a former prosecutor in Pennsylvania.

He brings to this body tremendous experience and tremendous judgment. And I join my colleague in wishing our colleague from Pennsylvania the very best returns on his 68th birthday.

THE NEED FOR ISTEA

Mr. BAUCUS. Mr. President, I rise today, along with my colleagues, to urge the Senate to begin the debate on the ISTEA reauthorization bill.

That is important for a number of reasons, that I will get to in a moment. But first let me comment on why we find ourselves in this position.

As my colleagues know, the current ISTEA legislation expired on September 30th of last year.

The Environment and Public Works Committee, under the leadership of our chairman Senator CHAFEE and our subcommittee chairman Senator WARNER, reported the 6-year reauthorization bill on October 1.

About that same time, the House Transportation and Infrastructure Committee reported a stop gap 6-month extension. Unfortunately, as we all recall, the Senate bill got caught up in an unrelated debate over campaign finance reform.

So, regrettably, last session ended with the Congress—both House and Senate—unable to complete action on a long-term bill to reauthorize this important legislation. The best we could do was to extend the funding until May 1 of this year.

Now, there is plenty of blame to go around for this unfortunate situation. Whether it was the failure to invoke cloture, or the filling of the amendment tree, which prevented Senators from offering amendments, there were lots of reasons for our failure last year.

But that was then, and this is now. And the plain fact is that pointing fingers at one another about what did, or did not, happen last year will not help us move a reauthorization bill this year.

So let us stop blaming one another for last year and let us start figuring out how to get the ISTEA legislation reauthorized quickly this year.

Now, Mr. President, let me talk about why we need to move quickly with ISTEA. The simple fact is that without quick action, highway projects, safety programs, and transit projects will begin to lose the ability to meet our country's transportation needs.

Already State highway officials tell us that they are beginning to delay projects. Why should this be so?

Why are States slowing down, or stopping, some projects—even though there are still 42 days of funding left until the May 1st deadline?

The reason is that most highway projects take a long time to complete. It is not unusual for even relatively simple projects to take three, four or five years to finish. Sometimes even more. And complicated or controversial projects, such as the Central Artery in Boston, can take a decade or two to go from conception to completion.

In the highway business, you don't start a project unless you know you will have the funds to complete it.

After all, these projects cannot be turned on and turned off like a faucet. Doing so wreaks havoc on the construction itself, on the neighborhood, on traffic congestion, and so on.

Because these projects extend over many years, they require a certainty in funding that extends over a comparable period. That is why highway bills need to last for several years. ISTEA ran for 6 years. The Senate-reported bill also lasts for 6 years. This time provides a good sense of stability to the financing of projects and allows states and communities to plan their transportation programs efficiently.

But a short-term extension gives you uncertainty, not stability. Especially for large projects, if states cannot assure that Federal matching funds will be available to finish it, they won't even start it. So they delay projects, even if there may be a few weeks of funding left.

At the end of my remarks, I will list a few of the States that are beginning to delay projects. I hope my colleagues will pay close attention to it. Because the longer we delay a reauthorization bill, the longer this list will grow.

Now, let me talk for a few minutes about how the highway program works on the ground. And the process I will describe is essentially the same in every State.

Each project normally has three distinct stages—planning, development, and construction. Each stage can last from weeks to years, depending on the specific project. The charts I have here today focus on the project development stage, that is, the process of taking a project proposed by local government and getting it ready for construction.

As my colleagues can see, it is not simple. A highway project goes through a very complicated process.

The chart on my right shows the first phase—the ''survey phase''.

This is the part of a project where State Departments of Transportation do such things as prepare for public hearings; begin to draft environmental documents; collect soil samples; begin preliminary engineering; assess traffic noise impacts; begin subsurface utility relocation; and assess wetlands and water quality impacts.

The second chart, on my left, shows the ''design phase''. Here, States must prepare the design documents for a project. These documents include traffic access plans; wetland mitigation plans; review of soil samples for hazardous materials; and applications for water quality permits.

Of course, it also includes preparation of final construction drawings, route alignments, schedules of materials, and the like.

The third chart covers the ''right-of-way'' phase. In this phase, States prepare the final environmental documents; determine where rights-of-way must be acquired; determine utility relocations; determine final traffic access controls; obtain wetlands permits; and review all of the documents from the previous design phase.

And as I said before, all this must be done before one shovelfull of dirt is turned.

Now, Mr. President, I explain this process to my colleagues so that they can begin to understand the complicated nature of the highway program. Every project in every State must go through this type of process. In Montana, we have over 450 projects going through it. In States with larger transportation budgets, there can be as many as 1,500 projects in the pipeline.

No project can be ready to go to construction if it has been held up at any point in the development process. And States will not obligate funds to prepare a project for construction if they are uncertain they will actually be able to construct it at some point.

For some projects that are large and complicated, the project development process can be longer than others. But the typical development time for a major construction project can range from five to seven years. That is, it can take five to seven years for a project to reach the point that it is ready for construction.

Once a project is ready for construction, States must still advertise the project—which can take 3 to 4 weeks. Then States must receive bids, open the bids and award the contracts. That can take an additional 4 weeks. And workers, equipment and materials must be mobilized and brought to the construction site. More time.

Finally, there is the time spent on actual construction.

With such a complicated, time consuming process, it is important that Members of the Senate understand that even brief interruptions during project development can cascade into lengthy delays in construction.

That is why the ISTEA bill runs for six years, to give the States some assurance they will not face wasteful delays and disruptions caused by funding uncertainties. That is also why a short-term extension, or worse, a series of short term extensions, is so disruptive.

I have heard many Members ask ''what does it matter if we wait until late March or April to do this bill?''. I hope that once Members and staff become more familiar with this program, that will be a simple answer.

If we wait to begin the debate until ''later'', this bill will not be done by the May 1st deadline. That means more projects will be delayed. It means thousands of workers will lose jobs. And I am afraid that such job losses will begin to happen soon.

I have heard of one contractor who plans to lay off his construction workers on May 1st and will not rehire them until at least 30 days after the final conference report is agreed to.

That same contractor will not be placing any orders with his suppliers until 45 to 60 days after a new bill is in place because he is uncertain he will have construction contracts to work on. And I am confident there are more contractors throughout the country making the same business decision.

Mr. President, the hardworking Americans who lose their jobs because of these delays will do so through no fault of their own. These folks will be ready to show up for work every day and do a good job. And yet they will be told they must find other work because Congress couldn't resolve its differences and get the ISTEA bill reauthorized in time.

Every State will feel this pain. Yes, some will hurt more than others. But every State will have to delay projects.

As I mentioned earlier in my remarks, some States have already listed the projects that will most likely be delayed if a reauthorization bill is not signed into law by May 1st. These are real projects.

These are projects that communities were counting on. These are projects that are important for the safety and mobility of drivers and pedestrians and to relieve congestion in these States.

The States that have already made plans to delay projects include: Kentucky, South Dakota, Maine, Wyoming, Georgia, Nevada, Texas, Missouri, Oklahoma, Indiana, New Hampshire, Indiana, North Dakota and Utah.

More States are expected to announce their plans soon.

Mr. President, let's not treat the reauthorization of ISTEA as a political football. The consequences for all of our States are very real. For those Senators who doubt the impacts, I simply ask that they call their State Department of Transportation. Ask them what they plan to do in the coming weeks. I can assure you that it will not be good news.

So we have a very important job to do—to reauthorize ISTEA. Let's get to it.

I stand ready to work with the Majority Leader, with Senator DASCHLE, with my committee leadership, with Senators BYRD and GRAMM, with the Budget Committee and all my colleagues to find a way to bring this bill up as soon as possible.

Mr. BYRD. Will the Senator yield?

Mr. BAUCUS. I am happy to yield to the Senator.

Mr. BYRD. I thank the distinguished Senator for his remarks on this very important subject. I sat and listened to them. I found them to be very illuminating, very interesting, very informative and refreshing.

I have been around a good many years. I didn't realize all of the steps, the lengthy process, the consumption of time that is required from the alpha to the omega of planning and completing the highway. This has been most edifying to me as I have listened. I thank the Senator.

I recommend to all Senators that they read in the CONGRESSIONAL RECORD the statement that has been made today by Senator BAUCUS. He sits on the authorizing committee, and he has had an opportunity because of the jurisdiction of that committee over highways, he has invested many years in the study of this subject matter, and it is a real privilege to have him part of the Senate. I thank him for imparting to me, and I am glad I took the time and sat here and listened to him.

This vast knowledge—I am sure he could speak all afternoon on this subject without notes. I thank him. His comments have been very helpful. I hope all Senators will read these remarks in the RECORD and that Senators will join in cosponsoring the Byrd-Gramm-Baucus-Warner amendment.

If the Senator will allow me 10 more seconds, I ask unanimous consent that the following three Senators be added as cosponsors to the Byrd-Gramm-Baucus-Warner amendment numbered 1397 to the bill S. 1173, the Intermodal Surface Transportation Efficiency Act of 1997: Senator DODD, Senator BINGAMAN, Senator THURMOND.

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

Mr. BYRD. I thank the distinguished Senator.

Mr. BAUCUS. I thank my good friend from West Virginia. Nobody has worked harder on this issue than he. We all owe him a tremendous debt of gratitude for his very fine work.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

A SEARCH FOR TRUTH WITH AN INDEPENDENT COUNSEL

Mr. MCCONNELL. Mr. President, I rise today to call attention to a serious and deeply troubling crisis in our country. This is a crisis of confidence, of credibility, and of integrity. Our Nation is indeed at a crossroads. Will we pursue the search for truth, or will we dodge, weave, and evade the truth?

I am, of course, referring to the investigation into serious allegations of illegal conduct by the President of the United States—that the President has engaged in a persistent pattern and practice of obstruction of justice. The allegations are grave, the investigation is legitimate, and ascertaining the truth—the whole truth, and nothing but the unqualified, unevasive truth—is absolutely critical. The search for truth is being led by a highly capable former Solicitor General of the United States and a former judge of the U.S. Court of Appeals for the D.C. Circuit, Kenneth Starr.

Mr. President, I am deeply troubled today because Judge Starr's pursuit of the truth is being undermined every step of the way, every single day, in the press by those whose sole mission is to attack and impugn the court-appointed independent prosecutor and the congressionally created process. These attackers are not the journalists or the broadcasters.

Mr. President, what troubles me the most here is that these reckless attacks and ruthless onslaughts are being carried out by the closest advisers to the President of the United States.

Just this past Sunday on Meet the Press, Paul Begala, Assistant to the President, accused Judge Starr of leaks and lies and called him ''corrupt.'' That is not a paraphrase, that is a direct quote. He actually used the word ''corrupt.'' The smear campaign is being orchestrated by the White House.

Obviously, I can't vouch for the truth or falsity of the obstruction-of-justice charges against the President. But what I can tell you is that the assaults on Judge Starr, the character assassination against the court-appointed independent prosecutor, is authorized and approved by the President of the United States. And it should stop.

The White House and the First Lady have announced that the President's problems are nothing more than a ''vast right-wing conspiracy.'' As many commentators have pointed out, this so-called conspiracy is so vast and so broad that it encompasses both the media and a White House intern.

But I would like to point out today that the vast and broad conspiracy just got bigger. Apparently, this vast right-wing conspiracy is so sweeping and so pernicious that, in 1993, it compelled a Democrat-chaired Ethics Committee in a Democratic-controlled Congress to appoint Judge Kenneth Starr to help investigate whether Republican Senator Bob Packwood should be expelled from the U.S. Senate.

Mr. President, let me refresh the recollection of the Senate regarding the 3-year Packwood investigation, which began in late 1992 and ended with Senator Packwood's resignation in 1995.

I was the vice chairman, and later the chairman, of the Ethics Committee during that investigation. As everyone will recall, that investigation was a very sensitive, personal and serious matter. It involved the allegation that Senator Packwood had ''engaged in sexual misconduct'' and ''attempted to intimidate and discredit the alleged victims, and misuse[d] official staff in attempts to intimidate and to discredit.''

During this lengthy investigation, Senator Packwood objected to the Ethics Committee's review of his personal diary entries in the fall of 1993. The committee proposed a process where the diaries would be reviewed by an independent hearing examiner who would serve two functions: First, the examiner would review the diaries to ensure that the committee would see all relevant and probative information. Second, the examiner was asked to protect the privacy interests of Senator Packwood, his family and friends.

The Ethics Committee had to choose a person who was fair, impartial, prudent, and trustworthy. Someone who wouldn't be on a vendetta against Democrats or Republicans; someone who had earned the clear respect of both parties; someone with the highest integrity; someone with a clean track record; a man with sound credentials, who was above reproach. And the Ethics Committee chose such a man.

They chose a man who was the son of a Baptist minister, a graduate of Duke University Law School, a former clerk for Chief Justice Warren Burger. The Ethics Committee—chaired at the time by a Democrat in a Democrat-controlled Congress—chose a man who was the former Solicitor General of the United States, a former judge of the U.S. Court of Appeals.

That man was Kenneth Starr.

Let me tell you who was on the committee at that time. The committee was chaired by my colleague from Nevada, DICK BRYAN. The Republicans on the committee included myself, Senator CRAIG and Senator BOB SMITH of New Hampshire. The other Democrats were my dear colleagues, Senator MIKULSKI of Maryland and the current minority leader, Senator TOM DASCHLE.

The matter was not quiet and secretive. The entire U.S. Senate knew who would be called upon to exercise impartiality, discretion, and judgment in a highly important and highly sensitive matter. We actually discussed this matter on the floor of the Senate because there was a needed Senate action to enforce the subpoenas. Senator Alan Simpson referred to Judge Starr as ''a splendid man,'' and ''a man of judgment, honesty, integrity, and common sense.''

Senator ARLEN SPECTER stated, ''Many people have spoken about

[Judge Starr's] integrity, and the committee has already endorsed his standing. . . . If Judge Starr makes a judgment, that is the judgment. That is it.''

My colleagues on the other side didn't object or dispute that notion. For example, Senator JOHN KERRY, of Massachusetts, voiced the consensus opinion when he declared on the Senate floor that ''Judge Starr is certainly a neutral party.''

And, it didn't stop with the Democratic-chaired Ethics Committee and the Democrat-controlled Congress. In 1994, the U.S. District Court in the District of Columbia had to choose someone to serve as a special master to help enforce the Ethics Committee's subpoena for the Packwood diaries.

The court had to choose a man who was fair, impartial, prudent, and trustworthy; again, someone who wouldn't be on a vendetta against Democrats or Republicans; again, someone who had earned the clear respect of both parties, and someone with the highest integrity, who was above reproach.

The court chose such a man, Mr. President. It chose the former Solicitor General of the United States and a former judge of the U.S. Court of Appeals, Kenneth Starr.

So, today, we examine the White House's ludicrous, self-serving claim of a ''vast right-wing conspiracy'' and find that the conspiracy has ensnared even more than we would have ever imagined. The ''vast right-wing conspiracy'' can now count as members the Democrat-chaired Ethics Committee in 1993 and the then Democrat-controlled Senate. And, lest we forget, the conspiracy can also count the Federal District Court for the District of Columbia as one of its members.

My point here, Mr. President, is simple: The attacks on Kenneth Starr are unfounded and unproductive. The attacks are, in fact, unconscionable.

Let me point out, as far as this crazy conspiracy theory is concerned, most people would agree that the Senator from Kentucky has fairly solid conservative Republican credentials. If somebody were engineering a ''vast right-wing conspiracy,'' I think I might have gotten wind of it. Furthermore, let me point out that I don't know Ken Starr. I do not recall ever meeting him in my 14 years in Washington. If he were a fire-breathing Republican ideologue, one would think that, as active in Republican politics as I have been over the last 15 years, I might have run into him someplace along the line.

The crisis in the White House is a crisis for our entire country. The crisis will only be resolved by a fair and sober search for the truth. It is clear from the record that Judge Starr is the right man for this job. I think that it is important for the President and his people to stop this smear campaign. Let Ken Starr do his court-appointed job and let the American people learn the truth, the whole truth, and nothing but the truth.

Mr. President, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

THE DEMOCRATIC AGENDA

Mr. KENNEDY. Mr. President, I strongly support the legislative priorities announced today by President Clinton, Vice President GORE, Senator DASCHLE, and Congressman GEPHARDT.

These priorities contain a number of major Democratic initiatives to protect Social Security and to help working families across the country on key issues such as jobs, education, health care, and the environment. And I look forward to their enactment this year.

One of the pillars of our Democratic agenda is a commitment to raise the minimum wage by 50 cents in each of the next 2 years. Our proposal will increase the minimum wage from its current level of $5.15 an hour to $5.65 an hour on January 1, 1999, to $6.15 an hour on January 1 in the year 2000. In 1996, after a hard-fought battle in the last Congress, we raised the minimum wage by comparable amounts with no adverse effects whatever on the economy. The scare tactics about lost jobs proved to be as false as they are self-serving.

A recent study by the Economic Policy Institute contains documents that the sky hasn't fallen as a result of the last increase. Raising the minimum wage does not cause job loss for teenagers, adults, men, women, African Americans, Latinos, or anyone else. Twelve million Americans benefited from raising the minimum wage, and they deserve the increase that we are proposing.

To have the purchasing power it had in 1989, the minimum wage today would have to be $7.33 an hour. That figure is still well above the level that we are proposing. That fact is a measure of how far we have not just fallen short but actually fallen back in giving low-income workers their fair share of our extraordinary economic growth.

In the past 30 years, the stock market, adjusted for inflation, has gone up by over 100 percent while the purchasing power of the minimum wage has gone down by 30 percent. We know who these minimum wage workers are. Sixty-percent are women. Nearly three-quarters are adults. Half of those who would benefit work full time. Over 80 percent work at least 20 hours a week. They are teacher's aides, child care providers. They are single heads of households with children. They are people who clean office buildings in countless communities across the country working 40 hours a week, 52 weeks a year.

Minimum wage workers earn $10,712 a year, $2,600 below the poverty level for a family of three. Low-income workers don't just deserve a wage; they urgently need a raise. Nationwide, soup kitchens, food pantries, and homeless shelters are increasingly serving the working poor—not just the unemployed.

In 1996, according to a recent U.S. Conference of Mayors study, 38 percent of those seeking emergency food aid held jobs, up from 23 percent in 1994. Low-paying jobs are now almost the most frequently cited cause of hunger. Officials in 77 percent of cities cited this factor.

The American people understand the unfairness of requiring working families to subsist on a subpoverty minimum wage.

I look forward to the early enactment of the increase we are proposing. Twelve million working Americans deserve a helping hand.

In good conscience we cannot continue to proclaim and celebrate the Nation's current prosperity while consigning millions who have jobs to live in continuing poverty. No one who works for a living should have to live in poverty in the United States of America.

The second pillar of the Democratic agenda is the Patient's Bill of Rights on health insurance.

Few issues are more important to all working families than quality, affordable health care. Every family needs and deserves good medical care when a loved one is ill. Every family that has faithfully paid its premiums to its insurance plan deserves to receive the benefits the plan has promised. The American family knows that this promise is broken too often because unscrupulous insurance companies put profit ahead of patients.

In movie theaters across the country today audiences erupt in spontaneous cheers when the character portrayed by actress Helen Hunt explodes in frustration over the callous treatment that she and her son received from her managed care plan. The movie ''As Good As It Gets'' has been nominated for major academy awards.

But managed care today isn't receiving any awards, and neither is Congress for our lack of needed action to end these flagrant abuses.

The problems are obvious. Insurance company accountants should not be allowed to practice medicine. It is time to guarantee women the right to see a gynecologist. No breast cancer patient should be forced by health insurance plans to have a drop-by mastectomy when hospital care is needed. No patients with a rare or dangerous disease should be denied the right to be treated by a specialist. No child's health or very life should be at risk because a parent feels forced to drive past the nearest emergency room to a more distant hospital that is the only hospital covered by the group plan. No doctor should be subjected to gag rules, financial incentives, or financial penalties to prohibit or discourage them from giving patients the best medical advice. Reasonable review procedures should be available to anyone denied coverage or treatment by their insurance plan. Patients with an incurable

illness should be allowed to participate in clinical trials of new therapies that offer the hope of improvement and cure.

The Republican leadership has told the special interests to ''get off their butts and get out their wallets'' to fight any legislation that puts the interests of working families ahead of the interests of unscrupulous insurers. But with the President and the congressional Democrats unified for reform, I am confident that we will prevail and that our Patient's Bill of Rights will be signed into law this year.

A second health issue that is critical to millions of families is access to health insurance for those too young for Medicare but too hold for affordable private coverage.

Our Democratic agenda offers these families immediate health and hope. We propose to allow them to buy into Medicare at a price that is far more affordable than the private market offers, if it offers them any insurance at all.

Three million Americans between the ages of 55 and 65 have no health insurance. The consequences are often tragic. As a group they are in relatively poor health, and their health continues to deteriorate the longer they are uninsured. They have no protection against the cost of serious illness. They are often unable to afford the routine care that can prevent minor illnesses from turning into serious disabilities, or even becoming life threatening. The number of uninsured in this group is growing every day.

Between 1991 and 1995, the proportion of today's workers whose employers promise them benefits if they retire early dropped 12 percent. Barely a third now have such a promise. In recent years too many who have counted on employer commitment have found themselves with only a broken promise and their coverage canceled after they have already retired.

The plight of older workers who lose their jobs through layoffs or downsizing is equally grim. It is difficult to find a new job at 55 or 60, and it is even harder to a find job that comes with health insurance.

For these older Americans who are left out and left behind for no fault of their own after decades of hard work, Democrats are offering a helping hand. By allowing these workers to buy affordable coverage through Medicare, our Democratic proposal is a lifeline for millions of these Americans. It provides a bridge to help them through the years before full Medicare eligibility. It is a constructive step towards the day when every American of any age will finally be guaranteed the fundamental right to health care.

Our proposal places no additional burden on Medicare. It is fully paid for by premiums from the beneficiaries themselves and by savings from fraud and abuse.

Democrats will fight hard for this commonsense approach to helping older workers and their families. And Congress should respond.

In addition, on education, President Clinton and the Democrats in Congress have also made it a top priority to see that America has the best public schools in the world. We intend to do all we can to see that we have reached that goal.

Successful schools need a qualified teacher in every classroom making sure that children get the individual attention they need. That is why another main pillar of the Democratic agenda is to provide 100,000 new teachers for America's public schools. The shortage has forced school districts to hire more than 50,000 uncertified teachers a year, or ask certified teachers to teach outside their area of expertise. One in four new teachers dot not fully meet State certification requirements, and 12 percent of new hires have no teacher training at all.

In Massachusetts, 30 percent of teachers in high-poverty schools do not even have a minor degree in their field.

Our Democratic proposal will also encourage State efforts to reduce class size by providing additional teachers needed to fill the smaller classrooms.

Our proposal will also help schools meet their urgent needs for repair, renovation, modernization, and new construction.

Investing in schools is one of the best investments America could possibly make. For schools across America, help can't come a minute too soon, and our Democratic proposal provides it.

On key issues, such as the minimum wage, health care, and education, the Democratic priorities put working families first.

Our proposals are investments in a better life for all of our families and a better future for the country. Special interests will fight hard to keep these proposals from becoming law. But Democrats in Congress and the President will fight harder because we know that the American people are with us.

Mr. President, I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

IRAQ

Mr. LOTT. Mr. President, I believe that Senator DASCHLE will join me on the floor shortly because he and I would like to, in effect, have a joint statement with regard to Iraq because we want the message to be unambiguous, very clear to America and to our allies around the world, and to Iraq about our attitude and what our intentions are with regard to this very important matter.

I just had a call from Senator JOHN WARNER, who is in Russia today along with Senator CARL LEVIN. They are escorting Secretary of Defense Bill Cohen. They have already been to six countries since they were in Germany. I believe perhaps even the Senator from Arizona, the Presiding Officer, was there. They have gone throughout the Arab world, and now they are in Russia.

He tells me that he believes that when they return, Secretary Cohen and the two Senators will bring a great deal of helpful information to the Senate and to the American people about what they have heard in the Arab world and what they have heard from our allies in those areas' meetings. They believe that they will be able to answer some of the very important questions that Senators have been asking.

So we will look forward to their return.

I had hoped that we could get to the point where we could pass a resolution this week on Iraq. But we really developed some physical problems, if nothing else. Senator WARNER and Senator LEVIN would like very much to be a part of the discussion about what the situation will be and how we should proceed on Iraq. They would like to be here. And other Senators are necessarily not going to be able to be here beyond this afternoon.

So we have decided that the most important thing is not to move so quickly but to make sure that we have had all the right questions asked and answered and that we have available to us the latest information about what is expected or what is going to be happening with our allies in the world.

I was noting, I say to Senator DASCHLE, that I just talked to Senator WARNER in Russia, and he was telling me that Secretary Cohen and Senator WARNER and Senator LEVIN are looking forward to coming back and giving us a full report on their trip to the Arab world. Now they are in Russia today.

Mr. President, I have no doubt that the entire world is watching the current crisis between Iraq and the international community unfold. This is another showdown caused by Saddam Hussein.

The Iraqi dictator has decided that his weapons-of-mass-destruction program is more important than the welfare of his own people. At a time when we have been getting reports—in fact, we have seen children suffering from malnutrition—this dictator has been building $1.5 billion in additional palaces. He has already endured 7 years of sanctions so that he can develop biological, chemical, and nuclear weapons—and the means to deliver them.

This is a very serious matter. For some time we—and I mean America and our allies—have been working to develop a resolution on Iraq that has broad bipartisan support and also one that would bring the situation under control there by diplomatic efforts hoping to avoid military action. But that has not happened yet.

I believe we are moving toward a consensus in the Senate on a number of the key issues that must be addressed as we look to the future. And here they are.

First of all, Saddam Hussein does pose a real threat to the region and to

the entire world. I believe the Senate recognizes that. I hope that the American people recognize that. This is not a hypothetical danger that has been dreamed up by some armchair strategists. There is a long track record in this area of actions by Saddam Hussein. He poses a clear and present danger without equal in the post-cold-war-world. He is dangerous. He is a threat to his neighbors. He is a destabilizing force in the whole region. And, yes, he is actually a threat all over the world including the United States. This is a man who has already invaded two of his neighbors. Iraq has used chemical weapons inside and outside its borders. It has launched missiles against Saudi Arabia and against Israel. Hussein tried to murder former President George Bush in 1993.

Now, we should not make any mistake and think that a military action, if it comes to that, is going to rehabilitate Saddam Hussein or even eliminate him. He does not have any desire to join the civilized world, apparently, and he has shown that he can survive even when the whole world has concerns with his conduct and has taken unified action to stop his aggression.

Second, I think there is a consensus in the Senate that military force is justified if diplomatic actions fail in responding to the threat that Saddam Hussein poses. The threat is serious and our response must be serious.

Now, any military force that is used does entail risks, to our military, to our allies and even to our country if there is an attempt at retaliation. The American people need to understand that, and we need to think about it carefully. And we need to talk about the risks that are involved. That is one reason why, when we bring up a resolution, if it is necessary—and I assume it will be—we must make sure that every Senator who wants to be heard can be heard.

I remember when we had a similar debate back in the early nineties. I think some 80 Senators spoke. Now, this time we won't have 500,000 troops amassed on the ground ready to go in, but it is still a very serious matter, and I want to make sure that we don't try to restrict Senators. In fact, we could not. Senator DASCHLE knows if we asked unanimous consent to bring this resolution up today and vote on it in 4 hours, we would not get it; the Senate is known for its deliberate actions. And the longer I stay in the Senate, the more I have learned to appreciate it. It does help to give us time to think about the potential problems and the risks and the ramifications and to, frankly, press the administration. I feel better this week than I did last week because of the responses we are getting about how this is being thought out and what would be the military action and what will be the long-term plans to deal with Saddam Hussein. We are beginning to get some answers now. I believe the administration is thinking harder about what those answers should be because the Senate, Republicans and Democrats, has raised these questions, not in a critical way, not in a threatening way, but in an honest way of saying, have you thought about this? What about this approach? Can we do more? I think that has served a very positive purpose.

Some people have said to me, even back in my own State, ''This is not a threat to us. Let them deal with that over there.'' Who? Who is going to deal with it? If America does not lead, who is going to lead? Nobody else.

Now, our allies can, should, and, I believe, will join us if action is necessary. But we are going to have to lead the way. We are going to have to make the tough decisions. And people need to understand that this threat could even apply to us. While it may be a direct threat of a Scud missile in the region with a chemical warhead even, it could very easily be a threat to Paris or some city in the U.S. involving anthrax that's been produced by Saddam Hussein.

These are terrible things to even think about, but you are dealing with a person who has already used terrible actions against his own people. And so he is not so far removed. We are the ones who have to provide the direction. And we have to make sure people understand it is a threat to the whole world.

In my view, the decisive use of force against Iraq coupled with the long-term strategy to eliminate the threat entails less risks in the long run than allowing Saddam Hussein's actions and ambitions to go unchecked. You cannot do it when you are dealing with a situation like this. In the words of former Secretary of State Jim Baker, ''The only thing we shouldn't do is do nothing.'' We cannot allow that to be the result or what we do is nothing.

The administration has agreed with us that funding for the operations in and around Iraq require supplemental appropriations. We had very grave concerns by the Senator from Alaska, Mr. STEVENS, and Senator DOMENICI about how much will this cost? How is it going to be paid for? We cannot continue to say ''just take it out of your hide'' to the Pentagon; it is having an effect on morale, quality of life, on readiness and modernization. We already have a very high tempo for our military men and women in the Navy and Air Force. We are satisfied that they now have made a commitment that they are going to come up and ask for funding for both these purposes, in Bosnia and, if necessary, in Iraq. And these will be emergency requests so it will not come out of necessary improvements in barracks or spare parts for aircraft, which are very important.

There is a consensus on seriously examining now I believe long-term policy options to increase the pressure on Saddam Hussein. The administration and Congress and our allies all look forward to dealing with a post-Saddam regime. But the question is how to get there.

That is intended not to be a threat or say we should violate the law; it is intended to start the discussion, start the thinking about how can we increase these pressures. And we have to have a strategy to deal with whatever comes after the military option. Many things have been suggested. Toughen sanctions—not loosen sanctions, toughen sanctions. What about an embargo, what about expanding no-fly, no-drive zones? What about the support of opposition forces?

There is a long list of suggestions, some that I will not even put in the record here, but they are worth thinking about. Our model should be the Reagan doctrine of rollback, not the Truman doctrine of containment in this instance. And I don't mean that as critically as it sounds. It is just that there are two different doctrines, and the doctrine here should be rollback, not containment.

Despite our areas of agreement that we have clearly reached—Senator DASCHLE and I have been working together making sure every word is sanitized in the potential resolution—it is obvious we cannot get it done this week for physical reasons as much as anything else. And I remind my colleagues and the American people it was 5 months after Saddam Hussein invaded Kuwait, 5 months before Congress passed a resolution authorizing the use of force to expel him. In this case, we have a bipartisan effort, trying to make sure that the right thing is going to be done and that the right language is developed. Unlike what we had in the early 1990's when the Speaker and majority leader were working to defeat the administration's policy, you now have a Speaker and a majority leader and the Democratic leader and the minority leader in the House all working together with the administration to make sure that the language is right and that the actions are right.

Yes, more time may be needed for diplomacy and more time to think about the long-term plans, but a point will come when time will run out and action must go forward. When that comes, when U.S. Armed Forces are sent into harm's way, by the President of the United States, they will have the backing of the Senate and the American people. If the President makes the decision to deploy military force against the threat posed by Iraq, America will be united, united and praying for the safety of our men and women in uniform, united in hoping casualties are kept to a minimum, and united in hoping for and supporting a successful effort.

I just want to make that point clear today. Nobody should interpret the fact that we don't vote on a resolution today as meaning that we are not united in the fundamental principles. We are. But we want to make sure that when we do take military action, we have thought about all the ramifications and the resolution that we come up with will have the involvement of

100 Senators, with 100 Senators being present and voting, and that every word is the appropriate word that reflects the best interests of the American people.

So I am pleased to stand here this afternoon and make this statement and to assure my colleagues that I will continue to work with every Senator on both sides of the aisle to make sure we take the appropriate action, if it is necessary, when we return week after next.

Mr. President, I yield the floor and I am looking forward to hearing Senator DASCHLE's comments on this subject.

Mr. President, I observe the absence of a quorum momentarily.

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

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. 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 Democratic leader is recognized.

Mr. DASCHLE. I begin by complimenting the majority leader on his remarks and on the manner in which he has conducted himself and his leadership with regard to this issue. He has noted the strong desire on the part of all four leaders in Congress to demonstrate with absolute clarity the need for bipartisanship when it comes to sending as clear a message as we can. His remarks and his actions have demonstrated that, and I support fully his decision not to bring the resolution to the floor today.

Obviously, there are times when matters of this import need to be fully discussed and must by their nature involve every Senator. Two of the most important Senators to provide contributions to this debate are traveling on one of the most important missions related to this whole exercise and cannot be with us today.

In addition to that, we continue to consult with colleagues on both sides of the aisle in an effort to come up with the clearest and most accurate statement with regard to the position to be expressed by the Senate. So for all of those reasons and many others, Senator LOTT and I will continue to work with our colleagues and schedule a time that will provide for the opportunity for all Senators to be heard and for debate to take place on this very important matter.

But, so that there will be no misunderstanding, we come to the floor today jointly—and we will be joined by several others—to speak with one voice to condemn in the strongest possible terms Iraq's refusal to comply with international law. To condemn Iraq's refusal to fulfill its commitments to the international community. To send a clear message to Saddam Hussein that American resolve to force Iraqi compliance with international law and their own commitments is unwavering; to make clear that U.S. national interests are threatened if Saddam Hussein is allowed to thwart the international community's efforts to shut down his development of weapons of mass destruction programs.

Although Senator LOTT and I come from different political parties and may differ on issues from time to time, there ought to be no mistake about our position today. We stand united in sending the message to Iraq that it has no option other than to comply with the terms of the U.N. Security Council resolutions.

We have chosen to speak together today to send this important message as the President and members of his Administration work diligently to demonstrate to Iraq and the world the strength of our commitment to international security. It is a demonstration of our resolve—which is shared by the American people—that Iraq shall not be permitted to develop and deploy an arsenal of frightening chemical and biological weapons under any circumstances.

U.N. Security Council Resolution 687 requires Iraq to disclose and destroy its weapons of mass destruction capabilities and to commit unconditionally to never reviving those programs. Resolution 687 established the United Nations Special Commission (UNSCOM) to verify Iraqi compliance with these provisions and required that international economic sanctions against Iraq remain in place until those conditions are met.

The Iraqi government has repeatedly and deliberately impeded UNSCOM's attempts to ensure that Iraq's weapons of mass destruction programs are destroyed. The Iraqis have consistently thwarted UNSCOM's efforts to conduct their inspections unhindered—despite clear concerns about Iraq's remaining chemical and biological weapons capabilities. UNSCOM personnel have served admirably under extremely difficult, and often dangerous, conditions. In the face of concerted Iraqi intimidation and deception, UNSCOM has discovered numerous violations of U.N. Security Council resolutions requiring an end to Iraq's weapons of mass destruction programs. In fact, more Iraqi chemical and biological weapons have been destroyed as a result of UNSCOM's inspections than during all of Operation Desert Storm.

Iraq's actions pose a serious and continued threat to international peace and security. It is a threat we must address. Saddam is a proven aggressor who has time and again turned his wrath on his neighbors and on his own people. Iraq is not the only nation in the world to possess weapons of mass destruction, but it is the only nation with a leader who has used them against his own people.

It is essential that a dictator like Saddam not be allowed to evade international strictures and wield frightening weapons of mass destruction. As long as UNSCOM is prevented from carrying out its mission, the effort to monitor Iraqi compliance with Resolution 687 becomes a dangerous shell game. Neither the United States nor the global community can afford to allow Saddam Hussein to continue on this path.

Secretaries Albright and Cohen, in their trips to the Persian Gulf and elsewhere, are sending the important message that, while the United States certainly prefers a diplomatic course, we are willing to use force to block Iraq's ability to develop and use an arsenal of chemical and biological weapons if diplomatic efforts do not achieve this result. While there are clear differences among the leaders they have talked with, they have found unanimity on at least 2 issues.

First, U.N. weapons inspectors must have unfettered access to suspect Iraqi sites. Second, Saddam Hussein is solely responsible for creating this crisis by not adhering to the Security Council resolutions in the first place.

The foreign ministers of the 6-member Gulf Cooperation Council—Saudi Arabia, Kuwait, Bahrain, Oman, United Arab Emirates, and Qatar—stated this most clearly just yesterday:

> The current crisis is a direct result of Baghdad's reluctance to cooperate with United Nations weapons inspectors and its determination to defy the will of the international community with respect to the elimination of its arsenal of weapons of mass destruction . . . The only solution to spare the people of Iraq additional hardship and dangers is the Iraqi regime's implementation of the U.N. resolutions which it had previously accepted.

The United States continues to exhaust all diplomatic efforts to reverse the Iraqi threat. But absent immediate Iraqi compliance with Resolution 687, the security threat doesn't simply persist—it worsens. Saddam Hussein must understand that the United States has the resolve to reverse that threat by force, if force is required And, I must say, it has the will.

Secretary Albright sent the message in its purest form: ''Saddam does not have a menu of choices, he has one: Iraq must comply with the U.N. Security Council resolutions and provide U.N. inspectors with the unfettered access they need to do their job.''

We are here today to affirm that we and the American people stand with the President and the international community in an effort to end Iraq's weapons of mass destruction programs and preserve our vital national and international security interests.

The Senate has been working on a concurrent resolution expressing Congress's concern about Iraq's refusal to cooperate with U.N. weapons inspectors and urging the President to respond to this threat. In doing so, the Senate has grappled with some of the very difficult issues surrounding Congress's role in the decision to use military force. Perhaps too much had been made of the differences among Members of Congress about exactly how to approach this problem. That is understandable. There are always ways

in which to change the wording. But there is no way in which to change the message. The message is fundamentally and unequivocally clear, the most important message of all. Iraq must comply. There is no choice. We stand united in our determination to do whatever is necessary to achieve our goal. Iraq must comply. The United States has the resolve to ensure that compliance and we stand united today in an effort to articulate that very clear message as loudly, as unequivocally, and in as much of a bipartisan way as we can.

Mr. BIDEN. Mr. President, no one should doubt for a moment the resolve of the United States to respond with force, if necessary, to Iraq's continued flagrant violation of United Nations Security Council resolutions.

Vigorous diplomacy has been pursued over the past three months, but, thus far, Saddam Hussein has shown that he has no interest in a peaceful solution on anything other than his own terms. We cannot allow this tyrant to prevail over the will of the international community. Our national security would be seriously compromised by a failure to stand up to the challenge he has confronted us with.

Our strategic objective is to contain Saddam Hussein and curtail his ability to produce the most deadly weapons known to mankind—weapons that he has unleashed with chilling alacrity against his own people. Left unchecked, Saddam Hussein would in short order be in a position to threaten and blackmail our regional allies, our troops, and, indeed, our nation.

Let me take just a moment to recount how we have come to the point where military force may be employed in the near future.

For nearly seven years, Iraq has engaged in a cat and mouse game with the international inspectors that comprise the United Nations Special Commission. It has obstructed UNSCOM from fulfilling its mandate to monitor, investigate, and destroy Iraq's capacity to produce weapons of mass destruction.

In spite of Iraq's tenacious efforts at concealment and obstruction, UNSCOM has uncovered and destroyed more weapons of mass destruction than were destroyed during the entire gulf war. UNSCOM has revealed Iraqi lie after Iraqi lie.

Last October, Iraq threatened to expel all American members of the special commission. Ambassador Richard Butler, the chairman of UNSCOM, responded appropriately by withdrawing all inspectors rather than having his staff of professionals segregated on the basis of their nationality.

The ensuing stand-off led to diplomatic intervention by Russia. Eventually, Iraq relented by allowing UNSCOM back into the country.

But the central issue of unconditional and unfettered access by UNSCOM was left unresolved. Ambassador Butler visited Baghdad in December to try to resolve this issue, but to no avail.

Then, last month, Iraq refused to cooperate with a team of inspectors investigating Iraq's efforts at concealment. It made preposterous charges that the American head of the team, Scott Ritter, was a spy.

During a subsequent visit by Ambassador Butler, Iraq struck a defiant note. It vowed never to open so-called ''presidential and sovereign sites'' to inspection. In a recent speech, Saddam Hussein stated his decision to expel UNSCOM by May 20 if sanctions remain in place.

The United Nations Security Council has repeatedly condemned Iraq's noncompliance. Since October of last year, on seven separate occasions, the Security Council has demanded that Iraq fulfill its obligations.

But Saddam Hussein has made clear that it is more important to him to retain the capacity to produce weapons of mass destruction than it is to comply with the resolutions that would allow sanctions to be lifted. Once again he has proven what little regard he has for the suffering of his people.

The international community has exhibited enormous patience with Iraq. But that patience has reached its limit.

Time has run out. If Iraq does not comply immediately and unconditionally with United Nations Security Council resolutions demanding unfettered access for U.N. weapons inspectors, I believe that President Clinton will have no choice but to order the use of air power.

Unfortunately, we have learned over the past several years that the Iraqi Government, and more specifically its leader, only seem to understand the blunt language of force.

In recent weeks, several questions and criticisms have been raised with respect to President Clinton's policy. I would like to take a moment to respond to some of these comments.

Questions have been asked about our objectives. The objectives have been defined precisely. They are to curtail and delay Saddam Hussein's capacity to produce and deliver weapons of mass destruction and his ability to threaten his neighbors. We have been told by the Joint Chiefs of Staff that a military plan has been developed that would fulfill these objectives.

In a sense, the international coalition now assembling forces in the Persian Gulf will accomplish through the use of force what UNSCOM would be doing were it allowed to do its job. Secretary Cohen has told us that there is no substitute for having UNSCOM on the ground, but we are left with little choice if UNSCOM is prevented from carrying out its duties.

When the objectives have been explained, the next question that arises is what are the next steps. But this question is based upon the flawed premise that the use of force reflects a new policy. In fact, the use of force for the purposes outlined by the President is an integral part of the long-standing policy of containing Iraq.

Containment is a very unsatisfying policy at an emotional level. It lacks finality and it requires patience and staying power. But it meets our strategic objective of preventing Iraq from threatening our national security interests.

Containment is the best of three bad options available to us. The other two options would be to do nothing, or to send in several hundred thousand ground troops to occupy Iraq. Neither of these policies is viable.

Doing nothing would encourage Iraqi defiance and lead to a complete collapse of the constraints that have been placed upon Iraqi behavior since the end of the gulf war. It would be the surest way to rehabilitate Saddam Hussein.

Just as unpalatable is the prospect of sending in several hundred thousand ground troops to change the Iraqi regime. I believe that there is little support for such an operation in the Congress or the public. It would also raise a series of questions:

Would we be prepared to occupy and rebuild Iraq over a period of several years?

Would we be prepared for the real possibility that a march on Baghdad might lead Saddam Hussein to unleash his weapons of mass destruction?

Would any other nation support us for an action that is clearly outside the bounds of security council resolutions? To this point those resolutions have provided the basis for all U.S. military action against Iraq since the gulf war.

In the end, the only policy that stands up to scrutiny is that of containment, which the Clinton administration has followed and the Bush administration before it followed.

Finally, another question that has arisen is whether the President should obtain specific authorization to use force. I believe that the President would be wise to obtain such authorization.

The executive branch contends that it already has sufficient legal authority, under Public Law 102–1—the use of force resolution passed by Congress before the gulf war. The argument, as I understand it, may be summarized as follows:

In Public Law 102–1, Congress authorized the President to use United States Armed Forces:

''Pursuant to United Nations Security Council Resolution 678. Security Council Resolution 678, passed by the Council in November, 1990, authorized members of the United Nations to ''use all necessary means to uphold and implement Resolution 660 (1990) (The resolution which called for Iraqi forces to leave Kuwait) and all subsequent relevant resolutions and to restore international peace and security in the [Persian Gulf] area.''

Following the gulf war, in April, 1991, the Security Council passed Resolution 687, which set the terms of the cease-

fire and required Iraq to accept the destruction or removal, under international supervision, of its weapons of mass destruction. By its terms, it reaffirmed Resolution 678, and all prior council resolutions regarding Iraq.

Because Security Council Resolution 678 provided broad authority for nations to enforce ''all subsequent relevant resolutions'' and ''to restore peace and security in the area,'' and, because peace and security has not been restored to the Persian Gulf—indeed, Iraq is currently in violation of the cease-fire resolution—then the resolutions from 1990 and 1991, both by the Security Council and Congress, the administration contends, would still have legal force.

Moreover, Congress has never modified or repealed Public Law 102–1, so absent further congressional action, and absent the restoration of peace and security to the gulf, the President still has the legal authority to use military action against Iraq. Or so the administration's argument goes.

As a strong advocate of Congress exercising its powers under the Constitution in authorizing the use of force, I must admit to some skepticism about this theory. In my own research of the question, I have consulted several eminent constitutional scholars. My conclusion is that the administration's argument may be legally tenable—if barely so—and would probably be sustained in a court of law.

But merely because the position may be legally sufficient—and the courts are notoriously deferential to the executive in matters of war and peace (if they agree to consider the case at all)—I do not believe it would be wise precedent, or wise policy, of the President to proceed with renewed military action against Iraq without a clear authorization, newly enacted by this Congress. Indeed, because the question is a close one—and because we have a different President than we did in 1991, and a significant change in the membership of Congress since that time—it would be prudent for President Clinton to seek a new expression of legal authorization from Congress.

Mr. President, we should all hope for a genuine diplomatic solution to this stand-off, but no one should doubt our resolve to use force if it becomes necessary.

We have little choice in this matter. Important principles and vital national interests are at stake.

First and foremost, an Iraq left free to develop weapons of mass destruction would pose a grave threat to our national security. The current regime in Iraq has repeatedly demonstrated its aggressive tendencies toward its neighbors. It has also displayed a callous willingness to use chemical weapons to achieve its aims.

Recently, we have heard chilling reports of possible biological weapons experiments on humans. An UNSCOM Inspector has spoken of information that points to a secret biological weapons production facility. And Ambassador Richard Butler has told us that Iraq could well have missile warheads filled with anthrax capable of striking Tel Aviv.

An asymmetric capability of nuclear, chemical, and biological weapons gives an otherwise weak country the power to intimidate and blackmail. We risk sending a dangerous signal to other would-be proliferators if we do not respond decisively to Iraq's transgressions. Conversely, a firm response would enhance deterrence and go a long way toward protecting our citizens from the pernicious threat of proliferation.

Second, a failure to uphold United Nations resolutions would diminish the credibility of the Security Council. As much as we might like to deal with every threat we face on our own, in reality it is impractical and unrealistic. Instinctively, we all know that we are much better off when we have the support of the international community when facing common threats.

But in order for the Security Council to respond effectively to threats to international peace and security that might arise in the future, it is important that those who would violate the will of the international community pay a steep price for their actions. Iraq offers an important test case for the Security Council. Capitulating to Iraqi defiance could spell a dismal future for the Security Council in handling the central matters of international peace and security for which it was created.

I hope that the Russians, French, and Chinese keep in mind that it is not in their interest to see the authority of the Security Council diminished.

It is difficult to overstate the stakes involved.

Fateful decisions will be made in the days and weeks ahead. At issue is nothing less than the fundamental question of whether or not we can keep the most lethal weapons known to mankind out of the hands of an unreconstructed tyrant and aggressor who is in the same league as the most brutal dictators of this century.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I, too, want to commend our two leaders for working together on this very important issue. I think all of us believe that it is our responsibility, as the U.S. Senate, to work in a bipartisan way with the President of the United States on an issue as grave as attacking another country and sending our troops into harm's way. I believe the administration will work with this Congress and I believe we will have a comfort level that there is a plan and that our troops will be sent on a mission that is very clear. That is what this is all about.

The message we are sending to Saddam Hussein today is clear: You may either join the community of nations, abide by the resolutions of the United Nations, or there will be serious consequences. I don't know anyone who disagrees with that proposition.

We have often debated the importance of international arms control agreements, such as the Chemical Weapons Convention, the Comprehensive Test Ban Treaty among others. What is clear is that without the resolve of the international community to enforce these standards, they are meaningless. Saddam Hussein has threatened the peace in the Middle East before. His people have suffered mightily for it. But even at that time he did not deploy weapons of mass destruction. We cannot provide him a second chance.

International inspectors have concluded that he is continuing to develop an arsenal of these horrible weapons. He has used them in the past, so why wouldn't we believe that he would use them again, unless he is stopped? Just to put this in perspective, when you talk about chemical weapons or biological weapons, someone may say, ''So, what is that? Does that make that much difference? Is that really something that could harm the neighbors of Iraq, or harm the people of any other country?''

Anthrax is one of these weapons. A few pounds—think of what that is. It's something that is about this big. A few pounds of anthrax could wipe out a city the size of Washington, DC. We know that Saddam Hussein has the capability to produce this type of weapon. We know he has Scud missiles, we have seen them. Put that on top of a Scud missile and what does that do to the security of the neighbors of Iraq?

Chemical or biological agents could be introduced into the water supply of any city and kill thousands of people. That is the kind of weapon we are talking about. So, if you are talking about, is this really an issue? Is this something that we need to stop? I just ask you, if a few pounds of this kind of agent can kill the inhabitants of a city the size of Washington, DC, who in the world is safe, if someone is manufacturing these and has used them on innocent people before?

The United States led in the gulf war. We will lead again. And we will do so with the support of the American people. We are going to stand against nuclear, chemical or biological weapons in the hands of someone so irresponsible as Saddam Hussein, who has a record that is known of killing innocent people. We look for support from the international community as we had it in Desert Storm, and as I hope we can count on for the future.

We must not let there be a doubt of the resolve of the American people. Saddam Hussein must know that we speak with one voice. We need the resumption of inspections, for Saddam Hussein to show that he wants to be a part of the international community. Military force is justified as part of an overall strategy. Our leader has said that. What Congress will be looking

for, what the American people will be looking for from the President and his advisers, is an overall strategy so we know what we are looking at, what our troops are going to be asked to do; so that we can provide our troops with all the means they need to do the job and the protection they need when they are in the field.

I hope that part of an overall strategy will be the beginning of the communication directly with the people of Iraq, with the good and decent people who have fled the country, to say we want to support you and we want you to know that the weapons that are being held could be totally deadly to you, to your children, and to the people that live throughout the country of Iraq. What we want to do is make that a safe area so the people will be free and so they can join the community of nations for a lasting peace in the Middle East. Our forces are prepared. They will be capable of dealing a harsh lesson once again. I hope it will not be necessary.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I want to express my personal gratitude to the Senate majority leader, to the Senate Democratic leader, to my colleague from Texas who has just spoken for their eloquent statements, but really more for the unmistakable message that they send, which is that there are ultimately times of conflict abroad that involve the vital interests of the United States, as the current situation in Iraq does, no Democrats, no Republicans, only Americans standing side by side in support of the Commander in Chief and all those Americans in uniform who serve under him.

That, I hope, is the message that will be heard in Baghdad, most importantly. If the Commander in Chief of the United States decides that military force is necessary to be employed against Iraq, the overwhelming majority of Members of the U.S. Senate will stand strongly behind him and behind those American personnel in uniform who will carry out that policy.

Mr. President, the statements of the majority leader and the Democratic leader are the finest examples of bipartisanship and statesmanship. They remind us, though there may be disagreements in this Chamber on partisan lines, that, again, when challenged, when it comes to America's vital interests abroad, we will stand together above party lines.

The administration has been very accessible, very forthcoming in consulting with both Houses of Congress about the challenge that Saddam Hussein and Iraq represent to us and to the security of our allies in the region and our soldiers in the region and of the world in general. I think we have to express our appreciation to the administration for that dialog that continues.

What is at stake in Iraq today? For one, something that might be considered quaint in some quarters, meaningless in other quarters, international agreements are at stake, agreements to end the gulf war, promises made by Saddam Hussein about allowing inspections which would enable us—the world—to guarantee that he was keeping his promises to disarm, a request justifiably made by the victorious forces in Operation Desert Storm and required of those who were vanquished in that conflict. So it is the integrity of these agreements, in the first instance, that is at stake.

Secondly, there are consequences, which is the threat that Saddam Hussein will use those weapons of mass destruction that we know he has; that he will use the ballistic missile, the delivery system capacity to deliver those weapons of mass destruction that we know he has in rudiment and is developing even further.

We know, as one of my colleagues said a moment ago—I believe it was Senator DASCHLE—unlike other leaders in the world, including dictatorial leaders of rogue nations who possess weapons of mass destruction, this particular leader, Saddam Hussein, has used those weapons against his neighbor, Iran, in the Iran-Iraq war in the eighties, and against the Kurdish population of his own country.

So our anger, our anxiety, our unease, our judgment that we have vital interests at stake is not theoretical. It is based on a course of behavior by this particular leader of this particular nation. We went through the entire cold war with enormous amounts of nuclear power in our hands and in the hands of the Soviet leaders, but there was, in the end, a kind of understanding based on a strange form of civilized premise, which is that those weapons would not ultimately be used, and they were not ultimately used. I don't think we can reach that same conclusion about this leader based on his own course of behavior.

There is a way in which there is a line to be drawn in this case, just as we drew a line in the post-cold-war-world, when Saddam invaded Kuwait and threatened our neighbors and vital economic interests and energy supplies in that region and we acted, reacted and reacted forcefully and rolled him back. Just as in Bosnia, we saw ethnic conflict could divide Europe and create broader conflict there, and we acted and stopped it. So, too, in this case, we are called upon to show that we are willing to draw a line, a preventive line, against those who possess weapons of mass destruction—chemical and biological; some have called them the poor nations' nuclear weapons—that we will draw a line and say we won't tolerate it. We are going to act to impose a regime of promises to disarm and if those promises are not kept, the international community will act to enforce them.

We have vital interests at stake in the region. We have thousands of soldiers there within range of these weapons of Saddam Hussein. We have allies in the region in the moderate Arab nations and in Israel, and we have vital economic interests in the oil supply in that region.

Mr. President, the fact is that all of those interests, all that we have at stake there—international promises made by Saddam as a condition to the end of the cold war, the threat of weapons of mass destruction and delivery systems, the vital interests in the region, the necessity to draw a line against the use of chemical and biological poisons, which all of the military experts tell us will characterize and intensify the security threats to our region and most of the rest of the world in the next century—all of those threats are not just to the United States, they are surely to our allies in the region and are to most of the rest of the world.

That is perhaps why so many nations have come to our side as we face the reality that the United Nations, not the United States, tell us of the refusal of Saddam Hussein to allow the inspections that he promised and, therefore, the fact that we have gone now more than 5 months with those sites uninspected and day by day the threat rises.

That is why our closest and most steadfast ally, Britain, have joined us, are ready to stand and fly side by side with us. But they are not alone. Canada, Australia, the Netherlands, Bahrain, Kuwait, Israel and a growing number of others are prepared to join us.

As much as we are heartened by this support, we don't see the same range of the coalition that we had leading up to the gulf war. Maybe that is understandable because the threat that the current crisis poses is not as immediate and accomplished, it is mostly imminent. In 1990, Saddam Hussein invaded his neighbor Kuwait and threatened Saudi Arabia and the rest of the Persian Gulf states, oil-producing states. In that circumstance, with a danger that was real and experienced, it was easier to assemble the broad-based coalition that we did.

Today, the threat may not be as clear to other nations of the world, but its consequences are even more devastating potentially than the real threat, than the realized pain of the invasion of Kuwait in 1990, because the damage that can be inflicted by Saddam Hussein and Iraq, under his leadership, with weapons of mass destruction is incalculable; it is enormous.

Therefore, I hope, though the circumstance may not be as clear, that other nations that have not yet forcefully expressed their willingness to stand with us and Britain and the other allies I mentioned will come to an understanding of that. It has been my hope all along that if the United States continued to lead, as we have, that the full range of coalition allies would, once again, stand by our side.

I always remember the Biblical evocation which is, if the sound of the

trumpet is not clear, then who will follow in battle? If the sound of the trumpet is clear, then I hope that the widest range of other nations in the world will follow into battle, if that is necessary, not simply to follow our leadership, but because their vital interests are at stake, in the resolution of this problem.

Mr. President, I think the administration has made clear, and that is why I believe there is broad support for the possible attacks that may occur on Iraq, that its goals here are limited. If air attacks occur, these are not acts of revenge, these are not punitive acts which have no meaning. These would be acts and attacks that are aimed at accomplishing what the inspections were supposed to accomplish, that are aimed at accomplishing what the gulf war cease-fire agreement was supposed to accomplish, which is the diminution and ultimately the elimination of Iraq's capacity to wage chemical, biological or nuclear war against its neighbors or ultimately anyone in the world. That limited goal may not satisfy some people, but it is a reasonable goal at this time, and it is a goal that I think ultimately and effectively will enjoy the broadest support in the U.S. Senate.

Mr. President, there are those who say, ''Well, what next? What if this doesn't work?'' I am confident it will work. When I say it will work, I mean I have the confidence the United States military has the capacity to strike at Iraq in a way that will, in fact, incapacitate, debilitate, postpone the ability of that country under Saddam Hussein to inflict damage on its neighbors with weapons of mass destruction. So that goal will be accomplished.

I think the question of what is next is an appropriate topic of discussion. Some people say we should pull back and wait and see what, in that initial time of that military strike, if it occurs, it will gain us, to see whether diplomacy can work again, to see if we can build the fullness of the coalition and again confront Saddam with the opportunity to comply with the promises he previously made.

Others, and I number myself among this group, are very skeptical of that policy. Diplomacy is always preferable to the use of force, and yet, I myself remain profoundly skeptical that an acceptable diplomatic resolution to this conflict is possible.

It is a painful and sad conclusion, but it is based not on animus toward that country, certainly not animus toward the people of Iraq, but it is based on the record. The record I need not cite in detail, but we know about the violent way in which Saddam Hussein seized power in Iraq, eliminating those of his fellow Iraqis who were in his way, about the violent and dictatorial way in which he has ruled. Life doesn't matter when you stand in the way of him; of the means that he used to conduct the war against Iran, including weapons of mass destruction; of his invasion of Kuwait; of his flaunting of the very agreements he made to end the gulf war; of the taunting of the international community that he represents today.

Mr. President, if this were a domestic situation, a political situation, and we were talking about criminal law in this country, we have something in our law called ''three strikes and you are out,'' three crimes and you get locked up for good because we have given up on you. I think Saddam Hussein has had more than three strikes in the international, diplomatic, strategic and military community. So I have grave doubts that a diplomatic solution is possible here.

What I and some of the Members of the Senate hope for is a longer-term policy based on the probability that an acceptable diplomatic solution is not possible, which acknowledges as the central goal the changing of the regime in Iraq to bring to power a regime with which we and the rest of the world can have trustworthy relationships. That is not going to be simple. It is not going to come overnight. It involves an effort to work with Iraqi opposition to Saddam Hussein, to use some of the same methods that were used in the cold war, something as simple and yet as effective as Radio Free Europe which spoke so powerfully to the hopes and dreams of people who lived so long under the tyranny of the Soviets, the Communists, and do the same for the people who live under the tyranny of Saddam Hussein, to work with our allies to build the kind of alternative that will raise our hopes for peace in that region of the world.

Those discussions about what may follow an air attack on Iraq are important. They are not easy. They deserve to be debated.

For now I think what is most important is that people of both parties have come together on the floor of the Senate to speak to this challenge to international law, to America's vital interests, and to say, directly or indirectly, ''Mr. President, if you, as Commander in Chief, act in this circumstance, in this crisis, you and the troops who serve under you will have broad bipartisan support in the U.S. Senate.''

I thank the Chair, and I yield the floor.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

IRAQ'S THREAT TO INTERNATIONAL PEACE AND SECURITY

• Mr. LEVIN. Mr. President, I want to express my support for President Clinton, in consultation with Congress and consistent with the United States Constitution and laws, taking necessary and appropriate actions to respond effectively to the threat posed by Iraq's refusal to end its weapons of mass destruction programs.

I am presently in Moscow accompanying Secretary of Defense William Cohen on a trip that has taken us to Saudi Arabia, Kuwait, Oman, the United Arab Emirates, Qatar and Bahrain.

I believe that it would be useful to briefly review some of the historical record relating to Iraq's compliance with United Nations Security Council resolutions leading up to the present crisis.

United Nations Security Council Resolution 660 of August 2, 1990, condemned the Iraqi invasion of Kuwait and demanded that it withdraw its forces from Kuwait. The Security Council's Resolution 678 of November 29, 1990, affirmed by Resolution 687 of April 3, 1991, authorized the use of all necessary means to restore international peace and security. During this period and up to the actual use of force by the United States-led coalition, there were a series of diplomatic efforts to convince the government of Saddam Hussein to withdraw from Kuwait. But Saddam Hussein didn't get it.

Following the Gulf War, the Security Council continued the economic and weapons sanctions on Iraq that were imposed after it invaded Kuwait. The Security Council conditioned the lifting of the sanctions on Iraq's accepting the destruction, removal or rendering harmless, under international supervision, of its nuclear, chemical, and biological weapons programs and all ballistic missiles with a range greater than 150 kilometers. Despite the crippling international economic sanctions that have been imposed on his country by the international community, Saddam Hussein still didn't get it.

In recognition of the need to reduce the harm to the Iraqi people that were caused by Saddam Hussein's misadventures, the Security Council on August 15, 1991, in Resolution 706, authorized the sale of Iraqi oil for the dual purpose of the payment of claims against Iraq and for the purchase of foodstuffs, medicines, materials and supplies for essential civilian humanitarian needs. That authorization was made subject to the Security Council's approval of a plan for such sales and for international monitoring and supervision to assure their equitable distribution in all regions of Iraq and to all categories of the Iraqi civilian population. But Saddam Hussein rejected the plan. It wasn't until a Memorandum of Understanding on the plan was signed by Iraq and the United Nations on May 20, 1996, and after several additional months of contentious negotiations on implementation details, that Iraq finally began pumping oil on December 10, 1996. That was more than 5 years after the Security Council authorized such action. Saddam Hussein still didn't get it.

There were several major confrontations between Iraq and the international community over access for United Nations Special Commission on Iraq or UNSCOM inspectors between May 1991 and June 1993. That pattern of confrontation was repeated on numerous occasions from March 1996 to October 1997. Since that time, the situation worsened until Iraq agreed that

UNSCOM could return to Iraq unconditionally. Although UNSCOM inspections resumed on November 21, 1997, access was denied to presidential palaces and many other sites, and in mid-January 1998, an inspection team headed by an American was blocked. By the way, there are many dozens of these palaces. Some have grounds as large as Washington D.C. They are suspect weapons of mass destruction sites as long as access is denied.

And so we have reached the present moment in time in which Iraq is blocking the UNSCOM inspectors from performing their mission on behalf of the international community. Saddam Hussein still doesn't get it.

Mr. President, United Nations Secretary General Kofi Annan stated it well at a press conference on February 2 when he said:

I think no one in the Council is pushing for the use of force in the first instance. All those who are talking about it are looking at it as a last resort. We hope that President Saddam Hussein, for the sake of the Iraqi people, who have suffered so much, will listen to the messages that are being taken to him by these senior envoys from Russia, from France, from people in the region, leaders in the region and elsewhere, and really avoid taking his people through another confrontation. They don't need it; the region doesn't need it; and the world certainly can do without it. And so, hopefully, the leadership will have the courage, the wisdom and the concern for its own people to take us back from the brink.

Mr. President, this crisis is due entirely to the actions of Saddam Hussein. He alone is responsible. We all wish that diplomacy will cause him to back down but history does not give me cause for optimism that Saddam Hussein will finally get it.

Mr. President, Saddam Hussein's weapons of mass destruction programs and the means to deliver them are a menace to international peace and security. They pose a threat to Iraq's neighbors, to U.S. forces in the Gulf region, to the world's energy supplies, and to the integrity and credibility of the United Nations Security Council.

Mr. President, as I noted earlier, I have visited a number of countries in the Middle East with Secretary Cohen. In each country, we have met with the head of state. We've had a series of very positive meetings in every country. We're very confident that the support that is needed and has been requested from these countries would be forthcoming if diplomatic efforts fail to get Saddam Hussein to comply and if there is a military strike. They all say, in various ways, basically the same thing—he must comply with U.N. Security Council resolutions and, if he fails to comply and if there is military action, the responsibility is his and his alone since he has the key to a peaceful solution, which is compliance with the U.N. resolutions. And we are assured privately that we will have their support if diplomatic efforts fail and if military action is necessary.

Mr. President, yesterday the Gulf Cooperation Council at the Ministerial level issued a statement concerning the Iraqi crisis. I ask that the text of the statement by printed in the RECORD at the conclusion of my remarks. That statement included the following and I quote:

The Ministerial Council has stressed that the current crisis is created by the Iraqi regime alone as a result of its non-cooperation with the international inspectors and its challenge to the will of the international community. This non-cooperation threatens Iraq with severe dangers. The Council expresses its conviction that responsibility for the result of this crisis falls on the Iraqi regime itself.

Further, General Zinni, the Commander in Chief of the Central Command (CINCENT), has personally advised us that, in his professional opinion, the United States has the support from Saudi Arabia and other Gulf nations needed to meet the requirements of the CINCCENT plan to execute a successful military operation, should it be necessary.

Mr. President, the use of military force is a measure of last resort. The best choice of avoiding it will be if Saddam Hussein understands he has no choice except to open up to UNSCOM inspections and destroy his weapons of mass destruction. The use of military force may not result in that desired result but it will serve to degrade Saddam Hussein's ability to develop weapons of mass destruction and to threaten international peace and security. Although not as useful as inspection and destruction, it is still a worthy goal.

The statement follows:

GULF COOPERATION COUNCIL

The dangerous circumstances and the critical situation the region is witnessing, which has resulted from the crisis which the Iraqi regime has created with the international inspectors belonging to the special committee assigned the task of destroying Iraqi WMD, and by refusing to cooperate with the international inspectors while not allowing them to carry out their duties by imposing conditions and creating obstacles represents a clear violation of the Security Council resolutions related to Iraq's aggression on the state of Kuwait.

The Ministerial Council has discussed these developments and what they involve in terms of actual dangers which threaten the security and stability of the region.

The Ministerial Council notes the international community's consensus and its insistence on Iraq implementing the Security Council resolutions in full; it places the responsibility for the delays in implementing those resolutions on Iraq. These delays will lead to continuation of the sanctions imposed on Iraq under which the Iraqi people suffer. The GCC people are concerned by this suffering and place the responsibility for it on the Iraqi regime alone.

The Ministerial Council has stressed that the current crisis is created by the Iraqi regime alone as a result of its non-cooperation with the international inspectors and its challenge to the will of the international community. This non-cooperation threatens Iraq with sever dangers. The council expresses its conviction that responsibility for the result of this crisis falls on the Iraqi regime itself. The council also stresses that it is not reasonable or acceptable anymore that the Iraqi regime takes unilateral measures to complicate conditions which threaten it with more severe and dangerous consequences while at the same time placing the responsibility for such measures on the Arab nation and the international community.

Bearing in mind that the council has not abandoned and continues to support any peaceful approach, the severe results from what might happen are to be borne by the Iraqi regime alone. In spite of the numerous efforts which a number of Arab and international parties have exerted to convince Iraq to retreat from its position by allowing the international inspectors to carry out their duties without any hindrance or condition, the Iraqi regime has continued with its intransigence. Not caring about the dangerous consequences which could result from this stance.

And in this tense environment, which presages dangers, the council expresses its belief that the only way to save the Iraqi people from the dangers and suffering to which they have been subjected is by the Iraqi regime implementing the resolutions which the international community has reached by consensus and which Iraq has accepted, in accordance with the program of this special commission the implementation of which no one has disputed.

In order to avoid the Iraqi brotherly people being subjected to the dangerous consequences of this crisis, the council asks the Iraqi regime to yield to the efforts made to implement all the commitments asked of it by removing the barriers/obstacles which it has imposed on the tasks of the international inspectors in preparation for reducing the sanctions and lifting the suffering of the Iraqi brotherly people.

The council stresses again its firm stance on the need to preserve the independence and sovereignty of Iraq, its territorial integrity and its regional security. The council has decided to continue communications between the member countries to follow the developments and this session will remain open.●

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia, under the previous order, has 30 minutes. The Senator from Maine was here before he was. Will he let her——

Mr. BYRD. I am seeking recognition first.

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

Mr. BYRD. Now, if the distinguished Senator from Maine would prefer to go ahead, I would be happy to await her.

Ms. COLLINS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Does the Senator from West Virginia yield?

Mr. BYRD. I just wanted to establish my right under the rules—which I sought recognition. The fact that another Senator has been here does not mean anything under the rules, but I am happy to yield and have the Senator proceed.

The PRESIDING OFFICER. The Senator from Maine is recognized for not to exceed 10 minutes.

Ms. COLLINS. Thank you, Mr. President. And I thank the Senator from West Virginia for his courtesy.

(The remarks of Ms. COLLINS pertaining to the introduction of S. 1648 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Ms. COLLINS. Mr. President, I ask unanimous consent that I be permitted to proceed in morning business until the Senator from West Virginia comes to the floor to give his statement. I ask unanimous consent for only 5 minutes or until such time as the Senator arrives.

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

PREVENTING FRAUD AND ABUSE WITHIN THE MEDICARE PROGRAM

Ms. COLLINS. Mr. President, as the Congress grapples with the problem of maintaining the solvency of the Medicare program and with proposals to expand Medicare coverage, we must not overlook a critical problem that threatens the financial integrity of this vital social program, which provides health care services to 38 million older and disabled Americans. I am talking, Mr. President, about the problem of waste, fraud and abuse in this program.

The Permanent Subcommittee on Investigations, which I chair, has undertaken an extensive investigation into Medicare fraud.

At our first hearing last summer, we learned from the inspector general of the Department of Health and Human Services that an astounding $23 billion a year is lost to waste, fraud, abuse and other improper payments.

In more recent hearings, Mr. President, we discovered that career criminals, with absolutely no background in health care, were able to be certified as Medicare providers and enter the system for the sole purpose of ripping it off.

For example, one case that the subcommittee investigated involved a totally fictitious durable medical equipment company that was located in the middle of the runway of the Miami International Airport, if it had in fact existed.

I am not talking here, Mr. President, about legitimate providers or innocent mistakes or honest billing errors. I am talking about outright fraud. We need to do a better job of screening providers and controlling their entry into the Medicare system.

Mr. President, the vast majority of health care professionals are dedicated and caring individuals who deliver vital services to millions of Americans across the country. They are as appalled by this kind of fraud as any of us.

Recently, I met with the members of the Home Care Alliance of Maine concerning the issue of fraud in the health care industry. The Home Care Alliance of Maine has a longstanding commitment to ensuring the highest quality home health care in the State of Maine. It has adopted a policy of zero tolerance on fraud and abuse in the home health industry. Its members recognize that unscrupulous home health providers not only tarnish the reputation of legitimate health care professionals, but that these unscrupulous individuals jeopardize the very availability of Medicare.

I ask unanimous consent the position statement of the Home Care Alliance of Maine be printed in the RECORD so my colleagues and organizations representing home health care agencies across the United States can have the benefit of the very fine work this organization has done.

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

MEDICARE FRAUD AND ABUSE

POSITION STATEMENT

The Home Care Alliance of Maine membership has a long-standing commitment to provide the highest quality of care to the elderly and infirm of our state. Even one unscrupulous home health provider that fails to maintain the values and ethics that are at the core of home care jeopardizes the viability of ongoing access to appropriate home health services.

We recognize that the responsibility for resolving concerns of fraud and abuse lies with the government, the home health industry, and individual providers. We further believe that different strategies are needed to clearly distinguish deliberately fraudulent practice from unintentional errors that can occur in the interpretation of the complex and often vague rules and regulations in the Medicare home health care benefit.

The Home Care Alliance of Maine firmly believes that fraud and abuse can be eliminated and errors corrected when addressed by comprehensive and concerted efforts among the industry, government, individual providers, and consumers. This partnership is critical to achieve the mutually beneficial goal of assuring integrity in administration of the Medicare home health care benefit.

We further believe that education of consumers and advocacy groups is central to ensuring trust in legitimate providers of home health services. It is only through open and public discussion about the basic structure of changes in the Medicare home health care benefit that consumers and others can confidently distinguish blatant fraud and abuse from innocent errors in interpretation and provision of services. Informed consumers and their advocates can then be reassured by their choice of licensed and certified home health agencies.

The Home Care Alliance of Maine supports:

1. Zero tolerance for fraud and abuse of the Medicare home health care benefit.

2. Total cooperation with prompt and responsible investigation and resolution of any errors in interpretation and application of the Medicare home health care benefit.

3. Medicare coverage and reimbursement standards in language that is understandable and readily accessible to providers and consumers through various means, e.g. federal depository libraries, state regulatory agencies, trade associations, fiscal intermediaries, and the Internet.

4. Enhancement of education and training of home health agencies through joint efforts with regulators.

5. Credentialing and competency testing standards for government contractors and federal regulators responsible for issuing Medicare determinations.

6. Mandatory screening and background checks on all applicants for Medicare certification as a home health agency.

7. Development and provision of a summary of program coverage requirements for consumers and prospective consumers of Medicare home health care benefits.

8. Enhancement and increased accessibility of the consumer reporting hotline for suspected fraud and abuse.

The Home Care Alliance of Maine is committed to working with its membership, state and federal regulatory bodies, and consumer advocacy groups to ensure the integrity of the Medicare home health care benefit in Maine.

Ms. COLLINS. I appreciate the opportunity to comment on this issue.

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

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

RECOGNITION OF MEMBERS OF ARMED FORCES HELD AS PRISONERS OF WAR DURING VIETNAM CONFLICT

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 177, submitted earlier today by Senators COVERDELL, CLELAND and others.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 177) recognizing, and calling on all Americans to recognize, the courage and sacrifice of the members of the Armed Forces held as prisoners of war during the Vietnam conflict and stating that the American people will not forget that more than 2,000 members of the Armed Forces remain unaccounted for from the Vietnam conflict and will continue to press for the fullest possible accounting for all such members whose whereabouts are unknown.

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

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

Mr. COVERDELL. Mr. President, colleagues, I rise on this 25th anniversary of the return of the first American POWs from Vietnam to recognize the National League of Families of American Prisoners and Missing in Southeast Asia and the many years and tireless hours Ann Mills Griffiths, the National League of Families' Executive Director, and JoAnne Shirley, Chairwoman of the League's Board and a fellow Georgian, have spent fighting for the return of American POW's and MIA's.

The National League of Families of American Prisoners and Missing in Southeast Asia was incorporated in the District of Columbia on May 28, 1970.

Voting membership is comprised solely of the wives, children, parents and other close relatives of Americans who were or are listed as prisoners of war, missing in action, killed in action/body not recovered and returned Vietnam War U.S. POWs. Associate membership is comprised of extended relation of POW/MIAs who do not meet voting membership requirements and concerned citizens. The League is a non-profit, non-partisan organization financed by contributions from the families, veterans and concerned citizens. The League's sole purpose is to obtain the release of all prisoners, the fullest possible accounting for the missing and repatriation of all recoverable remains of those who died serving our nation during the Vietnam War.

The League originated on the west coast in the late 1960's. The wife of a ranking POW who believed that the U.S. Government's policy of keeping a low profile on the POW/MIA issue and encouraging the families to refrain from publicly discussing the problem was unjustified, initiated a loosely organized movement which evolved into the National League of Families.

In October 1968, the first POW/MIA story was published. As a result of that publicity, the families began communicating with each other, and the group grew in strength from 50 to 100 to 300 and upward. Small POW/MIA family groups flooded the North Vietnamese delegation in Paris with inquiries regarding the prisoners and missing; the first major activity in which hundreds of families participated.

Eventually, the necessity for formal incorporation was recognized. In May 1970, a special AD HOC meeting of the families met at Constitution Hall in Washington, D.C. During this meeting the League's charter and by-laws were adopted.

A seven-member board of directors meets regularly to determine League policy and direction. The board is elected by the voting membership which now stands at approximately 1,000. Regional coordinators, responsible for activities in multi-state areas, and state coordinators also represent the League in most of the fifty states.

The League's national office is now staffed by only one full-time employee, augmented by concerned citizen and family member volunteers. The executive director, the sister of a soldier MIA and the organization's chief executive officer, is responsible for management of the League and Implementation of policies established by the membership and board of directors.

In 1971, Mrs. Michael Hoff, an MIA wife and member of the National League, recognized the need for a symbol representing our POW/MIAs. Prompted by an article in the Jacksonville, FL Times-Union, Mrs. Hoff contacted Norman Rivkees, VP of Annin & Company, which had made a banner for the newest member of the UN, the People's Republic of China, as a part of their policy to provide flags to all UN member states. Mrs. Hoff found Mr. Rivkees very sympathetic to the POW/MIA issue, and he along with Annin's advertising agency, designed a flag to represent our missing men. Following the National League's approval, the flags were manufactured for distribution. On March 9, 1989, a flag which flew over the White House on the 1988 National POW/MIA Recognition Day, was installed in the U.S. Capitol Rotunda, as a result of legislation passed overwhelmingly during the 100th Congress. On August 10, 1990, the 101st Congress passed U.S. Public Law 101–355, which recognized the National League's POW/MIA flag and designated it ''as the symbol of our Nation's concern and commitment to resolving as fully as possible the fates of Americans still prisoner, missing and unaccounted for in Southeast Asia, thus ending the uncertainty for their families and the Nation.'' This POW/MIA flag is now recognized world wide, by all concerned, as the universal symbol of the ''UNACCOUNTED FOR''.

Mrs. Ann Mills Griffiths serves as Executive Director of the National League of POW/MIA Families, a position held since August, 1978. Mrs. Griffiths' brother, Lt. Commander James B. Mills, USNR, has been missing since September 21, 1966, when the Navy F4C on which he served as a Radar Intercept Officer was lost on a night mission over North Vietnam.

Prior to assuming her position as executive director, Mrs. Griffiths was an elected member of the League's board of directors for four years, serving as legislative chairman. During its existence from 1980 through 1992, she played an active role in the U.S. Government's POW/MIA Interagency Group, representing the families' views in development of official policy to resolve this humanitarian issue.

Mrs. Griffiths has traveled extensively for discussion with senior officials of Laos, Cambodia, and Vietnam, as well as the countries of ASEAN. She was instrumental in facilitating high level negotiations between Vietnam and the United States in 1983 and participated in fourteen U.S. Government policy-level POW/MIA delegations to Hanoi since 1982, plus two League delegations in 1982 and 1994.

Acknowledged as an expert on the POW/MIA issue, Mrs. Griffiths regularly meets with senior administration officials and members of congress, appears before congressional committees, addresses national and international audiences, participates in appropriate policy seminars, publishes articles and newsletters, and is a frequent spokeswoman on network and cable television programs.

Within policy established by the membership and elected board of directors, Mrs. Griffiths has been instrumental in building the League from a small POW/MIA family group into a nationally recognized, non-profit organization that influences U.S. policy to resolve the humanitarian POW/MIA issue. In administering the Leagues' affairs, Mrs. Griffiths supervises League operations, manages a successful direct-mail program and plans the League's yearly convention that includes the highest levels of the U.S. Government. With the assistance of their staff and volunteer state and regional officials, Mrs. Griffiths also coordinates a nation-wide awareness program on the issue.

Mrs. JoAnne Shirley has been serving as Chairman of the Board of Directors since June 1995. Her brother, Maj. Bobby Marvin Jones, M.D., USAF Flight Surgeon, was shot down November 28, 1972, near DaNang, South Vietnam.

Mrs. Shirley is married to Dr. Rudy Shirley, MS., and ENT doctor, and they reside in Dalton, Georgia, with their three children Bobby, Rhett and Chrissie. She served on the School Board for 10 years, and has been a volunteer in many community, county and state sponsored projects.

Mrs. Shirley co-founded the Georgia Committee for POW/MIA, Inc in the 1980s and served as Georgia State Coordinator for the National League of Families from 1983–1993. She served as Secretary of the National League of 1993–94, and then as Vice-Chairman from 1994–95. In 1997, Mrs. Shirley, by herself, raised $15,000 to fund her and Mrs. Griffiths' trip to Southeast Asia.

Mr. President, these two women who are wives, mothers, and involved citizens have spent countless hours, money and resources keeping accountability alive. Nothing strikes a louder chord with Americans than the thought of our soldiers in the hands of our country's enemies. It is important that we recognize the work of organizations such as the National League of Families and of people such as Ann Mills Griffiths and JoAnne Shirley who have worked hard to ensure we do not forget those soldiers who were left behind.

Mr. SMITH of New Hampshire. Mr. President, I am pleased to be an original cosponsor of the Senate Resolution which recognizes the 25th anniversary of the return of 591 American POWs from communist Vietnam in February and March, 1973, and reaffirms our national commitment to seek answers about missing Americans from the Vietnam War.

I have been privileged through the years to come to know many of the Americans POWs held for so many years by the Communist side and finally released in 1973. This includes heroes in the Congress like Representative SAM JOHNSON of Texas, and Senator JOHN MCCAIN of Arizona, and other heroes like Admiral James Stockdale, Ambassador Pete Peterson, Red McDaniel, Orson Swindle, Ted Guy, Giles Norrington, and Mike Benge, to name a few.

Today marks the 25th anniversary of the return of the first group of American POWs from Hanoi during what was known as Operation Homecoming. This first group included Congressman SAM

JOHNSON, someone who I have been honored to work closely with through the years to obtain answers about those still missing from the war. Several other groups of POWs were released later in February, 1973, and throughout March, 1973, with the last American acknowledged by Hanoi to be a POW being returned on April 1st.

A few years ago, one of these returned POWs I mentioned earlier, Captain McDaniel, wrote a book about his experience as a POW entitled ''Scars and Stripes.''

I want to quote just a small passage from that book which describes the feelings of the POWs as they were being led from their prisons to the airport in Hanoi for repatriation.

''I saw a familiar C–141 aircraft waiting for us on the field. At that moment, something broke inside me and the tears came easily. Somehow I had managed to restrict my tears to those rare times, in the nights under my mosquito net, when Hanoi Radio had gotten to me and I was down. But here, seeing that airplane waiting, I just let go, because I suddenly realized that my country had not let me down. And that great Scripture came to me, the Lord's words: I will never leave thee, nor forsake thee.

Even as God had stayed at my side through all that time and taught me the things that were to change my life completely about His reality and His presence in suffering, somehow that American plane socked home some of the things that made America and God great.

Then I was on that airplane, and pandemonium broke lose. As those wheels lifted off, the cheers shook the plane. And when the plane crossed over water on the way south, we all shouted, ''Feet wet!''—we were no longer over North Vietnam. Those mouths opened in a wild cheer—some with teeth missing, some with faces showing physical and emotional scars, some who cried while they cheered. No matter what anyone would say in the future about Vietnam, somehow we had won a little piece of something that no man would take away from us.

Mr. President, what true patriots these men were. How fitting that we honor them today with this Senate resolution commemorating the 25th anniversary of their release.

With this resolution, we also call attention to the important last mission of the war which is still unresolved—the mission to obtain the fullest possible accounting for those whose whereabouts and fate are still unknown. Our thoughts go out to the families of those missing men, and we reaffirm our national commitment to learning the truth so we can remove the uncertainty these families face.

I have been personally involved with searching for answers on the POW/MIA issue, as my colleagues know, for several years now. I want to take this opportunity today to again call on the Governments in Southeast Asia, North Korea, China, Russia, and the former Eastern bloc to do more to open up their archives and make key witnesses available so we may advance the accounting effort. There is much work still to do, and I appreciate that this resolution before us today recognizes that fact.

I yield the floor.

Mr. COVERDELL. Mr. President, I want to take a special moment here to thank my colleague from Georgia, a cosponsor of this resolution and himself a veteran of the Vietnam war; Senator SMITH of New Hampshire; Senator LOTT, the majority leader; and Senator HAGEL, a Vietnam veteran from Nebraska. I am especially delighted to be joined by Senator CLELAND who, as I said, is himself a testament to the courage and sacrifice made by so many men and women in American uniform during the Vietnam conflict.

The resolution also directs itself to two of our colleagues who were themselves long-held prisoners of war, Congressman SAM JOHNSON, who is specifically noted in the resolution, and our own Senator JOHN MCCAIN of Arizona.

Senator MCCAIN and I have known each other for some extended period of time and I have always marveled at what he endured and, I might add, that it was almost a double endurance. What I mean is that the North Vietnamese, recognizing that he was the son of a U.S. Navy admiral, tried to break him away from his colleagues and send him home. He made the choice not to accept, not to accept this unique tension in deference to his colleagues, his father and the Navy.

I was reminded earlier today that when these veterans were returned and disembarked from the aircraft—of course we all remember the scenes of them kneeling down and kissing the ground—but then to stand up and thank America for the privilege to have served her. It was an incredible act of courage, an act of care and love, of the country whose uniforms they had worn.

Interestingly enough, unbeknownst to me just earlier, I was with a young man who said but for the brief chance of fate he would have been a pilot in Vietnam. This was just moments ago and he was here when these POW's returned, and he had a chance to be among them. At that time he was about 33, which was the age of many of these POW's, the difference being, of course, that he still looked 33 and they looked 50 or older because of what they had endured. He was reminded about how moving the moment was to see these Americans who had returned, who had endured so much, who had become the epitome of courage and perseverance. He says whenever he is reminded of it, it still sends chills down his back. How much we owe these men and women. It is important that we remember.

Whenever a nation embarks on something like this—and perhaps it is uniquely important that we are remembering, considering the discussions that are underway here this very week, discussing the eve of a major conflict—we remember what these men and women did for America.

Of course, today marks the 25th anniversary of the return of the first POWs from North Vietnam. Following the signing of the peace accords, 591 United States prisoners of war were released. The operation was dubbed ''Operation Homecoming.'' Today, as was noted in the resolution, there are still 2,000 members of our Armed Forces who remain unaccounted for from the Vietnam conflict.

This resolution recognizes that despite the brutal mistreatment these prisoners received, they nevertheless devised a means to communicate with one another, to support one another by a code transmitted by tapping on the wall. The resolution refers to Commander James B. Stockdale, U.S. Navy, who upon his capture on September 9, 1965, became the senior prisoner of war officer in what became dubbed the ''Hanoi Hilton.'' He delivered the following message to his men to sustain their morale: ''Remember, you are Americans. With faith in God, trust in one another, and devotion to your country, you will overcome, you will triumph.''

This resolution resolves that the Senate expresses its gratitude for and calls upon all Americans to reflect upon and show their gratitude for the courage and sacrifice of the brave men who were held prisoners of war during the Vietnam conflict, particularly on the occasion of this, the 25th anniversary of Operation Homecoming, their return from captivity. It also resolves that the Senate, indeed America, will not, must not, forget the more than 2,000 members of the United States Armed Forces that remain unaccounted for in the Vietnam conflict, and that the Senate will continue to press for the fullest possible accounting for such members.

Mr. President, again, I thank my colleague from Georgia, Senator CLELAND, for his cosponsorship, more importantly for his service, his long service, Senator SMITH, Senator LOTT and Senator HAGEL of Nebraska.

In closing I simply say on behalf of all Americans, this American says to all who served under such difficult circumstances, a grateful Nation says thank you.

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

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

The resolution (S. Res. 177) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 177

Whereas participation by the United States Armed Forces in combat operations in Southeast Asia during the period from 1964 through 1972 resulted in several hundreds of members of the United States

Armed Forces being taken prisoner by North Vietnamese, Pathet Lao, and Viet Cong enemy forces;

Whereas the first such United States serviceman taken as a prisoner of war, Navy Lt. Commander Everett Alvarez, was captured on August 5, 1964;

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

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

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

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

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

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

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

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

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

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

Whereas two of these patriots, Congressman Sam Johnson, of Texas, and Senator John McCain, of Arizona, have continued to honor the Nation with devoted service; and

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

Resolved, That the Senate—

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

(2) acting on behalf of all Americans—

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

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

THE FEDERAL WETLANDS PERMIT PROGRAM

Mr. LOTT. Mr. President, I want to call attention to a Federal permit program that is causing problems in Mississippi, in the Southeastern United States and, indeed, in the entire United States: the Federal Section 404 ''wetlands'' permit program. This program has its roots in Section 404 of the Clean Water Act, but has been designed primarily by the Federal courts and the Federal agencies, the Environmental Protection Agency and the U.S. Army Corps of Engineers, and not by the elected officials of this Nation.

Twenty years have passed since the Congress of the United States has addressed this program legislatively. Currently, a Federal appellate court decision, two pending appellate court cases and a new proposed rulemaking by the Corps of Engineers are stirring up controversy about this program. No one should be surprised. This program is held together by baling wire and string and pieces are beginning to fall off all over the place.

I encourage the Senate Environment and Public Works Committee to bring to the full Senate legislation that makes meaningful, common sense changes to the Section 404 permit program. Review of this program is long overdue. Mr. President, I hope that this Congress can take meaningful action on the Section 404 program in 1998.

One basic controversy about this program is the issue of the areas that are regulated as wetlands. The Federal agencies have interpreted their jurisdiction to extend to the farthest reaches of the Commerce Clause, and, I think, even beyond, including those isolated areas that merely ''could affect'' interstate commerce. Specifically, to some agencies this means those areas where a migratory bird ''could'' land. To make this grab for jurisdiction worse, according to the U.S. Fish and Wildlife Service, 75 percent of all Section 404 regulated areas are on privately owned property!

On December 23, in Wilson v. United States Corps of Engineers, the United States Court of Appeals for the Fourth Circuit overturned the criminal convictions of an individual, a corporation and a partnership for violating the Section 404 program in Charles County, Maryland. The individual had been sentenced to 21 months in jail and the three defendants had been fined a total of $4 million. The Fourth Circuit overturned the convictions and remanded the case to the district court, finding that only those areas that are either connected on the surface to navigable waters or are proven to be in interstate commerce could be regulated under the Section 404 program. Specifically, the court held that:

> Absent a clear indication to the contrary, we should not lightly presume that merely by defining 'navigable waters' as 'the waters of the United States', Congress authorized the Army Corps of Engineers to assert its jurisdiction in such a sweeping and constitutionally troubling manner. Even as a matter of statutory construction, one would expect that the phrase 'waters of the United States', when used to define the phrase 'navigable waters' refers to waters which, if not navigable in fact, are at least interstate or closely related to navigable or interstate waters. When viewed in light of its statutory authority, (the regulation), which defines 'waters of the United States' to include intrastate waters that need have nothing to do with navigable or interstate waters, expands the statutory phrase 'waters of the United States' beyond its definable limit.
>
> Accordingly, we believe that in promulgating (the regulation), the Army Corps of Engineers exceeded its congressional authorization under the Clean Water Act, and that, for this reason, (the regulation) is invalid.

At long last, this case begins to limit the reach of the bureaucracy onto privately owned property under this program.

A second area of controversy is a regulation issued by the Clinton Administration in September, 1993, that broadly expanded the definition of activities that are regulated under the Section 404 program. As many of you know, this permit problem was never designed to be a wetlands permit program, but rather evolved in that direction through judicial rulings and agency interpretations. The activities in ''wetlands'' that are regulated under Section 404 of the Clean Water Act are the ''discharge of dredged and fill material'' into the ''navigable waters''. On the face of it, the statute does not cover other activities that could degrade wetlands, such as ''draining'' or ''excavating'' wetlands. Obviously, if we are going to have a wetlands regulatory program and protect valuable wetlands, the program needs to cover ''drainage'' and ''excavation.''

In September 1993, the Clinton Administration issued a rulemaking that expanded coverage of the Section 404 program to include activities like drainage and excavation. Many of us noted that this might be good public policy, but this expansion exceeded the statute, and legislation would be necessary to expand the program to cover these activities.

On January 23, 1997, a Federal district court in the District of Columbia struck down this regulation, called the Tulloch rule, as exceeding the statutory authority of the Clean Water Act. On January 9, 1998, the United States Court of Appeals for the District of Columbia Circuit heard oral arguments in this case. The Federal government had a rough day in court. I am told that the judges suggested that the agency interpretation of the jurisdictional reach of the Section 404 program went as far as ''land that might be wet someday''. One of the appellate judges asked the government attorney whether riding a bike through a wetland, where dirt accumulated on the tires and then fell off into the wetland during riding, would be an activity regulated under the Section 404 program. The government attorney answered yes, but the regulation was not aimed at this activity. The judge answered correctly, ''Not yet!''

This brings me to a recent Corps judgment on Nationwide Permit 26 that was attacked on the front page of the Washington Post on Saturday, January 31st.

With the Corps and the EPA interpreting almost every activity as one covered by the Section 404 program, the Corps has adopted a series of Nationwide Permits that cover routine activities and prevent the necessity of proceeding through the costly and time-consuming normal permitting process. One of these permits, Nationwide Permit 26, which covers certain areas up to 3 acres in size, is scheduled to expire in December 1998. The Corps is developing a series of ''replacement permits''. These ''carve outs'' are essential if the Corps is to be able to manage this program without enormous delays in permit processing times. This is particularly true as the bureaucracy continually expands the types of activities that are regulated under the Section 404 program. Yet, some interest groups are attempting to pressure the Administration to reject these replacement permits. If they are successful, I am convinced that the program will fall into disarray, prompting calls not only for the reform of the current program, but the repeal of the whole thing. We will all have to keep an eye on this development.

Finally, a case is pending in the United States Court of Appeals for the Ninth Circuit styled Resource Investments, Inc. v. U.S. Army Corps of Engineers. In this case, the Corps used its Section 404 regulations to overturn the judgment of a county government in a public bid process regarding the location of a new solid waste disposal facility. I can assure you that it is not this Senator's view that the mission of the Army Corps of Engineers is to make judgments that historically have been within the purview of local elected officials.

Mr. President, this is just a quick survey of some of the judgments that are being made by Federal agencies and Federal courts regarding the Section 404 program. These judgments sometimes expand and sometimes narrow this program. What is missing—and has been missing for 20 years—is the judgment of elected officials about fundamental aspects of this regulatory program that defy common sense and so often intrude on privately owned property, local economic activities and governmental infrastructure decisions. It is long-past time for the committee of jurisdiction over this program to bring forth legislation that proposes meaningful and responsible adjustments to this awful program.

By the way, Mr. President, I should add one more thing. The current President of the United States, when he was the Governor of Arkansas, chaired the Lower Mississippi River Delta Development Commission. The statutory charge of this Commission was to study the seven-state Lower Mississippi River Delta region and to develop a ten-year regional economic development plan. This is a particularly troubled region economically. Both my state of Mississippi and the President's state of Arkansas contain portions of the Lower Mississippi River Delta.

In May, 1990, the Commission filed its report, which was submitted to Congress over the signature of the current President. That report specifically addressed the problems of Federal wetlands regulation, stating:

The national wetlands policy has caused significant problems for agriculture, aquaculture and commercial and industrial development.

* * * * *

Current definitions do not adequately differentiate the quality of wetlands.

* * * * *

Current interpretations of the national wetlands policy have placed major limitations on the Delta's economy because commercial and industrial development is being impaired. (all quotes from page 80 of the report)

The report then made a number of recommendations, including these two from page 81 of the report:

Congress should direct appropriate federal agencies to establish minimum-sized wetlands for regulation.

* * * * *

Congress should assign the responsibility for identification and maintenance of a wetlands inventory to one agency, and require consultation with other affected agencies.

Mr. President, the President of the United States seems to have forgotten what he learned as chair of the Lower Mississippi River Delta Development Commission. The current Federal Section 404 permitting program regulates all wetlands regardless of size and is administered by two Federal agencies: the Corps of Engineers and the EPA. The President was correct with respect to these recommendations in 1990, but now that he is in a position to act, nothing has happened. I would hope that the President of the United States would submit at least these meaningful changes to Congress for our consideration in 1998.

Mr. BOND. Mr. President, I share the concerns of the Majority Leader regarding the shortcomings of the Section 404 program. In light of the recent and pending court cases, as well as the ongoing controversy over the scheduled demise in December of Nation Wide Permit 26, I agree strongly that Congress must address the Section 404 program legislatively. We should not continue to let the program bob and weave and stray in response to interpretations or policy preferences of each successive court decision or agency action. The law is unpredictable and it is not fair to the agencies administering the law or the landowners impacted by the law.

Based on accounts of the oral arguments in the United States Court of Appeals for the District of Columbia Circuit, and subsequent conversations my staff has had with various officials, it appears very possible that the lower court decision on the ''Tulloch'' rule will be upheld. The ''Tulloch'' rule extends regulation under the Section 404 program to activities like ''drainage'' and ''excavation'' that harm wetlands. The lower court held that expanding the Section 404 program to cover these activities might be very good public policy, but the current statute does not cover these activities. Legislation expanding the program will be needed. In its successful attempt to obtain a stay of the lower court decision, the Federal government filed documents suggesting that the failure to regulate ''drainage'' and ''excavation'' would be an environmental catastrophe. Thus, if the Court of Appeals upholds the lower court decision, legislation will be necessary to cover these activities.

My colleague from Louisiana and I have released a series of proposals in a ''discussion draft'' to encourage discussion of these difficult issues. One proposal in the draft would expand the activity regulated under Section 404 to include ''drainage'' and ''execution.'' This draft signals our commitment to engage in a constructive process with all parties to develop legislation that will stabilize the Section 404 program, expand the program to cover activities that are destructive to wetlands and make a number of common sense changes to the program that will make it more acceptable to private landowners on whose property 75% of these regulated areas are located.

Senator BREAUX and I released our discussion draft last summer. Time is growing short in this session of Congress, yet there is still time to act if there is a willingness of the various stakeholders to negotiate constructively and the will for us to legislate. I believe that I speak for my colleague from Louisiana when I pledge our cooperation in any reasonable process to develop Section 404 improvement legislation that will earn the support of a majority of our colleagues and will be good both for the environment and the regulated community.

Mr. President, I agree with the Majority Leader. Twenty years without legislative attention is long enough for the Section 404 program. The time has arrived to tackle this difficult issue.

NOTICE OF ADOPTION OF AMENDMENTS

Mr. THURMOND. Mr. President, pursuant to Section 303 of the Congressional Accountability Act of 1995 (2 U.S.C. sec. 1383), a Notice of Adoption of Amendments was submitted by the Office of Compliance, U.S. Congress. This notice contains amendments to Procedural Rules of the Office of Compliance to cover the General Accounting Office and the Library of Congress under various sections of the Congressional Accountability Act.

Section 304 requires this notice and the amendments to be printed in the CONGRESSIONAL RECORD, therefore I ask unanimous consent that the Notice and Amendments be printed in the RECORD.

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

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: AMENDMENTS TO PROCEDURAL RULES

NOTICE OF ADOPTION OF AMENDMENTS

Summary: The Executive Director of the Office of Compliance (''Office''), with the approval of the Board of Directors (''Board''), having considered comments received in response to the Notice of Proposed Rulemaking (''NPRM'') published on October 1, 1997, 143 Cong. Rec. S10291 (daily ed. Oct. 1, 1997), has amended the Procedural Rules of the Office of Compliance to cover the General Accounting Office (''GAO'') and the Library of Congress (''Library'') and their employees under the rules governing: (1) proceedings involving Occupational Safety and Health inspections, citations, and variances under section 215 of the Congressional Accountability Act of 1995 (''CAA''), and (2) ex parte communications.

The NPRM also proposed to extend the Procedural Rules to cover GAO and the Library and their employees for purposes of processing allegations of violation of sections 204–206 of the CAA, which apply rights and protections of the Employee Polygraph Protection Act of 1988 (''EPPA''), the Worker Adjustment and Retraining Notification Act (''WARN Act''), and the Uniformed Services Employment and Reemployment Rights Act of 1994 (''USERRA''), and of section 207 of the CAA, which prohibits employing offices from intimidating or taking reprisal against covered employees for exercising rights under the CAA. However, by a recently published Supplementary Notice of Proposed Rulemaking, 143 Cong. Rec. S86 (daily ed. Jan. 28, 1998), the Office is requesting further comment on whether the Procedural Rules should be extended to cover GAO and the Library with respect to alleged violations of sections 204–207, and no final action will be taken on this question until the comments have been received and considered.

Availability of comments for public review: Copies of comments received by the Office in response to the NPRM are available for public review at the Law Library Reading Room, Room LM–201, Law Library of Congress, James Madison Memorial Building, Washington, D.C., Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For further information contact: Executive Director, Office of Compliance, at (202) 724–9250 (voice), (202) 426–1912 (TTY). This notice will also be made available in large print or braille or on computer disk upon request to the Office of Compliance.

SUPPLEMENTARY INFORMATION

The Congressional Accountability Act of 1995 (''CAA'' or the ''Act''), Pub. L. 104–1, 2 U.S.C. §§1301–1438, applies the rights and protections of eleven labor, employment, and public access laws to certain defined ''covered employees'' and ''employing offices'' in the Legislative Branch. The CAA expressly includes GAO and the Library and their employees within the definitions of ''covered employees'' and ''employing offices'' for purposes of four sections of the Act: (a) section 204, making applicable the rights and protections of the Employee Polygraph Protection Act of 1988 (''EPPA''); (b) section 205, making applicable the rights and protections of the Worker Adjustment and Retraining Notification Act (''WARN Act''); (c) section 206, making applicable the rights and protections of section 2 of the Uniformed Services Employment and Reemployment Rights Act of 1994 (''USERRA''); and (d) section 215, making applicable the rights and protections of the Occupational Safety and Health Act of 1970 (''OSHAct''). These four sections go into effect by their own terms with respect to GAO and the Library one year after transmission to Congress of the study under section 230 of the CAA. The study was transmitted to Congress on December 30, 1996, and sections 204–206 and 215 therefore went into effect at GAO and the Library on December 30, 1997.

The purpose of the NPRM was to extend the Procedural Rules of the Office to cover GAO and the Library and their employees for purposes of any proceedings in which GAO or the Library or their employees may be involved. To accomplish this, the NPRM proposed to cover GAO and the Library and their employees in four respects: (1) Sections 401–408 of the CAA establish administrative and judicial procedures for considering alleged violations of part A of Title II of the CAA, which includes sections 204–206, and the NPRM proposed to extend the Procedural Rules to include GAO and the Library and their employees for the purpose of resolving any allegation of a violation of sections 204–206. (2) Section 207 prohibits employing offices from intimidating or taking reprisal against any covered employee for exercising rights under the CAA, and the NPRM proposed to extend the Procedural Rules to include GAO and the Library and their employees for the purpose of resolving any allegation of intimidation or reprisal prohibited under section 207. (3) Section 215 specifies the procedures by which the Office conducts inspections, issues citations, grants variances, and otherwise enforces section 215, and the NPRM proposed to extend the Procedural Rules to cover GAO and the Library and their employees for purposes of proceedings involving section 215. (4) Section 9.04 of the Procedural Rules governs ex parte communications, and the NPRM proposed to extend the Procedural Rules to cover these instrumentalities and employees for purposes of section 9.04.

In the only comment received in response to the NPRM, the Library argued that ''Congress expressly excluded the Library and other instrumentalities of Congress from the application of Titles I, III, IV and V of the CAA,'' which include the administrative and judicial procedures established in sections 401–408. (The Office of Compliance has made the Library's entire submission available for public review in the Law Library Reading Room of the Law Library of Congress, at the address and times stated at the beginning of this Notice.) As to whether GAO and the Library and their employees are covered by the procedures mandated by sections 401–408 when a violation of sections 204–207 is alleged, the Library's comments raise issues of statutory construction upon which the Office seeks further comment. To solicit such comments, the Office recently published a Supplementary Notice of Proposed Rulemaking, 143 Cong. Rec. S86 (daily ed. Jan. 28, 1998), and will make no decision as to whether the Procedural Rules will be amended to cover GAO and the Library and their employees for purposes of resolving allegations of violations of sections 204–207 until after the comments are received and considered.

The issues of statutory construction raised by the Library's comments are not pertinent, however, to proceedings under section 215 and to rules regarding ex parte communications. The procedures under section 215 expressly cover GAO and the Library and their employees because section 215(a)(2)(C)–(D) explicitly includes these instrumentalities and employees within the definitions of ''employing office'' and ''covered employee'' for purposes of applying the OSHAct ''under this section [215].'' As to ex parte communications, section 9.04 of the Procedural Rules includes within its coverage any covered employee and employing office ''who is or may reasonably be expected to be involved in a proceeding or rulemaking.'' The CAA explicitly authorizes GAO and the Library and their employees to be involved in proceedings under section 215(c), as described above, and the Library itself has exercised its right to be involved in the Office's rulemaking proceedings.

The Library further notes that the substantive regulations adopted by the Board to implement section 215 have not yet been approved by the House and Senate pursuant to section 304 of the CAA and argues: ''Since all OSHA regulations must follow the procedures for adopting substantive rules under section 304 of the Act, including approval by Congress, it would seem more appropriate to delete the reference to the coverage of the Library for purposes of section 215 of the CAA, in order to avoid confusion over the effect of possible Congressional approval of these proposed rules but not the underlying provisions applying to OSHA procedures.'' However, the Library's assumption that ''all OSHA regulations,'' including provisions of the Procedural Rules describing the Office's procedures under section 215, are subject to Congressional approval is incorrect. Congressional approval under section 304 is required only for the regulations adopted by the Board under section 215(d) of the CAA, which must generally be the same as the substantive regulations promulgated by the Secretary of Labor to implement section 5 of the OSHAct. The Board adopted such regulations for employing offices other than GAO and the Library and submitted the regulations to Congress for approval under section 304, see 143 CONG. REC. S61 (daily ed. Jan. 7, 1997), and recently amended those regulations to cover GAO and the Library and submitted the amendments to Congress for approval, see 143 CONG. REC. S11663 (daily ed. Nov. 4, 1997). However, the Procedural Rules, including provisions describing the Office's procedures under section 215 of the CAA, were adopted under section 303 of the CAA, which authorizes the Executive Director, subject to the approval of the Board, to adopt rules governing the procedures of the Office. See 143 CONG. REC. H1879, H1879–80 (daily ed. Apr. 24, 1997). The amendments in this Notice are likewise adopted under section 303, so the Library's expressed concern is unfounded.

Finally, although no comments were received regarding the specific language of the proposed amendments to the rules, the final adopted rules differ slightly from the text of the proposed amendments. The preamble to the NPRM explained that the purpose of the rulemaking was to cover GAO and the Library and their employees ''for purposes of any proceedings in which GAO and the Library or their employees may be involved as employing offices or covered employees,'' and, with respect to section 215, the preamble stated that GAO and the Library would be covered ''for the purposes of proceedings involving section[] . . . 215 of the CAA . . . .'' 143 CONG. REC. S10291, S10292 col. 1 (daily ed. Oct. 1, 1997). However, the proposed rules in the NPRM described specific kinds of proceedings under section 215, i.e., enforcement of inspection and citation provisions of the CAA and the granting of variances, and stated that GAO and the Library would be covered for purposes of those specific proceedings. Id. at S10292 col. 2. To avoid any confusion, the final rules have been simplified and revised to make clear that they cover GAO and the Library for purposes of ''[a]ny proceeding under section 215.'' Section 1.02(q)(1) of the Procedural Rules, as amended by this Notice.

Signed at Washington, D.C., on this 9th day of February, 1998.

RICKY SILBERMAN,
Executive Director, Office of Compliance.

The Executive Director of the Office of Compliance hereby amends section 1.02 of the Procedural Rules of the Office of Compliance by revising paragraphs (b) and (h) and

by adding at the end of the section a new paragraph (q) to read as follows:

"§ 1.02 Definitions.

''Except as otherwise specifically provided in these rules, for purposes of this Part:

* * * * *

''(b) *Covered employee*. The term 'covered employee' means any employee of:

''(1) the House of Representatives;

''(2) the Senate;

''(3) the Capitol Guide Service;

''(4) the Capitol Police;

''(5) the Congressional Budget Office;

''(6) the Office of the Architect of the Capitol;

''(7) the Office of the Attending Physician;

''(8) the Office of Compliance; or

''(9) for the purposes stated in paragraph (q) of this section, the General Accounting Office or the Library of Congress.

* * * * *

''(h) *Employing Office*. The term 'employing office' means:

''(1) the personal office of a Member of the House of Representatives or a Senator;

''(2) a committee of the House of Representatives or the Senate or a joint committee;

''(3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate;

''(4) the Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Compliance; or

''(5) for the purposes stated in paragraph (q) of this section, the General Accounting Office and the Library of Congress.

* * * * *

''(q) *Coverage of the General Accounting Office and the Library of Congress and their Employees*. The term 'employing office' shall include the General Accounting Office and the Library of Congress, and the term 'covered employee' shall include employees of the General Accounting Office and the Library of Congress, for purposes of the proceedings and rulemakings described in subparagraphs (1) and (2):

''(1) Any proceeding under section 215 of the Act. Section 215 of the Act applies to covered employees and employing offices certain rights and protections of the Williams-Steiger Occupational Safety and Health Act of 1970.

''(2) Any proceeding or rulemaking, for purposes of section 9.04 of these rules.''

PROGRESS IN BOSNIA

Mr. BIDEN. Mr. President, one of the most important foreign policy issues with which the Congress must deal in the coming months is continued American involvement in Bosnia and Herzegovina.

Last December, President Clinton announced his decision that the United States should maintain ground troops in an international force that will replace SFOR, whose mandate expires in June. Soon, he will ask the Congress for the funding to support this operation.

I support the President's decision as being squarely in the national self-interest of the United States. As I have said on many other occasions, the stability of southeastern Europe depends on the ability of the Bosnians, working with the international community, to create a self-sustaining, peaceful, democratic system in their country.

Failure to achieve this goal would inevitably restart the violence that produced the worst bloodletting in Europe since World War II, and would almost certainly ignite the ethnic tinderbox that is smoldering in neighboring countries. Other potential Radovan Karadzics cannot be encouraged to believe that they can get away with similar crimes. The devil's work of the mass murderers, ethnic cleansers, and rapists in Bosnia must not be allowed to stand in that country or, worse still, to be repeated there and elsewhere.

Moreover, as President Clinton said in his State of the Union address, staying the course in Bosnia is a test of American leadership in Europe in general, and in NATO in particular. It was American military involvement in the fall of 1995 and our diplomatic leadership in crafting the Dayton Accords that ended the carnage in Bosnia.

Make no mistake about it: we are the indispensable country in the European security equation, as Bosnia demonstrates. Although our alliance partners are shouldering the lion's share of the economic and military burden in Bosnia, without our participation on the ground and in the air, SFOR and any post-SFOR force would be impossible.

The task in Bosnia is complex and will take several more years to complete. President Clinton himself admitted his error in thinking that nearly four years of horrific violence could be remedied in one year, or even two-and-a-half years.

But our commitment to assisting the Bosnians, of course, is not open-ended. Rather than tieing our exit to an artificial date, we should—and will—link it to the completion of clearly defined criteria, such as the establishment of a functioning national government and other national institutions, seated elected local governments, free media, and a free-market economy. I have every confidence that the Administration will spell out these benchmark criteria in detail in its request for U.S. participation in the international force after this June.

I had the opportunity to accompany the President to Bosnia before Christmas—my fourth journey in recent years to that troubled land. The trip confirmed the impressions that I gained in a longer trip last summer: we have made significant progress in implementing the military and civilian provisions of the Dayton Accords.

I scarcely need to add the caveat that much still remains to be done to put Bosnia back on firm footing. Today I have several concrete policy proposals to further that end.

To put them into context, I would like to review in some detail the significant progress that has been made in the last nine months in implementing both the military and civilian provisions of the Dayton Accords.

Mr. President, I believe that even the most skeptical observer has to admit that the situation in Bosnia has improved greatly since Dayton, and with an increased tempo in the last nine months.

Thanks to our magnificent troops in IFOR and SFOR and those of allied and partner countries, a stable military environment has been created and the warring parties separated. No fewer than three hundred thousand troops from all sides have returned to civilian life.

Nearly seven thousand heavy weapons have been destroyed, and an additional two thousand six hundred put into supervised cantonments.

A joint Muslim-Croat Federation Defense Force has been created, although below the top command much more integration remains to be accomplished. The American Train and Equip Program to create a defensive Federation capability is in full swing. I visited its headquarters last summer, and was impressed with its trainers and its Muslim and Croat students.

Progress has also been made in creating non-political local police forces, both in the Federation and in the Republika Srpska. Integrated police forces are operating in eight major locations around the country, including the pivotal northern town of Brcko, whose future will be determined in March by an international arbitrator.

The International Police Task Force or IPTF has had its share of problems, perhaps unavoidable given the fact that no fewer than forty countries are contributing officers to it. Recent reforms, however, in which Americans have played a prominent role, have strengthened its professionalism. A new Federation Police Academy has been opened near Sarajevo to train new recruits from all religious groups.

Last fall, I called for our European allies to contribute forces from their paramilitary formations to create a gendarmerie in Bosnia as a vital middle layer—under SFOR control—between the local police and SFOR. Although there was an initial, predictable negative public reaction from Europe, I am told that several of our partners are now actively considering the idea. These European gendarmes could provide the security for newly elected municipal governments, guarantee safety for minority refugee returns, and take over the lead-role in capturing indicted war criminals.

In fact, slowly but surely the indicted war criminals are already being rounded up. Nearly one-third of the seventy-nine individuals under open indictment have been taken into custody in the War Crimes Tribunal in the Hague.

Last month, for the first time American SFOR troops carried out a capture operation, seizing a notorious Bosnian Serb who as the sadistic commander of a prison camp called himself the ''Serb Adolf'' and reveled in his grisly murder of Muslims. He is one of only a handful

of individuals in Bosnia indicted for genocide.

NATO Secretary-General Solana has publicly pledged to arrest such war criminals when NATO troops find them, but proceeding with careful preparation so as to avoid undue risk. I welcome his statement and urge an acceleration of the process, to be taken over as soon as possible—as I just mentioned—by a European gendarmerie.

Contrary to popular belief, Mr. President, many refugees and displaced persons have returned home—more than 400,000 in fact. The number of minority returnees represents only a small fraction of the total, but even here there has been notable progress in several cities in the past few months.

Mr. President, there are other positive signs emanating from Bosnia. Thanks to pressure from SFOR, the Bosnian media have been restructured. The hate-filled television broadcasts of the Karadzic forces have been put under the oversight of the High Representative, and the Organization for Security and Cooperation in Europe (OSCE). Equally important, the internationally funded Open Broadcast Network now reaches eighty percent of Bosnia and Herzegovina.

The economic life of the Federation is rapidly improving, although a huge amount remains to be rebuilt. GDP grew by 53% in 1996 and 35% last year, and unemployment has been cut in half, from 90% to 44%.

A central factor in the economic resuscitation of the Federation has been international assistance, and our USAID is generally acknowledged to have been the most efficient national agency in delivering emergency assistance in a variety of ways. I have personally seen the targeted programs of USAID contractors helping minority refugees to return and rebuild their own houses. Moreover, USAID assistance has created over 11,000 jobs and provided sixty-eight million dollars in loans to one hundred forty medium-sized Bosnian enterprises.

From all international sources more than 230 miles of roads have been rebuilt throughout Bosnia and twenty-one key bridges repaired and made functional again.

Economic progress in the Republika Srpska has lagged far behind that of the Federation, primarily because the Karadzic-dominated government in Pale obstructed implementation of the civilian parts of the Dayton Accords. I will return shortly to the issue of how best to assist the Republika Srpska to get back onto its feet.

Progress has been uneven in fleshing out the institutions of government mandated by Dayton. While all national and entity-level institutions have been created, the joint presidency is a fractious and hamstrung organization, and tax, customs, and banking bodies are still not fully functioning.

We clearly must put more pressure on the various parties to make the system work, and recent events give me some confidence that this is beginning to happen. The High Representative for Bosnia, the impressive Spanish diplomat Carlos Westendorp, has been given additional powers by the international community, and he is using them. Last month, fed up with stalemate among the representatives of the three major religious groups, Mr. Westendorp imposed a common currency on the country. When the three groups seemed deadlocked on a common national license plate, he forced the issue, and an agreement was reached. Most recently, when they failed to agree on the design of a national flag, Mr. Westendorp made the choice and imposed it on them.

In contrast to the grudging pace of reform at the national level, there has been quite remarkable progress at the entity and local levels of government.

Democratic elections have been held with turn-outs averaging more than seventy percent. The trend has been toward marginalizing the ethnic extremists, who have either been voted out of office or removed by the High Representative from positions in towns in both the Federation and the Republika Srpska.

Then last month, Mr. President, a stunning and heartening development took place in Bosnia. A non-nationalist Bosnian Serb named Milorad Dodik was elected Prime Minister of the Republika Srpska.

I met Mr. Dodik last August in Banja Luka. He seems genuinely to believe in a unified, multi-ethnic Bosnia, and his behavior during the four years of violence was exemplary. In fact, his razor-thin victory in the Republika Srpska parliament was made possible by the support of sixteen Muslim and several Croat deputies.

Nominated for his position by Republika Srpska President Plavsic, Prime Minister Dodik has crafted a program that goes beyond that of his patron:

He has pledged to implement Dayton fully, including completing the unification of the police forces of the Republika Srpska and of the Federation.

He has said he will seek an equitable solution to the refugee problem.

He has said that when he is firmly in power he will turn over all Serbs suspected of war crimes to the international tribunal in the Hague. In fact, the tribunal may soon open an office in Banja Luka.

He has guaranteed equal rights for all citizens.

He has called for the separation of religion and politics.

He has come out for independent media, pledging publicly to reorganize Bosnian Serb Radio and Television ''in accordance with the requirements of the Office of the High Representative . . . to develop into a professional, independent, and responsible network, open to everybody.''

Moreover, Prime Minister Dodik—himself a successful businessman—has set as a top priority the privatization and restructuring of the economy of the Republika Srpska. Central to this is his determination to eliminate the widespread corruption that has kept the Karadzic gang in power by eliminating their ability to tax, to impose customs duties—and then to siphon off the money for their personal use. He has already replaced the corrupt Karadzic appointees who ran the state-owned industries.

In an immediate measure to exert his control, Dodik is moving the Republika Srpska capital from Pale to Banja Luka, a measure that was officially approved by the Republika Srpska Parliament on January 31st by a wide margin.

Moreover, the Republika Sprska Parliament has voted to annul thirty-three laws passed by the Karadzic-dominated parliament after President Plavsic dissolved that body last summer.

My colleagues should understand that we must keep a sharp eye on Dodik—if for no other reason the fact that he is also being supported by Yugoslav President Milosevic—but there is no doubt whatsoever that Dodik is a vast improvement over the Pale gang that is actively resisting him.

The jury is still out as to who will emerge victorious, but, Mr. President, the very facts of Dodik's record, his parliamentary victory, and his reform program are an eloquent rebuttal to the many superficial and utterly erroneous statements about Bosnian history that we have often heard in this country, even on the floor of this chamber.

We have repeatedly heard the refrain of how ''those people in Bosnia have never gotten along,'' how ''they have fought each other for five hundred years,'' and how ''they are incapable of living together.''

I hope that as we go forward in Bosnia, we can finally dispense with these tired cliches, which, in essence, have been an excuse not to deal with the real world.

Mr. President, in my twenty-five years in the Senate my colleagues have called me many things, but ''starry-eyed'' is not one of them. In taking note of the progress that has been achieved in Bosnia, I do not for one minute believe that we are on the edge of victory, or even that the final goal of a multi-ethnic, democratic, free-market Bosnia is certain to be achieved.

But I do think that a sober, objective reading of the current situation gives cause for some optimism that we have turned the corner.

In conclusion, I would like to offer a six-point plan to correct some missteps-steps and to keep up the positive momentum in Bosnia.

First, in the very near future we must secure the commitment of several of our allies to contribute troops to create the European paramilitary

gendarme force for Bosnia, which I described earlier, to handle a variety of civilian security tasks. This is eminently do-able and would provide a tremendous boost to Dayton implementation.

Second, although we will almost certainly reduce the size of the American troop commitment in the post-SFOR force from the current eight thousand five hundred, the President must make clear to the American public that he is prepared to raise that number again if our commander on the ground in Bosnia certifies that the security situation warrants it.

Third—and this may not sit well with some of my colleagues—I believe that if a continued American troop presence in Bosnia is an important national interest, as it manifestly is—then I think this priority should be reflected in a supplemental appropriation that does not reprogram other military funding. In other words, we should not sacrifice readiness elsewhere to pay for Bosnia. Both are essential, and we can afford both.

Fourth, we should support Republika Srpska Prime Minister Dodik by speedily providing assistance to his central government and to localities that implement Dayton, but not provide it in an indiscriminate way. What do I mean by that?

I mean that henceforth in order to receive American USAID assistance, all Bosnian municipalities, both in the Republika Srpska and in the Federation, by a reasonable date-certain would have to join the Open Cities Program to welcome returning minority refugees, seat their municipal councils that were legally elected last September, and deny sanctuary to indicted war criminals.

I would also design USAID reconstruction projects that designate for returning minority refugees housing units or jobs in rebuilt factories.

Let me underscore, Mr. President—and this is key—my plan means not providing assistance to localities until they comply. The date-certain must be reasonable, but firm.

The restrictions I propose are not intended to undercut Prime Minister Dodik, whom I support. But we must be clear: the American policy goal is not just to have a rhetorically friendlier Republika Srpska government, but is rather to help build a multi-ethnic, democratic Bosnia.

Fifth, as a specific corollary of this last point, we should force the Bosnian Muslim SDA Party, the senior partner in the Federation government, to welcome returning Bosnian Serb and Bosnian Croat refugees back to Sarajevo and to enact legislation to enable non-Muslims to reclaim their former apartments in ''socially owned,'' that is, public housing.

I have advocated these steps for months. Last week, under pressure from our talented Special Envoy Ambassador Bob Gelbard, Bosnian President Izetbegovic finally agreed to admit twenty thousand Serbs and Croats and to introduce the property legislation. We must now hold him to his word, using assistance as a lever.

The Bosnian Muslims, the principal victims of the carnage of the last four years, know that they have no stronger defender in Congress than me. But they must also realize that all groups in Bosnia—Muslims, Croats, Serbs, and others—deserve equal treatment as the country is rebuilt and made healthy again. I cannot stress this point enough.

Sixth, in the preparations for the pivotal Bosnian national elections next September we should greatly increase our support for the non-nationalist, multi-ethnic parties in the Federation and the Republika Srpska.

Until now, this task in the field has been handled principally by the U.S. National Democratic Institute, which has done superb work.

We should now pressure the OSCE to involve the multi-ethnic parties in the work of the Provisional Election Commission, which sets the ground rules.

For example, until now, incredible as it may sound, only the nationalist parties have had access to voters' lists!

Mr. President, Bosnia has come a long way since the horrifying days only two-and-a-half years ago when daily mortar attacks and snipers terrorized Sarajevo and Mostar, when thousands were brutally murdered in Srebrenica and elsewhere, and when women were degraded in bestial rape camps.

Much work remains to be done, but there is light at the end of the tunnel. A peaceful, democratic Bosnia is central to the peace of Europe, and therefore to America's national interest. And American leadership is absolutely essential to the rebuilding of the country.

For all these reasons, I am confident that in the coming weeks when the Congress is called upon to support an extension of the American commitment to Bosnia, it will respond affirmatively.

I thank the Chair and yield the floor.

COPYRIGHT COMPULSORY LICENSE IMPROVEMENT ACT

Mr. HATCH. Mr. President, my good friend and colleague Mr. COBLE, the Chairman of the House Judiciary Intellectual Property Subcommittee introduced in the House today the Copyright Compulsory License Improvement Act. I had intended to introduce similar legislation in the Senate today, but have decided to allow some of my colleagues on the Judiciary Committee time to review this important legislation and join me in presenting legislation to the Senate.

Let me first thank Mr. COBLE for his leadership in this area. He and his staff have worked tirelessly to develop the bill he introduced today. It is legislation that will set the stage for increased competition in the multi-channel video delivery market, and that means greater viewer choice in getting television. It is always a pleasure to work with Chairman COBLE, and I look forward to working with him as we perfect this legislation and move it to enactment. I have also worked with the ranking member of the Senate Judiciary Committee, Senator LEAHY, who has provided valuable input into the Senate legislation.

I must also acknowledge the input of the Register of Copyrights and Copyright Office staff. They worked along with congressional staff in creating this legislation.

Let me say that I believe the legislation that Chairman COBLE and I have worked on effectively balances the various interests affected by the legislation. While I look forward to perfecting the legislation, I expect it to undergo revision as it moves through the process, I believe that the essential balance must be maintained for this legislation to move this year. And it is important that we enact legislation this year allowing satellite carriers to provide local carriage of broadcast signals within a broadcaster's local market. No reform is more important to making satellite competitive with cable for the long term. I believe the other reforms also set the stage for vigorous competition between satellite and cable, with adequate protections for the other interested parties whose works are delivered by them to viewers, which should result in lower prices and increased choices for viewers. This is important legislation for all of our constituents, but particularly for those in states with rural or mountainous areas such as my home state of Utah. I hope my colleagues will help work to enact these reforms this year so that the next generation of satellite television delivery can become a reality in the very near future.

I welcome input from all interested parties and my colleagues. And I look forward to introducing a companion to Mr. COBLE's bill when we return from our President's Day recess.

INNOCENT SPOUSES NEED RELIEF

Mr. KYL. Mr. President, I want to commend the chairman of the Senate Finance Committee, Senator BILL ROTH, for the very thoughtful and determined way that he has handled the Internal Revenue Service (IRS) reform effort.

Had he simply bowed to calls from some on the other side of the aisle to sweep problems with the IRS under the rug and rush the IRS reform bill to a vote, we probably would not have had the chance to shed light on the serious abuses that innocent spouses have experienced at the hands of the IRS. And we certainly would not have the chance to ensure that an effective fix for innocent spouses is included in the IRS reform legislation.

I think it is important to say at the outset that most IRS employees are law-abiding and professional, and most

of them deal fairly with taxpayers. It is important to remember, too, that the IRS has been given the difficult and thankless task of administering a Tax Code that is exceedingly complex, filled with contradictory provisions, and open to differing interpretations. But since the IRS has been given such tremendous power—power that can bankrupt families, put people out of their homes, and ruin lives—any abuse of that power cannot be tolerated.

Mr. President, last December, I hosted a Town Hall meeting and a series of other events in Arizona to solicit public comment about how best to reform the IRS. One of the people I heard from was a woman who divorced in late 1995. While she paid her taxes in full and on time during the last two years of her marriage, her husband did not. The IRS ultimately came after her for the taxes that her former spouse did not pay.

About two weeks after hearing from her—on December 19—I sent Chairman ROTH a letter identifying ways of improving the IRS reform bill, and on that short list was a recommendation to make innocent-spouse relief easier to obtain, and to make it available retroactively, or at least to all cases pending on the date of enactment of the bill.

So obviously, I am delighted that the Finance Committee has focused on the issue of innocent-spouse protection. The hearing held by the Committee just yesterday revealed just how seriously people can be abused. The Committee heard from several separated or divorced women who, like my constituent, had been pursued by the IRS for tax debts run up by their former husbands.

Mr. President, husband and wife are equal partners in a marriage. Financial obligations are a shared responsibility, and appropriately so. We need to be careful not to undermine the commitment that people have made to each other, or we may unintentionally create new incentives for couples to divorce merely to limit their tax obligations. That is how the marriage penalty was born—something we will need to fix later this year.

But there are unique circumstances that arise from time to time that make it inappropriate to hold one spouse liable for taxes that are primarily attributable to the other spouse. Those circumstances seem to arise far more frequently than one might think. One estimate by the General Accounting Office suggests that the IRS tries to collect taxes from the wrong spouse after a separation or divorce in at least 50,000 cases a year.

One of the women who testified before the Finance Committee yesterday was a fourth-grade teacher from Florida who divorced back in 1995. Her husband—himself a former field auditor for the IRS—has reportedly failed to file the couple's tax returns for 1993 and 1994. When he did later file joint returns, he allegedly forged her signature. The IRS has now put a lien on her home, while he is apparently paying just $200 to $300 per month toward the debt.

A widowed mother of five who has been on and off food stamps testified before the Committee. The IRS said she owes more than $527,000.

A disabled nurse has a lien put on her home for taxes dating back to the 1960s, even though her divorce decree explicitly stated that she was not responsible for her former husband's debts.

The problem is that, while the IRS is targeting these women, it is apparently failing to pursue their former husbands with equal vigor. There are cases where men, too, are the primary focus of the IRS's collection efforts, but this is predominately a problem that affects women. Nine out of 10 innocent spouses are women. Maybe that is because they are more likely to pay up when confronted by the IRS. Maybe it is because women sometimes have fewer resources available to defend themselves. In either case, singling out women for abusive collection efforts is just plain wrong.

One solution might be simply to repeal the joint liability rules. Maybe liability ought to be proportionate to each spouse's earnings during the marriage. I understand the Committee is looking at a range of options. One way or the other, though, we have got to solve this problem and get the IRS off the backs of women whose only offense is that they took their husband's word that their finances were in order. And we ought to be sure that whatever we do extends back retroactively.

Mr. President, I am obviously very appreciative of the fact that Chairman ROTH and the Finance Committee have focused on this very important issue. And again, I want to thank Chairman ROTH for resisting calls from the other side to merely rush ahead with an IRS reform measure before the Committee could deal with the innocent-spouse issue. I look forward to working with the Committee to ensure that an effective solution to this problem is included in the IRS reform bill before final passage.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, February 11, 1998, the Federal debt stood at $5,473,648,289,477.06 (Five trillion, four hundred seventy-three billion, six hundred forty-eight million, two hundred eighty-nine thousand, four hundred seventy-seven dollars and six cents).

One year ago, February 11, 1997, the Federal debt stood at $5,305,464,000,000 (Five trillion, three hundred five billion, four hundred sixty-four million).

Five years ago, February 11, 1993, the Federal debt stood at $4,175,669,000,000 (Four trillion, one hundred seventy-five billion, six hundred sixty-nine million).

Ten years ago, February 11, 1988, the Federal debt stood at $2,452,989,000,000 (Two trillion, four hundred fifty-two billion, nine hundred eighty-nine million).

Fifteen years ago, February 11, 1983, the Federal debt stood at $1,194,636,000,000 (One trillion, one hundred ninety-four billion, six hundred thirty-six million) which reflects a debt increase of more than $4 trillion—$4,279,012,289,477.06 (Four trillion, two hundred seventy-nine billion, twelve million, two hundred eighty-nine thousand, four hundred seventy-seven dollars and six cents) during the past 15 years.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING FEBRUARY 6TH

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending February 6, the U.S. imported 8,371,000 barrels of oil each day, 447,000 barrels more than the 7,894,000 imported each day during the same week a year ago.

Americans relied on foreign oil for 56.8 percent of their needs last week, and there are no signs that the upward spiral will abate. Before the Persian Gulf War, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970s, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil? By U.S. producers using American workers?

Politicians had better ponder the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the U.S.—now 8,371,000 barrels a day.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the executive calendar: No. 497, No. 498, No. 499 and No. 500.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, 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, considered and confirmed en bloc, are as follows:

THE JUDICIARY

Michael B. Thornton, of Virginia, to be a Judge of the United States Tax Court for a term of fifteen years after he takes office.

DEPARTMENT OF THE TREASURY

Donald C. Lubick, of Maryland, to be an Assistant Secretary of the Treasury.

THE JUDICIARY

L. Paige Marvel, of Maryland, to be a Judge of the United States Tax Court for a term of fifteen years after she takes office.

EXECUTIVE OFFICE OF THE PRESIDENT

Richard W. Fisher, of Texas, to be Deputy United States Trade Representative, with the rank of Ambassador, vice Charlene Barshefsky, to which position he was appointed during the last recess of the Senate.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

NATIONAL SEA GRANT COLLEGE PROGRAM REAUTHORIZATION ACT OF 1998

Mr. COVERDELL. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 927) to reauthorize the Sea Grant Program.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 927) entitled ''An Act to reauthorize the Sea Grant Program'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Sea Grant College Program Reauthorization Act of 1998''.

SEC. 2. AMENDMENT OF NATIONAL SEA GRANT COLLEGE PROGRAM ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment or repeal to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Sea Grant College Program Act (33 U.S.C. 1121 et seq.).

SEC. 3. FINDINGS.

(a) Section 202(a)(1) (33 U.S.C. 1121(a)(1)) is amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

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

''(D) encourage the development of forecast and analysis systems for coastal hazards;''.

(b) Section 202(a)(6) (33 U.S.C. 1121(a)(6)) is amended by striking the second sentence and inserting the following: ''The most cost-effective way to promote such activities is through continued and increased Federal support of the establishment, development, and operation of programs and projects by sea grant colleges, sea grant institutes, and other institutions.''.

SEC. 4. DEFINITIONS.

(a) Section 203 (33 U.S.C. 1122) is amended—

(1) in paragraph (3)—

(A) by striking ''their university or'' and inserting ''his or her''; and

(B) by striking ''college, programs, or regional consortium'' and inserting ''college or sea grant institute'';

(2) by striking paragraph (4) and inserting the following:

''(4) The term 'field related to ocean, coastal, and Great Lakes resources' means any discipline or field, including marine affairs, resource management, technology, education, or science, which is concerned with or likely to improve the understanding, assessment, development, utilization, or conservation of ocean, coastal, or Great Lakes resources.'';

(3) by redesignating paragraphs (5) through (15) as paragraphs (7) through (17), respectively, and inserting after paragraph (4) the following:

''(5) The term 'Great Lakes' includes Lake Champlain.

''(6) The term 'institution' means any public or private institution of higher education, institute, laboratory, or State or local agency.'';

(4) by striking ''regional consortium, institution of higher education, institute, or laboratory'' in paragraph (11) (as redesignated) and inserting ''institute or other institution''; and

(5) by striking paragraphs (12) through (17) (as redesignated) and inserting after paragraph (11) the following:

''(12) The term 'project' means any individually described activity in a field related to ocean, coastal, and Great Lakes resources involving research, education, training, or advisory services administered by a person with expertise in such a field.

''(13) The term 'sea grant college' means any institution, or any association or alliance of two or more such institutions, designated as such by the Secretary under section 207 (33 U.S.C. 1126) of this Act.

''(14) The term 'sea grant institute' means any institution, or any association or alliance of two or more such institutions, designated as such by the Secretary under section 207 (33 U.S.C. 1126) of this Act.

''(15) The term 'sea grant program' means a program of research and outreach which is administered by one or more sea grant colleges or sea grant institutes.

''(16) The term 'Secretary' means the Secretary of Commerce, acting through the Under Secretary of Commerce for Oceans and Atmosphere.

''(17) The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Mariana Islands, or any other territory or possession of the United States.''.

(b) The Act is amended—

(1) in section 209(b) (33 U.S.C. 1128(b)), as amended by this Act, by striking '', the Under Secretary,''; and

(2) by striking ''Under Secretary'' every other place it appears and inserting ''Secretary''.

SEC. 5. NATIONAL SEA GRANT COLLEGE PROGRAM.

Section 204 (33 U.S.C. 1123) is amended to read as follows:

''SEC. 204. NATIONAL SEA GRANT COLLEGE PROGRAM.

''(a) PROGRAM MAINTENANCE.—The Secretary shall maintain within the Administration a program to be known as the national sea grant college program. The national sea grant college program shall be administered by a national sea grant office within the Administration.

''(b) PROGRAM ELEMENTS.—The national sea grant college program shall consist of the financial assistance and other activities authorized in this title, and shall provide support for the following elements—

''(1) sea grant programs which comprise a national sea grant college program network, including international projects conducted within such programs;

''(2) administration of the national sea grant college program and this title by the national sea grant office, the Administration, and the panel;

''(3) the fellowship program under section 208; and

''(4) any national strategic investments in fields relating to ocean, coastal, and Great Lakes resources developed with the approval of the panel, the sea grant colleges, and the sea grant institutes.

''(c) RESPONSIBILITIES OF THE SECRETARY.—

''(1) The Secretary, in consultation with the panel, sea grant colleges, and sea grant institutes, shall develop a long-range strategic plan which establishes priorities for the national sea grant college program and which provides an appropriately balanced response to local, regional, and national needs.

''(2) Within 6 months of the date of enactment of the National Sea Grant College Program Reauthorization Act of 1998, the Secretary, in consultation with the panel, sea grant colleges, and sea grant institutes, shall establish guidelines related to the activities and responsibilities of sea grant colleges and sea grant institutes. Such guidelines shall include requirements for the conduct of merit review by the sea grant colleges and sea grant institutes of proposals for grants and contracts to be awarded under section 205, providing, at a minimum, for standardized documentation of such proposals and peer review of all research projects.

''(3) The Secretary shall by regulation prescribe the qualifications required for designation of sea grant colleges and sea grant institutes under section 207.

''(4) To carry out the provisions of this title, the Secretary may—

''(A) appoint, assign the duties, transfer, and fix the compensation of such personnel as may be necessary, in accordance with civil service laws;

''(B) make appointments with respect to temporary and intermittent services to the extent authorized by section 3109 of title 5, United States Code;

''(C) publish or arrange for the publication of, and otherwise disseminate, in cooperation with other offices and programs in the Administration and without regard to section 501 of title 44, United States Code, any information of research, educational, training or other value in fields related to ocean, coastal, or Great Lakes resources;

''(D) enter into contracts, cooperative agreements, and other transactions without regard to section 5 of title 41, United States Code;

''(E) notwithstanding section 1342 of title 31, United States Code, accept donations and voluntary and uncompensated services;

''(F) accept funds from other Federal departments and agencies, including agencies within the Administration, to pay for and add to grants made and contracts entered into by the Secretary; and

''(G) promulgate such rules and regulations as may be necessary and appropriate.

''(d) DIRECTOR OF THE NATIONAL SEA GRANT COLLEGE PROGRAM.—

''(1) The Secretary shall appoint, as the Director of the National Sea Grant College Program, a qualified individual who has appropriate administrative experience and knowledge or expertise in fields related to ocean, coastal, and Great Lakes resources. The Director shall be appointed and compensated, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, at a rate payable under section 5376 of title 5, United States Code.

''(2) Subject to the supervision of the Secretary, the Director shall administer the national sea grant college program and oversee the operation of the national sea grant office. In addition to any other duty prescribed by law or assigned by the Secretary, the Director shall—

''(A) facilitate and coordinate the development of a long-range strategic plan under subsection (c)(1);

''(B) advise the Secretary with respect to the expertise and capabilities which are available within or through the national sea grant college program and encourage the use of such expertise and capabilities, on a cooperative or other basis, by other offices and activities within the Administration, and other Federal departments and agencies;

''(C) advise the Secretary on the designation of sea grant colleges and sea grant institutes, and, if appropriate, on the termination or suspension of any such designation; and

''(D) encourage the establishment and growth of sea grant programs, and cooperation and coordination with other Federal activities in fields related to ocean, coastal, and Great Lakes resources.

''(3) With respect to sea grant colleges and sea grant institutes, the Director shall—

''(A) evaluate the programs of sea grant colleges and sea grant institutes, using the priorities, guidelines, and qualifications established by the Secretary;

''(B) subject to the availability of appropriations, allocate funding among sea grant colleges and sea grant institutes so as to—

''(i) promote healthy competition among sea grant colleges and institutes;

''(ii) encourage successful implementation of sea grant programs; and

''(iii) to the maximum extent consistent with other provisions of this Act, provide a stable base of funding for sea grant colleges and institutes; and

''(C) ensure compliance with the guidelines for merit review under subsection (c)(2).''.

SEC. 6. REPEAL OF SEA GRANT INTERNATIONAL PROGRAM.

Section 3 of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a) is repealed.

SEC. 7. SEA GRANT COLLEGES AND SEA GRANT INSTITUTES.

Section 207 (33 U.S.C. 1126) is amended to read as follows:

''SEC. 207. SEA GRANT COLLEGES AND SEA GRANT INSTITUTES.

''(a) DESIGNATION.—

''(1) A sea grant college or sea grant institute shall meet the following qualifications—

''(A) have an existing broad base of competence in fields related to ocean, coastal, and Great Lakes resources;

''(B) make a long-term commitment to the objective in section 202(b), as determined by the Secretary;

''(C) cooperate with other sea grant colleges and institutes and other persons to solve problems or meet needs relating to ocean, coastal, and Great Lakes resources;

''(D) have received financial assistance under section 205 of this title (33 U.S.C. 1124);

''(E) be recognized for excellence in fields related to ocean, coastal, and Great Lakes resources (including marine resources management and science), as determined by the Secretary; and

''(F) meet such other qualifications as the Secretary, in consultation with the panel, considers necessary or appropriate.

''(2) The Secretary may designate an institution, or an association or alliance of two or more such institutions, as a sea grant college if the institution, association, or alliance—

''(A) meets the qualifications in paragraph (1); and

''(B) maintains a program of research, advisory services, training, and education in fields related to ocean, coastal, and Great Lakes resources.

''(3) The Secretary may designate an institution, or an association or alliance of two or more such institutions, as a sea grant institute if the institution, association, or alliance—

''(A) meets the qualifications in paragraph (1); and

''(B) maintains a program which includes, at a minimum, research and advisory services.

''(b) EXISTING DESIGNEES.—Any institution, or association or alliance of two or more such institutions, designated as a sea grant college or awarded institutional program status by the Director prior to the date of enactment of the National Sea Grant College Program Reauthorization Act of 1998, shall not have to reapply for designation as a sea grant college or sea grant institute, respectively, after the date of enactment of the National Sea Grant College Program Reauthorization Act of 1998, if the Director determines that the institution, or association or alliance of institutions, meets the qualifications in subsection (a).

''(c) SUSPENSION OR TERMINATION OF DESIGNATION.—The Secretary may, for cause and after an opportunity for hearing, suspend or terminate any designation under subsection (a).

''(d) DUTIES.—Subject to any regulations prescribed or guidelines established by the Secretary, it shall be the responsibility of each sea grant college and sea grant institute—

''(1) to develop and implement, in consultation with the Secretary and the panel, a program that is consistent with the guidelines and priorities established under section 204(c); and

''(2) to conduct a merit review of all proposals for grants and contracts to be awarded under section 205.''.

SEC. 8. SEA GRANT REVIEW PANEL.

(a) Section 209(a) (33 U.S.C. 1128(a)) is amended by striking the second sentence.

(b) Section 209(b) (33 U.S.C. 1128(b)) is amended—

(1) by striking ''The Panel'' and inserting ''(b) DUTIES.—The panel'';

(2) by striking ''and section 3 of the Sea Grant College Program Improvement Act of 1976'' in paragraph (1); and

(3) by striking ''regional consortia'' in paragraph (3) and inserting ''institutes''.

(c) Section 209(c) (33 U.S.C. 1128(c)) is amended—

(1) in paragraph (1) by striking ''college, sea grant regional consortium, or sea grant program'' and inserting ''college or sea grant institute''; and

(2) by striking paragraph (5)(A) and inserting the following:

''(A) receive compensation at a rate established by the Secretary, not to exceed the maximum daily rate payable under section 5376 of title 5, United States Code, when actually engaged in the performance of duties for such panel; and''.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) GRANTS, CONTRACTS, AND FELLOWSHIPS.—Section 212(a) (33 U.S.C. 1131(a)) is amended to read as follows:

''(a) AUTHORIZATION.—

''(1) IN GENERAL.—There is authorized to be appropriated to carry out this Act—

''(A) $56,000,000 for fiscal year 1999;

''(B) $57,000,000 for fiscal year 2000;

''(C) $58,000,000 for fiscal year 2001;

''(D) $59,000,000 for fiscal year 2002; and

''(E) $60,000,000 for fiscal year 2003.

''(2) ZEBRA MUSSEL AND OYSTER RESEARCH.—In addition to the amount authorized for each fiscal year under paragraph (1)—

''(A) up to $2,800,000 may be made available as provided in section 1301(b)(4)(A) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4741(b)(4)(A)) for competitive grants for university research on the zebra mussel;

''(B) up to $3,000,000 may be made available for competitive grants for university research on oyster diseases and oyster-related human health risks; and

''(C) up to $3,000,000 may be made available for competitive grants for university research on Pfiesteria piscicida and other harmful algal blooms.''.

(b) LIMITATION ON CERTAIN FUNDING.—Section 212(b)(1) (33 U.S.C. 1131(b)(1)) is amended to read as follows:

''(b) PROGRAM ELEMENTS.—

''(1) LIMITATION.—No more than 5 percent of the lesser of—

''(A) the amount authorized to be appropriated; or

''(B) the amount appropriated,

for each fiscal year under subsection (a) may be used to fund the program element contained in section 204(b)(2).

''(c) NOTICE OF REPROGRAMMING.—If any funds authorized by this section are subject to a reprogramming action that requires notice to be provided to the Appropriations Committees of the House of Representatives and the Senate, notice of such action shall concurrently be provided to the Committees on Science and Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

''(d) NOTICE OF REORGANIZATION.—The Secretary shall provide notice to the Committees on Science, Resources, and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, not later than 45 days before any major reorganization of any program, project, or activity of the National Sea Grant College Program.''.

SEC. 10. ADMINISTRATIVE LAW JUDGES.

Notwithstanding section 559 of title 5, United States Code, with respect to any marine resource conservation law or regulation administered by the Secretary of Commerce acting through the National Oceanic and Atmospheric Administration, all adjudicatory functions which are required by chapter 5 of title 5 of such Code to be performed by an Administrative Law Judge may be performed by the United States Coast Guard on a reimbursable basis. Should the United States Coast Guard require the detail of an Administrative Law Judge to perform any of these functions, it may request such temporary or occasional assistance from the Office of Personnel Management pursuant to section 3344 of title 5, United States Code.

Mr. COVERDELL. Mr. President, I move the Senate concur in the amendment of the House.

The motion was agreed to.

UNANIMOUS-CONSENT AGREEMENT—VETO MESSAGE TO ACCOMPANY H.R. 2631

Mr. COVERDELL. Mr. President, I ask unanimous consent that at 11:30 a.m. on Wednesday, February 25, the Senate proceed to the consideration of the veto message to accompany H.R. 2631, the Military Construction Appropriations bill. I further ask unanimous consent that there be one hour for debate on the message, equally divided between the chairman and the ranking Member, with an additional hour under the control of Senator MCCAIN. I further ask unanimous consent that following the expiration or yielding back of time, the Senate proceed to a vote on the veto message with no intervening action or debate.

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

AUTHORITY FOR COMMITTEES TO FILE LEGISLATIVE AND EXECUTIVE REPORTED ITEMS ON THURSDAY, FEBRUARY 19

Mr. COVERDELL. Mr. President, I ask unanimous consent that on Thursday, February 19, committees have

from the hours of 10 a.m. to 3 p.m. in order to file legislative or executive reported items with the exception of governmental affairs regarding the special investigation.

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

EXTENDING PROGRAMS UNDER THE ENERGY POLICY AND CONSERVATION ACT

Mr. COVERDELL. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (H.R. 2472) to extend certain programs under the Energy Policy and Conservation Act.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 2472) entitled ''An Act to extend certain programs under the Energy Policy and Conservation Act.'', with the following amendment:

In lieu of the matter proposed to be inserted by the Senate, insert the following:

SECTION 1. ENERGY POLICY AND CONSERVATION ACT AMENDMENTS.

The Energy Policy and Conservation Act is amended—

(1) in section 166 (42 U.S.C. 6246) by striking ''1997'' and inserting in lieu thereof ''1998'';

(2) in section 181 (42 U.S.C. 6251) by striking ''September 30, 1997'' both places it appears and inserting in lieu thereof ''September 1, 1998''; and

(3) in section 281 (42 U.S.C. 6285) by striking ''September 30, 1997'' both places it appears and inserting in lieu thereof ''September 1, 1998''.

AMENDMENT NO. 1645

(Purpose: To extend certain programs under the Energy Policy and Conservation Act, and for other purposes)

Mr. COVERDELL. Mr. President, I send an amendment to the desk on behalf of Senator MURKOWSKI and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. COVERDELL], for Mr. MURKOWSKI, proposes an amendment numbered 1645.

Mr. COVERDELL. 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:

In lieu of the matter proposed to be inserted, insert the following:

''SECTION 1. ENERGY POLICY AND CONSERVATION ACT AMENDMENTS.

''The Energy Policy and Conservation Act is amended—

''(1) in section 166 (42 U.S.C. 6246) by striking '1997' and inserting in lieu thereof '1999';

''(2) in section 181 (42 U.S.C. 6251) by striking '1997' both places it appears and inserting in lieu thereof '1999';

''(3) by striking 'section 252(l)(1)' in section 251(e)(1) (42 U.S.C. 627(e)(1)) and inserting 'section 252(k)(1)';

''(4) in section 42 U.S.C. 6272)—

''(A) in subsection (a)(1) and (b), by striking 'allocation and information provisions of the international energy program' and inserting 'international emergency response provisions';

''(B) in subsection (d)(3), by striking 'known' and inserting after 'circumstances' 'known at the time of approval';

''(C) in subsection (e)(2) by striking 'shall' and inserting 'may';

''(D) in subsection (f)(2) by inserting 'voluntary agreement or' after 'approved';

''(E) by amending subsection (h) to read as follows—

'''(h) Section 708 of the Defense Production Act of 1950 shall not apply to any agreement or action undertaken for the purpose of developing or carrying out—

'''(1) the international energy program, or

'''(2) any allocation, price control, or similar program with respect to petroleum products under this Act.';

''(F) in subsection (k) by amending paragraph (2) to read as follows—

'''(2) The term 'international emergency response provisions' means—

'''(A) the provisions of the international energy program which relate to international allocation of petroleum products and to the information system provided in the program, and

'''(B) the emergency response measures adopted by the Governing Board of the International Energy Agency (including the July 11, 1984, decision by the Governing Board on 'Stocks and Supply Disruptions') for—

'''(i) the coordination drawdown of stocks of petroleum products held or controlled by governments; and

'''(ii) complementary actions taken by governments during an existing or impending international oil supply disruption.'; and

''(G) by amending subsection (l) to read as follows—

'''(l) The antitrust defense under subsection (f) shall not extend to the international allocation of petroleum products allocation is required by chapters III and IV of the international energy program during an international energy supply emergency.'; and

''(5) in section 281 (42 U.S.C. 6285) by striking '1997' both places it appears and inserting in lieu thereof '1999'.

''(6) at the end of section 154 by adding the following new subsection:

'''(f)(1) The drawdown and distribution of petroleum products from Strategic Petroleum Reserve is authorized only under section 161 of this Act, and drawdown and distribution of petroleum products for purposes other than those described in section 161 of this Act shall be prohibited.

'''(2) In the Secretary's annual budget submission, the Secretary shall request funds for acquisition, transportation, and injection of petroleum products for storage in the Reserve. If no request for funds is made, the Secretary shall provide a written explanation of the reason therefore.'.''

Mr. MURKOWSKI. Mr. President, this bill should have been the easiest thing we did this Congress. The Senate passed legislation on this issue by unanimous consent twice last year. This bill contains nothing less than our Nation's energy security insurance policy. This bill authorizes two vital energy security measures: the Strategic Petroleum Reserve and U.S. participation in the International Energy Agency.

Both of these authorities have expired. At this moment, sabers are rattling in the Gulf. Very soon, there may be more than sabers rattling. As I speak, more American troops are headed to the Middle East. We owe it to our soldiers, and the Nation's civilian consumers, to do everything we can to ensure that our energy insurance policy is in effect.

The House bill before us, H.R. 2472, would provide a simple extension of these authorities through September of this year. However, this is not enough to ensure our Nation's energy security. We must change the antitrust exemption in EPCA to comply with current IEA policy. The IEA changed its emergency response policy at our request, switching from command-and-control measures to more market-oriented coordinated stockdraw procedures. However, our laws haven't kept up.

Right now, our U.S. oil companies don't have any assurance that their attempts to cooperate with the IEA and our government in a crises won't be a violation of antitrust laws. The IEA's efforts to respond to a crisis will be critically impaired if it can't coordinate with U.S. oil companies. Our oil companies want to cooperate with our government and the IEA and strongly support this amendment.

We also need to amend H.R. 2472 to extend the authorization beyond September. For every year in recent memory, we have authorized this Act on a year-to-year basis. Every year, we face a potential crises when these authorities go unrenewed until the very end of the Congress. The provisions of this bill are not controversial. However, there are those who see any important bill as leverage.

This year, we are on the edge of a real crises. We have ongoing military action in the Gulf, and no clear authority to respond to oil supply shortages. Playing political games with this bill has always been irresponsible; now it is downright dangerous. In the future, the only way to avoid the annual crisis is to renew EPCA for more than one year. I am disappointed that we can't do that now. But for now, we must avert the immediate crisis.

I have tried to address concerns about the future of the SPR. Like many of you, I am dismayed by the recent use of the SPR as a ''piggy bank''. In 1995, DOE proposed the sale of oil to pay for repairs and upkeep, opening the floodgates to continued sales of oil for budget-balancing purposes. So far, we've lost the American taxpayer over half a billion dollars. Buying high and selling low never makes sense. We're like the man in the old joke who was buying high and selling low who claimed that ''he would make it up on volume.'' I am pleased that President's budget does not propose oil sales. I hope we have broken the habit of selling SPR oil forever.

We have already invested a great deal of taxpayer dollars in the SPR. We proved during the Persian Gulf War that the stabilizing effect of an SPR drawdown far outstrips the volume of oil sold. The simple fact that the SPR is available can have a calming influence on oil markets. The oil is there, waiting to dampen the effects of an energy emergency on our economy. However, if we don't ensure that there is

authority to use the oil when we need it, we will have thrown those tax dollars away. So, the first step is to ensure that our emergency oil reserves are fully authorized and available.

We are talking about people's lives and jobs. The least we can do is stop holding this measure hostage to political ambition. I urge my colleagues to support the adoption of this amendment and immediate passage of H.R. 2472. I also urge our colleagues in the other body to adopt this measure before we go home for recess during this dangerous and uncertain time.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the amendment be agreed to.

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

The amendment (No. 1645) was agreed to.

Mr. BINGAMAN. Mr. President, before we engage in a significant military confrontation in the Persian Gulf, the Senate should thoroughly examine the reasons for, and the likely outcomes of, such action. Many of our colleagues have begun to do so in speeches on this floor over the past several days. I look forward to a continuation of this vigorous debate when the Majority Leader brings forward his resolution on this topic.

I believe that we must also take concrete action today, by amending and passing the bill that is now before us, to ensure that our nation and our economy are fully prepared to deal with any adverse effect that military action in the Gulf might have on the world's supply of oil from that region.

About 65 percent of the world's known oil reserves lie in the Persian Gulf region. That region supplies one-quarter of the oil that the world now consumes. Although Persian Gulf oil is responsible for a smaller fraction of U.S. oil consumption, world oil markets are highly interconnected. Any threat to the continued supply of Persian Gulf oil at current rates of production will quickly translate into volatile, higher prices here in the United States.

One can see this in the historical record. After the Iraqi invasion of Kuwait, world oil prices rose sharply, and American consumers paid accordingly. Between August 1, 1990 and December 1, 1990, U.S. consumers spent $21 billion more for crude oil and petroleum products than would have been spent absent that Middle East crisis. Events in Iraq continue to drive world oil markets. On November 13, 1997, the day that Saddam Hussein intensified the current crisis by ejecting U.S. inspectors from Iraq, the world price of oil rose by 20 cents per barrel. The last time we waged war on Saddam Hussein, our strategy included not only amassing multilateral military might in the Persian Gulf, but also minimizing the conflict's economic impact at home. We appear headed for another major military confrontation in the Gulf, but thanks to inaction by the other body, the second part of our 1991 strategy is currently not even an option.

President Bush had two tools at his disposal to reduce the economic effects of a military conflict in the Persian Gulf. The first was an economic alliance among the world's major oil-consuming countries, the independent International Energy Agency (or IEA). The United States formed the IEA after the Arab oil embargo of 1973, so that we would never again experience the market chaos, including gas station lines, that occurred back then. The initial IEA approach for dealing with oil supply disruptions was through mandatory allocations—having an international committee decide which nation would get how much oil.

The world has changed since then. 1970s-style command-and-control supply allocations won't work today. Instead, the United States has taken the lead in designing a flexible, market-friendly response to oil supply disruptions. The new approach relies on a coordinated drawdown of worldwide oil supplies. President Bush pioneered such a system during the 1991 Gulf War, although the oil companies that cooperated at that time placed themselves in legal jeopardy for having done so. The United States, with the full backing of our domestic oil industry, has refined this concept and convinced all of the other countries in the IEA to adopt it. But without passage of a law to facilitate the sharing of information about oil supplies in an emergency, the mechanism cannot be used.

If the world encounters oil market instability, the IEA will need to know about the location and movement of oil supplies in order to coordinate a response. Most of these oil supplies are privately held, so only oil companies have the needed information. Sharing such information is normally forbidden under U.S. antitrust laws, which apply to the world's major oil companies by virtue of their operation in this country. But in a genuine emergency, the national interest in the free flow of oil is far greater than the interest in keeping oil companies from sharing inventory information. Accordingly, there is already an emergency antitrust exemption in law that allows oil companies to share information with the IEA, but only to implement the outdated command-and-control response to an oil crisis, and only if the oil supply disruption is of mammoth proportions. Both the Bush and Clinton Administrations have sought to make this antitrust exemption apply to the types of oil crises we are actually likely to see, and to coordinated emergency responses other than mandatory worldwide oil supply allocations. This revised antitrust exemption would apply only when information sharing was expressly requested by the U.S. government. This is what we need to enact into law, now. Without these changes, the United States could find itself in the absurd position of being unable to use the international oil emergency response system that we ourselves designed.

The second tool that President Bush had at his disposal in 1991 was the nation's Strategic Petroleum Reserve (SPR)—586 million barrels of crude oil, stored in underground salt caverns at five sites along the coast of Texas and Louisiana. At the beginning of Operation Desert Storm, President Bush ordered the drawdown and sale of oil from the SPR. This had a powerful calming influence on world oil markets. Incredible as it may seem, such a use of the SPR by President Clinton would be illegal today. The United States still owns 563 million barrels of crude oil in underground salt caverns, but the President's authority to sell it in response to an emergency has lapsed.

How could we be so vulnerable to such clear and present dangers? I regret that once again, in the immortal words of Pogo, we have met the enemy, and he is us. The Administration has beseeched the Congress, for years now, to update the legal framework governing the IEA and to renew its authority to operate the SPR. The Senate has repeatedly and unanimously passed such legislation. The other body has refused to act, for reasons that are very difficult to understand.

With a major military confrontation in the Persian Gulf imminent, further delay is inexcuseable. We cannot allow our economy to be needlessly vulnerable to, say, a terrorist attack on Middle East oil infrastructure. I applaud the Chairman of the Senate Committee on Energy and Natural Resources for his persistence in trying to resolve this problem. I fully support his amendment to H.R. 2472, which provides the President with all the tools he needs to respond to an oil supply disruption. In the current situation, to do any less would be irresponsible. I hope that the other body now acts quickly on this matter. If the House has concerns, let us quickly convene a joint House-Senate conference to resolve them. If not, then let this bill become law.

The PRESIDING OFFICER, Mr. President, I move that the Senate insist on its amendment to the House, the Senate request a conference with the House, and finally, that any statements relating to the measure appear at this point in the RECORD.

The motion was agreed to.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting two withdrawals and sundry nominations which were referred to the Committee on Armed Services.

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

MESSAGES FROM THE HOUSE

At 10:15 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 927. An act to reauthorize the Sea Grant Program.

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

H. Con. Res. 202. Concurrent resolution expressing the sense of the Congress that the Federal Government should acknowledge the importance of at-home parents and should not discriminate against families who forgo a second income in order for a mother or father to be at home with their children.

The message further announced that pursuant to the provisions of section 210(c)(1) of Public Law 105–119, the Chair announces the Speaker's appointment of the following individuals on the part of the House to the Census Monitoring Board: Mr. J. Kenneth Blackwell of Ohio and Mr. David W. Murray of Virginia.

The message also announced that pursuant to the provisions of section 3162(b) of Public Law 104–201, the Chair announces the Speaker's appointment of the following members on the part of the House to the Commission on Maintaining United States Nuclear Weapons Expertise: Mr. Robert B. Barker of California and Mr. Roland F. Herbst of California.

The message further announced that pursuant to the provisions of section 955(b)(1)(B) of Public Law 105–83, the Chair announces the Speaker's appointment of the following Members of the House to the National Council on the Arts: Mr. DOOLITTLE of California and Mr. BALLENGER of North Carolina.

The message also announced that pursuant to the provisions of section 491 of the Higher Education Act, as amended by section 407 of Public Law 99–498, the Chair announces the Speaker's appointment of the following member of the part of the House to the Advisory Committee on Student Financial Assistance for a three-year term: Mr. Henry Givens of Missouri.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1248. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for vessel SUMMER BREEZE (Rept. No. 105–161).

S. 1272. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel ARCELLA (Rept. No. 105–162).

S. 1235. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel registered as State of Oregon official number OR 766 YE (Rept. No. 105–163).

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

S. Res. 148. A resolution designating 1998 as the ''Onate Cuartocentenario'', the 400th anniversay commemoration of the first permanent Spanish settlement in New Mexico.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary:

Richard L. Young, of Indiana, to be United States District Judge for the Southern District of Indiana.

Edward F. Shea, of Washington, to be United States District Judge for the Eastern District of Washington.

Jeremy D. Fogel, of California, to be United States District Judge for the Northern District of California.

Beverly Baldwin Martin, of Georgia, to be United States Attorney for the Middle District of Georgia for the term of four years.

Hiram Arthur Contreras, of Texas, to be United States Marshal for the Southern District of Texas for the term of four years.

(The above nominations were reported with the recommendation that they be confirmed.)

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. ALLARD:

S. 1635. A bill to amend the Internal Revenue Code of 1986 to reduce the maximum capital gains rates, to index capital assets for inflation, and to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Finance.

By Mr. WELLSTONE:

S. 1636. A bill to provide benefits to domestic partners of Federal employees; to the Committee on Finance.

By Mr. TORRICELLI (for himself and Mr. KOHL):

S. 1637. A bill to expedite State review of criminal records of applicants for bail enforcement officer employment, and for other purposes; to the Committee on the Judiciary.

By Mr. CONRAD (for himself, Mr. DASCHLE, Mr. KENNEDY, Mr. LAUTENBERG, Mr. REED, Mr. LEAHY, Mr. DODD, Mr. BINGAMAN, Mr. DURBIN, Mr. BAUCUS, Mr. DORGAN, Mr. ROCKEFELLER, Mr. KERREY, Mr. WYDEN, Mr. WELLSTONE, Mr. TORRICELLI, Mrs. BOXER, Mr. KERRY, Mr. BUMPERS, Mr. MOYNIHAN, Mr. JOHNSON, Mr. BREAUX, Mr. KOHL, Ms. LANDRIEU, Ms. MOSELEY-BRAUN, and Mr. LIEBERMAN):

S. 1638. A bill to help parents keep their children from starting to use tobacco products, to expose the tobacco industry's past misconduct and to stop the tobacco industry from targeting children, to eliminate or greatly reduce the illegal use of tobacco products by children, to improve the public health by reducing the overall use of tobacco, and for other purposes; to the Committee on Finance.

By Mr. COVERDELL:

S. 1639. A bill to amend the Emergency Planning and Community Right-To-Know Act of 1986 to cover Federal facilities; to the Committee on Environment and Public Works.

By Mr. WELLSTONE (for himself and Mr. GRAMS):

S. 1640. A bill to designate the building of the United States Postal Service located at East Kellogg Boulevard in Saint Paul, Minnesota, as the ''Eugene J. McCarthy Post Office Building''; to the Committee on Governmental Affairs.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 1641. A bill to direct the Secretary of the Interior to study alternatives for establishing a national historic trail to commemorate and interpret the history of women's rights in the United States; to the Committee on Energy and Natural Resources.

By Mr. GLENN (for himself, Mr. THOMPSON, Mr. LEVIN, Mr. LIEBERMAN, and Mr. AKAKA):

S. 1642. A bill to improve the effectiveness and performance of Federal financial assistance programs, simplify Federal financial assistance application and reporting requirements, and improve the delivery of services to the public; to the Committee on Governmental Affairs.

By Mr. KENNEDY (for himself, Mr. JEFFORDS, Mr. KERRY, and Mr. LEAHY):

S. 1643. A bill to amend title XVIII of the Social Security Act to delay for one year implementation of the per beneficiary limits under the interim payment system to home health agencies and to provide for a later base year for the purposes of calculating new payment rates under the system; to the Committee on Finance.

By Mr. REED (for himself, Ms. COLLINS, Mr. KENNEDY, Mrs. MURRAY, Mr. DODD, Ms. MIKULSKI, Mr. CONRAD, Mr. AKAKA, Mr. LEVIN, Mr. KERRY, Mr. JOHNSON, Mr. TORRICELLI, Mr. KERREY, and Mr. HOLLINGS):

S. 1644. A bill to amend subpart 4 of part A of title IV of the Higher Education Act of 1965 regarding Grants to States for State Student Incentives; to the Committee on Labor and Human Resources.

By Mr. ABRAHAM (for himself, Mr. LOTT, Mr. DEWINE, Mr. INHOFE, Mr. NICKLES, Mr. COVERDELL, Mr. HELMS, Mr. COATS, Mr. SESSIONS, Mr. ENZI, Mr. CRAIG, Mr. KYL, Mr. HATCH, Mr. FAIRCLOTH, Mr. BROWNBACK, Mr. SANTORUM, Mr. MCCONNELL, Mr. HUTCHINSON, Mr. BOND, and Mr. GRASSLEY):

S. 1645. A bill to amend title 18, United States Code, to prohibit taking minors across State lines to avoid laws requiring the involvement of parents in abortion decisions; to the Committee on the Judiciary.

By Mr. LAUTENBERG (for himself, Mr. TORRICELLI, and Mr. BUMPERS):

S. 1646. A bill to repeal a provision of law preventing donation by the Secretary of the Navy of the two remaining Iowa-class battleships listed on the Naval Vessel Register and related requirements; to the Committee on Armed Services.

By Mr. BAUCUS (for himself, Ms. SNOWE, Mr. LIEBERMAN, Mr. KEMPTHORNE, Mr. DASCHLE, Mr. DODD, Mr. DURBIN, Mr. LAUTENBERG, Ms. COLLINS, Mr. JOHNSON, and Mr. KENNEDY) (by request):

S. 1647. A bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965; to the Committee on Environment and Public Works.

By Mr. JEFFORDS (for himself, Ms. COLLINS, and Mr. ENZI):

S. 1648. A bill to amend the Public Health Service Act and the Food, Drug and Cosmetic Act to provide for reductions in youth smoking, for advancements in tobacco-related research, and the development of safer tobacco products, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. FORD:

S. 1649. A bill to exempt disabled individuals from being required to enroll with a managed care entity under the medicaid program; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 1650. A bill to suspend temporarily the duty on synthetic quartz substrates; to the Committee on Finance.

S. 1651. A bill to suspend temporarily the duty on 2,4-bis((octylthio)methyl)-o-cresol; to the Committee on Finance.

S. 1652. A bill to suspend temporarily the duty on 2,4-bis((octylthio)methyl)-o-cresol; epoxidized triglyceride; to the Committee on Finance.

S. 1653. A bill to suspend temporarily the duty on 4-((4,6-bis(octylthio)-1,3,4-triazine-2-yl)amino)-2,6-bis(1,1-dimethylethyl)phenol; to the Committee on Finance.

S. 1654. A bill to suspend temporarily the duty on 1-Hydroxy cyclohexyl phenyl ketone; to the Committee on Finance.

S. 1655. A bill to suspend temporarily the duty on 2-hydroxy-2-methyl-1-phenyl-1-propane; to the Committee on Finance.

S. 1656. A bill to suspend temporarily the duty on bis(2,4,6-trimethyl benzoyl) phenyl phosphine oxide; to the Committee on Finance.

S. 1657. A bill to suspend temporarily the duty on bis(2,6-dimethoxy-benzoyl)-2,4-trimethyl pentyl phosphinenoxide and 2-hydroxy-2-methyl-1-phenyl-1-propanone; to the Committee on Finance.

S. 1658. A bill to suspend temporarily the duty on (2-Benzothiazolylthio)-butane-dioic acid; to the Committee on Finance.

S. 1659. A bill to suspend temporarily the duty on calcium bis{monoethyl(3,5-di-tert-butyl-4-hydroxybenzyl) phosphonate}; to the Committee on Finance.

S. 1660. A bill to suspend temporarily the duty on 2-(dimethylamino)-1- {4-(4-morpholinyl)}-2-(phenylmethyl)-1-butanone; to the Committee on Finance.

S. 1661. A bill to suspend temporarily the duty on N-Ethylmorpholine, cmpd. with 3-(4-methylbenzoyl) propanoic acid (1:2); to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 1662. A bill to authorize the Navajo Indian irrigation project to use power allocated to it from the Colorado River storage project for on-farm uses; to the Committee on Indian Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. DOMENICI (for himself, Mr. DODD, Mr. COCHRAN, Ms. MIKULSKI, Mr. BENNETT, Mr. LIEBERMAN, Mr. KEMPTHORNE, Mr. DORGAN, Mr. FRIST, and Mr. CLELAND):

S. Res. 176. A resolution proclaiming the week of October 18 through October 24, 1998, as ''National Character Counts Week''; to the Committee on the Judiciary.

By Mr. COVERDELL (for himself, Mr. CLELAND, Mr. SMITH of New Hampshire, Mr. LOTT, Mr. HAGEL, and Ms. MOSELEY-BRAUN):

S. Res. 177. A resolution recognizing, and calling on all Americans to recognize, the courage and sacrifice of the members of the Armed Forces held as prisoners of war during the Vietnam conflict and stating that the American people will not forget that more that 2,000 members of the Armed Forces remain unaccounted for from the Vietnam conflict and will continue to press for the fullest possible accounting for all such members whose whereabouts are unknown; considered and agreed to.

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

S. Res. 178. A resolution to authorize production of Senate documents and representation by Senate Legal Counsel in United States f.u.b.o. Kimberly Industries, Inc., et al. v. Trafalgar House Construction, Inc., et al.; considered and agreed to.

By Mr. MURKOWSKI:

S. Con. Res. 76. A concurrent resolution enforcing the embargo on the export of oil from Iraq; to the Committee on Foreign Relations.

By Mr. SESSIONS:

S. Con. Res. 77. A concurrent resolution expressing the sense of the Congress that the Federal government should acknowledge the importance of at-home parents and should not discriminate against families who forego a second income in order for a mother or father to be at home with their children; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ALLARD:

S. 1635. A bill to amend the Internal Revenue Code of 1986 to reduce the maximum capital gains rates, to index capital assets for inflation, and to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Finance.

CAPITAL GAINS AND ESTATE TAX REFORM LEGISLATION

Mr. ALLARD. Mr. President, I spent the month of January attending town meetings throughout the State of Colorado. That is one of the things, when I go back to my State, that I spend a lot of time doing—visiting the counties and visiting with the people of Colorado. Over the years, we continue to have the issue of taxes brought up in the town meetings—probably more so now than at any time that I can recall since having town meetings.

The American people simply want to have their tax system reformed, particularly those in Colorado. They want lower taxes, they want a simpler tax system, and they want less intrusive means of collecting those taxes.

Last year, Congress enacted modest tax relief, but it was only a first step. It's time to move forward with more aggressive tax reform.

Today, I am introducing legislation that will do four things:

It will continue to reduce the capital gains tax to a top rate of 14 percent.

It will restore the one-year holding period for capital gains treatment.

It will index capital gains and, thereby, eliminate the taxation of gains that are due solely to inflation.

And then, finally, it will eliminate the estate tax.

These changes will provide important tax relief for families and businesses, and continue to ensure that our economy remains the most competitive in the world.

Mr. President, the new year has certainly brought good news concerning the Federal budget. But let's be honest. The budget is balancing because of the hard work of the American people, not because of any bold action by the Federal Government. Economic performance in recent years has exceeded all expectations. The result is that the American people have been sending greater and greater amounts of their earnings to Washington. The budget is balancing because of an explosion in tax receipts, not because of any restraint in spending. In fact, the budget continues to grow at a healthy pace. Federal spending in 1998 is estimated to be 4.3 percent above the 1997 level—well in excess of inflation. Many would like this to continue.

The President assured us in a previous State of the Union Address that, ''the era of big Government is over.'' But it is clear that he is now proposing a new era of big Government.

I favor a different course. We should not squander the people's surplus on more Government. Instead, we should begin to pay down the debt and reform the tax system. We should put American families ahead of the insatiable appetite of Washington, DC, for more Government spending.

Despite last year's budget bill, taxes remain higher than they have ever been. Tax freedom day—the day to which the average American works to pay the combined Federal, State, and local tax burden—is May 9, which is the latest it has ever been. A reduction in the Federal debt and a reasonable level of taxation should be the twin objectives of Congress as we enter the next century. Our job is to ensure that the bridge to the 21st century does not become a toll bridge.

Mr. President, let me begin with a discussion of capital gains taxes. I call the capital gains tax the ''growth tax.'' Nearly all Americans own capital, and they experience a tax on that capital when they sell the stocks, or a small business, or a farm.

Mr. President, let's look at how this capital gains, or growth tax, hits ordinary working Americans. Stock ownership has doubled in the last 7 years, to the point where 43 percent of all adult Americans own stock. Obviously, with those numbers, stock ownership is not just confined to the wealthy; it is spread throughout society. Today, half of the investors are women, and half are noncollege graduates. Stocks are typically held for retirement, education expenses, and other long-term goals. This is precisely the type of saving and investing that we need in our economy.

Mr. President, I can't leave this topic without talking about small business owners and farmers. There is no clearer area where the ''growth tax'' makes no

sense. Millions of American families put their lives into building small businesses and farms. Often, those businesses or farms are sold to finance a decent retirement. But this can only occur after Uncle Sam gets his cut of one-third or more of all the gains.

Simply put, low taxation makes it less costly to take the risks that are critical in a capitalist economy. I am proposing that we enact a maximum capital gains tax of 14 percent, with those in the lowest tax bracket paying only 7 percent. Last year's reduction of the capital gains rate was a big plus, but it came with a price—the holding period required to qualify for the lower tax was extended from 12 months to 18 months.

The holding period change is a poor attempt by the Government to micromanage the economy. This is the type of Government management that has so clearly failed in Asia. A market economy functions best when capital flows freely, unencumbered by Government distortions. The holding period for long-term capital gains treatment has been 12 months for years, and it should stay that way.

Mr. President, an additional mistake that Congress made in last year's bill was a failure to include indexing. The real ''growth tax'' is often much higher than 20 percent. This is because our Tax Code does not protect Americans from taxation on capital gains that result from inflation. This is one of the most unfair aspects of the growth tax. Government policies contribute to inflation, and Government turns around and taxes its citizens on that inflation.

For this reason, I fought hard to see that indexing was included last year. I offered an amendment to the tax bill that would have added indexing. The amendment was carefully structured to avoid any revenue loss. Obviously, I was disappointed with the defeat of this amendment. I presume that this was due largely to the President's opposition to indexing and his veto threat. Despite this, we got a strong vote, and I promised that I would be back.

I have included indexing in this bill, and I fully intend to offer this at each opportunity. Some have dismissed indexing as ''too costly,'' but for me this is an issue of fundamental fairness. It is wrong for the Federal Government to tax citizens on inflation.

Since I mentioned the issue of cost, let me make a few points on this. I have long maintained that a capital gains tax cut will increase revenue. In the short run, it encourages the sale of assets that would not otherwise occur. This obviously increases revenue.

In the long run, a rate cut facilitates a higher level of economic growth. This also results in greater tax revenue.

Unfortunately, during last year's tax debate, we continued to operate under revenue models that forecast a loss to the government from the capital gains rate cut.

I hope we can soon put this notion to rest for good.

It is already apparent that capital gains revenues will be coming into the Treasury at a considerably higher level than forecast last year when we were talking about capital gains. 1998 capital gains revenues could be as much as 50% higher than previously forecast.

Even state governments will benefit from the rate cut. Earlier this month, analysts for the Colorado Legislature forecast that the capital gains tax changes would result in an additional $38 million this year for the Colorado state budget.

Obviously, the impact at the federal level will be many times greater.

ESTATE TAX ELIMINATION

The final provision in this tax bill is the elimination of the estate tax.

Frankly, the estate tax makes no sense.

While the tax raises only 1 percent of federal revenues, it destroys family businesses and farms.

The estate tax is double taxation.

At the time of a person's death, much of their farm, business, and life savings has already been subjected to federal, state, and local tax. These same assets are taxed again under the estate tax.

The estate tax fails to distinguish between cash and non-liquid assets.

Family businesses are often asset-rich, and cash poor. But the value of all assets must be included in the taxable estate.

This can force liquidations, and family businesses can see their livelihood eliminated in order to pay a tax of up to 55 percent. Yes. That is right—up to 55 percent.

This practice threatens the stability of our families and communities while inhibiting growth and economic development.

The National Center for Policy Analysis reports that a 1995 survey by Travis Research Associates found that 51 percent of family businesses would have difficulty surviving the estate tax, 14 percent of business owners said it would be impossible to survive, 30 percent said they would have to sell part or all of their business.

This is supported by a 1995 Family Business Survey conducted by Matthew Greenwald and Associates which found that 33% of family businesses anticipate having to liquidate or sell part of their business to pay the estate tax.

Recently, the accounting firm Price Waterhouse calculated the taxable components of 1995 estates. While 21% of assets were corporate stock and bonds, and another 21% were mutual fund assets, fully 32% of gross estates consisted of ''business assets'' such as stock in closely held businesses, interests in non-corporate businesses and farms, and interests in limited partnerships. In larger estates this portion rose to 55%.

Clearly, a substantial portion of taxable estates consists of family businesses.

The recent tax bill increased the estate tax exemption from $600,000 to $1 million. However, this is done very gradually and does not reach the $1 million level until 2006. The bill also increased the exemption amount for a qualified family owned business to $1.3 million. While both actions are a good first step, they barely compensate for the effects of inflation. The $600,000 exemption level was last set in 1987, just to keep pace with inflation the exemption should have risen to $850,000 by 1997.

Incremental improvements help, but we need more substantial reform. It is time to eliminate this tax entirely. This action has been taken in countries such as Australia and Canada. Unfortunately, the United States retains what are arguably the highest estate taxes in the world.

Among industrial nations, only Japan has a higher rate than the U.S. But Japan's 70% top rate applies only to inheritance of $16 million or more. The U.S. top rate of 55% kicks in on estates of $3 million or more. France, the United Kingdom, and Ireland all have top rates of 40%, and the average top rate of OECD countries is only 29%.

Repeal of the estate tax would benefit the economy. George Mason University Professor Richard Wagner estimates that within seven years of elimination of the estate tax the output of the country would be increased by $79 billion per year, resulting in up to 228,000 new jobs. Under the current system, the energy that could go into greater productivity is expended by selling off businesses, dividing resources and preparing for the absorption of an estate by the government. Those businesses that survive the estate tax often do so by purchasing expensive insurance. A 1995 Gallup survey of family firms found that 23% of the owners of companies valued at over $10 million pay $50,000 or more per year in insurance premiums on policies designed to help them pay the eventual tax bill.

The same survey found that family firms estimated they had spent on average over $33,000 on lawyers, accountants and financial planners in order to prepare for the estate tax.

Ironically, the estate tax is often justified on the grounds that it helps to equalize wealth. But this effect is greatly exaggerated. A 1995 study published by the Rand Corporation found that for the very wealthiest Americans, only 7.5% of their wealth is attributable to inheritance—the other 92.5% is from earnings.

Mr. President, it is time to repeal this outdated tax. We must insist that no more American families lose their business because of the estate tax. We must ensure that when a family is coping with all the inevitable costs of passing a business from one generation to the next, the Federal Government is not there as an added burden.

Mr. President, it is my hope that by introducing this tax legislation and placing these proposals on the table we can begin to debate significant tax relief for 1998.

Each of these changes: a lower capital gains rate, indexing, and repeal of the estate tax, are consistent with long-term tax reform. And each of them can be enacted this year.

By Mr. WELLSTONE:

S. 1636. A bill to provide benefits to domestic partners of Federal employees; to the Committee on Finance.

THE DOMESTIC PARTNERSHIP BENEFITS AND OBLIGATIONS ACT OF 1998

Mr. WELLSTONE. Mr. President, last October, Congressman BARNEY FRANK broke new ground when he introduced HR2761, the Domestic Partnership Benefits and Obligations Act of 1997. I am here today to break ground in the Senate by introducing the Domestic Partnership Benefits and Obligations Act of 1998. This bill does not introduce new benefits; it simply extends existing benefits to a previously uncovered group of employees for very little cost.

Mr. President, let me take a moment to outline my bill. This bill provides benefits for same-sex domestic partners of civilian, federal employees. Partners must be living together, in a committed, intimate relationship, and responsible for each other's welfare and financial obligations. It provides access to five categories of benefits in the same way that married spouses have access: participation in retirement programs, life insurance, health insurance, compensation for work injuries, and upon the death of a government employee, the domestic partner would be deemed a spouse for the purpose of receiving benefits.

This is a bill about justice, about fairness, about equity in the workplace. This bill is about saying to our gay and lesbian employees, ''We value your contribution to the workplace, and to show you we value you, we're going to protect your families, like we protect the families of married employees, by providing them with benefits.'' It is about providing the opportunity for same-sex domestic partners to provide their partners—who previously have been denied—access to such benefits as health insurance.

For many people in this country, insurance benefits for their loved ones are automatic, they are expected, they are the norm. But benefits didn't start out that way. In fact, they are a relatively modern invention. Benefits in the form of compensation were created in the 1940's, essentially to increase compensation for some employees who were prohibited by law from getting pay increases. So instead of more pay, employers paid for certain products and services such as health insurance to take care of their employees and to make their businesses more attractive to potential employees. For gay men and lesbians, most of these benefits are completely inaccessible.

But where is it written in stone that only married spouses and their children deserve benefits? Yes, many employers have chosen to limit benefits to married spouses and their children, but more and more, governments, universities, and private businesses have been making a different choice. Business and organizations like the San Francisco 49ers, Reader's Digest, Starbucks, Coors, Ben and Jerry's, Kodak, Disney, the Union Theological Seminary, the Episcopal Diocese of Newark, the International Brotherhood of Electrical Workers #18, Mattel, the Vermont Girl Scout Council, and more than 50 Fortune 500 companies have made the right choice to offer domestic partnership benefits. A more fair and equitable choice. A more humane choice.

I am disappointed that domestic partnership benefits have already been offered in some cities and by some businesses since 1982 but here we are in 1998 and we're just now talking about them here in the Senate. Today there are at least 42 cities and municipalities, 12 counties, 1 state, and 342 private sector for-profit and not-for profit businesses and unions which offer domestic partner benefits. The good news, though, is that we have more than 15 years worth of employers' experiences with providing these benefits.

By virtue of our vote on DOMA, we have said that same-sex couples cannot marry. But that doesn't mean that people in long-term, loving, and committed relationships don't deserve to have the opportunity to provide their loved ones with health insurance, survivor benefits, and other benefits. Domestic partnership legislation levels the playing field for same-sex partners who are not allowed to marry. This bill is aimed at correcting that inequity. Here is the story of how not having domestic partnership benefits effected one couple's lives:

Anonymous: My partner and I have been together for almost six. About a year ago, he had to leave work due to a serious heart condition. Since my employer doesn't include domestic partnership benefits, we had to pay all of his expenses out of pocket. For quite some time I had to support him from my salary, or else he would have ended up on welfare. We are still scrimping and saving to try and pay off the health care expenses that should have been covered by my insurance (if we had dp benefits). Almost all of my heterosexual friends have been ''married'' less time than my partner and I and received benefits immediately after the marriage. Their relationships seem no more permanent than my own. When my partner and I have been together for fifty years, we will still not have insurance for him through my employer.

Not only are domestic partnership benefits fair and just, they cost very little. Employers have found that upon implementing domestic partnership benefits, one percent of all employees—at most—actually sign up their same-sex partners for benefits. And more often, it is less than one percent. Even taking the most liberal figures, there is no legitimate reason to argue that more than 1% of our almost 300,000 federal civilian employees will enroll. And even though this is a relatively small number of employees—at most 30,000—let me tell you, these benefits are of critical importance to those who do.

For example, Marieta Louise Luna is a graduate student studying in the Divinity School at Duke University. She says,

I just returned home from the hospital on Thursday night from having a knee replacement made possible largely because of the fact that Kathryn is a Duke employee and I have domestic partner benefits.

Guaranteed, I could not have had the surgery if I had not had domestic partner benefits. For me, it was the literal difference between walking and being handicapped for the next several years.

And at a cost of less than 1% of the total benefits budget—or less—it is truly worth making this investment.

Some might be afraid that domestic partnership policies could open the door to fraud with people signing up their friends in order to get health insurance.

Most employers never ask for verification of a heterosexual marriage. I have never been asked to provide a marriage certificate to prove I'm married, and I doubt that many of you have either.

But my bill has stringent requirements for qualifying as domestic partners. Among other requirements, partners must sign an affidavit certifying that they share responsibility for a significant measure of each other's common welfare and financial obligations. And they must show documentation to prove it—such as copies of a mortgage or lease with both names on it, copies of bank statements showing joint checking or savings accounts, copies of durable powers of attorney for property and health, or copies of wills specifying each other as the major recipients of each other's financial assets.

In addition, my bill specifies serious consequences for fraud, including the possibility of disciplinary action, termination of employment, and repayment of any insurance benefits received.

Finally, there are criminal statutes that provide that making false statements and defrauding the government are crimes which can result in a fine and/or imprisonment up to 5 years.

The bottom line is that this bill creates serious consequences for fraud, establishes that every effort will be made to minimize fraud by those falsely claiming to be domestic and specifies that those caught will be seriously punished.

Let me tell you one more story:

Anonymous from Minnesota: I have had the same health care benefits package for nearly 16 years. I began family coverage when I married in 1978. Our two children were added when they were born. My ex-husband remained on my insurance policy after we divorced—at no additional cost—even though we were not legally married.

I am now in a committed lesbian relationship. My partner had been teaching part-time in a private school for two years before she became eligible for health insurance through her employer. Two weeks before her insurance was to take effect she was stricken with severe abdominal pain. Though we considered ''toughing it out'' until her insurance kicked in, it became increasingly clear that

she needed to be treated immediately. She had a large, twisted ovarian tumor removed. By the time of the surgery, her insurance was in place. We breathed a sigh of relief.

Months later we learned that because her pain started (and was briefly treated) before her insurance began, the claim for coverage for the surgery and hospital stay were disallowed because there was a pre-existing condition exclusion in her insurance policy. We are now faced with over $5,500 (plus 12% interest per year) in medical bills. This may not seem like a lot of money to some people, but it certainly is to us. And it's money that wouldn't have had to be spent at all if she had been on my family coverage all along.

So why is it that my ex-husband (no legal relation) was entitled to continue receiving benefits until he married, but my life partner has had to go without medical insurance? The answer is simple—discrimination.

This is a bill about fairness. This is about equity in the workplace. This is about protecting employees' loved ones. It's the right thing to do.

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

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

ADDITIONAL STORIES REGARDING DOMESTIC PARTNERSHIP BENEFITS

Wendy I. Horowitz: My partner was ill for almost a year. I worked for a large conservative company that never considered implementing domestic partner benefits. After seeing one of my co-workers get married and have instant coverage for her husband (after they had been married for a day), I decided to apply for benefits for my partner. They were denied. Her illnesses were related to her tonsils, and the doctors suggested that she have them removed. I had to come up with the money to pay for this surgery (over $4,000 by the end of it all), which put a great financial burden on us and on our relationship.

Jim and Hal: As an employee of the State of Maryland (through my graduate assistantship), I receive comprehensive health benefits. Although I could share my benefits with a married spouse, I am not able to do a thing for my partner Hal. Hal is another ''starving student''; he is in a doctoral program at American University. Unfortunately, American does not offer full health coverage to its graduate assistants, so Hal is having to make do with emergency health coverage. This has adversely affected us in two ways. First, we have to cover Hals' regular health maintenance (e.g., dental checkups) which is a strain on our already stretched budget. Second and more importantly, Hal has a heart problem for which regular appointments with a cardiologist are recommended. We are not in a position to pay specialist fees out-of-pocket; thus, we are unhappily have to settle for doctors at American University's health center.

U Minnesota: R and S are their late 30's, and they have been in a committed relationship for 20 years. S is self-employed as a psychotherapist and is registered with the University as R's domestic partner.

Four years ago, R gave birth to the couple's first child L. R was able to put L on her health insurance policy as a dependent. The couple incurred no additional cost or additional deductibles for L's birth or subsequent medical treatment.

Three years later, S gave birth to the couple's second child M. Because the University only recognizes formal adoption (not guardianship) for direct dependent coverage, M is only listed as S's child and not R's child. Since the University's domestic partnership plan only provides medical premium reimbursement for partners and their dependents, R and S incurred significantly higher costs for M's birth than for L's birth.

Specifically, the couple pays out $526 every 3 months for S and M's insurance policies which each have a $500 deductible (the University plan has no deductible and low copays for dependent care). Reimbursement from the University for this cost takes additional 3 months after the couple pays. Due to IRS regulations, which do not recognize the partners as a couple, the University's reimbursement to the employee is taxed. The end result of all the complications of this system for the couple is that they have $1,500 in outstanding debt for unreimbursed health premiums. In addition, they were charged $1,000 in deductibles plus higher copays for M's birth. They have had to take out a loan to cover these health care related expenses.

Becky Liddle: I am a tenured associate professor. My domestic partner quit her job and moved here to Alabama in June of '97, as the ''trailing spouse'' in a dual career couple. We thought she would find work very quickly. But due in part to sexual orientation discrimination in hiring, she has been unable to find professional work and health benefits. She is working full-time for Kelly Services, which does not include health benefits. We brought her a 4-month hospitalization policy before she quit her job, assuming that would be more than enough time—it wasn't. She has no health insurance. We have looked at policies she could buy herself, but they are extremely expensive, and cover very little. My university will not allow me to put my domestic partner on our insurance (in fact, Blue Cross of Alabama explicitly states in its policy that ''spouse'' is limited to someone of the opposite sex). Consequently, every time she gets sick it is a crisis, and we make potentially life-threatening choices about whether she should go to the doctor. For example, she got pneumonia a few weeks ago. This is, she had all the symptoms of pneumonia, according to our Time/Life ''medical advisor—complete guide to alternative & conventional treatments'' book, which has become her primary care ''physician''. The book said if it was viral she should just go to bed, but if it was bacterial it could be life threatening. It appeared from her symptoms to be viral, so we did not spend the money to go to a doctor. This time we were right. She recovered fine in about a week. Of course, if we'd been wrong, she could be dead. I think we make good decisions about how to spend our limited health-care dollars. But I ought to be able to put her on my insurance.

Eva Young: I live with my partner of 10 years in Minneapolis. I have benefits through my work place. Even though the University of Minnesota offers ''domestic partnership'' benefits, these don't work for us. To be able to get pretax benefits (analogous to what a married couple get), we would have to declare my partner a dependant. This is degrading to my partner. Although I currently have a better job than she does (it pays better and is permanent), it doesn't mean we should have to declare her a dependant (with all the negative connotations that has) in order to get the benefits we are both entitled to. To add insult to injury, I am taxed at the single rate, even though I am primary breadwinner for a family of 4. I consider this an equal pay for equal work issue. Why should I get paid less than my married coworker, just because I am not legally married?

Not having the same benefits that a heterosexual married couple keeps my family in poverty. My family would not be in poverty if we had the same rights as married couples do. It's that simple. This isn't something that is just for the gay couple—it also will affect a lot of children. Actually, domestic partnership will do little for the dual career gay couple, where both individual are in good jobs—it's going to make a difference for gay couples who have families, or have one partner who is uninsured. Allowing gay couples to insure their partner and partner's children through their workplace insurance could also help some individuals get off government assistance.

Kirk A. Nass: My domestic partner and I have been together nearly 14 years. My partner, Michael E. Gillespie, was an attorney in Seattle when we met, now he is self-employed and runs a business in Oakland which provides physicians as expert witnesses to lawyers and insurance companies for plaintiff work. Michael's past employers never provided good medical coverage, if they provided it at all. In 1989 I finished graduate school and started a job with Chevron. Michael quit his job to move with me to the San Francisco Bay Area. Chevron provides excellent health coverage to its employees, but I was unable to cover him because domestic partners were not eligible for coverage at the time. The prospect of him having a major medical event and us not being able to pay for it bothered me for years.

After starting his own business five years ago, he joined an HMO (Kaiser Permanente, No. Calif.) under an individual plan. In 1995 he was diagnosed with Type II diabetes; in 1996 he suffered a heart attack and underwent an angioplasty to open the blocked artery. Because of his HMO coverage, all of his diabetes care, his stay in intensive care, and the angioplasty were covered. He's now in excellent health. If his business failed—even if he still worked for some of his past employers—we would not have had the financial resources to pay for his cardiac care.

On Jan. 1, 1998, Chevron began extending medical and dental coverage (and some other benefits) to the same and opposite sex domestic partners of employees and the partners' eligible children. The coverage Chevron provides for Michael through Kaiser is even better than what he was paying for himself at Kaiser. It's the first time since we've been together he's had full coverage and the first time I haven't had to worry.

Having domestic partners benefits such as medical coverage is important to us because it makes me sure that the most important person in my life can be taken care of when he needs to be. The experiences we've gone through together, although they've led to successful conclusions, have shown too often that ''what-if'' scenarios can be all too real.

Dan Ross: My partner of 5 years has cerebral palsy (a congenital condition; in his case, it creates overly-tight muscle tone). After orthopedic surgery to correct some aspects of his gait, he had to make significant changes to his walk, and work on daily stretches, most of which require assistance. He is (and was) able to walk on his own, although now does so with a cane. He travels quite a bit for his job and works long hours, so it is difficult for us to work on this on a regular schedule. He can't take a leave of absence form his job, or even temporarily resign, to work on physical therapy full-time, because he absolutely needs his health insurance and he is afraid of jeopardizing that. (Some insurance plans even make cerebral palsy a ''pre-existing condition''.) My health insurance won't cover him, of course, and until recently, I wouldn't have been able to take sick leave to stay with him in the hospital and at home. He was bedridden for a total of two weeks after the surgery. As it was, I hurried back and forth between work and home, because I had just begun a new job, and didn't want to make a bad impression there; but he had scheduled the surgery for around Christmas, so there were many

people off on vacation time during that period. The issue of domestic partnership benefits—whether equity in providing health insurance, or even just uniform treatment in granting sick/caregiving and bereavement leave—is important to us as a result.

Pam Herman-Milmoe: I am a federal employee and Sara has just finished her Masters Degree in Clinical Psychology. While she was in school she had access to limited benefits, but now that she is job hunting she is completely uninsured. She is working in a paid internship position that is providing great experience and a real service to the community, but no benefits. As she moves on in her career she would like to establish her own practice, but if she does she'll have to pay for her own benefits without any support. The practice of denying benefits to domestic partners puts us at a severe economic disadvantage compared with my coworkers. They can use the money their spouses save on benefits for investments and other purposes. Sara and I plan on having children, who will be covered by my benefits, but money that would support their education and upbringing will have to go to pay for benefits for Sara.

Steve Crutchfield: A year ago, my partner of 22 years was fired from his job. When he lost his job, he lost his health insurance benefits. He was able to maintain benefit through a COBRA plan, but it cost us an additional $150 per month to maintain his health benefits. Now that his COBRA benefits are expiring, he has to buy individual medical insurance at a cost of over $300 month.

If we had a domestic partner benefits law in place, I could have put him under my insurance benefits as the spouse of a Federal Government Worker. However, since our relationship is not recognized as a marriage, I am unable to enjoy the medical insurance benefits accorded to my colleagues who are in traditional marriages.

David Perkins: My partner of fifteen years came with me to Champaign-Urbana, Illinois in order that I might take a job. We have been here over three years and he has not been able to find anything other than part-time work that offers no benefits. Because the state or the University does not extend benefits to same-sex partners, he is without any health benefits whatsoever—and as he will soon turn forty-five years old, health insurance is too expensive for us to pay out-of-pocket. If anything, should happen to him—it will either completely wipe me out financially, or he will be thrown on the mercy of the taxpayers as an indigent case. Not a dramatic story, true—but a fear we live with daily.

Anonymous: My partner and I have 3 children ages 15, 13 and 3. I gave birth to the first 2 before getting together with her. The youngest one we had together. Shortly after the arrival of our youngest, the opportunity arrived that I could stay home and care for her instead of putting her in day care. But in quitting my job I also had to give up my health care benefits. My partner's company does not offer domestic benefits so I am not covered for my asthma medication that I need to breath. I also am a high risk for breast cancer due to family history (mother, grandmother and 3 sisters) but I agreed to stay home for the benefit of all our children.

Anon: My (same-sex) partner moved in with me in Pennsylvania two years ago. She had been self-employed (a clinical psychologist with a private practice) in CO. We are/have been in a long-term committed relationship for three years. She had been paying her own health insurance, but since she gave up her income to move here, she had no way of continuing to pay it. My employer (a college) has a subsidized health insurance benefit for married couples only; if we had been married, the additional coverage would have cost $60. Instead, I had to pay $175 monthly so that she would have less adequate health insurance than I have. Since she needed surgery within months of moving here, with a long recovery period, she also could not earn money to help with expenses. We had to spend money on a lawyer to get documents assuring the hospital that I (an ''unrelated'' person) could make decisions for her were she to be incapacitated, etc. Furthermore, she could not avail herself of the physical recreational facilities at the college since she was not a bona fide spouse. I had to pay a membership fee for her to join a ''Y'' so she could use the physical exercise equipment she needed to recover from her surgery. All in all, not having our partnership recognized has cost me a bundle.

Mindy Kurzer: My partner Linda and I have been in a committed relationship for 7 years and have a 2 year old daughter named Della. I was very pleased when the University of Minnesota instituted a domestic partner policy about 3 years ago. This policy has helped our family, because Linda is self-employed and previously carried only catastrophic coverage with lots of exclusions for pre-existing conditions. Since the U of M started this policy, we have been able to purchase a very comprehensive medical policy for her. This has turned out to be extremely important, because she was in a car accident 2 years ago, and sustained serious injuries for which she underwent two surgeries and still requires medical treatment. With her current health insurance, we have been able to get her excellent care—without it, I doubt we would have been able to do so.

Domestic partner benefits are important to our community, but I think they are also important to the broader society. I have had numerous opportunities to leave the University of Minnesota and have chosen to stay here in part because the University has shown a commitment to reducing discrimination. As more and more businesses and Universities institute domestic partner benefits, institutions that do not (including the government) may be disadvantaged when it comes to getting and retaining top-notch employees.

Sibley Bacon: I work for Peoplesoft, Inc. who provides domestic partner benefits to same sex couples. My partner, and I have been together for 4 years * * * she is self-employed, so we opted to have her covered through Peoplesoft. This year she developed a 5.5 cm dermoid tumor on one of her ovaries which was causing her a great deal of pain on a daily basis. Our health insurance paid for the surgery and follow up visits. This would have cost us thousands of dollars had we not had the coverage through Peoplesoft. Additionally she's been able to see a physical therapist to address some old gymnastics injuries. Needless to say, I am eternally grateful that my company provides these benefits to its gay and lesbian employees. Domestic partner coverage will certainly be a deciding factor in the future if I ever end up looking for a job outside of Peoplesoft.

Toni A.H. McNaron: My partner, and I have been in a committed relationship for almost 20 years (our anniversary is in June). We own a large home in south Mpls., pay lots of property taxes, earn well over $100,000 a year, and are the first people in our neighborhood to shovel our walks in winter.

One of our very nice heterosexual neighbors just married his girlfriend and sometimes doesn't shovel until the next day.

The moment he and she signed the marriage license, she had his full health coverage and retirement plan benefits from his quite successful legal coverage and retirement plan benefits from his quite successful legal practice. My partner has never had a PENNY of coverage during the 34 years I've worked as a professor at the University of Minnesota. And, even more unfair, if I were killed by a drunk on the freeway on the way home tonight, she would not even get a condolence letter from the University. Instead she would get a check for the ENTIRE amount of my retirement—considerable after 34 years. Furthermore, she would have to pay the federal government approximately $90,000 at tax time because of her ''windfall.'' (How amazing to consider it a windfall to have your beloved partner of 20 years killed.)

My neighbor's wife would get a condolence letter from his firm explaining to her her options for collecting his retirement funds. She is smart and would choose to have them delayed until she is older and then to have them parceled out over time so that she would pay next to no taxes on them.

Nancy: I am in Texas on internship. Rose, my partner, is back home in Minnesota. Rose has fibromyalgia/chronic fatigue syndrome and a number of other health problems. She is in the process of leaving her job and applying for disability. Partly because of her health problems, we would like to relocate permanently to Texas. However, it will take several months for her disability claim to be processed so she can get on Medicare. She can continue her insurance coverage under COBRA, but that would only be good in Minnesota, since her coverage is with a local HMO. I can't put her on my insurance due to lack of domestic partner benefits. So we're faced with a number of unattractive options: (1) I could look for a job in Minnesota, even though both of us would rather move south and that move would be good for Rose's health. (2) She could move here and be without insurance coverage for her multiple health problems until she is approved for disability. (3) We could prolong our geographic separation and have the expense of maintaining separate households until she gets on disability, which can be a very long process. I think this is typical of the difficult choices gay and lesbian couples are forced to make without domestic partner benefits.

Julie Ford: My name is Julie Ford, I am the Director of News and Public Affairs for a television station in Sarasota, Florida. My partner is Vicky Oslance, who is a surgical technician by trade but who has chosen to work per diem instead of full time in order to maintain our household since my full time job is very demanding and time consuming. Working per diem, she of course has given up health benefits. This is an added expense for us, one that the other married department heads at my workplace do not have to deal with. I an my partner have been together nearly 9 years . . . longer than most of the married people I work with. We maintain a joint checking account, stock portfolio, and own property together. It is totally unfair for me to have to pay an outrageous amount to insure Vicky's health when other married people at my workplace can get inexpensive company health insurance for their spouses.

Susan Hagstrom. When I was hired by UC Berkeley five year ago, I was struck by the lack of equal compensation for equal work. What I did not know then was how close to home this inequality would hit.

I recall vividly the day Debra, my partner of seven years, suffered an excruciating ruptured disk. I cried as I watched her in so much pain that she could not stand, sit, or work and had to literally crawl to the bathroom. I cried when she refused to get an MRI because we couldn't afford the $1000 procedure or the expensive doctor visits. I cannot fully describe to you how difficult this lack of benefits has been for me and for Debra.

Lori Stone: Until recently, my partner had a job that provided a much inferior benefit plan to my own. Because the deductible on her plan was so high, she would often elect not to get treated for illness, preferring just to ''ride it out.'' Of course this was a risky way to go, and it back-fired on us, when she came down with kidney stones, and was eventually hospitalized. The physical trauma plus the debts we have incurred, because I was unable to cover my partner's expenses, have been difficult to surmount.

I currently work for an organization that has excellent medical benefits but no provision for me to be able to cover my partner's medical expenses. If I had been able to cover my partner under my plan, I believe we wouldn't be in the unfortunate financial situation that we are today.

Thanks so much for taking this bold move. I pray for the day when I won't feel so disenfranchised in my own country.

DOMESTIC PARTNER BENEFITS—VIGNETTES—CLV/GLCAC

[First case]

Bill and his partner Joseph have been living together in a committed relationship for 8 years. Bill worked as an attorney for a large Minneapolis firm for 12 years before he was diagnosed with MS and had to leave his job within a year from diagnosis. Joseph works as a maintenance engineer for the State of Minnesota. Bill's income was two times Joseph's current income when he was able to work. The benefits Bill received on the firm's short term disability plan have expired, and no long term disability plan was in place. Bill requires 24 hour care, but is not yet eligible for inpatient nursing care.

Bill's doctor visits and medications are covered by Medical Assistance. Medical Assistance will not, however, pay for the cost of Bill's in-home care attendants. Bill's doctors have recommended 24 hour care. Joseph must continue to work to pay household expenses. The loss of Bill's income and medical and care expenses have forced the men to sell their home and trim many other expenses. The insurance plan offered by Joseph's employer would cover the cost of in-home care for the spouse or dependent of the employee. The State of Minnesota does not, however, offer health care benefits for unmarried partners of its employees. At the rate Joseph is spending money to pay for Bill's care, it is likely that he will have to leave his job at the State, collect public assistance and care for Bill himself.

[Second case]

Debra and Sara have been living together in a committed relationship for five years. They own a home together and have made other major purchases together. Debra and Sara had a child (Michael) 2 years ago. Sara gave birth to the child. Debra's employer offers health and life insurance benefits to domestic partners, and children of domestic partners are considered dependents of the employee for purposes of insurance coverage. Sara is self employed. Michael, Sara and Debra are all covered by insurance as a family through Debra's employer's plan. Six months ago Debra was recruited by a competing business because of her unique skill and experience, and was offered a job. The job would be a step up for Debra in the advancement of her career. The pay is about the same, but the prospective employer does not offer health and life benefits to unmarried partners and would not cover Michael as a dependent of Debra's. For these reasons, Debra decides to decline the offer of employment and delays career advancement as a result. The competing business misses out on Debra's unique skill and experience.

[Third case]

Joe is a student at a private college. His partner Jim works for a mid-size accounting firm. Jim's employer does not offer benefits to unmarried partners/dependents of its employees. Jim and Joe can't afford to pay the $160.00 per month for Joe's health insurance, and since Joe is only 38 years old, they hope the risk of health problems is low, and decide that he will have to go without coverage. Within a year, Joe is diagnosed with Crohn's disease and requires surgery, treatment and ongoing medications that are very expensive. Joe quits school under the financial pressure to look for a job that offers health benefits. Joe gets a job quickly and applies for health coverage, but the insurer will not cover any costs associated with Joe's pre-existing condition of Crohn's disease.

PERSONAL STATEMENTS—UNIVERSITY OF MINNESOTA

Selected personal statements of gay and lesbian University employees on the impact of not having equal benefits.

1. The University should honor its nondiscrimination policy statement by eliminating all polices that discriminate on the basis of sexual orientation. The University should recognize domestic partnership couples as they do married couples. I simply want for my family what a married employee can count on for his/her family. If, as an employee they receive a benefit, so should I. The solution is to provide similar benefits to domestic partnership couples or remove the benefits from married couples. As employees of the University we should have the same treatment. Gays and lesbians employed by the University have been systematically excluded from benefits that have been provided to their heterosexual colleagues with whom they work side by side, sometimes performing exactly the same work. That is very wrong and needs to be corrected!

On a personal level, for the 25 years I have been employed at the University I have been denied the full employment status and benefits provided to my heterosexual colleagues. This has cost me dearly financially, and has sent me the message that who I love is not valued. This treatment tells me that my family concerns are not important to the University. Although I am also an employee of the University I am not provided with the same health care security for my family as are my married colleagues.

Finally, as I approach retirement, I am outraged to find out that my partner can not defer taxes upon receiving my retirement money in the case of my death as a married spouse is able to do. This amounts to a huge financial loss for my partner and other gay and lesbian employees and their partners. Imagine your spouse having to pay 28% of $250,000 ($70,000) or 31% of $300,000 ($93,000) right off the top, thus diminishing the amount received by our partners to $180,000 and $207,000 respectfully. This is a concrete example for two of us currently long time employees of the University and who are also in long term domestic partnership relationships. In addition, both couples have registered under the city of Minneapolis domestic partner ordinance.

I am angry, disappointed and frustrated that the Board of Regents, President Hasselmo and the administrative leadership of the University have not taken action to enforce the University's nondiscrimination policy. The University should be playing a leadership role in righting this wrong, first, for its employees and then in initiating changes for the state of Minnesota and in urging Federal tax law changes.

2. When my partner's mother unexpectedly committed suicide five years ago, I was scheduled to leave that morning for an out-of-state business trip. I'll never forget my struggle over how I would approach my supervisor to request permission to either cancel the trip or to send someone in my place. I was up for a promotion and I was afraid that to acknowledge my sexual preference to this person, who I knew held fundamental religious values, would compromise my work and my livelihood.

I ultimately equivocated and asked if I could send someone else on the trip, because my ''housemate—slash(/)—best friend needed my support. As you might guess, this didn't sound sufficiently persuasive and I left on the trip (shortened by two days) with the ''blessing'' of my partner, who, of course, was in shock. I succumbed to fear and in doing so compromised my own humanity and my bond with my partner. It is still deeply painful for me to remember the coerciveness of the situation, the fear and intimidation that I experienced, and my own personal failing.

It was one of the most demeaning and dehumanizing experiences of my life. I ask those of you who are married to imagine having to make such a choice: imagine having to ask permission to be with your grieving partner. There are no reparations the University can offer me to recast the past. I would, however, like to think that the Board of Regents and central administrators have the compassion and courage to act now so that others will not be confronted with such a choice.

3. The University is discriminating on the basis of sexual orientation. My family doesn't receive the same benefits as families of heterosexuals.

I have had the Group Health Plan benefits package for nearly sixteen years. I began family coverage when I married (1978), adding my spouse at a nominal monthly fee to the single coverage I already carried (which was paid in full by the University). When my children were born (1983, 1986) the cost of family coverage didn't change. In fact, the cost of family coverage is constant no matter how many dependents you have on the policy. I was amazed to learn that the cost of family coverage (including coverage for my ex-husband) remained the same even after getting a divorce. My ex-husband remained on my insurance policy—at no additional cost—even though we were not legally married.

I am now in a committed lesbian relationship. My partner and I have a relationship every bit as stable and committed as a marriage, but we are not entitled to the same benefits I enjoyed when I was married.

My partner had been teaching part-time in a private school for two years before she became eligible for health insurance through her employer. Two weeks before her insurance was to take effect she was stricken with severe abdominal pain. Though we considered ''toughing it out until her insurance kicked in, it became increasingly clear that she needed to be treated immediately. She had a large, twisted ovarian tumor removed in October, 1990. By the time of the surgery, her insurance was in place. We breathed a sigh of relief.

Months later we learned that because her pain started (and was briefly treated) before her insurance began, the claim for coverage for the surgery and hospital stay were disallowed because there was a pre-existing condition exclusion in her insurance policy. We are now faced with over $5,000 (plus 12% interest per year) in medical bills. That may not seem like a lot of money to some people, but it certainly is to us. And it's money that wouldn't have had to be spent at all if she had been on my family coverage all along.

So why is it that my ex-husband (no legal relation) was entitled to continue receiving benefits until he married, but my life partner has had to go without medical insurance? The answer is simple—discrimination.

4. One of my colleagues, a male who is heterosexual, received his Ph.D. the same year I

did. We have taught the same number of years and were tenured here the same year. However, he has received health benefits for his wife and two children during this time. I believe that would add up to several thousand dollars more that he has received from this University than I have. My partner is self employed part time and works at the University only to receive benefits. I feel that I am discriminated against based on my sexual preference and have suffered significant financial loss by having to pay for health benefits for my partner and our child.

5. I feel discredited in all but the most professional senses since my University will not acknowledge the centrality of my relationship with my partner of 14 plus years. This level of constant and costly discrimination makes any positive responses to me from the institution bittersweet at best and hypocritical at worst. My family life is erased and made invisible by an institution of learning which tauts acceptance of diversity and pursuit of truth. When I'm not furious, I'm terribly sad.

6. It is very demoralizing to see the incredible benefits that my married colleagues (heterosexual) get and know that it will be a fight to get the same. My partner is self-employed and health coverage is astronomical for self-employed people. In order to buy a plan similar to that at the U, it would cost us $5–$7000 a year. Since it's so costly, my partner does not have very good health coverage and as a result I am very concerned about what would happen if a serious health crisis occurs.

So I am not just losing the $1500 or so the U would pay out to cover her because of the lack of recognition, I will have to pay $5–$7000 per year more than most of my colleagues. I view this as if I received that much less salary per year. How can the U have sexual orientation, gender and marital status in the equal opportunity statement and not consider this discrimination?

I wrote a letter to Gus Donhower when I heard of the proposed changes in health coverage. One option proposed was that those people covered by their spouses' employment could get the cash equivalent of coverage instead of being covered by the U. I suggested that if that were done, then those of us without spouses or dependents should certainly get the cash equivalent of spousal/dependent coverage. It seems an obvious parallel to me. He responded by saying it was an interesting idea but there's no money for this added benefit. Well, I think that's like saying it would be nice to pay blacks or women what we pay men, but we just don't have the money. One has no choice but to find the money. If there really isn't enough then some benefits may need to be removed from those who have them, in order to provide for those who don't. Maybe people with more than two children need to pay for their health insurance, or perhaps the cost for an employee for spousal coverage needs to increase. The current discrimination is so clear to me (of course I'm not a lawyer) that I wonder if a lawsuit could successfully challenge the University's non-compliance with its equal opportunity statement.

At this point, my commitment, dedication, willingness to work hard under increasingly difficult pressure, is affected by my feeling of not being seen, recognized, and treated equally to my heterosexual colleagues. Right now, it's hard not to feel taken advantage of . . . .

7. My partner returned to school to pursue a second advanced degree. She attends the University of Minnesota. At the same time, one of my married colleagues' spouse returned to school. Their health insurance profile did not change at all. Ours changed dramatically. Because I cannot get health insurance for my partner of 10 years (longer than my married colleague), we have paid 2,500 per year in health insurance and routine health care out of pocket. Over three years, the tax on being a lesbian has been $7,500. I realize of course, that the cost of my health insurance would have increased during this period, so the net cost to us would have been above my current health insurance but below $7,500. This economic burden is a clear example of otherwise similarly situated people being treated differently solely on the basis of sexual orientation.

Let me add that I do not think that the University should require public registration of partnerships to receive partnership benefits unless the state revokes the so-called ''sodomy'' law. To ask for such registration imposes the acknowledgement of legal risk as a cost for benefits. In addition, if reduced tuition is available for other family members, this benefit should be extended to gay and lesbian families as well.

8. The University considers me ''single''. As a ''single'' person, I subsidize both married couples and individuals with children. But as a domestic partner I should be able to enjoy the same benefits as other ''married'' couples.

Last summer my partner required minor surgery for skin cancer. Because she was a substitute teacher, she had no coverage. As a result we became responsible for the bills. This created more financial and emotional distress for us which I am certain impacted my own productivity.

Another issue I have is that it seems the administration wants us to provide documentation (e.g. registration, affidavits, etc.) to prove we are indeed a couple. Does the University require married couples to provide an affidavit or their marriage license when applying for benefits?

Furthermore, the domestic partnership applications become public records. Given the history of the discriminatory treatment meted out on gays and lesbians in ours and other cultures, I would not want to be that public in my sexual orientation, especially in a state without a human rights amendment protecting us.

9. How do I feel about the University's treatment of domestic partners? Not positive! My partner and I each have one dependent. We must each pay for family benefits which is a huge commitment, especially since my partner is self-employed and self-insured. Many of us are on federal benefits. If the University changes its policy we'll need help so that we can move to University benefits.

10. I feel that if the University is unable to provide health benefits to unmarried partners they should also refuse benefits to married partners and only cover under age dependents. I consider the lack of these benefits to be an unequal and discriminatory pay scale, with married employees receiving higher compensation levels just because they are married.

By Mr. TORRICELLI (for himself and Mr. KOHL):

S. 1637. A bill to expedite State review of criminal records of applicants for bail enforcement officer employment, and for other purposes; to the Committee on the Judiciary.

THE BOUNTY HUNTER ACCOUNTABILITY AND QUALITY ASSURANCE ACT OF 1998

Mr. TORRICELLI. Mr. President, today I am joined by my distinguished colleague from Wisconsin, Senator KOHL, in introducing the ''Bounty Hunter Accountability and Quality Assurance Act of 1998.'' Our bill will begin the process of reforming the revered but antiquated system of bail enforcement in this country.

Throughout our nation's proud history, bounty hunters have proved a valuable addition to our law enforcement and recovery efforts. About 40 percent of all criminal defendants are released on bail each year, and in 1996 alone more than 33,000 skipped town. Police departments, no matter how efficient or determined, cannot be expected to deal with so many bail jumpers in addition to their other duties. But while public law enforcement officers recover only about 10 percent of defendants who skip town, bounty hunters catch an incredible 88 percent of bail jumpers.

Because of the special, contractual nature of the relationship between bail bondsmen and those who use them to get out of jail, bounty hunters have traditionally enjoyed special rights—a nineteenth century Supreme Court case affirmed that while bounty hunters may exercise many of the powers granted to police, they are not subject to many of the constitutional checks we place on those law enforcement officials. As a result, bounty hunters need not worry about Miranda rights, extradition proceedings, or search warrants.

The ability to more efficiently track and recover criminal defendants serves a valuable purpose in our society. But the lack of constitutional checks on bounty hunters also opens the system up to the risk of abuse. Each of us has read or heard about cases in which legitimate bounty hunters or those simply posing as recovery agents have wrongfully entered a dwelling or captured the wrong person.

In one recent Arizona case, several men claiming to be bounty hunters broke into a house, terrorized a family and ended up killing a young couple who tried to defend against the attack. It now appears that these men were simply ''posing'' as bounty hunters, but there are other reported incidents in which ''legitimate'' bounty hunters have broken down the wrong door, kidnaped the wrong person, or physically abused the targets of their searches. And there is little recourse for the innocent victims of wrongful acts.

Our legislation would begin the process of making bounty hunters more accountable to the public they serve, and would help to restore confidence in the bail enforcement system. The bill would not unduly impose the will of the federal government on states, which have traditionally regulated bounty hunters. Our legislation contains only three simple provisions, each of which will make it easier to better regulate bounty hunters, but none of which will overburden states.

The first provision of the ''Bounty Hunter Accountability and Quality Assurance Act'' would simply allow a national bail enforcement organization to run background checks through the

FBI, ensuring that there will be a relatively easy way to keep convicted felons out of the bail enforcement business. A nearly identical provision related to private security guards recently passed the House by a nearly unanimous vote.

The second provision of the bill directs the Attorney General of the United States to establish model guidelines for states to follow when creating their own bail enforcement regulations. In the course of her work, the Attorney General will be specifically directed to look into three areas identified by the bill—whether bounty hunters should be required to ''knock and announce'' before entering a dwelling, whether they should be required to carry liability insurance (most already do), and whether convicted felons should be allowed to obtain employment as bounty hunters. While states are not required to follow the model guidelines, those states who choose to adopt the guidelines within two years will receive priority for Byrne grant funding.

Finally, this bill makes bail bond companies liable for the acts of the bounty hunters they hire. The clarification of liability in our bill will encourage these companies to carefully select and perhaps even train the bounty hunters in their employ. Perhaps we can cut down on the worst abuses if we force employers to take a closer look at who they hire.

Mr. President, it is time to start the process of making rogue bounty hunters more accountable, while at the same time restoring America's confidence in the long tradition of bail enforcement that dates from the earliest days of this nation. I urge my colleagues to join us in taking this first step towards this process, and I thank my distinguished colleague from Wisconsin, Senator KOHL, for joining me in introducing this bill today.

I ask unanimous consent that the full text of this bill be published in the RECORD.

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

S. 1637

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 ''Bounty Hunter Accountability and Quality Assistance Act of 1998''.

SEC. 2. FINDINGS.

Congress finds that—

(1) bail enforcement officers, also known as bounty hunters or recovery agents, provide law enforcement officers with valuable assistance in recovering fugitives from justice;

(2) regardless of the differences in their duties, skills, and responsibilities, the public has had difficulty in discerning the difference between law enforcement officers and bail enforcement officers;

(3) the American public demands the employment of qualified, well-trained bail enforcement officers as an adjunct, but not a replacement for, law enforcement officers; and

(4) in the course of their duties, bail enforcement officers often move in and affect interstate commerce.

SEC. 3. DEFINITIONS.

In this Act—

(1) the term ''bail enforcement employer'' means any person that—

(A) employs 1 or more bail enforcement officers; or

(B) provides, as an independent contractor, for consideration, the services of 1 or more bail enforcement officers (which may include the services of that person);

(2) the term ''bail enforcement officer''—

(A) means any person employed to obtain the recovery of any fugitive from justice who has been released on bail; and

(B) does not include any—

(i) law enforcement officer;

(ii) attorney, accountant, or other professional licensed under applicable State law;

(iii) employee whose duties are primarily internal audit or credit functions; or

(iv) member of the Armed Forces on active duty; and

(3) the term ''law enforcement officer'' means a public servant authorized under applicable State law to conduct or engage in the prevention, investigation, prosecution, or adjudication of criminal offenses, including any public servant engaged in corrections, parole, or probation functions.

SEC. 4. BACKGROUND CHECKS.

(a) IN GENERAL.—

(1) SUBMISSION.—An association of bail enforcement employers, which shall be designated for the purposes of this section by the Attorney General, may submit to the Attorney General fingerprints or other methods of positive identification approved by the Attorney General, on behalf of any applicant for a State license or certificate of registration as a bail enforcement officer or a bail enforcement employer.

(2) EXCHANGE.—In response to a submission under paragraph (1), the Attorney General may, to the extent provided by State law conforming to the requirements of the second paragraph under the heading ''Federal Bureau of Investigation'' and the subheading ''Salaries and Expenses'' in title II of Public Law 92–544 (86 Stat. 1115), exchange, for licensing and employment purposes, identification and criminal history records with the State governmental agencies to which the applicant has applied.

(b) REGULATIONS.—The Attorney General may promulgate such regulations as may be necessary to carry out this section, including measures relating to the security, confidentiality, accuracy, use, and dissemination of information submitted or exchanged under subsection (a) and to audits and recordkeeping requirements relating to that information.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the number of submissions made by the association of bail enforcement employers under subsection (a)(1), and the disposition of each application to which those submissions related.

(d) STATE PARTICIPATION.—It is the sense of Congress that each State should participate, to the maximum extent practicable, in any exchange with the Attorney General under subsection (a)(2).

SEC. 5. MODEL GUIDELINES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall publish in the Federal Register model guidelines for the State control and regulation of persons employed or applying for employment as bail enforcement officers.

(b) RECOMMENDATIONS.—The guidelines published under subsection (a) shall include recommendations of the Attorney General regarding whether a person seeking employment as a bail enforcement officer should be—

(1) allowed to obtain such employment if that person has been convicted of a felony offense under Federal law, or of any offense under State law that would be a felony if charged under Federal law;

(2) required to obtain adequate liability insurance for actions taken in the course of performing duties pursuant to employment as a bail enforcement officer; or

(3) prohibited, if acting in the capacity of that person as a bail enforcement officer, from entering any private dwelling, unless that person first knocks on the front door and announces the presence of 1 or more bail enforcement officers.

(c) BYRNE GRANT PREFERENCE FOR CERTAIN STATES.—

(1) IN GENERAL.—Section 505 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3755) is amended by adding at the end the following:

''(e) PREFERENCE FOR CERTAIN STATES.—Notwithstanding any other provision of this part, in making grants to States under this subpart, the Director shall give priority to States that have adopted the model guidelines published under section 5(a) of the Bounty Hunter Accountability and Quality Assistance Act of 1998.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect 2 years after the date of enactment of this Act.

SEC. 6. JOINT AND SEVERAL LIABILITY FOR ACTIVITIES OF BAIL ENFORCEMENT OFFICERS.

Notwithstanding any other provision of law, a bail enforcement officer, whether acting as an independent contractor or as an employee of a bail enforcement employer on a bail bond, shall be considered to be the agent of that bail enforcement employer for the purposes of that liability.

By Mr. CONRAD (for himself, Mr. DASCHLE, Mr. KENNEDY, Mr. LAUTENBERG, Mr. REED, Mr. LEAHY, Mr. DODD, Mr. BINGAMAN, Mr. DURBIN, Mr. BAUCUS, Mr. DORGAN, Mr. ROCKEFELLER, Mr. KERREY, Mr. WYDEN, Mr. WELLSTONE, Mr. TORRICELLI, Mrs. BOXER, Mr. KERRY, Mr. BUMPERS, Mr. MOYNIHAN, Mr. JOHNSON, Mr. BREAUX, Mr. KOHL, Ms. LANDRIEU, Ms. MOSELEY-BRAUN, and Mr. LIEBERMAN):

S. 1638. A bill to help parents keep their children from starting to use tobacco products, to expose the tobacco industry's past misconduct and to stop the tobacco industry from targeting children, to eliminate or greatly reduce the illegal use of tobacco products by children, to improve the public health by reducing the overall use of tobacco, and for other purposes; to the Committee on Finance.

THE HEALTHY KIDS ACT

Mr. CONRAD. Mr. President, I rise today to introduce legislation that we call the HEALTHY Kids Act. It addresses the question of how we form a national policy on tobacco.

I am joined in cosponsorship by Senators AKAKA, BAUCUS, BINGAMAN,

BOXER, BREAUX, BRYAN, BUMPERS, DASCHLE, DODD, DORGAN, DURBIN, JOHNSON, KENNEDY, BOB KERREY, JOHN KERRY, KOHL, LANDRIEU, LAUTENBERG, LEAHY, MOSELEY-BRAUN, MOYNIHAN, REED, ROCKEFELLER, TORRICELLI, WELLSTONE, and WYDEN. And we have additional Senators who are considering cosponsorship of this legislation as we speak.

First of all, I thank the Democratic leader, Senator DASCHLE, for his strong leadership and support of the work of the task force. Months ago he called me and asked me to head up an effort within the Democratic Caucus to draft tobacco legislation. We have engaged 21 members of this task force in a lengthy effort to listen to those affected and to try to craft a responsible national tobacco policy.

We held 18 hearings. We heard over 100 witnesses. We held hearings across the country. We engaged in this level of effort because the subject is so important.

Tobacco is the only product that when used legally—and as the manufacturer intended—addicts and kills its customers.

For too long tobacco companies have waged war on our kids. It is time to counterattack.

For too long big tobacco has hooked our kids on a lifelong addiction. It is time to stop it.

For too long the tobacco industry has deliberately targeted kids as ''replacement smokers'' to fill the shoes of over 425,000 Americans killed by tobacco each year.

Let me repeat that. Over 400,000 deaths a year in this country are caused by the use of tobacco products. Many more, as we have heard in our hearings, have suffered terribly. As we heard Monday at a hearing in Newark, NJ, when we heard from Pierce Frauenheim, a coach and assistant principal who had a laryngectomy because of throat cancer caused by the use of tobacco products. He told us of the terror and trauma of that illness. And we heard from a young woman named Gina Seagrave, a young woman who lost her mother to a massive heart attack when she was only 45 years of age because of using tobacco products. Her tears told the story of her family's pain and suffering.

Mr. President, those stories are rewritten day in and day out because of the awful effects of tobacco. There is something we can do about it if only we have the political will and the courage to act. Witnesses told us repeatedly that we need a comprehensive plan to dramatically reduce the use of tobacco products in our country. That is what we present today—the HEALTHY Kids Act.

Mr. President, the HEALTHY Kids Act is the work of the Senate Democratic task force on tobacco legislation. The HEALTHY Kids Act provides responsible tobacco policy. It protects children, promotes the public health, helps tobacco farmers, and resolves Federal, State and local legal claims, without providing immunity to the industry; it invests in children and health care; it provides savings for Social Security and Medicare; and it reimburses taxpayers for costs that have been imposed on them by the use of these products.

The HEALTHY Kids Act protects children. It does that with a healthy price increase—a $1.50 a pack health fee phased in over 3 years. It protects children by providing the Food and Drug Administration with full authority to regulate these products. It provides strong penalties for those companies that fail to reach the targeted projection for the reduction of teen smoking—a 67 percent reduction in teen smoking over the next 10 years. Those penalties are a 10-cent a pack penalty industry wide if the goals are not met and a 40-cent a pack penalty for the individual companies for their failure to reach the objective. We also protect children by providing comprehensive antitobacco programs. Included in that are counteradvertising, prevention programs, smoking cessation programs and research. Finally, in protecting children, we provide for retailer compliance—State licensure of retailers and no sales to minors.

The HEALTHY Kids Act also promotes the public health. It does so by addressing the question of secondhand smoke. Most public facilities in the country would be smoke free under our proposal. We would provide exemptions for bars, casinos, bingo parlors, hotel guest rooms—that is, hotels could have smoking and nonsmoking rooms as they do now—nonfast-food small restaurants, that is, those restaurants with less than 50 seats would be exempt; prisons, tobacco shops, and private clubs. At the same time we provide those exemptions, we also provide for no State preemption. If a State or local unit of government wants to have more stringent provisions, it is free to do so.

We also promote the public health by protecting the public's right to know. We provide for full document disclosure; all relevant documents go to the FDA. The FDA is able to make those documents public; and the public health interest overrides trade secret or attorney-client privileges when the FDA makes a determination that the public health is the overriding interest.

We also provide for international tobacco marketing controls: no promotion of U.S. tobacco exports. I am proud to say that in this administration we are not doing that, but in previous administrations they have. This would codify the conduct of this administration and provide for no promotion of U.S. tobacco exports. It also provides a code of conduct. No marketing to foreign children. Any activities carried out in this country to market to children in another country would be illegal. It also has modest funding for international tobacco control efforts. And we require warning labels, warning labels of the country that is the recipient of products sent from this country. And if they do not have a system of warning labels, then our own warning labels would apply.

The HEALTHY Kids Act also helps tobacco farmers. They were left out of the proposed settlement completely. Their interest was not addressed. We do not think that is fair. We provide $10 billion in just the first 5 years for assistance to farmers and their communities. We authorize funding for transition payments to farmers and quota holders. We provide for rural and community economic development retraining for tobacco factory workers and tobacco farmers and even college scholarships for farm families if the committees of Congress deem that appropriate.

The HEALTHY Kids Act makes very clear that we will not provide immunity to this industry, no special protection for future misconduct, no special protection against individual lawsuits for past misconduct. We do resolve the outstanding Federal, State, and local government legal claims. States, however, can opt out of this national settlement if they so choose, and cities and counties are assured of getting a fair share of reimbursements that go to States.

On the question of attorney's fees, we concluded that no monies from the HEALTHY Kids Act should be used for attorney's fees. With respect to the size of the fees, we deliberated long and hard, listened to all of the affected interests and concluded that the attorney's fees in these cases ought to be resolved by arbitration panels using ABA ethical guidelines. Those guidelines are set out with specificity in the legislation that I will introduce today.

And so if we are in a circumstance like the controversy in Florida, if the parties cannot agree, an arbitration panel would resolve the matter and determine what the attorney's fees were in the case that has been settled. That is also the case in other States. If the parties at interest reach agreement among themselves, there would not be an arbitration panel. But where there is disagreement as to what the appropriate attorney fees should be, an arbitration panel would be empowered to make the determination.

I do not think any of us want to see unjust enrichment of anybody based on a resolution of these tobacco issues and tobacco lawsuits around the country.

Mr. President, the HEALTHY Kids Act invests in children, in health, in savings for Social Security and Medicare, and reimburses taxpayers who have had costs imposed on them.

The distribution of the funds raised by the act is as follows: Payments to States are 41.5 percent of the revenues. The States would get 14½ percent of the money unrestricted; 27 percent would go to the States for children's health care, child care and improved education.

We would also provide 15.5 percent for antitobacco programs. That includes counteradvertising campaigns as well as smoking cessation and smoking prevention programs. NIH health research would be increased. They would receive 21 percent of the funds provided. Medicare would get 4 percent of the money initially but over time that would grow to 10 percent. Similarly, Social Security would get 6 percent of the money initially and that would grow to 12 percent over time.

We believe it is appropriate when you receive a windfall not to spend it all, and so we are providing that when the program is fully phased in, over 20 percent of the money, instead of being spent, will be used to strengthen Medicare and Social Security for the future.

That is what the American people want to see happen, and we have provided for it in this legislation. Farmers initially get 12 percent of the revenues to ease their transition. Obviously, they are going to take an economic hit here, and it seemed fair to us that they be included in any package to resolve these controversies. Over time their part of this package would be phased out and then the Medicare and Social Security parts of the legislation would see their share increased.

Mr. President, we have provided here a comparison of the tobacco revenue and spending, a comparison between what the President's budget called for and what The HEALTHY Kids Act calls for. First of all, in terms of total revenue, our plan would raise $82 billion over the next 5 years, some $500 billion over the next 25 years. In the first 5 years, the States would get in an unrestricted way $12 billion. They would get $22 billion for children—$14 billion for child care, $3 billion for health care for children and $5 billion for education. The research component of the plan would provide $17 billion to the National Institutes of Health for increased health research. Medicare initially would get $3 billion in the first 5 years. The farmers would get $10 billion. That is a 5-year figure. The antitobacco efforts would receive $13 billion, and savings for Social Security would be $5 billion.

Mr. President, The HEALTHY Kids Act is supported by the American public. We did extensive national polling to make certain that what we are proposing is in line with what the American people want and the polling data shows a high level of support for a significant per pack price increase which we have termed a health fee, significant public support for strong lookback penalties for failure to meet the goals of reducing teen smoking and no special protections for this industry.

That is what the American people want. That is what The HEALTHY Kids Act provides. With respect to the question of a $1.50 per pack health fee for youth smoking deterrence and health programs, the American people support that by more than a 2-to-1 margin—65 percent in favor, 30 percent opposed. By the way, this is across party lines, across regional lines. The American people support a $1.50 a pack health fee. The price increase support for youth smoking deterrence and health programs cuts across party lines. The poll shows if it is termed tax support it is very strong all across the country, even stronger if it is for a health fee. In fact, 69 percent of Democrats support the $1.50 health fee, 67 percent of Republicans.

There is also strong public support for a lookback penalty of 50 cents a pack if the industry fails to meet the goals for the reduction of teen smoking. By 54 percent to 34 percent the American public supports lookback penalties of 50 cents a pack or more. In fact, a significant majority of the 54 percent support a dollar a pack lookback penalty.

Voters are also strongly opposed to providing special protections to the tobacco industry. When we asked the American people: Do you want to give immunity to this industry? Do you want to give them special protection going forward? By 55 percent to 32 percent, they oppose any special protections being given to this industry. They say no to immunity. The HEALTHY Kids Act says no to immunity.

The HEALTHY Kids Act accomplishes the objectives laid out by President Clinton. He laid out five. He said you have to reduce teen smoking by providing tough penalties and a health fee or price increase that will deter youth smoking. We have full FDA authority. We are changing the industry culture. We meet the additional health goals laid out by the President, and protect tobacco farmers and their communities.

As the Vice President said yesterday when we unveiled this proposal in a press conference here on Capitol Hill: The administration strongly supports this bill.

The Vice President reported that if this bill comes to the President's desk, he will sign it and sign it without hesitation.

I expect that big tobacco will fight these initiatives. Indeed, we saw yesterday they came out swinging against the proposal that I am offering here today. We will hear from the tobacco industry, its lobbyists and its supporters in Congress, that we cannot have a health fee of $1.50 a pack, we can't fund public health programs or hold the industry and tobacco companies accountable if they sell to kids. We will hear from them that we cannot give FDA the same authority it has over prescription drugs and our food supply.

I submit, if we care about our kids' futures, we must do all of these things. This legislation lays down a marker for good, responsible, national tobacco policy to protect our kids and promote the public health. It sets a clear, unambiguous test against which other legislation can be measured. And it sets a challenge for those who say they want to protect our kids but have so far not produced effective tobacco control legislation. The HEALTHY Kids Act recognizes that tobacco is causing addiction, disease and death. It also recognizes that there is something we can do about it. HEALTHY Kids affirms life and health and our commitment to our children. It tells you we can make a difference.

I invite my colleagues to join in a bipartisan effort to pass legislation like we are offering here today. We can do it and we can make a difference. We can reduce the addiction, the disease and the death that is being caused by the use of tobacco products. Now is the time to act. The public supports it. Again, I ask my colleagues on both sides of the aisle to join us in this effort. There is no reason for this to be a partisan issue. There is every reason for us to work together to resolve the challenges posed to our society by the use of these products.

Mr. President, I note a colleague of mine, Senator REED of Rhode Island, is on the floor. Senator REED played a critical role in the development of this legislation. He was one of the most active participants on the task force who has worked for months to fashion these legislative proposals. I commend Senator REED publicly for his contributions to this effort.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, I rise today to join my colleague, Senator CONRAD from North Dakota, in supporting and introducing the HEALTHY Kids Act and thank him for his kind words. I must say, if there is anyone who has been a true leader and true hero in this struggle to date, it has been KENT CONRAD, whose leadership helped pull together not only an impressive array of cosponsors but, with over hundreds of witnesses and many, many sessions, he was able to get to the substance of a very complicated and difficult issue: How are we going to respond to the crisis of teenage smoking in the United States? How are we going to protect the public health of America, particularly America's children?

Today we are introducing the HEALTHY Kids Act, which will, I believe, do that. Again, I commend Senator CONRAD for his great leadership and effort, and I look forward to working with him and all my colleagues to develop legislation that will once and for all prevent the illegal sale of cigarettes to children in this country.

We are all aware of the depressing statistics with respect to smoking and children in the United States. Today, some 50 million Americans are addicted to tobacco smoke. Every year, 1 million children become regular users of cigarettes, tobacco. One-third of them will die prematurely of lung cancer, emphysema, or other horrible smoking related illnesses.

This is an addiction. Fully three-quarters of smokers want to quit but they cannot because they are addicted. The most disturbing aspect of this addiction is it begins with young people. Mr. President, 90 percent of adult smokers today began to smoke while they were 18 years old or less. In fact, this goes down to children who are 10, 11, 12 years old. It is a shocking, disturbing, and all-too-real aspect of American life and culture. We have an opportunity, indeed an obligation, to do something about it. That is why I am here, along with Senator CONRAD, to join in the introduction of this HEALTHY Kids Act.

In my home State of Rhode Island, we have a situation in which adult smoking is beginning to stabilize. Unfortunately, teen smoking continues to rise, with a more than 25 percent increase among high school students. That is a bad omen for the future, a bad omen for the country. It is too easy for children to buy cigarettes. It is too easy, in a climate in which the tobacco industry spends upward of $5 billion a year making cigarette smoking appear to be alluring, sophisticated, adult-oriented—all those things which are attractive to children.

We know from the record that has emerged over the last several months in court proceedings that this is not a coincidence, we know that children have been deliberately targeted by cigarette companies. They are the replacement customers for the 400,000 Americans who die each year of smoking-related diseases. We have to stop that insidious replacement, that insidious attack on the youth of America.

We begin this legislative process in a situation in which the tobacco industry has worked hard to earn the distrust—let me say it again—the distrust of the American people. Over the years they have not been candid. They have deliberately confused, fought against, and frustrated attempts to regulate their product in the marketplace.

I recently came across an interesting story about youthful smoking among boys. One of the research scientists said, ''The cigarette smoker is slowly and surely poisoning himself and is largely unconscious of it.'' That report was in Education Magazine in 1909. The tobacco industry has long known that cigarette smoking is harmful to children, and harmful to public health.

In 1963, Battelle Laboratories in Switzerland did a series of studies for the British American Tobacco Company, that's the parent of Brown & Williamson Tobacco Company. The conclusion, after review of these studies by the general counsel of Brown & Williamson, was shown as follows: ''We are then in the business of selling nicotine, an addictive drug, effective in the release of stress mechanisms.'' Since 1960, the industry has known they were selling an addictive product, and has known they were selling a product that killed people.

It has all, though, been obscured and dressed up by advertising that would suggest to everyone that smoking is not harmful; indeed, claiming it is healthful. That is absolutely wrong. Back in the 1920s, the companies that were selling cigarettes were advertising themes like, ''20,679 physicians say Luckies are less irritating.'' Promoting cigarettes, in effect, as a healthful practice and not a harmful practice. Another theme of those days was, ''For digestion's sake, smoke Camels.'' Again emphasizing an illusory therapeutic value that never existed in cigarettes.

In 1953, an advertisement read, ''This is it. L&M filters are just what the doctor ordered.'' As if the medical profession was endorsing a product which they knew was harmful and which they suspected, but perhaps did not yet know, was highly addictive.

In this Congress, we have tried to rein in the use of tobacco by children, tried to control the access of young people and tried to warn the American public about the dangers of tobacco. In the 1960s, we brought the industry, we thought, kicking and screaming to accept legislatively mandated warning label. Only after the fact did we learn that the industry privately accepted this label as a good fortune because it allowed them to defend themselves in court with the notion that smokers assumed the risk because they read these labels. Only recently, with the evidence that is more and more conclusive each day of the addictive quality of cigarettes, has the industry begun to respond.

Today we are here to ensure that the past is not repeated, the past of addiction of young people to cigarettes and the past of a very pliant Congress, not effectively regulating the tobacco industry. That is why the HEALTHY Kids Act is so important. It represents a comprehensive effort to ensure that our children are safe and the public health is protected.

One of the important elements of this bill is a price increase of $1.50 a pack. This is not in any way an attempt of retribution on the industry. Rather, it recognizes the fact that a price increase is probably the strongest deterrent there is to teenage smoking. Unlike adult smokers who may already very well addicted, teenagers will respond to price increases. A price increase is one sure way, perhaps the best way, we can ensure that teenagers do not smoke.

The second aspect of the act is giving the FDA full authority over tobacco products, all tobacco products. This proposal would not condition their authority; it would give the FDA the authority, the responsibility, the obligation to regulate tobacco as it regulates so many other drugs and so many other products in our society.

This legislation also includes strong look-back penalties. The HEALTHY Kids Act would set a goal of reducing teenage smoking rates by 67 percent in 10 years and would hold manufacturers accountable for these tough goals by imposing 10-cent-a-pack penalties on the industry across the board and 40-cent penalties on brand-specific products that do not meet the targeted reductions. There would be no rebate. In the proposal the industry negotiated with the Attorneys General, there would be the possibility of a company receiving a rebate by just trying hard. This legislation would require the goal be met, not simply the effort be made. This would also include comprehensive anti-smoking programs, through advertising, prevention programs, and other means that would help ensure that children do not smoke. These program would also give adults, if they wish to change, access to programs to make sure they can make that transition from smoking to nonsmoking.

Because of the money that is generated, we will be able to commit significant resources to programs that are extremely important, programs that have been outlined so well by Senator CONRAD: education, child care, health resources.

Also, this legislation, importantly, does not curtail prospective liability for the tobacco industry. It would settle the suits that have been lodged by the State attorneys general. Also, it would settle claims with respect to governmental entities, but it would allow individual citizens who have been harmed and who will be harmed by tobacco smoke to bring their case to court.

I believe this is a crucial part of the legislation, because without this, the other mechanisms that we develop may well be undermined by sophisticated corporate reorganizations by the industry, by challenges to aspects of the law, and by many things which the tobacco companies have done in the past to remake themselves to comply with Federal statutes. Statutes which Congress thought would control their behavior but which in many cases not only did not control their behavior but gave the tobacco companies additional ammunition to defend themselves against civil suits in the courts.

I believe that this liability issue is an important one and one that distinguishes this legislation from others that have been introduced in this Congress.

We here today have the opportunity to do what all Americans want us to do, ensure that children do not have ready access to cigarettes, ensure that the next generation of Americans is not addicted before they become adults, ensure that the public health in this country is protected, ensure that we are able to create an environment in which a parent does not have to confront what must be one of the most harrowing moments, the realization that a young son or a young daughter is beginning to smoke and realizing also, as we do today, that that means that this child will die prematurely.

No parent should have to endure that moment. No child should have to be subject to the barrage of advertising,

the barrage of influences which have forced that child to smoke cigarettes. I look forward to working with my colleagues to enact this bill and to meet these goals. I look forward, as we all do, to the day in which cigarette smoking is not something that we associate with the youth of this country.

I yield my time.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I want to just take a few moments this afternoon to express my very warm appreciation to Senator CONRAD for the leadership that he has provided in bringing together a variety of different views and offering on behalf of the families of this country an absolutely superb proposal that is focused on how we are going to reduce smoking for the young people of this country.

This bill isn't the perfect solution, but I daresay that if this particular legislative proposal was enacted into law it would save the lives of millions of Americans.

This has been a long process, Mr. President, since the first Surgeon General pointed out the dangers of smoking. This has been a constant effort over many, many years to try and address this issue in a comprehensive and responsible way.

All of us take our hats off to the work that was done by the attorneys general that resulted in the June 20 settlement. But the legislation Senator CONRAD has introduced today is really a very, very comprehensive proposal that, in many respects, may be the most important legislative undertaking that we will have in this Congress.

Senator CONRAD and the other members of the task force should be commended in putting this proposal forward so early in the Congress. We know we have maybe 90 days left in this session, but I daresay that our time could not be more beneficially spent than in the debate and the discussion of this legislation.

I join with those in hoping that we can get thoughtful consideration of this legislation in the committee on the floor of the Senate. It incorporates the principles that have been identified by the public health community and those who have studied this issue over a long period of time which are most important in reducing smoking:

No. 1, raising the cost of cigarettes in a substantial way over a short period of time. In addition, the counteradvertising measures are very, very important. Those two measures in tandem can make a dramatic difference in the number of young people who will smoke in the future.

The strong FDA measures will also make sure the Agency will have the power and the authority to regulate nicotine and the other additives in cigarettes.

I think the attention that was given in the secondhand smoking proposals and also in recognizing our responsibilities of promoting cigarettes overseas are very thoughtful suggestions in these areas.

I want to add that I believe it is so important that the revenues that are raised from this proposal will give a substantial boost to programs that affect the children of this country. A very substantial part of the financial resources that are gained when this legislation is enacted will be focused on the children who have been the focus of the tobacco industry for over a long, long period of time. I commend the Senator and the task force for that commitment to the nation's children.

Secondly, there is an equally strong commitment towards supporting the biomedical research which offers such extraordinary opportunities for breakthroughs, not only in children's diseases but in other medical conditions such as cancer, AIDS, heart disease, diabetes, Alzheimer's Disease, and mental illness.

This legislation can make a major difference in the public health of the nation by reducing youth smoking. It can also make a major difference to the children of this nation in focusing resources to make their lives more hopeful in the future. And it can make a major difference in terms of the biomedical research opportunities at NIH which offer extraordinary hope in finding treatments for some of the nation's most severe medical conditions.

For all these reasons, this legislation should go forward. As Senator CONRAD has pointed out, he welcomes the chance for others to join in strong support of this legislation, but certainly it is the challenge that is laid out here. Others will have views. We hope they will come forward.

What we have heard so far is a deafening silence. I don't think the American people are going to tolerate a silence in blind opposition to what has been a very thoughtful, a very comprehensive, and a very detailed response to something that is of central importance to every family in this country.

I commend the Senator from North Dakota for all of his work and indicate a great desire to work closely with him and the others to make sure this legislation becomes law.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank Senator KENNEDY. He has been an outstanding member of this task force team. No member of the task force contributed more to the work of this group than Senator KENNEDY. He has played an absolutely key role in the development of this legislation, through his own efforts and the efforts of his outstanding staff. He has been a leader for a lifetime on these issues, and I extend my deepest personal appreciation to him for his assistance and support.

I would also like to recognize Senator BAUCUS, who is on the floor. Senator BAUCUS who is an original cosponsor of this bill has been enormously helpful as well. He is a member of the Senate Finance Committee and has a special understanding of the financial aspects of this legislation. I thank Senator BAUCUS for his commitment and his leadership as well.

Let me conclude by thanking my staff who have worked very long hours to produce this legislation: Bob Van Heuvelen, my policy director and chief counsel; Tom Mahr who is the person on my staff who heads up all of the health issues who has worked incredibly hard and with great skill to craft this legislation; Monica Boudjouk who has spent many a long evening helping us to put together the many details of the proposal before us; and Mark Harsch, a fellow on my staff who has been enormously helpful as well.

I thank them all for their contributions, as well as the staff of the other task force members who put a great deal of time and effort into working to produce this bill. I thank them all.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, the Senator from North Dakota is much too kind in his compliments of this Senator. The real credit goes to the Senator from North Dakota. We have seen many task forces appointed by various leaders on both sides of the aisle. I think we know that most task forces basically do their work. They meet, they have several meetings, and are earnest in trying to come up with a good solution assigned to them by the leader.

In this case, the Senator from North Dakota added new meaning to the definition of task force. First of all, they tasked; they worked very hard. I have not seen any effort since the days I have been in the Senate where a task force, a group worked so hard at so many meetings, called in so many outside experts in such a wide variety of fields to make sure they came up with a very solid, comprehensive, near bullet-proof proposal in an area that is as complicated as this, whether it is taxation issues, whether it is health issues, whether it is judicial issues, whatever they may be.

All of us who have any knowledge of the degree to which the Senator from North Dakota put this group together salute him. I have never seen anybody work as hard, as diligently and come up with such a fine product as the Senator from North Dakota. I hope that future task forces use his as a model, because if they do, the people of our country will be very, very well served, just as the Senator from North Dakota's task force has served America with his efforts and his work. He has done the best job of any Senator I have ever seen on any kind of task force or group effort trying to come up with a solution to a very complicated problem. Again, I salute him.

Mr. President, I ask unanimous consent that the following letters of support for the Healthy Kids Act be submitted into the RECORD following my remarks.

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

JOINT STATEMENT OF DRS. KOOP AND KESSLER ON THE CONRAD TASK FORCE BILL

''We have been working steadfastly with Republican and Democratic legislators to help fashion comprehensive tobacco legislation that will have the net effect of reducing the number of people who smoke and fundamentally changing the way the tobacco industry does business without granting them immunity or special concessions.

''The principles in the Conrad task force legislation track closely with the public health principles and goals outlined in the report of the Advisory Committee on Tobacco Policy and Public Health. It is a good step in a legislative process that we hope results in concrete, comprehensive public health measures to reduce the harm from smoking.

''We look forward to working with Sen. Conrad and all other members of the Congress to achieve these important public health goals.''

STATEMENT OF HUBERT H. HUMPHREY III, ATTORNEY GENERAL, STATE OF MINNESOTA

Re: Senator Kent Conrad's Healthy Kids Act, Wednesday, February 11, 1998

I commend Senator Conrad for his leadership of the Senate Democratic Tobacco Task Force in its efforts to address the number one public health issue of our day. The Healthy Kids Act, proposed by Senator Conrad today, is a monumental step forward in our efforts to advance public health and protest future generations of kids.

Senator Conrad's bill offers the best hope yet for saving our children from tobacco addiction, disease and death. It's a common sense approach that will reduce youth smoking rates dramatically and hold the tobacco industry accountable for results.

The bill's strong financial penalties against the industry for continuing to sell to kids creates a powerful economic incentive to reform this industry's conduct. And by giving the FDA full authority and oversight over the health hazards of tobacco, the tobacco industry's manipulation of nicotine to keep smokers addicted will finally come to an end.

This bill stands in stark contrast to the sweetheart deal proposed by the tobacco industry last summer. and it's because Senator Conrad and the Task Force asked the right question. Instead of asking ''what will the industry accept,'' Senator Conrad asked ''what is the right policy for the nation.'' And the result is a bill that gets it right for our children without giving this outlaw industry any special immunity that no other business in America enjoys.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, February 11, 1998.

Hon. KENT CONRAD,
U.S. Senate, Washington, DC.

DEAR SENATOR CONRAD: The National Association of Counties (NACo) is pleased to support your bill, the Healthy Kids Act. Not only does the legislation recognize the important health responsibilities counties assume in the nation's intergovernmental system, it also acknowledges the responsibilities they have for enforcing tobacco control ordinances. The bill is a very strong step forward for public health.

As we understand it, the Healthy Kids Act recognizes the unique and substantial tobacco-related health care costs counties incur separate from the states' costs. As you know, counties provide health care to individuals who have no private or federally subsidized insurance, such as Medicaid. Counties provide uncompensated care under general medical assistance programs; through their health facilities; and/or make payments to other facilities. Many also contribute directly to the non-federal share of Medicaid. A number of local governments filed suit against the tobacco industry prior to the June 1997 proposed settlement using these facts as a basis for part of their arguments.

We are also pleased to understand that county tobacco laws and enforcement activities would not be preempted by federal law under the bill. Counties must continue to be able to enact and enforce, with locally-determined remedies, local tobacco ordinances and penalties which are stronger than state or federal law.

Thank you again for your leadership on this issue. NACo looks forward to working with you to advance and refine the Healthy Kids Act.

Very Truly Yours,
RANDY JOHNSON,
President, NACo,
Hennepin County Commissioner.

AMERICAN PUBLIC HEALTH ASSOCIATION,
Washington, DC, February 11, 1998.

Hon. KENT CONRAD,
U.S. Senate,
Washington, DC.

DEAR SENATOR CONRAD: The American Public Health Association (APHA), consisting of more than 50,000 public health professionals dedicated to advancing the nation's health, commends you for developing a comprehensive tobacco bill that is a significant step forward toward protecting public health, especially our nation's children and adolescents.

Your legislation addresses many priority issues for APHA and the public health community and we recognize that in these areas your bill provides stronger than the proposed settlement and many other current tobacco proposals in the Senate. APHA is particularly pleased with the following aspects of your tobacco bill:

Reaffirmation of FDA jurisdiction over tobacco products, especially the codification of the tobacco-related regulations promulgated this summer by the Secretary of Health and Human Services;

Preservation of state and local authority to impose stronger requirements, prohibitions, and other measures to control tobacco;

Creation of a national tobacco surveillance and evaluation program at the US Centers for Disease Control and Prevention to monitor patterns of tobacco use and assess the effectiveness of tobacco control efforts.

Requirement that tobacco control initiatives and programs funded under this bill utilize proven and effective methodologies;

Recognition that certain subpopulations, such as women and minorities, are disproportionately affected by tobacco products and calling for research to be conducted to study different effects of tobacco use on these groups;

Assistance to tobacco growers, their families, and communities;

Creation of an international code-of-conduct for tobacco companies to help protect children and adults in other countries from the dangers of tobacco products;

Support for international tobacco control efforts, including the funding of bilateral and multilateral assistance and the creation of a non-governmental organization to work with other NGOs abroad on tobacco control;

Ban on the use of taxpayer money to help promote U.S. tobacco products overseas;

Health care assistance to uninsured and underinsured individuals with financial hardship who suffer from tobacco-related illnesses and conditions;

Strengthen look-back provisions to ensure that tobacco companies are held accountable if adolescent smoking rates do not decrease;

No special legal protections for tobacco companies.

As you work with your Senate colleagues on moving tobacco legislation, we urge you to consider strengthening the public health title of the bill. Specifically, APHA advocates stronger involvement of the Centers for Disease Control and Prevention and state and local health departments in the myriad public health activities funded under this title, increased funding for the public health initiatives under this title, inclusion of additional public health tobacco use prevention and reduction initiatives such as environmental tobacco smoke education programs and research, and other public health and prevention focused efforts.

We are committed to working with you and your Senate colleagues from both sides of the aisle to ensure that the final tobacco control legislative vehicle is the strongest possible national tobacco policy. We appreciate your efforts to ensure the protection and promotion of public health and offer our assistance as you continue to work on this issue of critical global public health significance.

Sincerely,
RICHARD A. LEVINSON, MD, DPA,
Associate Executive Director,
Programs and Policy.

AMERICAN LUNG ASSOCIATION,
Washington, DC, February 11, 1998.

Hon. KENT CONRAD,
U.S. Senate, Washington, DC.

DEAR SENATOR CONRAD: The American Lung Association is pleased to endorse your tough tobacco legislation—The Healthy Kids Act. This is the legislation the American people have been demanding. It is not a deal for the tobacco industry. It is a promise to our children. We are grateful that you have made your legislative priority public health, not saving the tobacco industry.

Americans oppose special deals for Big Tobacco. This legislation reflects that sentiment and does not create unprecedented special protections for the tobacco industry.

Americans know that in their own communities they can pass even stronger public health laws than those passed at the federal level. This bill respects the rights of state and local governments to continue to pass strong measures.

This bill promises to create a solid national tobacco policy that will improve health. The American Lung Association believes that your approach will succeed.

Public opinion polling conducted recently for the American Lung Association and its medical section, the American Thoracic Society, found that voters overwhelmingly support (65% to 30%) the $1.50 per pack fee on cigarettes. Voters also support stiff penalties on tobacco companies if they continue to sell to our children (54% support a per pack penalty of $0.50 or more compared to 28% who want no penalty). The electorate opposes special protections for the tobacco industry (55% to 32%). Nearly seven out of ten voters (69% to 33%) want the tobacco companies to follow the same rules on marketing to children overseas as they do in the U.S. It is clear that your bill is in sync with the will of the American people.

The American Lung Association hopes that Congress will follow your lead—keep this

promise to our children—and enact the Healthy Kids Act into law.

Sincerely,

JOHN R. GARRISON,
CEO and Managing Director.

STATEMENT OF THE ENACT COALITION REGARDING THE INTRODUCTION OF THE HEALTHY KIDS ACT

(February 11, 1998) The ENACT coalition of major public health organizations applauds today's introduction of the Healthy Kids Act by Senator Conrad and his co-sponsors. We support a strong comprehensive approach and welcome this bill.

The Healthy Kids Act encompasses the key policies that ENACT has stated must be included in any effective tobacco control legislation. The bill contains strong and effective provisions regarding FDA authority over tobacco sales, manufacturing and advertising; significant price increases to deter use by kids; effective ''look-back'' penalties if sales to youth don't decrease; a vigorous crackdown on the illegal sale of tobacco to minors; protections from secondhand smoke; disclosure of tobacco industry documents; assistance to tobacco farmers; and support for efforts to reduce tobacco use internationally.

ENACT believes that only a comprehensive bill that meets our minimum criteria can adequately address the complex problem of tobacco use and reduce the number of kids who start using tobacco, and the number of adults who die each year.

We expect a number of additional proposals to be introduced in the House and Senate in the coming weeks. We will evaluate each of them, and those already introduced, for their adherence to the public health principles we have set forth. ENACT is committed to working with Senator Conrad and with Members of Congress from both parties to enact a comprehensive, bi-partisan, well-funded and sustainable tobacco control policy.

ENACT COALITION MEMBERS (FEBRUARY 11, 1998)

Allergy and Asthma Network—Mothers of Asthmatics, Inc.
American Academy of Child & Adolescent Psychiatry.
American Academy of Family Physicians.
American Academy of Pediatrics.
American Association for Respiratory Care.
American Association of Physicians of Indian Origin.
American Cancer Society.
American College of Cardiology.
American College of Chest Physicians.
American College of Occupational and Environmental Medicine.
American College of Physicians.
American College of Preventive Medicine.
American Heart Association.
American Medical Association.
American Psychiatric Association.
American Psychological Association.
American Society of Anesthesiologists.
American Society of Clinical Oncology.
American Society of Internal Medicine.
Association of American Medical Colleges.
Association of Black Cardiologists, Inc.
Association of Maternal and Child Health Programs.
Association of Schools of Public Health.
Campaign for Tobacco-Free Kids.
College on Problems of Drug Dependence.
Council of State & Territorial Epidemiologists.
Family Voices.
The HMO Group.
Interreligious Coalition on Smoking OR Health.
Latino Council on Alcohol & Tobacco.
National Association of Children's Hospitals.
National Association of County and City Health Officials.
National Association of Local Boards of Health.
National Hispanic Medical Association.
Oncology Nursing Society.
Partnership for Prevention.
Society for Public Health Education.
The Society for Research on Nicotine and Tobacco.
The Society of Behavioral Medicine.
Summit Health Coalition.

A number of the nation's major public health organizations have formed ENACT (Effective National Action to Control Tobacco). This growing coalition has pledged to work with the Congress, the Administration, the public health community and the American people to pass comprehensive, sustainable, effective, well-funded national tobacco control legislation.

STATEMENT BY THE COALITION FOR WORKERS' HEALTH CARE FUNDS SUPPORTING THE SENATE DEMOCRATIC TASK FORCE ''HEALTHY KIDS'' BILL

The Coalition for Workers' Health Care Funds represents some 2,500 union sponsored, multiemployer health and welfare funds which have brought class action law suits against the tobacco companies seeking reimbursement for their health care costs of tobacco-related diseases.

The Coalition believes that the legislation introduced by Senator Kent Conrad and Senator Tom Daschle on behalf of the Senate Democratic Tobacco Task Force is both sound and reasonable. It represents good public health policy, while at the same time protecting the civil justice rights of the multi-employer health & welfare community and others with claims against the tobacco companies.

We are particularly pleased that the legislation includes an adjustment assistance program for those tobacco workers who might be adversely effected by the legislation, and we encourage the sponsors to further develop this important program. Such assistance for workers is essential in light of the fact that for the past 18 years, the tobacco companies have engaged in a systematic corporate policy to downsize the workforce without assistance for its workers.

According to the ''Statistical Abstract of the Unite States 1997'' the tobacco industry has reduced its total employment by over 40% since 1980; from 69,000 in 1980 to 41,000 in 1996. Moreover, the ''Abstract'' projects that by 2005 the industry will have further reduced its U.S. employment to 26,000, for an overall reduction since 1980 of 62.4%. Absolutely none of this workforce reduction has been due to a profit decline for the industry since, again according to the ''Abstract'' the annual value of the domestic product has remained constant at about $35 billion. It is also no secret that the U.S. tobacco manufactures have been moving production facilities overseas. All of this occurred long before any ''Tobacco settlement'' was ever negotiated or anticipated. It is the direct result of the same corporate strategy that we have witnessed in industry after industry; from machine tools and electrical equipment to textiles and semi-conductors. In their effort to maximize profits American corporations have closed manufacturing facilities in the U.S. and moved to countries with the lowest wages and least labor protections.

Employment in the Tobacco Industry

In its effort to enact federal legislation to immunize itself from effective legal action, the tobacco industry has engaged in an attempt to economically ''blackmail'' the workers employed in the tobacco industry. The industry has argued that unless the tobacco deal, with immunity, is enacted that it will be forced to shut-down its operations in the United States and move production overseas.

The fact of the matter is that over the last 18 years, the industry has dramatically reduced employment by 40% and intends to continue this trend in the future.

The tobacco industry employment figures reproduced below are from the ''Statistical Abstract of the United States 1997'', the ultimate source of which is the industry itself.

All Employees—all products:	
1980	69,000
1990	49,000
1996	41,000
2005-(proj.)	26,000
Production Employees—all products:	
1980	54,000
1990	36,000
1996	31,000
All Employees—cigarettes:	
1980	46,000
1990	35,000
1996	28,000
Production Employees—cigarettes:	
1980	35,000
1990	26,000
1996	21,000

Notes:

1. These figures were prepared long before the announced ''Tobacco Settlement''.

2. Less than half of all tobacco production workers are represented by labor unions.

3. The Union sponsored labor-management health & welfare funds which have brought suit against the tobacco companies represent 30 million union workers, retirees and their families.

Source: Statistical Abstract of the United States, 1997, p. 416 & p. 425.

Mr. LAUTENBERG. Mr. President, I want to speak in strong support of the HEALTHY Kids Act, which was introduced by Senator CONRAD. Senator CONRAD chaired our tobacco task force, on which I served as vice chairman, and I thought, as did most on our side, that he did an incredibly thorough job in researching the issues and hearing from the various affected parties.

Mr. President, this bill today reflects the consensus of our task force. It is the vision of the Senate Democrats and has cosponsors from all sectors of the Democratic Party. Although some of us differ on certain specific points, all of us who are cosponsoring this legislation agree that this bill contains the right approach to tackling the devastating health problems that come from smoking cigarettes.

At the heart of this proposal is a per pack price increase of $1.50. This price increase will be phased in over three years and then indexed to inflation to maintain a deterrent effect on youth smoking.

I am particularly pleased, Mr. President, with this aspect of the HEALTHY Kids Act because it was adopted from a bill I introduced last year, the Public Health and Education Resource Act, which is S. 1343.

I believe now—as I did then—that if we are serious about reducing teen smoking, we have to increase the price swiftly and dramatically. It seems to have the most deterrent effect of all measures on youth because when the price goes up that far they cannot afford to pick up the habit, for which we are grateful.

This bill also includes much of the bill that Senator KENNEDY sponsored, and that I had the opportunity to support as a cosponsor, again representing the views of several of our Members to be included in this consensus package.

The focus of any tobacco legislation must be on improving the health of future generations of Americans, and this bill accomplishes that very clearly. In addition to funding various programs that will reduce teen smoking and benefit the well-being of children, it provides unfettered FDA jurisdiction. As the President has stated many times, full FDA power over these deadly products is essential.

Mr. President, as Ranking Member of the Budget Committee I am also pleased that this bill is consistent with the President's budget proposal. Both approaches recognize that comprehensive tobacco legislation requires a strong investment in America's children. Our approach keeps children away from this addictive product, improves their health, provides adequate child care and gives them a learning environment that fosters health and knowledge and progress.

That is a real investment in our children, and that is the focus of the Healthy Kids Act.

Mr. President, I often hear that we in Congress cannot pass any legislation that the tobacco industry does not first agree to support. They speak as if Big Tobacco has some sort of veto right over legislation affecting their industry.

I must tell you. I fail to find in the Constitution of the United States—or in any of the Senate rules—any provision that gives them the right to veto legislation. The Congress not only has a right—but a duty—to rein in on an industry that has been out of control targeting our children for addiction and lying about the dangerous nature of their products.

Mr. President, there has also been a great deal of talk about providing special protection against liability to this industry. First of all, one must question why in the world this industry, which has engaged in more corporate misconduct than any other, deserves unprecedented special protection from civil liability.

Secondly, this industry continues to this day to hide from the public critical information about tobacco's effect on our health. Congress shouldn't even consider limited civil liability protections until we have full and absolute disclosure from the companies. It is time for them to stop hiding behind false claims of privilege and come clean with the American people.

Mr. President, this bill, the Healthy Kids Act, presents Congress with a historic opportunity. I welcome, very sincerely, my friends from the other side of the aisle to cosponsor this bill, to work with us, as I know that they want to, to question perhaps the methodology or process. But I hope that won't stand in the way. We both want to save children's lives. We want to invest in their future. It has to be a bipartisan goal. I expect that many of our friends on the Republican side will join us at some point.

Mr. President, as can be expected in any omnibus legislation, some Senators will disagree on specific provisions of the bill. In fact, I have some reservations about certain provisions of this act, such as the secondhand smoke restrictions, which I believe could be tougher. But I ask all of my colleagues to keep their eye on the big picture—reducing tobacco's seductive grip on our kids.

Their target—it is very clearly understood—is to get 3,000 kids a day to start smoking because they know once you start it is hell to try and stop. And we don't want to permit them to get a grip on our children, on their lives, on their health, or on their habits.

So, Mr. President, I hope that we will be working together in a bipartisan way. We will make this happen if we can possibly do so. And I invite all of our colleagues to join us.

I yield the floor.

Mr. BINGAMAN. Mr. President, it is with great pleasure that I rise today to join Senator CONRAD and my other colleagues in introducing the HEALTHY Kids Act. I want to commend Senator CONRAD, and his staff, for their excellent work in formulating this legislation. I firmly believe that this legislation represents the opportunity to prevent nicotine addiction in children and youth.

The Congress has the truly historic opportunity this year to enact comprehensive legislation that will reduce access to and consumption of tobacco by our youth. Over the past few months, I have been part of the task force that helped consider the numerous issues involved in developing a comprehensive approach to address the public health issues that surround youth and tobacco. The HEALTHY Kids Act gives us a blueprint for reducing the terrible destruction that tobacco products have caused.

The Senate has a compelling interest to address the various issues raised by the tobacco settlement. The Office on Smoking and Health at the Centers for Disease Control and Prevention has determined that cigarettes kill more Americans that AIDS, alcohol, car accidents, murders, suicides, drugs, and fires combined.

Additionally, As the smoke screen erected by the tobacco companies begins to clear through numerous court proceedings, we now know what we have suspected all along: The targeting of our children has been a well planned, well orchestrated, and well financed conspiracy by these companies.

We have all seen the statistics. The Institute of Medicine finds that despite the market decline in adult smoking and the social disapproval of smoking, an estimated 3,000 young people become regular smokers every day. In my home state of New Mexico, roughly 33% of our youth in grades 9 through 12, smoke. Indeed, Mr. President, nationally, the prevalence of smoking by youth, has remained basically unchanged since 1980. If current tobacco use patterns in this nation persist, five million children currently alive today will die prematurely from a smoking related disease.

It is worth noting that lung cancer remains the leading cause of cancer death in the United States. All cancers caused by cigarette smoking can be prevented. Instead, according to CDC and Robert Wood Johnson, 170,000 Americans will lose their lives to tobacco related cancer this year. Preventing and reducing cigarette smoking are key to reducing illness and death. We must act now.

There will be myriad reasons put forth as to why we cannot or should not enact this legislation. There will be some who will say that Congress should not act at all. We have the opportunity and the obligation to enact legislation that will address the public health problems caused by tobacco products. The HEALTHY Kids Act gives us the chance to begin reversing the damage that has been done. It provides the vehicle for leadership that will be necessary to save our children. I hope that we will move, and move quickly without any more excuses, to enact this legislation.

Mr. KERREY. Mr. President, I am proud today to join with several of my colleagues in support of S. 1638, ''The Healthy Kids Act'', the tobacco bill crafted by Senator CONRAD and the Democratic Tobacco Task Force.

As you have heard many of our colleagues say, 3000 kids start smoking every day. One third of those will prematurely die from a tobacco-related disease. In Nebraska alone, 38 out of 100 high school kids currently smoke cigarettes and over 35,000 kids currently under the age of 18 will die prematurely from tobacco-related diseases.

This is simply unacceptable. And the job has fallen upon Congress to do something about it. Last summer, my colleagues and I were faced with the daunting task of putting together comprehensive tobacco legislation. Led by my very dedicated colleague Senator CONRAD from North Dakota, the Democratic Tobacco Task Force worked hard for nearly eight months to draft a bill that put our children's health first. This is exactly what The HEALTHY Kids Act does.

This bill puts the law on the side of our kids. Sometimes we pass laws and are unsure of their impact. This time we can be certain: If we pass this law it will save children's lives. Period.

Experts say that the way to get kids to quit smoking is to raise prices on cigarettes. The HEALTHY Kids Act does this.

This bill is projected to collect $78 billion in total revenue over the next five years. Among other things, this money will help improve our children's

health care, child care, and education; fund important medical research; take care of the farmers that were left out of the settlement negotiations; and some money will even go towards reducing the deficit and saving social security—which could perhaps be the greatest gift we could ever think about giving our children.

Mr. President, I close by saying that I look forward to working with Mr. CONRAD and others on passing this important legislation that correctly puts our children first.

By Mr. COVERDELL:

S. 1639. A bill to amend the Emergency Planning and Community Right-To-Know Act of 1986 to cover Federal facilities; to the Committee on Environment and Public Works.

THE FEDERAL FACILITIES COMMUNITY RIGHT-TO-KNOW ACT OF 1998

Mr. COVERDELL. Mr. President, I rise today to introduce legislation—The Federal Facilities Community Right-To-Know Act of 1998—which provides that the federal government is held to the same reporting requirements under the Emergency Planning and Community Right-To-Know Act (EPCRA) of 1986 as private entities. In 1986, Congress directed the Environmental Protection Agency (EPA) to establish a national inventory to inform the public about chemicals used and released in their communities. Since enactment of the Emergency Planning and Community Right-To-Know Act, manufacturers have been required to keep extensive records on how they use and store hazardous chemicals and report releases of hundreds of hazardous chemicals annually. EPA compiles the reported information into the Toxic Release Inventory (TRI).

The Toxic Release Inventory is a publicly available data base containing specific chemical release and transfer information from manufacturing facilities throughout the United States. The TRI is intended to promote planning for chemical emergencies and to provide information to the public regarding the presence and release of toxic and hazardous chemicals in their communities.

In August 1993, President Clinton signed Executive Order 12856, which required Federal facilities to begin submitting TRI reports beginning in calendar year 1994 activities. I commend President Clinton for taking this action. However, this executive order does not have the force of law and could be changed by a future Administration. The National Governors Association's policy on federal facilities states that ''Congress should ensure that federal and state ''right to know'' requirements apply to federal facilities.'' My legislation simply amends the Emergency Planning and Community Right-To-Know Act to cover federal facilities. It is important for the Federal government to protect the environment and its citizens from hazardous substances. People living near federal facilities have the right to know what hazardous substances are being released into the environment by these facilities so they can better protect themselves and their children from these potential threats. It is my strong belief that federal facilities should be treated the same as private entities. My legislation attempts to moves us closer towards that goal.

By Mr. WELLSTONE (for himself and Mr. GRAMS):

S. 1640. A bill to designate the building of the United States Postal Service located at East Kellogg Boulevard in Saint Paul, Minnesota, as the ''Eugene J. McCarthy Post Office Building''; to the Committee on Governmental Affairs.

THE EUGENE J. MCCARTHY POST OFFICE BUILDING DESIGNATION ACT OF 1998

Mr. WELLSTONE. Mr. President, I rise today on behalf of myself and my colleague from Minnesota, Senator GRAMS, to introduce legislation which would designate the U.S. Post Office Building in downtown St. Paul, MN, as the ''Eugene J. McCarthy Post Office Building.'' In doing so, we join the entire Minnesota delegation in the U.S. House of Representatives in honoring a man who is of great importance to our state and our nation.

This building, which will bear the name of one of Minnesota's great statesmen, stands in Minnesota's capitol, a city represented by Senator McCarthy in the House and Senate for nearly a quarter of a century. When the 4th district, and later all of Minnesota, sent Senator McCarthy to Washington they sent a scholar as well as a legislator, and his service to our state and this nation has not been restricted to his tenure in Congress. He has touched lives as a teacher and author as well.

Mr. President, I am proud to know Eugene McCarthy and to follow in his footsteps as a Senator from Minnesota, as a progressive, and as a great believer in grassroots democracy. He is a person who not only articulated, but exercised, a politics of inclusion and who knows that a candidate's success is best built upon a foundation of individuals. While America has had many important leaders, very few have fought the battles Senator McCarthy has fought, very few have shown the commitment he has shown to effecting positive change for ordinary people, and very few can match his record as a man of peace.

Mr. President, it is an honor to extend my state's, and my country's, gratitude to Senator McCarthy with this designation.

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

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

S. 1640

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

SECTION 1. DESIGNATION.

(a) IN GENERAL.—The building of the United States Postal Service located at 180 East Kellogg Boulevard in Saint Paul, Minnesota, shall be known and designated as the ''Eugene J. McCarthy Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the ''Eugene J. McCarthy Post Office Building''.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 1641. A bill to direct the Secretary of the Interior to study alternatives for establishing a national historic trail to commemorate and interpret the history of women's rights in the United States; to the Committee on Energy and Natural Resources.

THE WOMEN'S RIGHTS NATIONAL HISTORIC TRAIL ACT

Mr. MOYNIHAN. Mr. President, 1848 was one of the busiest years of the 19th Century in Europe. Everywhere kings were abdicating, ministers fleeing, mobs roving. In London, Karl Marx and Frederich Engels composed a pamphlet entitled Manifesto of the Communist Party. Revolution was all the rage. But the real revolution was taking place in a small brick chapel in a village in upstate New York where people had begun to think of a revolution unlike anything known—equal rights for women.

The American movement for women's rights began in Waterloo, New York nearly 150 years ago when five women met at the home of Jane and Richard Hunt. There, Elizabeth Cady Stanton of Seneca Falls, Mary Ann McClintock of Waterloo, Marta Coffin Wright of nearby Auburn, Lucretia Coffin Mott of Philadelphia and Mrs. Hunt planned the first women's rights convention held at the Wesleyan Chapel in Seneca Falls. It was also there that they wrote the ''Declaration of Sentiments,'' a document which can certainly be regarded as the Magna Carta of the women's movement. Modeled on our Declaration of Independence, the ''Declaration of Sentiments'' proclaimed that:

> All men and women are created equal: That they are endowed by their Creator with certain inalienable rights; that among these are life, liberty and the pursuit of happiness.

This unprecedented declaration called for broad societal changes aimed at eliminating discriminatory restrictions on women in all their spheres of life. A woman's right to a higher education, the right to own property and the right to retain her own wages—all these and more were proclaimed in this landmark document endorsed at the Seneca Falls Convention on July 19 and 20, 1848.

Perhaps most importantly, the convention was the catalyst for the 19th Amendment. There, Elizabeth Cady

Stanton made what was at the time a most radical proposal. She called for extending the franchise to women.

Ameila Bloomer, publisher of Lily, the first prominent women's rights newsletter, eloquently defended Stanton's call and articulated the importance of the vote:

In this country there is one great tribunal by which all theories must be tried, all principles tested, all measures settled: and that tribunal is the ballot box. It is the medium through which public opinion finally makes itself heard. Deny to any class in the community the right to be heard at the ballot-box and that class sinks at once into a state of slavish dependence, of civil insignificance, which nothing can save from becoming subjugation, oppression and wrong.

It was fully 72 years before the Nation heeded their call for the vote for women.

It took but 10 months in 1980, however, to establish a Women's Rights Historic Park at Seneca Falls and Waterloo, commemorating this call. Then-Senator Javits and I proposed a bill that created an historic park within Seneca Falls to commemorate the early beginnings of the women's movement and to recognize the important role Seneca Falls has played in the movement. The park consists of five sites: the 1840's Greek Revival home of Elizabeth Cady Stanton, organizer and leader of the women's rights movement; the Wesleyan Chapel, where the First Women's Rights Convention was held; Declaration Park with a 100 foot waterwall engraved with the Declaration of Sentiments and the names of the signers of Declaration; and the M'Clintock house, home of MaryAnn and Thomas M'Clintock, where the Declaration was drafted.

On June 27 last, my friend and colleague, Senator D'AMATO and I introduced S. Con. Res. 35, a resolution that urges the United States Postal Service to issue a commemorative postage stamp to celebrate the 150th anniversary of the Women's Rights Convention. It is only fitting that a stamp be issued commemorating this historic anniversary and highlighting the importance of continuing this struggle for equal rights and opportunity for women in areas such as health care, education, employment, and pay equity.

Today Senator D'AMATO and I, in concert with Representative LOUISE M. SLAUGHTER of Rochester, introduce legislation which would direct the Secretary of the Interior to study the development of a Women's Rights Historic Trail stretching from Boston, Massachusetts to Buffalo, New York.

Mr. President, the contributions made by women in that region are many. This is hallowed ground that needs to be celebrated. It would include such sites as the Susan B. Anthony House and voting place in Rochester; the Women's Rights National Historical Park; the National Women's Hall of Fame and the Elizabeth Cady Stanton House in Seneca Falls; the Harriet Tubman House and memorial in Auburn; and the Eleanor Roosevelt home in Hyde Park.

The women of Seneca Falls challenged America to social revolution with a list of demands that touched upon every aspect of life. Testing different approaches, the early women's rights leaders came to view the ballot as the best way to challenge the system, but they did not limit their efforts to this one issue. Fifty years after the convention, women could claim property rights, employment and educational opportunities, divorce and child custody laws, and increased social freedoms. By the early 20th century, a coalition of suffragists, temperance groups, reform-minded politicians, and women's social welfare organizations mustered a successful push for the vote.

Today Congress honors Lucretia Mott and Elizabeth Cady Stanton, along with Susan B. Anthony, as revolutionary leaders of the women's movement by placing a statue of them in the Capitol Rotunda next to statues of other leaders in our Nation's history such as George Washington, Abraham Lincoln, and Martin Luther King, Jr.

An historic trail would be a living monument to women's history, bringing to life the numerous pioneers so often left out of our textbooks. In ''The Ladies of Seneca Falls: The Birth of the Women's Rights Movement'', Miriam Gurko writes:

Most histories contain, if anything, only the briefest allusion to the woman's rights movement in the nineteenth century—perhaps no more than a sentence to include it in the general upsurge of reform. Here and there the name of a woman's rights leader might be mentioned, generally that of Susan B. Anthony, sometimes Elizabeth Cady Stanton. The rest might never have existed so far as the general run of historical sources is concerned.

One of the most important social forces of our time is women's struggle to achieve equality, and, as such, it is incumbent upon us to pay tribute to its many heroes.

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. 1641

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 ''Women's Rights National Historic Trail Act of 1998''.

SEC. 2. STUDY OF ALTERNATIVES FOR NATIONAL HISTORIC TRAIL TO COMMEMORATE AND INTERPRET HISTORY OF WOMEN'S RIGHTS IN THE UNITED STATES.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the National Park Service (referred to in this section as the ''Secretary''), shall conduct a study of alternatives for establishing a national historic trail commemorating and interpreting the history of women's rights in the United States.

(b) MATTERS TO BE CONSIDERED.—The study under subsection (a) shall include—

(1) consideration of the establishment of a new unit of the National Park System;

(2) consideration of the establishment of various appropriate designations for routes and sites relating to the history of women's rights in the United States, and alternative means to link those sites, including a corridor between Buffalo, New York, and Boston, Massachusetts;

(3) recommendations for cooperative arrangements with State and local governments, local historical organizations, and other entities; and

(4) cost estimates for the alternatives.

(c) STUDY PROCESS.—The Secretary shall—

(1) conduct the study with public involvement and in consultation with State and local officials, scholarly and other interested organizations, and individuals;

(2) complete the study as expeditiously as practicable after the date on which funds are made available for the study; and

(3) on completion of the study, submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings and recommendations of the study.

By Mr. GLENN (for himself, Mr. THOMPSON, Mr. LEVIN, Mr. LIEBERMAN, and Mr. AKAKA):

S. 1642. A bill to improve the effectiveness and performance of Federal financial assistance programs, simplify Federal financial assistance application and reporting requirements, and improve the delivery of services to the public; to the Committee on Governmental Affairs.

THE FEDERAL FINANCIAL ASSISTANCE MANAGEMENT IMPROVEMENT ACT

Mr. GLENN. Mr. President, I rise today to introduce the Federal Financial Assistance Management Improvement Act of 1998—legislation designed to improve the efficiency and effectiveness of Federal financial assistance and grant-in-aid programs.

According to the Advisory Commission on Intergovernmental Relations, there are over 600 different Federal grant programs to state and local governments and other service providers. Not only is that a large number of programs in the aggregate, we also have an abundance of separate grant programs even in areas where only one general purpose is being served. For example, in the budget subfunction of social services alone, there are over 80 different Federal grant programs. In elementary and secondary education, there are a similar number of Federal programs.

Almost all of these different grant programs serve worthy goals and purposes. However, they inevitably carry with them separate redtape, regulations, and procedures that frustrate those at the state, local and nonprofit level who must coordinate the services and carry out the responsibilities in all these separate programs. Furthermore, in many of these grant programs, ''getting out the money'' is the primary emphasis. Administrative performance and efficiency are a secondary emphasis, or in some cases not emphasized at all, so we have little understanding at any level of government how well the

programs are actually working. Part of this problem stems from the fact that the money passes through 3 sometimes 4 different sets of hands before it reaches its intended beneficiaries. So it's hard to know where responsibility lies when it comes to making sure that the money is spent efficiently, properly and in a way to maximize the goals and objectives of the underlying program.

We've been working for several years in the Governmental Affairs Committee on ways to cut Federal redtape while improving performance. We tried to reduce Federal burdens with enactment of the Paperwork Reduction Act and Unfunded Mandates Reform Act, while strengthening the effectiveness of Federal programs with the Government Performance Results Act.

This bill builds on those initiatives. It requires that Federal agencies develop plans that, among other things: establish uniform applications for related grant programs; develop common rules for Federal requirements that cut across multiple grant programs; and, emphasize use of electronic reporting via the Internet. Agencies would have 18 months to develop their plans, with OMB overseeing their development. They would work closely with state and local governments and the nonprofit community in the setting of performance measures to achieve the bill's goals. The bill sunsets in 5 years following a review by the National Academy of Public Administration.

Americans want government services to work better. But they also want government to live within its means, to balance its books. In other words, they want more cost-effective government, and that's at all levels. I believe this bill helps lead us in that direction. I'm pleased that Chairman THOMPSON, along with Senators LEVIN, LIEBERMAN, and AKAKA, have joined me cosponsoring the bill and I look forward to considering it in the Governmental Affairs Committee.

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. 1642

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

SECTION 1. TITLE.

This Act may be cited as the ''Federal Financial Assistance Management Improvement Act of 1998''.

SEC. 2. FINDINGS.

Congress finds that—

(1) there are over 600 different Federal financial assistance programs to implement domestic policy;

(2) while the assistance described in paragraph (1) has been directed at critical problems, some Federal administrative requirements may be duplicative, burdensome or conflicting, thus impeding cost-effective delivery of services at the local level;

(3) State, local, and tribal governments and private, nonprofit organizations are dealing with increasingly complex problems that require the delivery and coordination of many kinds of services; and

(4) streamlining and simplification of Federal financial assistance administrative procedures and reporting requirements will improve the delivery of services to the public.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) improve the effectiveness and performance of Federal financial assistance programs;

(2) simplify Federal financial assistance application and reporting requirements;

(3) improve the delivery of services to the public; and

(4) facilitate greater coordination among those responsible for delivering such services.

SEC. 4. DEFINITIONS.

In this Act:

(1) COMMON RULE.—The term ''common rule'' means a government-wide uniform rule for any generally applicable requirement established to achieve national policy objectives that applies to multiple Federal financial assistance programs across Federal agencies.

(2) DIRECTOR.—The term ''Director'' means the Director of the Office of Management and Budget.

(3) FEDERAL AGENCY.—The term ''Federal agency'' means any agency as defined under section 551(1) of title 5, United States Code.

(4) FEDERAL FINANCIAL ASSISTANCE PROGRAM.—The term ''Federal financial assistance program'' means a domestic assistance program (as defined under section 6101(4) of title 31, United States Code) under which financial assistance is available, directly or indirectly, to a State, local, or tribal government or a qualified organization to carry out activities consistent with national policy goals.

(5) LOCAL GOVERNMENT.—The term ''local government'' means—

(A) a political subdivision of a State that is a unit of general local government (as defined under section 6501(10) of title 31, United States Code);

(B) any combination of political subdivisions described in subparagraph (A); or

(C) a local educational agency as defined under section 14101(18) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(18)).

(6) QUALIFIED ORGANIZATION.—The term ''qualified organization'' means a private, nonprofit organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986.

(7) STATE.—The term ''State'' means each of the 50 States, the District of Columbia, Puerto Rico, American Samoa, Guam, and the Virgin Islands.

(8) TRIBAL GOVERNMENT.—The term ''tribal government'' means the governing entity of an Indian tribe, as that term is defined in the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b).

SEC. 5. DUTIES OF THE DIRECTOR.

(a) IN GENERAL.—The Director, in consultation with agency heads, shall direct, coordinate, and assist Federal agencies in establishing—

(1) a uniform application, or set of uniform applications, to be used by an applicant to apply for assistance from multiple Federal financial assistance programs that serve similar purposes and are administered by different Federal agencies;

(2) ways to streamline and simplify Federal financial assistance administrative procedures and reporting requirements for grantees;

(3) a uniform system wherein an applicant may apply for, manage, and report on the use of, funding from multiple Federal financial assistance programs across different Federal agencies;

(4) a process for applicants to electronically apply for, and report on the use of, funds from Federal financial assistance programs;

(5) use of common rules for multiple Federal financial assistance programs across different Federal agencies;

(6) improved interagency and intergovernmental coordination of information collection and sharing of data pertaining to Federal financial assistance programs, including the development of a release form to be used by grantees to facilitate the sharing of information across multiple Federal financial assistance programs;

(7) a process to strengthen the information resources management capacity of State, local, and tribal governments and qualified organizations pertaining to the administration of Federal financial assistance programs; and

(8) specific annual goals and objectives to further the purposes of this Act.

(b) ACTIONS CONSISTENT WITH STATUTORY REQUIREMENTS.—The actions taken by the Director under subsection (a) shall be consistent with statutory requirements relating to any applicable Federal financial assistance program.

(c) LEAD AGENCY AND WORKING GROUPS.—The Director may designate a lead agency to assist the Director in carrying out the responsibilities under this section. The Director may use interagency working groups to assist in carrying out such responsibilities.

(d) REVIEW OF PLANS AND REPORTS.—

(1) IN GENERAL.—The Director shall—

(A) review agency plans and reports developed under section 6 for adequacy;

(B) monitor the annual performance of each agency toward achieving the goals and objectives stated in the agency plan; and

(C) ensure that each agency plan does not diminish standards to measure performance and accountability of financial assistance programs.

(2) REPORT.—Not later than 3 years after the date of enactment of this Act, the Director shall report to Congress on implementation of this section. Such a report may be included as part of any of the general management reports required under law.

(e) EXEMPTIONS.—

(1) IN GENERAL.—The Director may exempt any Federal agency from the requirements of this Act if the Director determines that the agency does not have a significant number of Federal financial assistance programs.

(2) AGENCIES EXEMPTED.—Not later than November 1 of each fiscal year, the Director shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives—

(A) a list of each agency exempted under this subsection in the preceding fiscal year; and

(B) an explanation for each such exemption.

(f) GUIDANCE.—Not later than 120 days after the date of enactment of this Act, the Director shall issue guidance to Federal agencies on implementation of the requirements of this Act. Such guidance shall include a statement on the common rules that the Director intends to review and standardize under this Act.

SEC. 6. DUTIES OF FEDERAL AGENCIES.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, each Federal agency shall develop and implement a plan that—

(1) streamlines and simplifies the application, administrative, and reporting procedures for each financial assistance program administered by the agency;

(2) demonstrates active participation in the interagency process required the applicable provisions of section 5(a);

(3) demonstrates agency use, or plans for use, of the uniform application (or set of applications) and system developed under section 5(a) (1) and (3);

(4) designates a lead agency official for carrying out the responsibilities of the agency under this Act;

(5) allows applicants to electronically apply for, and report on the use of, funds from the Federal financial assistance program administered by the agency;

(6) strengthens the information resources management capacity of State, local and tribal governments and qualified organizations pertaining to the administration of the financial assistance program administered by the agency; and

(7) in cooperation with State, local, and tribal governments and qualified organizations, establishes specific annual goals and objectives to further the purposes of this Act and measure annual performance in achieving those goals and objectives.

(b) PLAN CONSISTENT WITH STATUTORY REQUIREMENTS.—Each plan developed and implemented under this section shall be consistent with statutory requirements relating to any applicable Federal financial assistance program.

(c) COMMENT AND CONSULTATION ON AGENCY PLANS.—

(1) COMMENT.—Each Federal agency shall publish the plan developed under subsection (a) in the Federal Register and shall receive public comment on the plan through the Federal Register and other means (including electronic means). To the maximum extent practicable, each Federal agency shall hold public hearings or related public forums on the plan.

(2) CONSULTATION.—The lead official designated under subsection (a)(4) shall consult regularly with representatives of State, local and tribal governments and qualified organizations during development of the plan. Consultation with representatives of State, local, and tribal governments shall be in accordance with section 204 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1534).

(d) SUBMISSION OF PLAN.—Each Federal agency shall submit the plan developed under subsection (a) to the Director and Congress and report annually thereafter on the implementation of the plan and performance of the agency in meeting the goals and objectives specified under subsection (a)(7). Such a report may be included as part of any of the general management reports required under law.

SEC. 7. EVALUATION.

(a) IN GENERAL.—The Director (or the lead agency designated under section 5(c)) shall contract with the National Academy of Public Administration to evaluate the effectiveness of this Act. Not later than 4 years after the date of enactment of this Act the evaluation shall be submitted to the lead agency, the Director, and Congress.

(b) CONTENTS.—The evaluation under subsection (a) shall—

(1) assess the effectiveness of this Act in meeting the purposes of this Act and make specific recommendations to further the implementation of this Act;

(2) evaluate actual performance of each agency in achieving the goals and objectives stated in agency plans; and

(3) assess the level of coordination and cooperation among the Director, Federal agencies, State, local, and tribal governments, and qualified organizations in implementing this Act.

SEC. 8. EFFECTIVE DATE AND SUNSET.

This Act shall take effect on the date of enactment of this Act and shall cease to be effective on and after 5 years after such date of enactment.

By Mr. KENNEDY (for himself, Mr. JEFFORDS, Mr. KERRY, and Mr. LEAHY):

S. 1643. A bill to amend title XVIII of the Social Security Act to delay for one year implementation of the per beneficiary limits under the interim payment system to home health agencies and to provide for a later base year for the purposes of calculating new payment rates under the system; to the Committee on Finance.

MEDICARE AND HOME HEALTH CARE LEGISLATION

Mr. KENNEDY. Mr. President, the home health benefit available under Medicare plays a significant role in allowing elderly beneficiaries to remain in their homes and in their community. Those who use the home health benefit are among the most vulnerable Medicare beneficiaries. More than 40 percent have incomes below $10,000. One in three live alone, and two-thirds are over age 75.

In recent years, the cost of the home health benefit has been one of the fastest growing parts of Medicare. While the vast majority of this growth is attributable to a legitimate increase in home health care as patients are moved out of the hospital more quickly, some portion is known to be due to fraud. As a result, Congress enacted provisions on this spending as a part of the Balanced Budget Act of 1997. Unfortunately, it now appears that some of the restrictions will operate in a way that penalizes providers unfairly and jeopardizes their ability to continue to offer these vital services for the elderly.

In order to address these issues, I am introducing legislation to delay the effective date of one provision, and to change the base year that will be used to calculate future home health payments. Congressman McGovern is introducing similar legislation in the House of Representatives.

The problem with the current law is especially serious in New England. Home health agencies throughout the region generally provide care for less cost than the national average. For example, the average Medicare payment per home health visit in Massachusetts in 1995 was 19 percent below the national average. These programs are effective. They provide high quality home health care and help people to remain in the community and out of hospitals and nursing homes. And they do so in a cost-efficient manner. Nevertheless, the Home & Health Care Association of Massachusetts estimates that the provisions of the Balanced Budget Act of 1997 could result in a loss of 1.5 million home health visits—a 20 percent reduction—this year. Under the Act, Massachusetts and other states that provide high quality care efficiently and at lower rates are at a disadvantage, whereas inefficient providers are permitted to lock in higher rates.

One of the most questionable effects of the Act requires home health agencies to comply with ''per beneficiary caps'' before the federal government tells them what the caps are. The bill I am introducing delays the effective date of the caps until October 1, 1998, to allow time for agencies to adjust to forthcoming, essential guidance from the Health Care Financing Administration.

In addition, this bill moves up the year—from 1994 to 1995—that will be used to calculate payments for 1998 and beyond. This change means that payments will more accurately reflect the type of home care that is currently delivered.

The problem facing home health patients and agencies is substantial. Congress should address this issue now, before home health agencies that provide needed services are unfairly forced out of business, and before senior citizens are forced to go without necessary care or leave their homes for more expensive hospital care or nursing home care. The provisions of the Balanced Budget Act should be modified to avoid these unfortunate and unnecessary problems.

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. 1643

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

SECTION 1. DELAY OF PER BENEFICIARY LIMITS UNDER INTERIM PAYMENT SYSTEM AND CHANGE OF BASE YEAR.

(a) DELAY IN PER BENEFICIARY LIMITS UNDER INTERIM PAYMENT SYSTEM.—

(1) IN GENERAL.—Section 1861(v)(1)(L) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)), as amended by section 4602 of the Balanced Budget Act of 1997, is amended in clauses (v) and (vi) by striking ''October 1, 1997,'' each place it appears and inserting ''October 1, 1998,''.

(2) CONFORMING AMENDMENTS.—Section 1861(v)(1)(L)(vii) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)(vii)), as added by section 4602(c) of the Balanced Budget Act of 1997, is amended—

(A) by striking ''April 1, 1998,'' and inserting ''August 1, 1998,''; and

(B) by striking ''fiscal year 1998'' and inserting ''fiscal year 1999''.

(b) CHANGE IN BASE YEAR.—Section 1861(v)(1)(L)(v)(I) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)(v)(I)) is amended by striking ''ending during fiscal year 1994'' each place it appears and inserting ''ending during fiscal year 1995 or, at the election of the agency, calendar year 1995''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply as if included in the enactment of the Balanced Budget Act of 1997.

Mr. JEFFORDS. Mr. President, today, I am introducing legislation with my colleague Senator KENNEDY that will improve the implementation of the interim payment system to home health agencies established under the Balanced Budget Act of 1997. It is imperative that we protect access

to care for our most vulnerable populations—the elderly and the disabled. While I support the move to a prospective payment system for home care under the Balanced Budget Act, the payment system designed for the interim period is proving to be an intolerable burden for the home health agencies that serve Vermont's Medicare beneficiaries.

This bill would do two things to remove the current threat to quality home care. First, the bill delays the implementation of the interim payment system for one year. This will minimize its impact on agencies as a prospective payment system is put in place. Second, the base year for establishing per patient limits will shift from the current designation of fiscal year 1994, to either fiscal or calendar year 1995. Care rendered in 1995 is a better reflection of the current mix of patients—and it captures the deterrent effect of Operation Restore Trust on fraud and abuse in areas where cost was inflated.

My own State of Vermont is a good example of how the health care system can work to provide for high quality care for Medicare beneficiaries. Home health agencies are a critical link in the kind of health system that extends care over a continuum of options and settings. New technology and advances in medical practice permit hospitals to discharge patients earlier. They give persons suffering with acute or chronic illness the opportunity to receive care and live their lives in familiar surroundings. Time and time again, Vermont's home health agencies have proven their value by providing quality, cost-effective services to these patients. Yet time and again, federal policy seems to ensure that their good deeds should go punished.

Furthermore, Vermont home health agencies have been able to provide quality service while consistently maintaining the lowest per capital reimbursement rates for home care in the country. The average Medicare payment per patient in Vermont is approximately $3,000 per year, one third lower than the national average, and far less than in high costs states where payments rise as high as $7,900 per patient per year. Now, Vermont agencies face a interim payment system established under the Balanced Budget Act of 1997 that is based on historical cost. Instead of being rewarded for their good work, Vermont agencies will have a much lower per patient limit under Medicare than agencies in high cost areas. According to a January 7 article in the Wall Street Journal, Vermont's 13 agencies could lose over $2 million next year by continuing to do what they always have done—providing efficient and essential services.

Since the impact of the interim payment system became apparent, I have been in continuous contact with the Vermont Assembly of Home Health Agencies; the Vermont Agency of Human Services; and directors, trustees, employees, and patients of nearly every home health agency in the state. I firmly believe we must act to guard the health and welfare of a particularly vulnerable segment of the population. This legislation will help ensure that our home health care infrastructure is able to continue serving the patients that rely upon them.

By Mr. REED (for himself, Ms. COLLINS, Mr. KENNEDY, Mrs. MURRAY, Mr. DODD, Ms. MIKULSKI, Mr. CONRAD, Mr. AKAKA, Mr. LEVIN, Mr. KERRY, Mr. JOHNSON, Mr. TORRICELLI, Mr. KERREY, and Mr. HOLLINGS):

S. 1644. A bill to amend subpart 4 of part A of title IV of the Higher Education Act of 1965 regarding Grants to States for State Student Incentives; to the Committee on Labor and Human Resources.

THE LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP ACT

Mr. REED. Mr. President, I rise to introduce legislation with my Republican colleague on the Labor and Human Resources Committee, Senator SUSAN COLLINS, as well as Senators KENNEDY, MURRAY, DODD, MIKULSKI, CONRAD, LEVIN, AKAKA, KERRY, JOHNSON, TORRICELLI, KERREY, and HOLLINGS to reform and reauthorize an important student aid program, the State Student Incentive Grant program or SSIG.

Last fall, I was pleased to join forces with Senator COLLINS to lead the fight to restore funding for SSIG on an 84 to 4 vote.

This program provides funding on the basis of a dollar for dollar match to help states provide need-based financial aid in the form of grants and community service work study awards to 700,000 students nationwide, and 13,000 students from my home state of Rhode Island. Grants are targeted to the neediest undergraduate and graduate students.

As I noted last fall during the debate on the Labor, Health and Human Services, and Education Appropriations bill, many states would not have established or maintained their need-based financial aid programs without this important federal incentive. Moreover, students, searching for sources of need-based grants to make their higher education dreams a reality, have come to rely on SSIG.

Indeed, the importance of SSIG has increased over the years as skyrocketing college costs have eroded the purchasing power of the Pell Grant, and as the grant-loan imbalance widens. Twenty-three years ago, 80 percent of student aid came in the form of grants and 20 percent in the form of loans. Today the opposite is true, and students face significant debt upon graduation.

In addition, low-income students are still finding it particularly hard to afford higher education. Less than 50% of high school graduates with incomes under $22,000 go to college, while more than 80% of their higher income counterparts pursue education beyond high school.

To address these trends and ensure that needy students have alternatives to borrowing, SSIG must be strengthened during the upcoming reauthorization of the Higher Education Act. The legislation we introduce today, the Leveraging Educational Assistance Partnership (LEAP) Act, does this by reauthorizing and making significant reforms to the SSIG program.

The LEAP Act provides states greater incentives and flexibility to help needy students attend college. Our legislation creates a two-tier grant program. Any funds appropriated over a trigger level of funding—$35 million—would require an increased state match of two new dollars for every federal dollar. However, states would gain new flexibility to use these funds for activities such as increasing grant amounts or carrying out academic or merit scholarship programs, community service programs, early intervention, mentorship, and career education programs, secondary to postsecondary education transition programs, or scholarship programs for students wishing to enter the teaching profession.

These improvements restore the incentive nature of the program by attracting more state funds for student aid and providing greater flexibility for the use of these funds, while not disenfranchising states that can only match according to the current 1-to-1 requirement.

The LEAP Act is supported by students, educators, and student aid officials, including the National Association of State Student Grant and Aid Programs (NASSGAP), the National Association of Independent Colleges and Universities (NAICU), the American Council on Education (ACE), the American Association of State Colleges and Universities (AASCU), the United States Public Interest Research Group (USPIRG), the United States Student Association (USSA), and the National Association of Graduate-Professional Students.

Mr. President, I believe we should help all our citizens achieve the American Dream and ensure access to higher education, especially for hard working families whose wages have not kept up with inflation. I urge my colleagues to join us in this critical effort to strengthen federal-state student aid partnerships and our commitment to America's students.

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. 1644

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 ''Leveraging Educational Assistance Partnership Act''.

SEC. 2. LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 415A(b) of the Higher Education Act of 1965 (20 U.S.C. 1070c(b)) is amended—

(1) in paragraph (1), by striking ''1993'' and inserting ''1999'';

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

''(2) RESERVATION.—For any fiscal year for which the amount appropriated under paragraph (1) exceeds $35,000,000, the excess shall be available to carry out section 415E.''.

(b) SPECIAL LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM.—Subpart 4 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070c et seq.) is amended—

(1) by redesignating section 415E as 415F; and

(2) by inserting after section 415D the following:

''SEC. 415E. SPECIAL LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM.

''(a) IN GENERAL.—From amounts reserved under section 415A(b)(2) for each fiscal year, the Secretary shall—

''(1) make allotments among States in the same manner as the Secretary makes allotments among States under section 415B; and

''(2) award grants to States, from allotments under paragraph (1), to enable the States to pay the Federal share of the cost of the authorized activities described in subsection (c).

''(b) APPLICABILITY RULE.—Except as otherwise provided in this section, the provisions of this subpart which are not inconsistent with this section shall apply to the program authorized by this section.

''(c) AUTHORIZED ACTIVITIES.—Each State receiving a grant under this section may use the grant funds for—

''(1) increasing the dollar amount of grants awarded under section 415B to eligible students who demonstrate financial need;

''(2) carrying out transition programs from secondary school to postsecondary education for eligible students who demonstrate financial need;

''(3) carrying out community service programs for eligible students who demonstrate financial need;

''(4) creating a scholarship program for eligible students who demonstrate financial need and wish to enter teaching;

''(5) carrying out early intervention programs, mentoring programs, and career education programs for eligible students who demonstrate financial need; and

''(6) awarding merit or academic scholarships to eligible students who demonstrate financial need.

''(d) MAINTENANCE OF EFFORT REQUIREMENT.—Each State receiving a grant under this section for a fiscal year shall provide the Secretary an assurance that the aggregate amount expended per student or the aggregate expenditures by the State, from funds derived from non-Federal sources, for the authorized activities described in subsection (c) for the preceding fiscal year were not less than the amount expended per student or the aggregate expenditures by the State for the activities for the second preceding fiscal year. The Secretary may waive this subsection for good cause, as determined by the Secretary.

''(e) FEDERAL SHARE.—The Federal share of the cost of the authorized activities described in subsection (c) for any fiscal year shall be 33⅓ percent.''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) PURPOSE.—Subsection (a) of section 415A of the Higher Education Act of 1965 (20 U.S.C. 1070c(a)) is amended to read as follows:

''(a) PURPOSE OF SUBPART.—It is the purpose of this subpart to make incentive grants available to States to assist States in—

''(1) providing grants to—

''(A) eligible students attending institutions of higher education or participating in programs of study abroad that are approved for credit by institutions of higher education at which such students are enrolled;

''(B) eligible students for campus-based community service work-study; and

''(2) carrying out the activities described in section 415F.''.

(2) ALLOTMENT.—Section 415B(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1070c–1(a)(1)) is amended by inserting ''and not reserved under section 415A(b)(2)'' after ''415A(b)(1)''.

Mr. KERREY. Mr. President, it is with great pleasure that I cosponsor this important piece of legislation to help the very neediest of individuals obtain a college degree.

One of the most important goals that we can accomplish as legislators is to ensure that every American who is willing to work hard can go to college and have a shot at the American Dream. Yet we know that the cost of a college education is rising rapidly, and that can be an inhibitor for potential students.

By reauthorizing and reforming State Student Incentive Grants, the LEAP Act ensures that this important program continues to assist those students who otherwise may not be able to pursue higher education. Together with Pell grants they make it possible for low-income students to reach their potential and in turn become productive contributors in our increasingly knowledge-based economy.

This legislation restores to the SSIG program its incentive nature by giving states a reason to increase their investment in it. Any funds appropriated over $35 million would require an increased state match of two new dollars for every federal dollar. In return greater flexibility will be provided for the use of these extra funds. They can be used to increase grant awards or for other worthy activities such as carrying out academic or merit scholarship programs or career education programs.

Nebraska has been supportive of the SSIG program and has shown that support in its willingness to overmatch the federal contribution. However, with the decrease in appropriations from $50 million for fiscal year 1997 to $25 million for fiscal year 1998, the state will be able to assist approximately 500 fewer students. Seventy-one percent of Nebraska students who received an SSIG had a family income of $20,000 or less.

By lending further support to the SSIG program we can ensure that these 500 students and thousands of students across the nation do not fall between the cracks.

Mr. President, I am cosponsoring this bill today because it represents a good bipartisan effort to increase educational opportunities for those in greatest need of financial assistance. I look forward to moving it through Congress.

By Mr. ABRAHAM (for himself, Mr. LOTT, Mr. DEWINE, Mr. INHOFE, Mr. NICKLES, Mr. COVERDELL, Mr. HELMS, Mr. COATS, Mr. SESSIONS, Mr. ENZI, Mr. CRAIG, Mr. KYL, Mr. HATCH, Mr. FAIRCLOTH, Mr. BROWNBACK, Mr. SANTORUM, Mr. MCCONNELL, Mr. HUTCHINSON, Mr. BOND, and Mr. GRASSLEY):

S. 1645. A bill to amend title 18, United States Code, to prohibit taking minors across State lines to avoid laws requiring the involvement of parents in abortion decisions; to the Committee on the Judiciary.

THE CHILD CUSTODY PROTECTION ACT OF 1998

Mr. ABRAHAM, Mr. President. I rise today to introduce legislation protecting the most important relationship of all: that of parents and their children. All of us know that the family is the fundamental, crucial and indispensable basis of our civilization. Without strong families our children will grow up without role models, without a sound knowledge of how they ought to behave and for what they ought to strive. As a consequence, the data shows quite clearly that children deprived of strong family lives are more likely to suffer from depression, substance abuse, crime, violence, poverty and even suicide.

Yet, when it comes to one of the most important decisions in life, Mr. President, children are being kept from the guidance of their parents. I am talking, of course, about the decision whether or not to have an abortion. The American people recognize how crucial it is for minor children to involve their parents in this life-changing decision. 74 percent of Americans in a 1996 Gallup poll favored requiring minors to get parental consent for an abortion. People quite reasonably believe that parents should be involved in deciding whether their daughter should undergo an abortion. As the Supreme Court noted in *H.L.* v. *Matheson,* ''the medical, emotional, and psychological consequences of an abortion are serious and can be lasting; this is particularly so when the patient is immature.''

Convinced of the soundness of this reasoning, at least 22 states have enacted laws requiring consent of or notification to at least one parent, or authorization by a judge, before a minor can obtain an abortion. Unfortunately, this wise policy is being undermined.

Thousands of children every year are taken across state lines by people other than their parents to secure secret abortions. As we speak, Mr. President, abortion providers are taking out large advertisements in the Yellow Pages in cities like Harrisburg and Scranton, Pennsylvania, trumpeting the fact that their clinics, across the Pennsylvania state line, do not require parental notification as Pennsylvania

does. In essence, these abortion providers are encouraging people to circumvent Pennsylvania's parental notification law by crossing the border into New Jersey, New York or Maryland for a secret abortion.

And thousands of times every year this suggestion is taken up by non-related adults who want to circumvent the law. One example of this conduct made headlines recently. The case involved an 18 year old Pennsylvania man who got his 12 year old neighbor pregnant. Pennsylvania law requires parental consent prior to an abortion on a minor. To circumvent this law, Rosa Hartford, mother of the 18 year old, secretly took the girl to an abortion clinic in New York, a state with no parental notification requirement. Her actions discovered, Mrs. Hartford, whose son pled guilty to two counts of statutory rape, was convicted of interfering with the custody of a child.

The Center for Reproductive Law and Policy (CLRP), a prominent proabortion legal defense organization, appealed Mrs. Hartford's conviction on the grounds that she merely ''assisted a woman to exercise her constitutional rights'' and as such was herself protected from prosecution by the Constitution.

Mr. President, this reasoning cannot stand. To say that, because the court in *Roe* v. *Wade* declared most abortions constitutionally protected during the first trimester, that therefore minors have an absolute right to abortion without so much as notifying their parents, and that third parties—whatever their motives—have the right to secretly transport them across state lines for a secret abortion, is to stand constitutional protections on their head. It is to strip children to the natural protection of their parents.

For the sake of our children and our families, this must stop. We must uphold the law and uphold the family tie. That is why I am introducing the Child Custody Protection Act. This legislation is simple and straightforward. It will make it a federal offense to transport a minor across state lines with intent to avoid the application of a state law requiring parental involvement in a minor's abortion, or judicial waiver of such a requirement.

Children must receive parental consent for even minor surgical procedures, Mr. President. The profound, lasting physical and psychological effects of abortion demand that we help states guarantee parental involvement in the abortion decision. That means, at a minimum, seeing to it that outside parties cannot circumvent state parental notification and consent laws with impunity.

America is in the midst of a profound debate over the nature and status of abortion. But, even as many of us disagree over a number of crucial issues, we all should be able to agree that duly enacted laws must be upheld. Those who would undermine these laws in the name of unfettered abortion on demand damage the rule of law by subverting legitimate statutes. They also undercut our Constitutional liberties by stretching them beyond all rational bounds and using them to sap parental rights and family ties.

We can no more afford to allow state laws to be flouted than we can afford to allow family ties to be further undermined. For the sake of our families and our rule of law, I urge my colleagues to defend both by supporting the Child Custody Protection Act.

Mr. DEWINE. Mr. President, today I rise as a cosponsor of the Child Custody Protection Act sponsored by my colleague, Senator SPENCER ABRAHAM, to whom I am grateful for introducing this important legislation. The purpose of this legislation is to make it a crime to transport a child across state lines if this circumvents state law requiring parental involvement or a judicial waiver for a minor to obtain an abortion.

In a well-publicized case in Pennsylvania, a 12-year-old girl became pregnant after a sexual relationship with an 18-year-old man. As parental consent is required under Pennsylvania law before a minor can receive an abortion, the man's mother took the pregnant girl to New York for an abortion, where there is no such parental involvement law. The baby was aborted. The girl's mother did not consent to her daughter having an abortion; in fact, she did not even know her daughter was pregnant. Unfortunately, parents and guardians have no clear recourse when another adult circumvents the law of the state where the parent and child live by transporting a child to another state.

Twenty-two states have laws that require either notification or consent of a parent before a minor child receives an abortion. Currently, in my State of Ohio, a parent or guardian must be notified before a child receives an abortion. However, the State Legislature has recently passed a law requiring both parental consent and a face-to-face meeting with the doctor performing the abortion at least twenty-four hours before the procedure. Clearly, the citizens of Ohio have a compelling interest in making sure that parents are involved in a minor's decision to have an abortion, and that women have a full opportunity to consider the medical implications of their decision to abort an unborn child.

The right of citizens to pass and enforce laws regarding the rights of parents is completely abrogated by the ability of strangers to surreptitiously transport children to another state to obtain a surgical or drug-induced abortion. By introducing this bill, we are sending a clear message that *Roe* v. *Wade* does not confer a ''right'' on strangers to take one's minor daughter across state lines to obtain an abortion when the involvement of a parent or a court is required. In *H.L.* v. *Matheson*, the Supreme Court correctly stated, ''the medical, emotional, and psychological consequences of an abortion are serious and can be lasting; this is particularly so when the patient is immature.''

In my view that strangers should be barred from circumventing the rights of parents to be involved in life and death decisions faced by their children. I believe the vast majority of Americans will never want to relegate the well-being of our children to a situation where life-altering decisions are made without the guidance and support of caring parents.

By Mr. LAUTENBERG (for himself, Mr. TORRICELLI, and Mr. BUMPERS):

S. 1646. A bill to repeal a provision of law preventing donation by the Secretary of the Navy of the two remaining *Iowa*-class battleships listed on the Naval Vessel Register and related requirements; to the Committee on Armed Services.

THE HISTORIC BATTLESHIP PRESERVATION ACT

Mr. LAUTENBERG. Mr. President, I rise to introduce legislation to repeal a 1996 law that requires the Navy to maintain two antiquated battleships in its reserves, even though they will never again see even one more day of battle. This provision requires the Navy to maintain two *Iowa*-class battleships as mobilization assets, even though the Navy will never again rely on them to protect American interests.

The *Iowa*-class battleships were commissioned during World War II. They were built at the request of President Franklin Roosevelt to be the American Navy's fastest battleship, and their 16-inch guns were designed to pummel our adversaries' shores. There is no doubt that these battleships are of significant historical importance to the American military heritage. They represent America's pride in its Navy. They symbolize our admiration for those who worked so hard to build and serve aboard our battleships.

In 1995, the Navy determined that all four of the World War II era *Iowa*-class battleships in its arsenal—the USS *Iowa*, USS *New Jersey*, USS *Missouri*, and USS *Wisconsin*—were no longer essential to our national defense. Subsequently, the Navy struck these four ships from the Naval Vessel Register. The laws governing the disposal of ships stricken from the Register allow the Navy to donate these ships to states, local communities, and nonprofits for display as memorials and museums. Thus, in 1995, the Navy was set to begin the process of donating all four ships.

But the Senate Armed Services Committee disagreed with the Navy's decision to release these ships, the Committee included a provision in the fiscal year 1996 Defense Authorization Act mandating that the Navy maintain at least two of the *Iowa*-class battleships on the Naval Vessel Register. The Navy subsequently chose the USS *New Jersey* and the USS *Wisconsin* to comply

with this provision. The bill I am introducing today would repeal this requirement, enabling the Navy to once again strike these ships from the Register and make them available for donation to interested communities.

Mr. President, I hope the members of this distinguished body will approve my proposal to repeal this law. It makes sense from a national defense perspective. Navy Secretary Dalton has said that the Navy has no plans to reactivate these ships. In a recent letter to the Appropriations Committee, he wrote, ''the Navy does not intend to return the ships to service. . .'' They will never again fire their 16-inch guns to support an amphibious landing or operation ashore. They will never again serve as a platform for surface fire-support. Instead, they will only continue to sit, mothballed at Naval ports, awaiting a call to duty that they will never hear.

This bill also makes sense from a fiscal perspective. According to Navy estimates, the cost of maintaining these ships is approximately $200,000 per ship per year. To date, the Navy has already spent close to $1 million to mothball ships that will never again be reactivated for purposes of national defense. I see no sense in the federal government's paying for the Navy to keep ships ready for a war in which it will never call them to serve. The American taxpayer deserves a better deal.

Although these ships have been deactivated for good, they can still continue to be of immense public benefit. On the eve of the twenty-first century, many of our nation's waterfront cities are struggling to resurrect their economies. The federal government spends millions each year on projects to help revitalize blighted waterfront communities. Since the laws governing the disposal of former Navy assets allow their donation, we are presented with a unique opportunity to contribute to the economic development of our cities—at no further cost to the federal government. Many of our communities want to compete to berth a ship on their shores, as a museum and memorial, to anchor a waterfront development project. But the 1996 law is depriving these communities of a chance to undergo major revitalization efforts.

The citizens of New Jersey recognized the economic development potential of these battleships many years ago. My constituents have been preparing for the return of the USS *New Jersey* as the only *Iowa*-class battleship which may be berthed as an educational museum and memorial in her namesake state. Tens of thousands of volunteers have devoted countless hours to this long-standing, state-wide project. The New Jersey legislature created the Battleship New Jersey Commission, which has undertaken an ambitious fundraising effort to obtain the USS *New Jersey*. To date, the Commission has secured approximately $3 million for this effort through sales of a ''Battleship New Jersey'' license plate, a state income tax check-off, and private donations. But New Jersey's efforts are hamstrung by the 1996 law requiring the Navy to maintain the Iowa-class battleships on the Naval Vessel Register.

Repealing this law will have a threefold public benefit. First and most obvious, we will no longer need to provide funding in our defense budget for ships that will never be reactivated. This alone warrants the support of my proposal. Second, we will contribute to the economic development of our cities at no further cost to the federal government. And third, we will enable generations of Americans to honor the history of our battleships by facilitating their display as memorials and museums.

Forcing the Navy to keep the *Iowa*-class battleships ready for war is the equivalent of forcing NASA to keep the *Apollo* rockets ready to blast off into space. As we all know, the *Apollo* project was undertaken to send Americans to the moon. Will we ever want to send an American to the moon again? Probably—but not in an *Apollo* rocket. Even though advances in technology have rendered the *Apollos* relics of the American determination to succeed, their preservation at locations throughout the country allows the public to admire and appreciate their legacy. And NASA doesn't have to keep paying for them.

Mr. President, I look forward to working with the members of the Armed Services Committee to pass this bill. It is good for the American taxpayers and our national defense, and I hope my colleagues will join me in this effort.

Mr. President, I ask unanimous consent that the text of this bill be placed in the RECORD.

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

S. 1646

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 ''Historic Battleship Preservation Act''.

SEC. 2. REPEAL OF REQUIREMENT FOR CONTINUED LISTING OF TWO IOWA-CLASS BATTLESHIPS ON THE NAVAL VESSEL REGISTER.

Section 1011 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 421) is repealed.

Mr. TORRICELLI. Mr. President, I rise today with Senator LAUTENBERG in introducing legislation that will make the dream of bringing the battleship U.S.S. *New Jersey* home to New Jersey a reality. I want to thank Senator LAUTENBERG for his hard work and commitment to this issue, and look forward to working with him to ensure that this symbol of freedom returns to her namesake-state in the near future.

The U.S.S. *New Jersey* is one of the most notable battleships in the Navy's history. She has been protecting and defending democracy since World War II in almost every region of the world. Launched on December 7, 1942, one year after the infamous attack on Pearl Harbor, the ship proceeded to the Pacific where she was involved in many historic campaigns, including the battles for the Marshalls, Marianas, Philippines, Iwo Jimo and Okinawa. A particular highlight of the *New Jersey*'s career was service as flagship for Commander Third Fleet, Admiral ''Bull'' Halsey, during the Battle of Leyte Gulf in October 1944.

Once the Japanese surrendered in 1945, the New Jersey settled into a peacetime routine, and was decommissioned in 1948. The ship was recommissioned in 1950 for the Korean war, in 1968 for Vietnam, and again in 1982 when former President Reagan ordered the re-activation of all four *Iowa*-class battleships as part of a massive naval buildup. In February 1991, because of end to the Cold War, another victory which she helped to secure, the *New Jersey* was decommissioned for a final time and is now in Bremerton, Washington.

Following the removal of the U.S.S. *New Jersey* from the Naval Vessel Register, the New Jersey legislature created the Battleship New Jersey Commission, which applied for donation of the ship to the State of New Jersey. The Commission, and tens of thousands of volunteers, have undertaken a massive fundraising effort to pay for the costs of transporting the U.S.S. *New Jersey* home, and have already secured approximately $3 million for this effort. Together with the people of our state, the Commission has been actively preparing for the return of the U.S.S. *New Jersey* as the only *Iowa*-class battleship which may be berthed as an educational museum and memorial in her namesake state.

None of this hard work and sacrifice will make a difference though, without the repeal of Section 1011 of the fiscal year 1996 Defense Authorization Act, which requires the Navy to maintain at least two of the *Iowa*-class battleships that have been stricken from the Naval Vessel Register. This provision was included to ensure that the Navy would have the necessary firepower to support Marine Corps' amphibious assaults and operations ashore. In accordance with this requirement, the Navy is currently maintaining the U.S.S. *New Jersey* and the U.S.S. *Wisconsin* and neither ship is available for distribution to the states.

However, the Navy does not want nor do they need these ships. It is my understanding that the Navy can effectively support the Marines through the use of other platforms, and does not require the U.S.S. *New Jersey* for this important task. Secretary Dalton has said that the Navy has no plans to reactivate these proud ships, and is forced to spend $200,000 per ship, per year to mothball ships that will never again be reactivated for the purposes of national defense.

Senator LAUTENBERG and I have also sent letters to Secretary Dalton and

the Senate Armed Services Committee regarding this matter, but have decided that the most effective way to proceed is with a legislative remedy. Our bill would eliminate Section 1011, and remove one of the last obstacles preventing the U.S.S. *New Jersey* from making the long journey home to our state.

During *New Jersey's* final decommissioning ceremony, her last commanding officer, Captain Robert C. Peniston remarked, ''Rest well, yet sleep lightly; and hear the call if again sounded, to provide firepower for freedom.'' It is only just that the U.S.S. *New Jersey* rest well in the welcome waters off the coast of her namesake state, and enjoy the company of the people that she fought so hard to protect throughout her time in the active duty fleet.

America is profoundly thankful for the service of the U.S.S. *New Jersey* and the patriotism of the courageous men and women who served aboard her. For the reasons I stand today to recognize the Battleship New Jersey Commission, and the generations of Americans who went to war with the U.S.S. *New Jersey*. I am proud to offer this legislation with Senator LAUTENBERG.

By Mr. BAUCUS (for himself, Ms. SNOWE, Mr. LIEBERMAN, Mr. KEMPTHORNE, Mr. DASCHLE, Mr. DODD, Mr. DURBIN, Mr. LAUTENBERG, Ms. COLLINS, Mr. JOHNSON, and Mr. KENNEDY) (by request):

S. 1647. A bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965; to the Committee on Environment and Public Works.

THE ECONOMIC DEVELOPMENT PARTNERSHIP ACT OF 1998

Mr. BAUCUS. Mr. President, I rise today to introduce a bill to reauthorize programs within the Economic Development Administration. It is with great pleasure that I am joined by my colleagues, Senators SNOWE, LIEBERMAN, KEMPTHORNE, DASCHLE, DODD, DURBIN, LAUTENBERG, COLLINS, JOHNSON, and KENNEDY.

Mr. President, programs under the jurisdiction of the Economic Development Administration have not been reauthorized for almost two decades. Despite the uncertainty and instability this has created, EDA has become the cornerstone for efforts to strengthen and diversify the economies of our nation's communities.

Since its inception in 1965, the EDA has established an impressive track record of helping communities help themselves. These ''bootstrap'' efforts have allowed communities to meet economic challenges in a variety of ways—making public works improvements to attract new businesses and providing technical assistance and planning grants that allow a community to plan for their future for example.

In my home state of Montana, EDA has been a powerful force in responding to the changing economic conditions in communities that have relied on one industry—only to see that industry shut down and move away. EDA's planning and public works assistance has allowed these communities to attract new companies, retain companies already in place and diversify their economies.

EDA has also been instrumental in responding to and assisting areas affected by natural disasters. In Florida and Louisiana, EDA was there to help businesses affected by the devastation of Hurricane Andrew. And EDA is still working with those areas of the Midwest devastated by the disastrous floods of 1993 and those areas recently impacted by floods in the Pacific Northwest.

The programs within the EDA have become even more critical to Congress' efforts to alleviate and address job losses due to the closure and realignment of military bases around the country.

The EDA's programs are effective tools that are used on the local level—working hand-in-hand with local governments and businesses to develop future economic investment strategies. By acting as a catalyst, economic development funds are used to attract significant private contributions and support.

Despite efforts to dismantle the EDA, the agency has matured in its approach to local economic development efforts. But the lack of authorization has not allowed Congress to make necessary changes to the statute and mission of the EDA. As with any program, there are some areas that are working well and other areas that need to be refined. The lack of authorization has left some aspects of EDA's programs outdated or unnecessary. That is why I am introducing this bill today—a bill to streamline and advance EDA's successful programs.

Mr. President, our country is faced with many challenges. Many of our communities are in economic transition and need to strengthen the diversity of their economies. We need to reauthorize EDA. It is high time we recognize the important role that EDA plays in the future of this country.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the CONGRESSIONAL RECORD, along with a brief section-by-section.

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

S. 1647

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

SECTION 1. SHORT TITLE; EFFECTIVE DATE.

(a) SHORT TITLE.—This Act may be cited as the ''Economic Development Partnership Act of 1998''.

(b) EFFECTIVE DATE.—Except as otherwise expressly provided, the provisions of this Act and the amendments made by this Act shall take effect as determined by the Secretary of Commerce (hereinafter referred to as the Secretary), but not later than three months after the date of the enactment of this Act.

SEC. 2. REAUTHORIZATION OF PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965.

The Public Works and Economic Development Act of 1965 (42 U.S.C. 3131 *et seq.*) is amended by striking all after the first section and inserting the following:

''SEC. 2. FINDINGS AND DECLARATION.

''(a) FINDINGS.—Congress finds that—

''(1) the maintenance of the national economy at a high level is vital to the best interests of the United States, but that some of our regions, counties, and communities are suffering substantial and persistent unemployment and underemployment that cause hardship to many individuals and their families, and waste invaluable human resources;

''(2) to overcome this problem the Federal Government, in cooperation with the States, should help areas and regions of substantial and persistent unemployment and underemployment to take effective steps in planning and financing their public works and economic development;

''(3) Federal financial assistance, including grants for public works and development facilities to communities, industries, enterprises, and individuals in areas needing development should enable such areas to help themselves achieve lasting improvement and enhance the domestic prosperity by the establishment of stable and diversified local economies, sustainable development, and improved local conditions, if such assistance is preceded by and consistent with sound, long-range economic planning; and

''(4) under the provisions of this Act, new employment opportunities should be created by developing and expanding new and existing public works and other facilities and resources rather than by merely transferring jobs from one area of the United States to another, and by supporting firms and industries which add to the growth of the nation's economy through improved technology, increased exports, and the supply of goods and services to satisfy unmet demand.

''(b) DECLARATION.—Congress declares that, in furtherance of maintaining the national economy at a high level—

''(1) the assistance authorized by this Act should be made available to both rural and urban areas;

''(2) such assistance should be made available for planning for economic development prior to the actual occurrences of economic distress in order to avoid such condition; and

''(3) Such assistance should be used for long-term economic rehabilitation in areas where long-term economic deterioration has occurred or is taking place.

''TITLE I—ECONOMIC DEVELOPMENT PARTNERSHIPS COOPERATION AND COORDINATION

''SEC. 101. ESTABLISHMENT OF ECONOMIC DEVELOPMENT PARTNERSHIPS.

''(a) IN GENERAL.—In providing assistance under this Act, the Secretary shall cooperate with States and other entities to assure that, consistent with national objectives, Federal programs are compatible with and further the objectives of State, regional and local economic development plans and comprehensive economic development strategies.

''(b) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical assistance to States, local governmental subdivisions of States, sub-State regional organizations (including organizations which cross State boundaries, and multi-State regional organizations as the Secretary determines may be necessary or desirable to alleviate economic distress, encourage and support public-private partnerships for the formation and improvement of economic development strategies which promote the growth of the national economy, stimulate modernization

and technological advances in the generation and commercialization of goods and services, and enhance the effectiveness of American firms in the global economy.

''(c) INTERGOVERNMENTAL REVIEW.—The Secretary shall prescribe regulations which will assure that appropriate State and local governmental authorities have been given a reasonable opportunity to review and comment upon proposed projects which the Secretary determines may have a significant direct impact on the economy of the area.

''(d) COOPERATIVE AGREEMENTS.—The Secretary may enter into a cooperative agreement with any two or more adjoining States, or an organization thereof, in support of effective economic development. Each such agreement shall provide for suitable participation by other governmental and nongovernmental parties representative of significant interests in and perspectives on economic development in the area.

''SEC. 102. COOPERATION OF FEDERAL AGENCIES.

''Each Federal department and agency, in accordance with applicable laws and within the limits of available funds, shall exercise its powers, duties and functions, and shall cooperate with the Secretary in such manner as will assist the Secretary in carrying out the objectives of this Act.

''SEC. 103. COORDINATION.

''The Secretary shall actively coordinate with other Federal programs, States, economic development districts, and other appropriate planning and development organizations the activities relating to the requirements for comprehensive economic development strategies and making grants under this Act.

''SEC. 104. NATIONAL ADVISORY COMMITTEE.

''The Secretary may appoint a National Public Advisory Committee on Regional Economic Development which shall consist of twenty-five members and shall be composed of representatives of labor, management, agriculture, State and local governments, Federal agencies, and the public in general. From the members appointed to such Committee the Secretary shall designate a Chairman. Such Committee, or any duly established subcommittee thereof, shall from time to time make recommendations to the Secretary relative to the carrying out of the Secretary's duties under this Act, including the coordination of activities as provided in section 103. Such Committee shall hold not less than two meetings during each calendar year, and shall be governed by the provisions of the Federal Advisory Committee Act.

''TITLE II—GRANTS FOR PUBLIC WORKS AND ECONOMIC DEVELOPMENT

''SEC. 201. PUBLIC WORKS GRANTS.

''(a) Upon the application of any eligible recipient the Secretary may make direct grants for acquisition or development of land improvements for public works, public service, or development facility usage, and the acquisition, design and engineering, construction, rehabilitation, alteration, expansion, or improvement of such facilities, including related machinery and equipment.

''(b) The Secretary may provide assistance under this section only if the Secretary finds that—

''(1) the project for which financial assistance is sought will directly or indirectly—

''(A) tend to improve the opportunities, in the area where such project is or will be located, for the successful establishment or expansion of industrial or commercial plants or facilities;

''(B) otherwise assist in the creation of additional long-term employment opportunities of such area;

''(C) primarily benefit the long-term unemployed and members of low-income families; or

''(D) in the case of projects within areas described in section 302(a)(8), the project will enhance the economic growth potential of the area or result in additional long-term employment opportunities commensurate with the amount of Federal financial assistance requested;

''(2) the project for which a grant is requested will fulfill a pressing need of the area, or part thereof, in which it is, or will be, located; and

''(3) the area for which a project is to be undertaken has a satisfactory comprehensive economic development strategy as provided by section 303 and such project is consistent with such strategy.

''(c) In the case of an area described in section 302(a)(4), the Secretary may provide assistance only if the Secretary finds that the project to be undertaken will provide immediate useful work to unemployed and underemployed persons in that area.

''(d) Not more than 15 per centum of the appropriations made pursuant to this section may be expended in any one State.

''SEC. 202. CONSTRUCTION COST INCREASES.

''In any case where a grant (including a supplemental grant) has been made by the Secretary under this title or made, before the effective date of the Economic Development Partnership Act of 1998, under title I of this act, as in effect before such effective date, for a construction project and after such grant has been made but before completion of the project, the cost of such project based upon the designs and specifications which were the basis of the grant has been increased because of increases in costs, the amount of such grant may be increased by an amount equal to the percentage increase, as determined by the Secretary, in such costs, but in no event shall the percentage of the Federal share of such project exceed that originally provided for in such grant.

''SEC. 203. PLANNING AND ADMINISTRATIVE EXPENSES.

''(a) Upon the application of any eligible recipient the Secretary may make direct grants for economic development planning and the administrative expenses of organizations undertaking such planning.

''(b) The planning for cities, other political subdivisions, Indian tribes, and sub-State planning and development organizations (including areas described in section 302(a) and economic development districts) assisted under this title shall include systematic efforts to reduce unemployment and increase incomes.

''(c) The planning shall be a continuous process involving public officials and private citizens in analyzing local economies, defining development goals, determining project opportunities and formulating and implementing a development program.

''(d) The planning assistance authorized under this title shall be used in conjunction with any other available Federal planning assistance to assure adequate and effective planning and economical use of funds.

''(e) Any State plan prepared with assistance under this section shall be prepared cooperatively by the State, its political subdivisions, and the economic development districts located in whole or in part within such State, as a comprehensive economic development strategy. Upon completion of any such plan, the State shall (1) certify to the Secretary that in the preparation of the State plan, the local and economic development district plans were considered and, to the fullest extent possible, the State plan is consistent with the local and economic development district plans, and (2) identify any inconsistencies between the State plan and the local and economic development district plans, with the justification for each inconsistency. Any overall State economic development planning shall be a part of a comprehensive planning process that shall consider the provisions of public works to stimulate and channel development, economic opportunities and choices for individuals, to support sound land use, to foster effective transportation access, to promote sustainable development, to enhance and protect the environment including the conservation and preservation of open spaces and environmental quality, to provide public services, and to balance physical and human resources through the management and control of physical development. Each State receiving assistance for the preparation of a plan according to the provisions of this subsection shall submit to the Secretary an annual report on the planning process assisted under this subsection.

''SEC. 204. COST SHARING.

''Subject to section 205, the amount of any direct grant under this title for any project shall not exceed 50 percent of the cost of such project. In determining the amount of the non-Federal share of costs or expenses, the Secretary shall give due consideration to all contributions both in cash and in kind, fairly evaluated, including contributions of space, equipment, and services.

''SEC. 205. SUPPLEMENTARY GRANTS.

''(a) IN GENERAL.—Upon the application of any eligible recipient, the Secretary may make a supplementary grant for a project for which the applicant is eligible but, because of its economic situation, for which it cannot supply the required matching share. Included therein may be supplementary grants made to enable the States and other entities within areas described in section 302(a) to take maximum advantage of designated Federal grant-in-aid programs (as defined in subsection (b)(4) of this section), direct grants-in-aid authorized under this title, and Federal grant-in-aid programs authorized by the Watershed Protection and Flood Prevention Act (68 Stat. 666), and the 11 watersheds authorized by the Flood Control Act of December 22, 1944 (58 Stat. 887).

''(b) REQUIREMENTS APPLICABLE TO SUPPLEMENTARY GRANTS.—

''(1) AMOUNT OF SUPPLEMENTARY GRANTS.—The amount of any supplementary grant under this title for any project shall not exceed the applicable percentage established by regulations promulgated by the Secretary, but in no event shall the non-Federal share of the aggregate cost of any such project (including assumptions of debt) be less than 20 percent of such cost, except as provided in subsection (b)(6).

''(2) FORM OF SUPPLEMENTARY GRANTS.—Supplementary grants shall be made by the Secretary, in accordance with such regulations as the Secretary may prescribe, by increasing the amounts of direct grants authorized under this title or by the payment of funds appropriated under this act to the heads of the departments, agencies, and instrumentalities of the Federal Government responsible for the administration of the applicable Federal programs.

''(3) FEDERAL SHARE LIMITATIONS SPECIFIED IN OTHER LAWS.—Notwithstanding any requirement as to the amount or sources of non-Federal funds that may otherwise be applicable to the Federal program involved, funds provided under this subsection may be used for the purpose of increasing the Federal contribution to specific projects in areas described in section 302(a) under such programs above the fixed maximum portion of the cost of such project otherwise authorized by the applicable law.

''(4) DESIGNATED FEDERAL GRANT-IN-AID PROGRAMS DEFINED.—In this section, the term 'designated Federal grant-in-aid programs' means such existing or future Federal grant-in-aid programs assisting in the construction or equipping of facilities as the Secretary may, in furtherance of the purposes of this Act, designate as eligible for allocation of funds under this section.

''(5) CONSIDERATION OF RELATIVE NEED IN DETERMINING AMOUNT.—In determining the amount of any supplementary grant available to any project under this title, the Secretary shall take into consideration the relative needs of the area and the nature of the project to be assisted.

''(6) EXCEPTIONS.—In the case of a grant to an Indian tribe, the Secretary may reduce the non-Federal share below the percentage specified in subsection (b)(1) or may waive the non-Federal share. In the case of a grant to a State or a political subdivision of a State which the Secretary determines has exhausted its effective taxing and borrowing capacity, or of a grant to a nonprofit organization which the Secretary determines has exhausted its effective borrowing capacity, the Secretary may reduce the non-Federal share below the percentage specified in subsection (b)(1) or may waive the non-Federal share for (i) a project in an area described in section 302(a)(4), or (ii) a project the nature of which the Secretary determines warrants the reduction or waiver of the non-Federal share.

''SEC. 206. REGULATIONS TO ASSURE RELATIVE NEEDS ARE MET.

''The Secretary shall prescribe rules, regulations, and procedures to carry out this title which will assure that adequate consideration is given to the relative needs of eligible areas. In prescribing such rules, regulations, and procedures for assistance under section 201 the Secretary shall consider among other relevant factors—

''(1) the severity of the rates of unemployment in the eligible areas and the duration of such unemployment;

''(2) the income levels of families and the extent of underemployment in eligible areas; and

''(3) the out-migration of population for eligible areas.

''SEC. 207. TRAINING, RESEARCH, & TECHNICAL ASSISTANCE.

''(a) Upon the application of any eligible recipient the Secretary may make direct grants for training, research, and technical assistance, including grants for program evaluation and economic impact analyses, which would be useful in alleviating or preventing conditions of excessive unemployment or underemployment. Such assistance may include project planning and feasibility studies, demonstrations of innovative activities or strategic economic development investments, management and operational assistance, establishment of university centers, establishment of business outreach centers, and studies evaluating the needs of, and development potentialities for, economic growth of areas which the Secretary finds have substantial need for such assistance. The Secretary may waive the non-Federal share in the case of a project under this section, without regard to the provisions of section 204 or 205.

''(b) In carrying out the Secretary's duties under this Act, the Secretary may provide research and technical assistance through members of the Secretary's staff; the payment of funds authorized for this section to departments or agencies of the Federal Government; the employment of private individuals, partnerships, firms, corporations, or suitable institutions under contracts entered into for such purposes; or the award of grants under this title.

''SEC. 208. RELOCATION OF INDIVIDUALS AND BUSINESSES.

''Grants to eligible recipients shall include such amounts as may be required to provide relocation assistance to affected persons, as required by the Uniform Relocation Assistance and Real Property Acquisition Act 1970, as amended.

''SEC. 209. ECONOMIC ADJUSTMENT.

''(a) Upon the application of any eligible recipient the Secretary may make direct grants for public facilities, public services, business development (including a revolving loan fund), planning, technical assistance, training, and other assistance which demonstrably furthers the economic adjustment objectives of this Act, including activities to alleviate long-term economic deterioration, and sudden and severe economic dislocations.

''(b) The Secretary may provide assistance under this section only if the Secretary finds that—

''(1) the project will help the area meet a special need arising from—

''(A) actual or threatened severe unemployment arising from economic dislocation, including unemployment arising from actions of the Federal Government or from compliance with environmental requirements which remove economic activities from a locality; or

''(B) economic adjustment problems resulting from severe changes in economic conditions (including long-term economic deterioration); and

''(2) the area for which a project is to be undertaken has a satisfactory comprehensive economic development strategy as provided by section 303 and such project is consistent with such strategy. This subsection (b)(2) shall not apply to planning projects.

''(c) Assistance under this section shall extend to activities identified by communities impacted by military base closures, defense contractor cutbacks, and Department of Energy reductions, to help the communities diversify their economies. Nothing in this section is intended to replace the efforts of the economic adjustment program of the Department of Defense.

''(d) Assistance under this section shall extend to post-disaster activities in areas affected by natural and other disasters.

''SEC. 210. DIRECT EXPENDITURE OR REDISTRIBUTION BY RECIPIENT.

''Amounts from grants under section 209 of this title may be used in direct expenditures by the eligible recipient or through redistribution by the eligible recipient to public and private entities in grants, loans, loan guarantees, payments to reduce interest on loan guarantees, or other appropriate assistance, but no grant shall be made by an eligible recipient to a private profit-making entity.

''SEC. 211. CHANGED PROJECT CIRCUMSTANCES.

''In any case where a grant (including a supplemental grant) has been made by the Secretary under this title (or made under this Act, as in effect on the day before the effective date of the Economic Development Partnership Act of 1998) for a project, and after such grant has been made but before completion of the project, the purpose or scope of such project which were the basis of the grant has changed, the Secretary may approve the use of grant funds on such changed project if the Secretary determines that such changed project meets the requirements of this title and that such changes are necessary to enhance economic development in the area.

''SEC. 212. USE OF FUNDS IN PROJECTS CONSTRUCTED UNDER PROJECTED COST.

''In any case where a grant (including a supplemental grant) has been made by the Secretary under this title (or made under this Act, as in effect on the day before the effective date of the Economic Development Partnership Act of 1998) for a construction project, and after such grant has been made but before completion of the project, the cost of such project based upon the designs and specifications which was the basis of the grant has decreased because of decreases in costs, such underrun funds may be used to improve the project either directly or indirectly as determined by the Secretary.

''SEC. 213. BASE CLOSINGS AND REALIGNMENTS.

''(a) LOCATION OF PROJECTS.—In any case in which the Secretary determines a need for assistance under this title due to the closure or realignment of a military or Department of Energy installation, the Secretary may make such assistance available for projects to be carried out on the installation and for projects to be carried out in communities adversely affected by the closure or realignment.

''(b) INTEREST IN PROPERTY.—Notwithstanding any other provision of law, the Secretary may provide to an eligible recipient any assistance available under this Act for a project to be carried out on a military or Department of Energy installation that is closed or scheduled for closure or realignment without requiring that the eligible recipient have title to the property or a leasehold interest in the property for any specified term.

''SEC. 214. PREVENTION OF UNFAIR COMPETITION.

''No financial assistance under this Act shall be extended to any project when the result would be to increase the production of goods, materials, or commodities, or the availability of services or facilities, when there is not sufficient demand for such goods, materials, commodities, services, or facilities, to employ the efficient capacity of existing competitive commercial or industrial enterprises.

''SEC. 215. REPORTS BY RECIPIENT.

''Reports to the Secretary shall be required of recipients of assistance under this Act. Such reports shall be at such intervals and in such manner as the Secretary shall prescribe by regulation, not to exceed ten years from the time of closeout of the assistance award, and shall contain an evaluation of the effectiveness of the economic assistance provided under this Act in meeting the need it was designed to alleviate and the purposes of this Act.

''TITLE III—DEFINITIONS, ELIGIBILITY AND COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES

''SEC. 301. DEFINITIONS.

''In this Act, unless the context otherwise requires, the following definitions apply:

''(a) ECONOMIC DEVELOPMENT DISTRICT.—The term 'economic development district' refers to any area within the United States composed of cooperating areas described in section 302(a) and, where appropriate, designated economic development centers and neighboring counties or communities, which has been designated by the Secretary as an economic development district. Such term includes any economic development district designated by the Secretary under section 403 of this Act, as in effect on the day before the effective date of the Economic Development Partnership Act of 1998.

''(b) ECONOMIC DEVELOPMENT CENTER.—The term 'economic development center' refers to any area within the United States which has been identified as an economic development center in an approved comprehensive economic development strategy and which has been designated by the Secretary as eligible for financial assistance under this Act

in accordance with the provisions of this section.

''(c) ELIGIBLE RECIPIENT.—The term 'eligible recipient' means an area described in section 302(a), an economic development district designated under section 401, an Indian tribe, a State, a city or other political subdivision of a State or a consortium of such political subdivisions, an institution of higher education or a consortium of such institutions, or a public or private nonprofit organization or association acting in cooperation with officials of such political subdivisions. For grants made under section 207, 'eligible recipient' also includes private individuals and for-profit organizations.

''(d) GRANT.—The term 'grant' includes cooperative agreement, as that term is used in the Federal Grant and Cooperative Agreement Act of 1977.

''(e) INDIAN TRIBE.—The term 'Indian tribe' means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to 25 U.S.C. section 479a–1.

''(f) STATE.—The terms 'State', 'States', and 'United States' include the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, and the Commonwealth of the Northern Mariana Islands.

"SEC. 302. AREA ELIGIBILITY.

''(a) CERTIFICATION.—In order to be eligible for assistance for activities described under section 201 or 209, an applicant shall certify, as part of an application for such assistance, that the project is located in an area which on the date of submission of such application meets one or more of the following criteria:

''(1) The area has a per capita income of 80 percent or less of the national average.

''(2) The area has an unemployment rate one percent above the national average percentage for the most recent 24-month period for which statistics are available.

''(3) The area has experienced or is about to experience a sudden economic dislocation resulting in job loss that is significant both in terms of the number of jobs eliminated and the effect upon the employment rate of the area.

''(4) The area is one in which the Secretary determines that any activities authorized to be undertaken under section 201 or 209 will provide immediate useful work to unemployed and underemployed persons in that area, and the area is a community or neighborhood (defined without regard to political or other subdivisions or boundaries) which the Secretary determines has one or more of the following conditions:

''(A) A large concentration of low-income persons;

''(B) Areas having substantial out-migration; or

''(C) Substantial unemployment.

''(5) The area has demonstrated long-term economic deterioration.

''(6) The area has an unemployment rate, for the most recent 12 month period for which statistics are available, above a rate established by regulation as an indicator of substantial unemployment during conditions of significantly high national unemployment.

''(7) The area is one which the Secretary has determined has experienced, or may reasonably be foreseen to be about to experience, a special need to meet an expected rise in unemployment, or other economic adjustment problems (including those caused by any action or decision of the Federal Government).

''(8) The area contains a population of 250,000 or less and is identified in a comprehensive economic development strategy as having growth potential and the ability to alleviate distress within an economic development district.

''(9) The area is experiencing severe outmigration.

''(b) DOCUMENTATION.—A certification made under subsection (a) shall be supported by Federal data, when available or, in the absence of recent Federal data, by data available through the State government. Such documentation shall be accepted by the Secretary unless the Secretary determines the documentation to be inaccurate. The most recent statistics available shall be used.

''(c) SPECIAL RULE.—An area which the Secretary determines is eligible for assistance because it meets 1 or more of the criteria of subsection (a)(4)—

''(1) shall not be subject to the requirements of sections 201(b) or 303; and

''(2) shall not be eligible to meet the requirement of section 401(a)(1)(B).

''(d) PRIOR DESIGNATIONS.—Any designation of a redevelopment area made before the effective date of the Economic Development Partnership Act of 1998 shall not be effective after such effective date.

"SEC. 303. COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGY.

''(a) IN GENERAL.—The Secretary may provide assistance under section 201 or 209 (except for section 209 planning) to an applicant for a project only if the applicant submits to the Secretary, as part of an application for such assistance, evidence satisfactory to the Secretary of a comprehensive economic development strategy which—

''(1) identifies the economic development problems to be addressed using such assistance;

''(2) identifies past, present, and projected future economic development investments in the area receiving such assistance and public and private participants and sources of funding for such investments; and

''(3) sets forth a strategy for addressing the economic problems identified pursuant to paragraph (a) and describes how the strategy will solve such problems.

''(b) OTHER PLAN.—The Secretary may accept as a comprehensive economic development strategy a satisfactory plan prepared under another Federally supported program.

"TITLE IV—ECONOMIC DEVELOPMENT DISTRICTS

"SEC. 401. DESIGNATION OF ECONOMIC DEVELOPMENT DISTRICTS AND ECONOMIC DEVELOPMENT CENTERS.

''(a) IN GENERAL.—In order that economic development projects of broader geographic significance may be planned and carried out, the Secretary may—

''(1) designate appropriate 'economic development districts' within the United States with the concurrence of the States in which such districts will be wholly or partially located, if—

''(A) the proposed district is of sufficient size or population, and contains sufficient resources, to foster economic development on a scale involving more than a single area described in section 302(a);

''(B) the proposed district contains at least 1 area described in section 302(a);

''(C) the proposed district contains 1 or more areas described in section 302(a) or economic development centers identified in an approved district comprehensive economic development strategy as having sufficient size and potential to foster the economic growth activities necessary to alleviate the distress of the areas described in section 302(a) within the district; and

''(D) the proposed district has a district comprehensive economic development strategy which includes sustainable development, adequate land use and transportation planning and contains a specific program for district cooperation, self-help, and public investment and is approved by the State or States affected and by the Secretary;

''(2) designate as 'economic development centers', in accordance with such regulations as the Secretary shall prescribe, such areas as the Secretary may deem appropriate, if—

''(A) the proposed center has been identified and included in an approved district comprehensive economic development strategy and recommended by the State or States affected for such special designation;

''(B) the proposed center is geographically and economically so related to the district that its economic growth may reasonably be expected to contribute significantly to the alleviation of distress in the areas described in section 302(a) of the district; and

''(C) the proposed center does not have a population in excess of 250,000 according to the most recent Federal census; and

''(3) provide financial assistance in accordance with the criteria of this Act, except as may be herein otherwise provided, for projects in economic development centers designated under subsection (a)(2), if—

''(A) the project will further the objectives of the comprehensive economic development strategy of the district in which it is to be located;

''(B) the project will enhance the economic growth potential of the district or result in additional long-term employment opportunities commensurate with the amount of Federal financial assistance requested; and

''(C) the amount of Federal financial assistance requested is reasonably related to the size, population, and economic needs of the district.

''(b) AUTHORITIES.—The Secretary may, under regulations prescribed by the Secretary—

''(1) invite the several States to draw up proposed economic development district boundaries and to identify potential economic development centers;

''(2) cooperate with the several States—

''(A) in sponsoring and assisting district economic planning and development groups; and

''(B) in assisting such district groups to formulate district comprehensive economic development strategies; and

''(3) encourage participation by appropriate local governmental authorities in such economic development districts.

"SEC. 402. TERMINATION OR MODIFICATION.

''The Secretary shall by regulation prescribe standards for the termination or modification of economic development districts and economic development centers designated under the authority of section 401.

"SEC. 403. BONUS.

''Subject to the 20 per centum non-Federal share required for any project by subsection 205(b)(1) of this Act, the Secretary is authorized to increase the amount of grant assistance authorized by sections 204 and 205 for projects within designated economic development districts by an amount not to exceed 10 per centum of the aggregate cost of such project, in accordance with such regulations as the Secretary shall prescribe if—

(1) the project applicant is actively participating in the economic development activities of the district; and

(2) the project is consistent with an approved district comprehensive economic development strategy.

''SEC 404. STRATEGY PROVIDED TO APPALACHIAN REGIONAL COMMISSION.

''Each economic development district designated by the Secretary under this title shall provide that a copy of the district comprehensive economic development strategy be furnished to the Appalachian Regional Commission established under the Appalachian Regional Development Act of 1965, if any part of such district is within the Appalachian region.

''SEC. 405. PARTS NOT WITHIN AREAS DESCRIBED IN SECTION 302(a).

''The Secretary is authorized to provide the financial assistance which is available to an area described in section 302(a) under this Act to those parts of an economic development district which are not within an area described in section 302(a), when such assistance will be of a substantial direct benefit to an area described in section 302(a) within such district. Such financial assistance shall be provided in the same manner and to the same extent as is provided in this Act for an area described in section 302(a).

''TITLE V—ADMINISTRATION

''SEC. 501. ASSISTANT SECRETARY FOR ECONOMIC DEVELOPMENT.

''The Secretary will administer this Act with the assistance of an Assistant Secretary of Commerce for Economic Development to be appointed by the President by and with the advice and consent of the Senate. The Assistant Secretary of Commerce for Economic Development will perform such functions as the Secretary may prescribe and will serve as the administrator of the Economic Development Administration within the Department of Commerce.

''SEC. 502. ECONOMIC DEVELOPMENT INFORMATION CLEARINGHOUSE.

''It shall be a duty of the Secretary in administering this Act—

''(a) to serve as a central information clearinghouse on matters relating to economic development, economic, adjustment, disaster recovery, and defense conversion programs and activities of the Federal and State governments, including political subdivisions of the States;

''(b) to help potential and actual applicants for economic development, economic adjustment, disaster recovery, and defense conversion assistance under Federal, State, and local laws in locating and applying for such assistance, including financial and technical assistance; and

''(c) to aid areas described in section 302(a) and other areas by furnishing to interested individuals, communities, industries, and enterprises within such areas any technical information, market research, or other forms of assistance, information, or advice which would be useful in alleviating or preventing conditions of excessive unemployment or underemployment within such areas.

''SEC. 503. CONSULTATION WITH OTHER PERSONS AND AGENCIES.

''(a) CONSULTATION ON PROBLEMS RELATING TO EMPLOYMENT.—The Secretary is authorized from time to time to call together and confer with any persons, including representatives of labor, management, agriculture, and government, who can assist in meeting the problems of area and regional unemployment or underemployment.

''(b) CONSULTATION ON ADMINISTRATION OF ACT.—The Secretary may make provisions for such consultation with interested departments and agencies as the Secretary may deem appropriate in the performance of the functions vested in the Secretary by this Act.

''SEC. 504. ADMINISTRATION, OPERATION, AND MAINTENANCE.

''No Federal assistance shall be approved under this Act unless the Secretary is satisfied that the project for which Federal assistance is granted will be properly and efficiently administered, operated, and maintained.

''SEC. 505. FIRMS DESIRING FEDERAL CONTRACTS.

''The Secretary may furnish the procurement divisions of the various departments, agencies, and other instrumentalities of the Federal Government with a list containing the names and addresses of business firms which are located in areas of high economic distress and which are desirous of obtaining Government contracts for the furnishing of supplies or services, and designating the supplies and services such firms are engaged in providing.

''SEC. 506. AMENDMENT TO TITLE 5, U.S.C.

''Section 5316 of title 5, United States Code, is amended by striking 'Administrator for Economic Development.'

''TITLE VI—MISCELLANEOUS

''SEC. 601. POWERS OF SECRETARY.

''(a) IN GENERAL.—In performing the Secretary's duties under this Act, the Secretary is authorized to—

''(1) adopt, alter, and use a seal, which shall be judicially noticed;

''(2) subject to the civil-service and classification laws, select, employ, appoint, and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act;

''(3) hold such hearings, sit and act at such times and places, and take such testimony, as the Secretary may deem advisable;

''(4) request directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics needed to carry out the purposes of this Act; and each department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized to furnish such information, suggestions, estimates, and statistics directly to the Secretary;

''(5) consistent with the Debt Collection Improvement Act of 1996, under regulations prescribed by the Secretary, assign or sell at public or private sale, or otherwise dispose of for cash or credit, in the Secretary's discretion and upon such terms and conditions and for such consideration as the Secretary determines to be reasonable, any evidence of debt, contract, claim, personal property, or security assigned to or held by the Secretary in connection with assistance extended under the Act, and collect or compromise all obligations assigned to or held by the Secretary in connection with such assistance until such time as such obligations may be referred to the Attorney General for suit or collection;

''(6) deal with, complete, renovate, improve, modernize, insure, rent, or sell for cash or credit, upon such terms and conditions and for such consideration as the Secretary determines to be reasonable, any real or personal property conveyed to or otherwise acquired by the Secretary in connection with assistance extended under this Act;

''(7) consistent with the Debt Collection Improvement Act of 1996, pursue to final collection, by way of compromise or other administrative action, prior to reference to the Attorney General, all claims against third parties assigned to the Secretary in connection with assistance extended under this Act;

''(8) acquire, in any lawful manner, any property (real, personal, or mixed, tangible or intangible), whenever necessary or appropriate in connection with assistance extended under this Act;

''(9) in addition to any powers, functions, privileges, and immunities otherwise vested in the Secretary, take any action, including the procurement of the services of attorneys by contract, determined by the Secretary to be necessary or desirable in making, purchasing, servicing, compromising, modifying, liquidating, or otherwise administratively dealing with assets held in connection with financial assistance extended under this Act;

''(10) employ experts and consultants or organizations as authorized by section 3109 of title 5, United States Code, compensate individuals so employed, including travel time, and allow them, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently, while so employed, except that contracts for such employment may be renewed annually;

''(11) establish performance measures for grants and other assistance provided under this Act, and use such performance measures to evaluate the economic impact of economic development assistance programs; the establishment and use of such performance measures to be provided by the Secretary through members of his staff, through the employment of appropriate parties under contracts entered into for such purposes, or through grants to such parties for such purposes, using any funds made available by appropriations to carry out this Act;

''(12) sue and be sued in any court of record of a State having general jurisdiction or in any United States district court, and jurisdiction is conferred upon such district court to determine such controversies without regard to the amount in controversy; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or the Secretary's property; and

''(13) establish such rules, regulations, and procedures as the Secretary considers appropriate in carrying out the provisions of this Act.

''(b) DEFICIENCY JUDGMENTS.—The authority under subsection (a)(7) to pursue claims shall include the authority to obtain deficiency judgments or otherwise in the case of mortgages assigned to the Secretary.

''(c) INAPPLICABILITY OF CERTAIN OTHER REQUIREMENTS.—Section 3709 of the Revised Statutes of the United States shall not apply to any contract of hazard insurance or to any purchase or contract for services or supplies on account of property obtained by the Secretary as a result of assistance extended under this Act if the premium for the insurance or the amount of the insurance does not exceed $1,000.

''(d) PROPERTY INTERESTS.—The powers of the Secretary, pursuant to this section, in relation to property acquired by the Secretary in connection with assistance extended under this Act, shall extend to property interests of the Secretary in relation to projects approved under the Public Works and Economic Development Act of 1965, title I of the Public Works Employment Act of 1976, title II of the Trade Act of 1974, and the Community Emergency Drought Relief Act of 1977. Property interests in connection with grants may be released, in whole or in part, in the Secretary's discretion, after 20 years from the date of grant disbursement.

''(e) POWERS OF CONVEYANCE AND EXECUTION.—The power to convey and to execute, in the name of the Secretary, deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest therein acquired by the Secretary pursuant to the provisions of this Act may be exercised by the Secretary, or by any officer or agent appointed by the Secretary for such purpose,

without the execution of any express delegation of power or power of attorney.

"SEC. 602. MAINTENANCE OF STANDARDS.

"The Secretary shall continue to implement and enforce the provisions of section 712 of this Act, as in effect on the day before the effective date of the Economic Development Partnership Act of 1998.

"SEC. 603. ANNUAL REPORT TO CONGRESS.

"The Secretary shall transmit a comprehensive and detailed annual report to Congress of the Secretary's activities under this Act for each fiscal year beginning with the fiscal year ending September 30, 1999. Such report shall be printed and shall be transmitted to Congress not later than July 1 of the year following the fiscal year with respect to which such report is made.

"SEC. 604. USE OF OTHER FACILITIES.

"(a) DELEGATION OF FUNCTIONS TO OTHER FEDERAL DEPARTMENTS AND AGENCIES.—The Secretary may delegate to the heads of other departments and agencies of the Federal Government any of the Secretary's functions, powers, and duties under this Act as the Secretary may deem appropriate, and authorize the redelegation of such functions, powers, and duties by the heads of such departments and agencies.

"(b) TRANSFER BETWEEN DEPARTMENTS.—Funds authorized to be appropriated under this Act may be transferred between departments and agencies of the Government, if such funds are used for the purposes for which they are specifically authorized and appropriated.

"(c) FUNDS TRANSFERRED FROM OTHER DEPARTMENTS AND AGENCIES.—In order to carry out the objectives of this Act, the Secretary may accept transfers of funds from other departments and agencies of the Federal Government if the funds are used for the purposes for which (and in accordance with the terms under which) the funds are specifically authorized and appropriated. Such transferred funds shall remain available until expended, and may be transferred to and merged with the appropriations under the heading 'salaries and expenses' by the Secretary to the extent necessary to administer the program.

"SEC. 605. PENALTIES.

"(a) FALSE STATEMENTS; SECURITY OVERVALUATION.—Whoever makes any statement knowing it to be false, or whoever willfully overvalues any security, for the purpose of obtaining for such person or for any applicant any financial assistance under this Act or any extension of such assistance by renewal, deferment or action, or otherwise, or the acceptance, release, or substitution of security for such assistance, or for the purpose of influencing in any way the action of the Secretary or for the purpose of obtaining money, property, or anything of value, under this Act, shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both.

"(b) EMBEZZLEMENT AND FRAUD-RELATED CRIMES.—Whoever, being connected in any capacity with the Secretary in the administration of this Act—

"(1) embezzles, abstracts, purloins, or willfully misapplies any moneys, funds, securities, or other things of value, whether belonging to such person or pledged or otherwise entrusted to such person;

"(2) with intent to defraud the Secretary or any other body politic or corporate, or any individual, or to deceive any officer, auditor, or examiner, makes any false entry in any book, report, or statement of or to the Secretary or without being duly authorized draws any orders or issues, puts forth, or assigns any note, debenture, bond, or other obligation, or draft, bill of exchange, mortgage, judgment, or decree thereof;

"(3) with intent to defraud, participates or shares in or receives directly or indirectly any money, profit, property, or benefit through any transaction, loan, grant, commission, contract, or any other act of the Secretary; or

"(4) gives any unauthorized information concerning any future action or plan of the Secretary which might affect the value of securities, or having such knowledge invests or speculates, directly or indirectly, in the securities or property of any company or corporation receiving loans, grants, or other assistance from the Secretary, shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both.

"SEC. 606. EMPLOYMENT OF EXPEDITERS AND ADMINISTRATIVE EMPLOYEES.

"No financial assistance shall be extended by the Secretary under this Act to any business enterprise unless the owners, partners, or officers of such business enterprise—

"(1) certify to the Secretary the names of any attorneys, agents, and other persons engaged by or on behalf of such business enterprise for the purpose of expediting applications made to the Secretary for assistance of any sort, under this Act, and the fees paid or to be paid to any such person; and

"(2) execute an agreement binding such business enterprise, for a period of 2 years after such assistance is rendered by the Secretary to such business enterprise, to refrain from employing, tendering any office or employment to, or retaining for professional services, any person who, on the date such assistance or any part thereof was rendered, or within the 1-year period ending on such date, shall have served as an officer, attorney, agent, or employee, occupying a position or engaging in activities which the Secretary determines involves discretion with respect to the granting of assistance under this Act.

"SEC. 607. MAINTENANCE OF RECORDS OF APPROVED APPLICATIONS FOR FINANCIAL ASSISTANCE; PUBLIC INSPECTION.

"(a) MAINTENANCE OF RECORD REQUIRED.—The Secretary shall maintain as a permanent part of the records of the Department of Commerce a list of applications approved for financial assistance under this Act, which shall be kept available for public inspection during the regular business hours of the Department of Commerce.

"(b) POSTING TO LIST.—The following information shall be posted in such list as soon as each application is approved:

"(1) The name of the applicant and, in the case of corporate applications, the names of the officers and directors thereof.

"(2) The amount and duration of the financial assistance for which application is made.

"(3) The purposes for which the proceeds of the financial assistance are to be used.

"SEC. 608. RECORDS AND AUDIT.

"(a) RECORDKEEPING AND DISCLOSURE REQUIREMENTS.—Each recipient of assistance under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) ACCESS TO BOOKS FOR EXAMINATION AND AUDIT.—The Secretary, the Inspector General of the Department of Commerce, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this Act.

"SEC. 609. PROHIBITION AGAINST A STATUTORY CONSTRUCTION WHICH MIGHT CAUSE DIMINUTION IN OTHER FEDERAL ASSISTANCE.

"All financial and technical assistance authorized under this Act shall be in addition to any Federal assistance previously authorized, and no provision of this Act shall be construed as authorizing or permitting any reduction or diminution in the proportional amount of Federal assistance which any State or other entity eligible under this Act would otherwise be entitled to receive under the provisions of any other Act.

"SEC. 610. ACCEPTANCE OF APPLICANTS' CERTIFICATIONS.

"The Secretary may accept, when deemed appropriate, the applicants' certifications to meet the requirements of this Act.

"TITLE VII—FUNDING

"SEC. 701. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this Act $397,969,000 for fiscal year 1999 and such sums as may be necessary for each of fiscal years 2000 through 2002, such sums to remain available until expended.

"SEC. 702. DEFENSE CONVERSION ACTIVITIES.

"In addition to the appropriations authorized by section 701, there are authorized to be appropriated to carry out this Act such sums as may be necessary to provide assistance for defense conversion activities. Such funding may include pilot projects for privatization and economic development activities for closed or realigned military or Department of Energy installations. Such sums shall remain available until expended.

"SEC. 703. DISASTER ECONOMIC RECOVERY ACTIVITIES.

In addition to the appropriations authorized by section 701, there are authorized to be appropriated to carry out this Act such sums as may be necessary to provide assistance for disaster economic recovery activities. Such sums shall remain available until expended."

SEC. 3. SAVINGS PROVISIONS.

(a) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—This Act shall not be construed as affecting the validity of any right, duty, or obligation of the United States or any other person arising under or pursuant to any contract, loan, or other instrument or agreement which was in effect on the day before the effective date of this Act.

(b) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against any officer or employee of the Economic Development Administration shall abate by reason of the enactment of this Act.

(c) LIQUIDATING ACCOUNT.—The Economic Development Revolving Fund hitherto established under section 203 of the Public Works and Economic Development Act of 1965 shall continue to be available to the Secretary as a liquidating account as defined under section 502 of the Federal Credit Reform Act of 1990 for payment of obligations and expenses in connection with financial assistance extended under this Act, said Act of 1965, the Area Redevelopment Act, and the Trade Act of 1974.

(d) ADMINISTRATION.—The Secretary shall take such actions as authorized before the effective date of this Act as necessary or appropriate to administer and liquidate existing grants, contracts, agreements, loans, obligations, debentures, or guarantees heretofore made by the Secretary or the Secretary's delegatee pursuant to provisions in effect immediately prior to the effective date of this Act.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title; effective date

Act may be cited as the ''Economic Development Partnership Act of 1997'', with an effective date not later than three months after enactment.

Section 2. Reauthorization of Public Works and Economic Development Act of 1965

Reenacts the Public Works and Economic Development Act of 1965 (PWEDA), replacing everything after section 1 of that act with Findings and the following seven titles:

Sec. 2. Findings and declaration

Includes Congressional findings and declaration of the need for Federal assistance to distressed areas, as in PWEDA.

TITLE I—ECONOMIC DEVELOPMENT PARTNERSHIPS COOPERATION AND COORDINATION

Sec. 101. Establishment of economic development partnerships

Directs cooperation with States and other entities, including cooperative agreements with adjoining states; technical assistance as appropriate; and intergovernmental review of project proposals.

Sec. 102. Cooperation of Federal agencies

Directs other Federal department and agency to cooperate with the Secretary in carrying out the objectives of this Act, as in PWEDA.

Sec. 103. Coordination

Directs the Secretary to coordinate the activities under this Act with other Federal programs, States, economic development districts, and others, as in PWEDA.

Sec. 104. National Advisory Committee

The Secretary may appoint a broad-based 25–member National Public Advisory Committee on Regional Economic Development to make recommendations to the Secretary relative to carrying out the Secretary's duties under this Act, as in PWEDA.

TITLE II—GRANTS FOR PUBLIC WORKS AND ECONOMIC DEVELOPMENT

Sec. 201. Public works grants

Provides authority to make grants for regular infrastructure projects similar to those under PWEDA, and adds authority to make grants for design and engineering projects.

Sec. 202. Construction cost increases

Provides for increases in grant funding due to construction cost increases, using essentially the same language as in Title I of PWEDA.

Sec. 203. Planning and administrative expenses

Provides for grant assistance to political entities and planning organizations using essentially the same language as in Title III of PWEDA.

Sec. 204. Cost sharing

Establishes a 50 percent direct grant rate for projects under this title and requirements for the non-Federal share, as in PWEDA.

Sec. 205. Supplementary grants

Provides authority to supplement grants from designated Federal grant-in-aid programs as well as authority to supplement the 50 percent direct grant rate for eligible projects under this Act of 1997. Similarly to PWEDA, grant rate may be increased to 80 percent according to distress criteria, and 100 percent in extraordinary situations.

Sec. 206. Regulations to assure relative needs are met

Directs the Secretary to prescribe rules, regulations, and procedures to carry out this title which will assure that for assistance under section 201 adequate consideration is given to the relative needs of eligible areas, as in PWEDA. Relevant factors are to include severity of unemployment and underemployment, income levels, and outmigration of population.

Sec. 207. Training, research and technical assistance

Provides authority to make direct grants for training, research and technical assistance, including program evaluation and economic impact analyses, as well as authority to conduct research and technical assistance through staff, through other Federal departments or agencies, or through contracts or grants. Authority is similar to PWEDA's.

Sec. 208. Relocation of individuals and businesses

States that grants to eligible recipients must include relocation assistance to affected persons, as required by the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended.

Sec. 209. Economic adjustment

Provides authority, as in PWEDA, to make direct grants for public facilities, public services, business development (including a revolving loan fund), planning, technical assistance, and training, including activities to alleviate long-term economic deterioration, and sudden and severe economic dislocations.

Sec. 210. Direct expenditure or redistribution by recipient

Provides, as in PWEDA, that amounts from grants under section 209 of this title may be used in direct expenditures or through redistribution to public and private entities in grants, loans, loan guarantees, to reduce loan guarantee interest, or other appropriate assistance, but no grant shall be made by a recipient to a private profit-making entity.

Sec. 211. Changed project circumstances

Provides authority to approve changes in project scope.

Sec. 212. Use of funds in projects constructed under projected cost

Provides that funds available because of construction projects completed under cost may be used to further improve the project, as determined by the Secretary.

Sec. 213. Base closings and realignments

Provides authority for assistance under this title due to the closure or realignment of a military or Department of Energy installation for projects to be carried out on such installation or in communities adversely affected by the closure or realignment.

Sec. 214. Prevention of unfair competition

Prohibits use of funds under this Act for any project resulting in excess capacity using the same language in section 702 of PWEDA.

Sec. 215. Reports by recipient

Requires reports from recipients of assistance containing an evaluation of the effectiveness of the economic assistance provided under this Act.

TITLE III—DEFINITIONS, ELIGIBILITY AND COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES

Sec. 301. Definitions

Defines eligible recipient as an area described in Section 302(a), an economic development district designated under section 401, an Indian tribe, a State, a city or other political subdivision (subdivision) of a State or a consortium of such subdivisions, an institution of higher education or a consortium of such institutions, or a public or private nonprofit organization or association acting in cooperation with officials of such subdivisions, and includes private individuals and for-profit organizations for grants under section 207. The terms economic development district, economic development center, grant, Indian tribe, Secretary and State are also defined.

Sec. 302. Area eligibility

Allows for self-certification by applicants seeking assistance under section 201 or 209, that they meet one or more of the nine distress criteria established; such certification to be supported by Federal data, when available or, in the absence of recent Federal data, by data available through the State government. Such documentation shall be accepted by the Secretary unless the Secretary determines the documentation to be inaccurate. The most recent statistics available shall be used. Area eligibility is similar to that in PWEDA (however, determined at time of application, rather than ''grandfathered''), but provides consistency across programs, and simplifies process of determining eligibility.

Sec. 303. Comprehensive economic development strategy

Requires applicants for assistance under section 201 or 209 (except for planning) to prepare a comprehensive economic development strategy, acceptable to the Secretary, identifying problems to be addressed and the strategy for addressing them. This is similar to overall economic development program required for PWEDA public works grants, or adjustment strategies required for PWEDA economic adjustment grants. Provides that plan prepared under another Federally supported program may be acceptable.

TITLE IV—ECONOMIC DEVELOPMENT DISTRICTS

Sec. 401. Designation of economic development districts and economic development centers

Establishes criteria for the designation of economic development districts and economic development centers, with essentially the same language as in PWEDA.

Sec. 402. Termination or modification

Authorizes the Secretary to issue regulations describing standards for terminating or modifying designated economic development districts and economic development centers, as in PWEDA.

Sec. 403. Bonus

Provides authority to increase the amount of grant assistance authorized by sections 204 and 205 for projects within designated economic development districts by an amount not to exceed 10 per centum of the aggregate cost of any such project, subject to minimum non-Federal share, if certain requirements are met, as in PWEDA.

Sec. 404. Strategy provided to Appalachian Regional Commission

As in PWEDA, requires that each economic development district provide a copy of its comprehensive economic development strategy to the Appalachian Regional Commission, if any part of such proposed district is within the Appalachian region.

Sec. 405. Parts not within areas described in section 302(a)

Establishes the authority to provide the financial assistance to those parts of an economic development district which are not within an area described in section 302(a), when such assistance will be of a substantial direct benefit to an area described in section 302(a) within such district, as in PWEDA.

TITLE V—ADMINISTRATION

Sec. 501. Assistant Secretary for Economic Development

Provides that the Secretary will administer the Act with the assistance of an Assistant Secretary of Commerce for Economic Development to be appointed by the President by and with the advice and consent of

the Senate; such Assistant Secretary of Commerce for Economic Development will serve as the administrator of the Economic Development Administration.

Sec. 502. Economic development information clearinghouse

Establishes a central information clearinghouse on matters relating to economic development, economic adjustment, disaster recovery, and defense conversion programs and activities of the Federal and State governments, including political subdivisions of the States.

Sec. 503. Consultation with other persons and agencies

Authorizes the Secretary to confer with any persons, including representatives of labor, management, agriculture, and government, who can assist with the problems of area and regional unemployment and underemployment, and to consult with interested departments and agencies as deemed appropriate in the performance of the functions vested in the Secretary by this Act, as in PWEDA.

Sec. 504. Administration, operation, and maintenance

Requires finding that the project for which Federal assistance is granted will be properly and efficiently administered, operated, and maintained, using the same language as in section 604 of PWEDA.

Sec. 505. Firms desiring Federal contracts

Provides, as in PWEDA, that the Secretary may furnish the procurement divisions of the various departments, agencies, and other instrumentalities of the Federal Government with a list containing the names and addresses of business firms which are located in areas of high economic distress and which are desirous of obtaining Government contracts for the furnishing of supplies or services.

Sec. 506. Amendment to title 5, U.S.C.

Amends Section 5316 of title 5, United States Code, by striking ''Administrator for Economic Development''.

TITLE VI—MISCELLANEOUS

Sec. 601. Powers of Secretary

Provides numerous powers to the Secretary, substantially similar to the authority under PWEDA, to carry out the Secretary's duties under this Act, including but not limited to those involving a seal, personnel, hearings, the taking of appropriate actions concerning personal property, real property, or evidence thereof, third party claims, the establishment of performance measures for grants and other assistance provided under this Act, and the establishment of such rules, regulations, and procedures as the Secretary considers appropriate in carrying out the provisions of this Act. It includes authority for the Secretary to protect Governmental interest in grant property and to release that interest 20 years after disbursement.

Sec. 602. Maintenance of standards

Directs the Secretary to continue to implement and enforce the provisions of section 712 of PWEDA.

Sec. 603. Annual report to Congress

Provides for one annual consolidated report to Congress on the Secretary's activities under this Act, as required under PWEDA.

Sec. 604. Use of other facilities

Substantially as in PWEDA, provides authority for the Secretary to: delegate to the heads of other departments and agencies of the Federal Government any of the Secretary's functions, powers, and duties under this Act as deemed appropriate and to authorize redelegation by such heads; transfer funds between departments and agencies of the Government, if such funds are used for the purposes for which they are specifically authorized and appropriated; accept transfers of funds from other departments and agencies of the Federal Government if the funds are used for the purposes for which such funds are specifically authorized and appropriated.

Sec. 605. Penalties

Provides legal penalties using essentially the same language as in section 710 of PWEDA.

Sec. 606. Employment of expediters and administrative employees

Provides requirements concerning the employment of expediters and administrative employees, as in section 711 of PWEDA.

Sec. 607. Maintenance of records of approved applications for financial assistance; public inspection

Directs the Secretary, as in PWEDA, to maintain as a permanent part of the records of the Department of Commerce a list of applications approved for financial assistance under this Act and to make such records available for public inspection during the regular business hours of the Department of Commerce.

Sec. 608. Records and audit

Requires that recipients keep records and provide access for audits using language similar to that in section 714 of PWEDA.

Sec. 609. Prohibition against a statutory construction which might cause diminution in other Federal assistance

As in PWEDA, provides that financial and technical assistance authorized under this Act be in addition to any Federal assistance previously authorized, and no provision of this Act be construed as authorizing or permitting any reduction or diminution in the proportional amount of Federal assistance which an entity would otherwise receive.

Sec. 610. Acceptance of applicants' certifications

Provides authority for the Secretary to accept, when deemed appropriate, the applicants' certifications to meet the requirements of this Act.

TITLE VII—FUNDING

Sec. 701. Authorization of appropriations

Authorizes $343,028,000 for fiscal year 1998 and such sums as may be necessary for each of fiscal years 1999 through 2002, such sums to remain available until expended.

Sec. 702. Defense conversion activities

In addition to the appropriations authorized by section 701, authorizes to be appropriated to carry out this Act such sums as may be necessary to provide assistance for defense conversion activities.

Sec. 703. Disaster economic recovery activities

In addition to the appropriations authorized by section 701, authorizes to be appropriated to carry out this Act such sums as may be necessary to provide assistance for disaster economic recovery activities.

Section 3. Savings provisions

Provides that existing rights, duties and obligations, and pending suits, are not to be affected by this Act, and that revolving fund established under section 203 of PWEDA is to continue to be available as a liquidating account.

Ms. SNOWE. Mr. President, I rise today with my distinguished colleague from Montana, Senator MAX BAUCUS, to introduce the ''Economic Development Partnership Act of 1998''—a bill to reauthorize the Economic Development Administration in the Department of Commerce. I would first like to thank the ranking member of the Senate Committee on Environment and Public Works, Senator BAUCUS, for his ongoing commitment to this vital agency, and would also like to thank the bipartisan group of Senators who have joined us in sponsoring this legislation.

Mr. President, I have long been a supporter of the EDA because—although it is a small agency—its programs contribute significantly to economic growth and job expansion. With only a modest annual appropriation and a national staff of 258 dedicated public servants, the EDA successfully assists communities across the nation who have experienced economic distress. Economic distress that is not only generated by economic downturns, but also by natural disasters—such as storms and earthquakes—and un-natural disasters, such as military base closings.

I am also pleased that, at a time when Congress is exercising much needed fiscal discipline and performance-based budgeting is being demanded from all agencies, the EDA has maintained its commitment to providing a good return on the public dollar. Specifically, recent studies of EDA's programs were performed by a consortia of organizations including Rutgers University, the New Jersey Institute of Technology, Columbia University, Princeton University, the National Association of Regional Councils, and the University of Cincinnati. The results of these studies were impressive, and clearly showed the value and results of EDA investments in public works and defense conversion activities. Specifically, for every every $1 million that EDA invests in public works projects, 327 jobs are created or retained at a cost of $3,058 per job; 15 construction jobs are created; $10 million in private sector dollars are leveraged; and $10.13 million is added to the local tax base. Based on these statistics, I believe it's safe to say that EDA delivers a substantial ''bang for the buck''!

Even as these statistics speak to the value of EDA programs nationally, I am pleased that the people of Maine don't need to hear what is happening in other states to be convinced of the value of EDA—they already know what this agency has meant to their towns and communities. Over the past 32 years, the EDA has invested more than $198 million in 606 projects across the state. Through public works, technical assistance, planning, community investments, and revolving loan fund programs, the EDA has established local partnerships in Maine that have provided critical infrastructure development and other economic incentives that have stimulated local growth, created jobs, and generated revenue.

Not only has the EDA invested in many economic development projects in Maine, but I can also personally attest to the value and importance of

these projects because I have seen the results that they deliver. For example, as a result of EDA assistance in 1996, dormitories at the Maine School of Science and Mathematics—a magnet school built at former Loring Air Force Base—were built to house the school's students. And in 1995, EDA assistance in Freeport, Maine prevented a major health maintenance organization from relocating to another state. That project alone not only saved 99 jobs, but also created an additional 127 in the community.

Mr. President, I cite these success stories not only to credit the agency for a job well done in my state, but to demonstrate to my colleagues the types of assistance that have likely been provided to their states as well. If my colleagues would review the cases of economic distress that have occurred in their own states, I believe they will find their own success stories that speak to the value of EDA to their constituents.

Therefore, I would urge that my colleagues support the bill that Senator BAUCUS and I are introducing today because it would reauthorize the beneficial and critically-needed programs that have led to these success stories for an additional five years. Perhaps most importantly, it will keep the agency's successful programs intact, while incorporating ideas and concepts for improvement that have received increased attention and support in the Congress. For instance, many of my colleagues would agree that to be truly successful, government programs should proceed in partnership with local governments—and this legislation will do just that by preserving the integrity of the agency's traditional programs, while expanding and modifying them to encompass the partnership concept.

The bill also contains new language that reflects some of the activities that the agency has become more involved in over the past few years, such as defense conversion and disaster assistance. From Maine's perspective, these programs could not be buttressed soon enough following the closing of Loring Air Force base in 1994, and the ice storms that ravaged the state just weeks ago.

In addition, there are other provisions in this legislation that will bring meaningful, positive changes to EDA's programs by increasing program flexibility and heightening accountability. Ultimately, it is these types of changes that will not only update an Act that has been in need of reauthorization, but will also prepare this agency for the economic needs and demands of our nation as we approach a new century.

Mr. President, the Economic Development Administration is a key federal agency that promotes economic growth and development, and the legislation we are offering today will ensure that these improved programs will be available for the next five years. I urge my colleagues to support this critically needed legislation.

Mr. KENNEDY. Mr. President, it is an honor to join as a sponsor of the Economic Development Partnership Act of 1998, which will reauthorize and extend the important work of the Economic Development Administration in the Department of Commerce.

The Economic Development Administration was established in 1965 to provide grants to help hard-pressed communities in all parts of the country to deal more effectively with conditions of persistent unemployment in economically distressed areas.

Over the past thirty years, EDA has helped generate new jobs, retain existing jobs, and stimulate industrial and commercial growth in economically distressed areas across the country. By making assistance available to areas suffering high unemployment, low-income levels, or sudden and severe economic emergencies, EDA provides local governments with the resources to revitalize their communities, create jobs, and plan for long-term growth.

In fulfilling its mission, EDA is guided by the basic principle that distressed communities must be encouraged to plan and implement their own economic development and revitalization strategies.

I commend Senator BAUCUS and the Clinton Administration for their leadership on this important legislation, and I look forward to its enactment.

By Mr. JEFFORDS (for himself, Ms. COLLINS, and Mr. ENZI):

S. 1648. A bill to amend the Public Health Service Act and the Food, Drug and Cosmetic Act to provide for reductions in youth smoking, for advancements in tobacco-related research, and the development of safer tobacco products, and for other purposes; to the Committee on Labor and Human Resources.

PREVENTING ADDICTION OF SMOKING TEENS ACT

Mr. JEFFORDS. Mr. President, I rise today to introduce legislation with one principal aim: to put an end to teenage smoking. I am honored to be joined by two other distinguished members of the Committee on Labor and Human Resources, Senator COLLINS, and Senator ENZI.

By now, we are all familiar with the grim statistics that tell the story of youth smoking in our country—the thousands of children that experiment with tobacco, the thousands that become addicted, and the thousands who will die prematurely as a result.

For too long, the federal government has been of little assistance in combating the number one preventable disease in this country. Apart from the efforts of Surgeons General from Luther Terry to C. Everett Koop, and sporadic efforts by Congress, the federal government has barely acknowledged there's a problem.

The states, especially my home state of Vermont, have been leaders in the effort to end teenage smoking. And last summer, the proposed settlement by the Attorneys General ignited a whole new debate on this issue by providing us with a template for action.

Eight months later, it is easy for us to minimize that accomplishment, but by any fair appraisal the settlement was a tremendously important step.

When the tobacco settlement was announced, some people thought it might be only a few months before it would be ratified by Congress. Today, people wonder whether it can be revived by Congress.

I am confident that we can and will reach agreement on a national tobacco policy. But I am just as certain that we'll never do so if we pursue a partisan approach.

Since the settlement, the Committee on Labor and Human Resources has held four hearings on this subject, and across Capitol Hill dozens of hearings have been held by other committees of jurisdiction.

Today we take the next important step in this process, by introducing legislation that I hope will serve as the basis for a broad, bipartisan approach to the three basic public health issues of a national tobacco policy: prevention, safer products, and cessation.

If we can achieve a national tobacco policy, it could be the biggest public health breakthrough ever achieved outside a lab.

The settlement has been criticized as being too weak by some, too ambitious by others. I agree the settlement has flaws.

But I think we must never lose sight of the ultimate goal—what is the best public health approach that we can enact to reduce teen smoking?

I am less concerned about exacting the last measure of revenge for the past actions of the tobacco companies than I am about ensuring the future of the children who become addicted every day. We need to keep our priorities straight.

It will take a broad, bipartisan consensus to pass tobacco legislation. Right now, that consensus seems entirely absent and is in danger of slipping into partisan grand standing over who loves kids and hates tobacco.

That consensus can only come through compromise. There will be many opportunities to derail legislation of this magnitude if it is only supported by a slim majority. If we expect enactment, we must forge broad agreement in the Congress.

The legislation we introduce today, called the Preventing Addiction to Smoking Among Teens, or PAST Act, will enact and improve upon the public health provisions of the tobacco settlement. It is not designed to solve every question before us, rather, it addresses the public health issues that are before the Labor Committee.

It is no longer feasible for tobacco to escape the same type of regulation we require for foods and medicines. Our bill will give the Food and Drug Administration every bit of authority it needs to regulate tobacco products and their components. The tobacco industry will have to turn over all of its

health documents to the FDA. FDA will be able to reduce or eliminate harmful ingredients or require safer technological improvements through informal rulemaking to achieve overall public health benefits.

Of course, we will not achieve the public health benefits we seek from mandating safer products if the resulting products are unacceptable to consumers who can't quit smoking. Part of the process for setting these standards will be consideration of just this question.

We encourage the development of safer products subject to the same type of scientific review for other FDA regulated products. And FDA can propose, after ten years, the outright prohibition of cigarettes or smokeless tobacco products.

But our bill will not permit FDA to ban cigarettes or smokeless tobacco for adult usage on its own. That decision, in my opinion, is one that should be made by Congress, not a single government agency.

Our bill adopts a comprehensive approach to preventing teens from smoking, and helping people to quit who are already hooked. And finally, our bill will provide for a coordinated regime to research the many unanswered questions about tobacco, its effects on us, and how to mitigate those effects.

I ask unanimous consent that a summary of our bill be included at the end of my remarks.

Next week, Senator GREGG and I will hold a hearing in New Hampshire to listen to state and local concerns on tobacco issues within the jurisdiction of the Senate Committee on Labor and Human Resources. And in a month, I hope to have found bipartisan support for my bill and to have moved it through the committee.

Finally, I want to note that many of my colleagues are also working on legislation to help move the discussion forward, and there are many good ideas that deserve consideration. In particular, I look forward to working with Senator ENZI on his proposal to establish a fund supported by tobacco industry resources. This fund would be a sustainable way to provide compensation for treating tobacco-related diseases, and could also be used to pay for some of the prevention proposals I have outlined in my bill

Even though we have much work to do before we decide the overall architecture of tobacco policy, it is not at all too soon to begin pouring the foundation. As in New England, we have a short building season. If we are to clear the committees, combine our approaches, clear the floor and conference, we must act now. I urge my colleagues to give me their support, and greatly appreciate those who have already done so.

We need to make teen smoking a thing of the past.

Mr. President, I ask unanimous consent that bill summary be printed in the RECORD.

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

THE PREVENTING ADDICTION TO SMOKING AMONG TEENS (PAST) ACT—OVERVIEW

PROBLEM

Smoking is the single most preventable cause of death in the United States.

Smoking-related diseases kill 400,000 Americans each year.

82% of adult smokers began smoking when they were teenager—people generally do not *start* smoking past the teen years, making it *imperative* to prevent smoking among teens.

But the trend is going in the wrong direction: more kids are smoking; 6,000 kids a day try a cigarette, and 3,000 of those will become addicted; every day, 1,000 kids who start smoking will eventually die prematurely due to smoking.

THE PAST ACT

Across the board, the provisions of the PAST Act are tougher than those approved by the Attorneys General and plaintiffs' attorneys in the June 20, 1997 proposed tobacco settlement. The PAST Act:

Is a comprehensive public health approach to reduce youth smoking, help people who want to quit, bring safer products to the market, and provide for the research we need to improve our understanding of addiction and how to prevent it.

Requires that tobacco settlement funds be used for tobacco-related initiatives.

Provides for: Straightforward and effective authority for FDA to regulate tobacco products; tough and enforceable restrictions on youth access to tobacco products; evidence-based prevention and cessation programs; research that will help us understand why certain people become addicted to tobacco products and provide science-based methods to prevent addiction.

SUMMARY OF THE ACT

1. Regulation of Tobacco Products and Tobacco Product Development

Purpose: To provide strong and effective Food and Drug Administration (FDA) regulatory authority over cigarettes, smokeless tobacco products, and safer tobacco products.

Summary: No longer will the tobacco companies be exempt from the type of regulation which ensures that our foods and medicines are safe and properly labeled.

The PAST Act gives FDA regulatory authority to:

Oversee the manufacturing processes of tobacco products;

require elimination of tobacco product additives and reductions in nicotine;

quickly and easily promulgate performance standards to ensure that new and safer technology reaches consumers with truthful information on health issues related to products;

regulate the content of product labels and advertising;

require tobacco companies to divulge all health-related research on tobacco products and ingredients;

set national rules for product regulation while preserving important state and local authorities to require tougher requirements for youth access rules and point-of-sale advertising;

periodically assess and improve the effectiveness of tobacco product warning labels.

The PAST Act bans billboard advertising of tobacco products, cartoon figure and human figures (like Joe Camel and the Marlboro Man) and restricts in-store marketing.

The PAST Act does not preempt the ability of state or localities to pass stricter laws on sale to minors or point-of-sale advertising.

1. FDA Authority to Approve Reduced Risk Tobacco Products and Require Reductions in Nicotine and Elimination of Tobacco Product Hazards.

50 million Americans smoke. For those who can't quit as soon as they'd like, we must both provide them with less harmful alternatives to today's tobacco products and take steps immediately to reduce the danger in existing tobacco products. The PAST Act establishes science and public health-based decision making at FDA to achieve these goals.

The PAST Act includes a program designed to encourage tobacco companies to develop and market reduced risk tobacco products. FDA authority over reduced risk tobacco products requires that FDA approve specific ''reduced risk'' claims manufacturers make. In addition, manufacturers must notify FDA of any reduced risk technology they develop or acquire.

FDA is to require tobacco companies to conduct the same type of high quality scientific studies expected of drug and device companies to demonstrate that a new tobacco product carries a ''reduced risk.'' FDA will take into account the effect of the product on overall public health concerns including whether fewer people will quit smoking as a result of its availability. FDA will require both short-term and long-term studies to ensure that the products have a positive public health effect. FDA can revoke the approval to market the product if the studies do not support the health claims or if the studies are not completed in a timely manner.

In addition, if FDA determines that a particular reduced risk technology is less hazardous it may: require disclosure of the safer technology; prohibit the use of technology that is superseded by the new technology, or; require that manufacturers stop selling tobacco products that do not incorporate such technology.

In addition to reviewing reduced risk products, FDA has authority to mandate the elimination of hazardous components of tobacco products and reduce nicotine levels to achieve overall public health benefits. Before requiring changes to tobacco products, FDA will employ a notice and comment rulemaking proces—the same as that used for drugs and devices. FDA is not! required to prove that a black market will not result.

2. FDA Authority to Regulate Product Labels, Warnings, Advertising, and Marketing.

The PAST Act will enact: new warning labels, and the flexibility for the Secretary to change the labels; restrictions on labeling and advertising of tobacco products; restrictions on advertising in non-adult media and glamorization of tobacco; bans on non-tobacco items and event sponsorship.

The PAST Act does not prevent states and localities from enacting tougher laws on youth access and point-of-sale cigarette advertising and marketing.

II. National Efforts to Reduce Youth Smoking

Purpose: To provide all the essential ingredients for comprehensive and effective programs to reduce youth smoking.

Summary: The PAST Act sets high but achievable goals to reduce youth smoking. To ensure that the tobacco manufacturers partner with communities to achieve these goals, the PAST Act exacts tough penalties on the industry if goals are not met. Further, unlike the June 20 proposed tobacco settlement, and some other bills that have been introduced, the PAST Act does not permit the penalties to be capped, and it ensures that the penalties are calculated accurately.

The PAST Act entrusts the states with the necessary resources from the Tobacco Settlement Trust Fund for local anti-tobacco

programs that will effectively: restrict the sale of tobacco products to minors; prevent youth smoking; assure that people who want to quit smoking can get proven cessation treatment.

The PAST Act gives the Office on Smoking and Health of Centers for Disease Control the resources to provide oversight and technical help to state and local authorities, thus guaranteeing that the latest and most effective strategies to prevent and stop smoking can be employed.

The PAST Act provides funds for research to help us understand addiction to tobacco products, and to ensure that the results of this research are swiftly incorporated into community-based programs.

The PAST Act establishes an innovative and far-reaching national public health promotion and health education campaign on the dangers of smoking.

1. Required Reduction in Underage Use of Tobacco Products.

Purpose: To promote an immediate reduction in the number of underage consumers of tobacco products by imposing financial surcharges dramatically stiffer than the June 20 proposed tobacco settlement on participating manufacturers if underage tobacco-use reduction targets are not met.

If the targets are not met, surcharges will be imposed on manufacturers, and for each 5 percentage points short of the target, the surcharge on manufacturers increases substantially.

Cigarettes: for the first 5 percentage points for which the rate of youth smoking falls short of the target: the product of $80,000,000 and the number of applicable percentage points; for 6 to 10 percentage points short of the goal: the product of $400,000,000 and the number of applicable percentage points; for 11 or more percentage points short of the goal: the product of $500,000,000 and the number of applicable percentage points.

Smokeless Tobacco Products: for the first 5 percentage points for which the rate of youth smokeless tobacco use falls short of the target: the product of $15,000,000 and the number of applicable percentage points; for 6 to 10 percentage points short of the goal: the product of $30,000,000 and the number of applicable percentage points; for 11 or more percentage points short of the goal: the product of $45,000,000 and the number of applicable percentage points.

Targets for reduction of tobacco product use in individuals under 18:

Cigarettes: 30 percent in the fifth and sixth years; 50 percent in the seventh, eighth and ninth years; 60 percent in the tenth and subsequent years.

Smokeless tobacco: 25 percent in the fifth and sixth years; 35 percent in the seventh, eighth and ninth years; 45 percent in the tenth and subsequent years.

2. Restrictions on Access to Tobacco Products.

Purpose: To ensure that strict state laws are passed and enforced that will prohibit the sale and distribution of tobacco products to minors, and to provide civil penalties to minors who purchase or smoke tobacco products.

State laws must include the following provisions, and may include stricter provisions:

At least 90% of minors attempts to purchase must be unsuccessful; requirement of a state or local license to sell tobacco products; a prohibition on sale of cigarettes and smokeless tobacco to individuals under 18 years of age; the following requirements for distribution:

The licensee must verify age through a government issued photo identification; no verification is required for any individual who is at least 27 years of age; no direct access to tobacco products; face-to-face exchange for purchase; no out-of-package sale of tobacco products; no special marketing rules for adult only stores; minors may not purchase or consume tobacco products. States may enforce this provision through civil penalties, including a written warning, a possible fine of up to $150 for repeated offenses, or other civil penalties determined appropriate by the state.

3. State and Community Action Programs.

Purpose: To promote the development of state and community action programs designed to educate the public on addiction and the hazards of tobacco use, and to promote prevention and cessation of the use of tobacco products.

Funds will be available to each state from the Tobacco Settlement Trust Fund after approval of a state plan. Funding increases from $145,000,000 for each of the fiscal years 1999 and 2000 to $440,000,000 for fiscal year 2008.

State and local initiatives may include: evidence-based programs to prevent tobacco use and promote cessation; health education and promotion efforts relating to tobacco use; public policy initiatives to prevent tobacco use and promote cessation; evidence-based programs in schools to prevent and reduce tobacco use and addiction.

4. Tobacco Use Cessation Programs.

Purpose: to help addicted individuals who want to quit.

Funding allocated to the states from the Tobacco Settlement Trust Fund: $1,000,000,000 for each of the fiscal years 1999 through 2002; $1,500,000,000 for each of the fiscal years 2003 through 2008.

Programs to be funded may include: evidence-based programs designed to assist individuals to stop their use of tobacco products; training for health care providers in cessation intervention methods; efforts to encourage health plans and insurers to provide coverage for evidence-based tobacco use cessation treatment.

5. Research Initiatives to Prevent Tobacco Addiction.

Purpose: To promote tobacco-related research strategies.

The Institute of Medicine will perform an independent study to provide recommendations for tobacco-related research. Tobacco-related research at CDC, NIH, and AHCPR will include investigation of: surveillance and epidemiology of tobacco use; prevention of tobacco use; the science of addiction; cessation strategies.

An interagency council will ensure that: the research strategy is implemented, and that it is modified to take into account new findings; new developments are disseminated to states and communities.

6. National Public Health Education Campaign.

Purpose: To provide for a national public health promotion and health education campaign designed to reduce the use of tobacco products.

III. Standards to Reduce Involuntary Exposure to Tobacco Smoke

The PAST Act will require OSHA to promulgate within 12 months a final rule relating to indoor air quality in industrial and nonindustrial indoor and enclosed work environments.

Ms. COLLINS. Mr. President, I am pleased to join with my colleagues, Senators JEFFORDS and ENZI in introducing the Preventing Addiction to Smoking Among Teens Act.

Tobacco is the No. 1 preventable cause of death in the United States, accounting for more than 400,000 deaths a year and more than $50 billion in health care costs. Clearly the single most effective thing we can do to improve our Nation's health and control health care costs is to stop smoking.

While recent headlines detailing the settlement of multimillion dollar lawsuits against the tobacco industry might delude us into thinking that we are winning the war against tobacco, the facts tell a far different story. Despite extensive public health campaigns linking smoking to heart disease and cancer, smoking rates are actually going up, particularly among our young people. Tragically, addiction is increasingly a ''teen-onset'' disease: in fact, Mr. President, 90 percent of all smokers began smoking before age 21,

What is particularly alarming is that children, especially girls, are smoking at younger and younger ages. Smoking is at a 19-year high among high school seniors and has increased over 35 percent among eighth graders and 43 percent among tenth graders over the last 7 years.

Moreover, of the 3,000 teens who enter the ranks of ''regular smokers'' every day, one-third will die tobacco-related deaths. Mr. President, I am very proud of many of the accomplishments and achievements of my great State of Maine, but there is one area where we do need to do much, much better. The sad fact is that my State of Maine has the dubious distinction of having the highest smoking rate among people age 18 to 34 in the entire United States. In Maine, almost 40 percent of high school students smoke. They purchase 1.4 million packs of cigarettes illegally each year. If this trend continues, more than 31,000 young people in Maine currently under the age of 18 will die prematurely from tobacco-related diseases. If we are to put an end to this tragic yet preventable epidemic, we must accelerate our efforts not only to help more smokers to quit, but also to discourage young people from ever lighting up in the first place.

The Preventing Addiction to Smoking Among Teens Act, which we are introducing today, adopts a comprehensive approach to prevent teens from smoking and builds upon and improves the public health components of the tobacco settlement announced last summer. It is not designed to deal with every question and every issue raised by the settlement. Rather, it focuses on what I believe should be the prime goal of any tobacco settlement, and that is to reduce teen smoking.

Among its provisions, this legislation gives clear and comprehensive authority to the FDA to regulate tobacco products and their components. The tobacco industry will have to turn over all—all—of its documents to the FDA related to cigarette research and health, and the FDA will be able to require the companies to reduce or to eliminate harmful ingredients or to require safer technological improvements through informal rulemaking. Moreover, after 10 years, the FDA could can propose an outright ban on

cigarettes or smokeless tobacco products. However, should such a prohibition be required or undertaken, it would require congressional approval. I think that is appropriate. I think that a decision of that magnitude should come back to Congress.

In my judgment, these provisions represent a marked improvement over last summer's proposed tobacco settlement. The settlement has been criticized for requiring the Food and Drug Administration to go through an arduous formal rulemaking process. Moreoever, unlike the tobacco settlement, our bill does not require the FDA to prove the absence of a black market—which critics have rightly pointed out would be impossible—in order to regulate a product. Finally, to provide the resources necessary for their expanded regulatory powers, the bill requires the FDA to assess a ''user fee'' of $100 million annually on all manufacturers selling FDA-regulated tobacco products in the United States.

The bill also incorporates very important recommendations on combating teenage smoking. It calls for strong warning labels. It calls for a ban on vending machine sales that make tobacco products so available to teenagers, it would ban outdoor advertising and the brand-name sponsorship of sporting events, and it would prohibit the use of images like Joe Camel and the Marlboro Man.

It also, Mr. President, holds the tobacco companies accountable by imposing stiff financial penalties if the smoking rate among children does not decline by 30 percent in 5 years, 50 percent in 7 years, and 60 percent in 10 years. Moreover, under our bill, there is no cap on penalties, and the price goes up the more the companies miss the targets. These are very important, tough new improvements over the proposed settlement.

Our bill incorporates strong measures to ensure that restrictions on youth access to tobacco products are tough and enforceable. It promotes the development of State and community action programs designed to educate the public on addiction and the hazards of tobacco use and to promote the prevention and the cessation of cigarette smoking.

It calls for a national public education campaign to deglamorize the use of tobacco products and to discourage young kids from smoking. And finally, it calls for a comprehensive tobacco related research program to study the nature of addiction, the effects of nicotine on the body, and how to change behavior, particularly that of children and teens.

Mr. President, I believe that the legislation we are introducing today can serve as a basis for broad, bipartisan support to deal with the public health issues that should serve as the foundation for any national health policy in this area.

I look forward to working with Chairman JEFFORDS, Senator ENZI, and my other colleagues on the Labor Committee as Congress deals with this important issue.

Mr. ENZI. Mr. President, I rise today as an original cosponsor of legislation offered by my esteemed colleague from Vermont, Senator JEFFORDS. I appreciate his steady commitment to improving our nation's public health—especially as it relates to the pending global tobacco settlement. I, too, believe that we have an opportunity to dramatically affect the number of current and future smokers through education, research and regulation of tobacco products. It is my belief that the Prevention Addiction to Smoking Among Teens, or PAST Act, is a significant component that accomplishes just that.

The PAST Act is the first piece of legislation fashioned after the global tobacco settlement—reflecting the resolution's public health aspects. I commend the Senator and his staff for working with me on remedying a number of outstanding issues in this bill. I look forward to working closely with my colleague on tightening this legislation as it works its way through the mix.

I do wish to share my thoughts on a number of issues in the global settlement that must not be overlooked. In addition, I would point out that a handful of these issues relating to public health are already addressed in the PAST Act. First, I believe the settlement fails to complement FDA's regulatory role by tapping the expertise of other federal agencies with relative jurisdiction. Second, the look-back provisions prescribed by the global settlement are only geared toward our nation's youth and don't apply to smokers above the age of 18. Third, the settlement focuses largely on reimbursing Medicaid expenditures and ignores enormous Medicare expenditures for smoking related illnesses. Finally, the settlement's overall compensation mechanism fails to address long-term smoking attributed illnesses. In light of these and other inherent difficulties, I am reluctant to embrace the entire global settlement with open arms. We are accepting revenues for past problems and insuring the future without compensation.

Let me first share my concerns regarding the FDA's role. The global settlement would delegate all regulatory authority of tobacco products to the Food and Drug Administration (FDA), including advertising and education. Although I favor FDA being the key regulatory agency of tobacco products, I do not believe the agency needs an annual allocation of $300 million to carry out its obligations—that's nearly 10 times what the FDA requested to enforce its original tobacco rule and one-third the agency's total annual budget. Such funding for one agency could not only foster regulatory abuses, but also stretch FDA's internal resources while simultaneously compounding Congress' oversight responsibilities. Such an approach is nothing more than a blueprint for yet another big government bureaucracy incapable of meeting its alleged purpose. I believe Senator JEFFORDS has acknowledged this predicament in the PAST Act. Rather than allotting $300 million each year for the FDA, the agency would receive $100 million, while other federal agencies with jurisdiction would receive $135 million, with the remaining $65 million going to the states for enforcement. This is a very fairminded approach and we largely avoid an unfunded federal mandate.

Second, the look-back provisions included in the global settlement were written to be applicable to our nation's youth—ages 18 and under. As a result, Senator JEFFORDS' bill only addresses the admirable objective of reducing underage smoking. While I have no problem with setting strict goals for reducing underage tobacco use, I firmly believe that the global settlement and any subsequent legislation should not overlook the need to reduce the overall impact of smoking related illnesses. We must be careful not to lend pride of being an adult to smoking. I appreciate Senator JEFFORDS' commitment to strengthening this section of the PAST Act.

Third, the global settlement fails to address Medicare smoking-attributable expenditures by focusing all of its attention on reimbursing states for Medicaid expenditures. This is a substantial financial oversight in my opinion. In 1995, the Health Care Financing Administration spent $176.9 billion in Medicare payments. Medicare outlays for fiscal 1996 are estimated to be $193.9 billion. Conservatively assuming that only 5 percent of those expenditures were smoking related, the average Medicare expenditures attributable to smoking during 1995–1996 would still amount to $9.3 billion per year, thereby bringing the twenty-five year total to $192.3 billion. This is an astronomical sum that deserves consideration.

Finally, the global settlement's reimbursement structure is dubious at best. It is my belief that Senator JEFFORDS' legislation must receive a sound, long-term financial commitment from the tobacco industry. Under the current settlement, tobacco companies would pay an initial $10 billion, and make annual payments starting at $8.5 billion in the first year and increases to $15 billion in the fifth year of the settlement. While the total estimated payments over 25 years would be $368.5 billion, there is no guarantee under the settlement's structure that the total amount would be collected. Economic conditions could change or tobacco companies could be driven out of business leaving the federal government holding an enormous tab for a very expensive regulatory scheme. Moreover, a large portion of the global settlement total may not even go to reimburse government for the costs of cigarette smoking. The money is designed to fund everything from underage smoking cessation campaigns to

potentially large civil damage awards. The scope of expenditures under the global settlement is too broad and the reimbursement mechanism is too incomplete to warrant Congressional approval.

In the coming weeks, I will continue to advocate an alternative reimbursement mechanism that not only caters to the PAST Act, but compensates for smoking attributed illnesses under the Medicare program as well. Two principles lie at the heart of this alternative approach. First, nonsmoking taxpayers should not be expected to continue footing the bill for what are largely self-induced illnesses. Second, Congress must ensure that the actual compensation fund is solvent for years to come. To these ends, I believe we should give serious thought to a new industry-based approach in which the government determines the costs caused by the manufacturer's product, and then requires the manufacturer and smoker to pay for these costs. Such a program would entirely eliminate smoking-attributed reimbursements from Medicaid and Medicare.

A ''Smoker's Compensation Fund'' of this type could be modeled on the Worker's Compensation Funds already in existence in the states. The proceeds for this fund would come from the tobacco industry, and ultimately from smokers themselves in the form of higher cigarette prices. The tobacco industry's annual contributions to the fund could be tied to the number of occurrences of smoking illnesses—the greater the occurrences, the larger the contribution. Using Worker's Compensation as a model, a rolling multiyear average could form the basis of annual premiums to individuals suffering from smoking-attributed illnesses. This would create an economic incentive for the tobacco companies to take actions to reduce tobacco-related illnesses, thereby driving down the number of smokers over the long-term—a true look-back policy.

Moreover, an industry-based approach would not allow tobacco companies to walk away from long-term smoking attributed illnesses through a total $368.5 billion payment over a 25 year period. Instead, it would administratively make the tobacco companies and the smokers themselves responsible for paying for the medical care of individuals with smoking-related illnesses indefinitely. I believe that the Smoker's Compensation Fund concept would be the best vehicle to provide long-term financial coverage not only for the Medicaid and Medicare programs and smokers of all ages, but for the public health provisions outlined in Senator JEFFORDS' bill being introduced today.

Thank you, Mr. President.

By Mr. FORD:

S. 1649. A bill to exempt disabled individuals from being required to enroll with a managed care entity under the medicaid program; to the Committee on Finance.

MEDICAID MANAGED CARE EXEMPTION FOR DISABLED INDIVIDUALS

Mr. FORD. Mr. President, today I am introducing legislation to exempt certain disabled individuals from mandated managed care coverage under Medicaid. During consideration of last year's budget legislation, this issue arose but was not addressed in a satisfactory manner. That legislation provided a broad grant of authority to states to require individuals eligible for Medicaid to enroll in managed care plans. Prior to this change, states were required to obtain waivers from the federal government in order to initiate such cost savings measures which would shift large portions of their Medicaid populations into managed care.

However, states have generally not been interested in shifting certain categories of individuals into managed care, such as individuals in nursing homes or special needs children. In fact, last year's legislation specifically exempted certain categories of special needs children under age nineteen.

Mr. President, I believe for certain categories of individuals it does not make sense to limit this exemption to individuals under age nineteen. For example, mentally retarded individuals receiving Medicaid benefits do not enter into a new health care category once they reach their nineteenth birthday. I believe limiting the exemption for such individuals is arbitrary and unwise policy. My legislation would simply remove the age limitation for severely disabled individuals.

I want to express my thanks to the Voice of the Retarded for their leadership on this issue and their willingness to bring it to my attention. I ask unanimous consent that a letter in support of this legislation from that organization be inserted into the RECORD. I also want to thank Louise Underwood, a constituent of mine who has been a tireless advocate over the years for the rights of mentally retarded and other disabled individuals. It is my hope that this straightforward correction to last year's legislation will be viewed as noncontroversial, and can be enacted into law in the months ahead.

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

VOICE OF THE RETARDED,
February 3, 1998.

Hon. WENDELL H. FORD,
Senate Russell Office Building,
Washington, DC.

DEAR SENATOR FORD: On behalf of all members of Voice of the Retarded (VOR) nationwide, I wish to thank you for your long-standing attention to the many intense needs of society's most-impaired people. More than any other public figure, you have consistently championed the causes of those who cannot speak for themselves. We, their family members and only spokespersons, are eternally grateful to you.

We come once again to seek your assistance in correcting what seems to have been an unintentional oversight in the language of the Balanced Budget Act of 1997.

As you know, the ability of traditional managed care models to meet the unique health care requirements of people with disabilities is uncertain. Congress recognized this when it exempted SSI-eligible special needs children from mandatory managed care provisions of the Balanced Budget Act of 1997. This exemption reconciled the states' interest in maintaining cost control and flexibility in program management with the disability community's concern that managed care would negatively impact access to appropriate specialized health care.

It is our belief that age is an arbitrary, artificial barrier to the provision of health care services. Mental retardation is a lifelong impairment that does not disappear at age 19. We, therefore, respectfully request that you support corrective legislation to ensure that adults with mental retardation can receive the specialized health care that they need throughout their lives unimpaired by managed care.

Thank you for your consideration.

Sincerely,

POLLY SPARE,
President.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 1662. A bill to authorize the Navajo Indian irrigation project to use power allocated to it from the Colorado River storage project for on-farm uses; to the Committee on Indian Affairs.

NAVAJO INDIAN IRRIGATION PROJECT LEGISLATION

Mr. BINGAMAN. Mr. President, I rise today to introduce legislation that will mean a great deal to the future economic development of the Navajo Nation and to the people in the Four Corners Region of New Mexico, Arizona, Utah, and Colorado.

Mr. President, we are truly fortunate today to have one of the lowest national unemployment rates in recent memory. Unfortunately, the administration's economic juggernaut has not been felt everywhere. While national unemployment rates are below five percent, in my state of New Mexico, unemployment remains stuck at 8%. According to the Bureau of Labor Statistics, New Mexico has the second highest unemployment rate in the country, right behind the District of Columbia.

Regrettably, one of the nation's highest unemployment rates is on the Navajo Indian Reservation, where unemployment is a staggering 50%. The unemployment rate in neighboring San Juan County is 12%, which is more than twice the national average. These statistics should be deeply troubling to all senators. Clearly, there is no region in this country in greater need of targeted economic development. Creating jobs is precisely the purpose of the legislation I am introducing today.

In a nutshell, this bill allows the Navajo Nation's Indian Irrigation Project to use a portion of its existing allocation of federal electric power to help spur economic development and to create good jobs in the region.

Mr. President, in 1962 Congress authorized the construction and operation of the Navajo Indian Irrigation Project. The project has blossomed into a 60,000 acre agricultural enterprise growing potatoes, beans, alfalfa,

wheat, corn and livestock with annual revenues of $36 million. Today, the ''Navajo Pride'' brand name is a hallmark of agricultural quality nationwide. The Tribe's own Navajo Agricultural Products Industry (NAPI) operates this successful all-Indian project. NAPI has a full-time staff of 300. The workforce swells to 1,200 during the summer growing season.

In the 1962 legislation, Congress authorized the Bureau of Reclamation to reserve eighty-seven megawatts of electric power for use by the project. It is clear from the original authorization that the primary purpose of the project was to deliver water for the development of farming and allied industries. The reserved electric power is currently used to pump water to the project and to provide the water pressure needed for irrigation. The original plans called for the use of gravity-fed irrigation; however, the irrigation method was later changed to a more efficient electric-powered center-pivot system. Unfortunately, Congress had not foreseen these improvements and did not specifically authorize the use of federal power to run irrigation sprinklers. In a letter to me dated November 5, 1997, Commissioner Martinez of the Bureau of Reclamation stated that Congress had not provided the bureau with sufficient authority to allow NAPI to use its existing allocation of electric power for anything other than water pumping. Congress simply failed to authorize the use of federal power to run the sprinklers or for processing of the products grown there.

The legislation I am introducing would allow NAPI to use its existing power allocation to run the project's irrigation sprinklers or factories on the reservation that process the agricultural products. This legislation does not increase the amount of power allocated to NAPI—nobody's allocation of electric power is reduced or affected in any way. Moreover, the change would have no cost or other impact on taxpayers.

This legislation is a simple technical change. It clarifies existing congressional language. Moreover, because this is an all-Indian project established by Congress to benefit the Navajo Nation, this legislation does not create a precedent that would apply to any other irrigation project.

This bill has the support of the Bureau of Reclamation. In addition, the Republican Governor of the state of New Mexico and the nearby cities, counties, and electric utility companies support this change because they recognize the economic benefits for the entire Four Corners Region. I would particularly like to acknowledge the City of Farmington and Republican Mayor Thomas C. Taylor for support of the project as reflected in a Memorandum of Understanding between the City and NAPI. In addition, the State of New Mexico has supported this effort with a grant to study water issues and by permitting the Navajo Nation to use state bonding capacity.

Mr. President, Congress must not delay action to help reduce the unacceptable unemployment rates on the Navajo Reservation. This bill is an important step toward creating hundreds of year-round jobs and spurring economic development in San Juan County and the rest of the Four Corners Region. I urge the Chairman of the Energy and Natural Resources Committee to schedule a hearing on this worthy legislation at the earliest possible date.

I ask unanimous consent to have a copy of the bill included in the RECORD along with a copy of the Memorandum of Understanding between the City of Farmington and the Navajo Agricultural Products Industry. I also ask unanimous consent to include in the RECORD letters supporting this legislation from the Bureau of Reclamation; Governor Johnson, the Cities of Farmington and Bloomfield, New Mexico; San Juan County, New Mexico; and the Navajo Tribal Utility Authority.

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

S. 1662

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

SECTION 1. FINDINGS.

Congress finds that—

(1) the Navajo Indian irrigation project (in this section referred to as the ''irrigation project'') was authorized for construction and operation as a participating project of the Colorado River storage project by the Act of June 13, 1962, Public Law 87–483, pursuant to plans approved by the Secretary of the Interior on October 16, 1957;

(2) the irrigation project is an all-Indian irrigation project authorized for the primary purpose of delivering water to develop farming and allied industries that benefit the Navajo Nation;

(3) the Bureau of Reclamation has reserved 87 megawatts of power and associated energy from the Colorado River storage project for current and future use on the irrigation project, but currently not more than 25 megawatts of power is being used because the project is only partially completed; while the initial and subsequent plans and authorizing legislation for the irrigation project allow power to be used to deliver water to the irrigation project by canals and to lift water to heights sufficient to pressurize the sprinkler delivery system, clarification is necessary to approve the use of power for on-farm uses such as for powering center-pivot irrigation systems or for related agricultural industry purposes; and

(4) the irrigation project is of vital economic importance to the Navajo Nation, and substantial economic development for the Four Corners Region and the Navajo Nation could be realized if a portion of the 87 megawatt power allocation were made available by the Bureau of Reclamation for powering center-pivot irrigation systems and for related agricultural industry purposes.

SEC. 2. USE OF POWER.

The first section of the Act of June 13, 1962 (Public Law 87–483; 76 Stat. 96) is amended by adding at the end the following: ''The Navajo Indian irrigation project may use its allocation of 87 megawatts of power from the Colorado River storage project for water delivery, on-farm production, and related agricultural industry purposes.''.

NAVAJO AGRICULTURAL PRODUCTS INDUSTRY AND CITY OF FARMINGTON—MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (Agreement), between the Navajo Agricultural Products Industry (NAPI) and the City of Farmington (City), New Mexico, sometimes referred to as the Parties, sets forth the terms and conditions to clarify conflicting interests in delivery of electrical service to the Navajo Agricultural Products Industry.

Whereas, NAPI seeks the support of the City for the use of Other Priority Use Power for the development of the proposed french fry factory which will require a legislated Change in Purpose; and

Whereas, the City of Farmington recognizes and agrees with NAPI that the development of the french fry factory will have positive economic impact for the Navajo Nation, the City and San Juan County; that the french fry factory will create over 600 jobs; and, that it will require the development of three additional agricultural blocks which will have an important and positive long range influence on the economic development of the region; and

Whereas, NAPI's General Manager Lorenzo Bates and the City's Mayor Thomas C. Taylor met on November 21, 1997, to resolve outstanding issues which have arisen regarding NAPI's legislative request for a Change in Purpose of NAPI's Colorado River Storage Project (CRSP) Project Use Power allocation.

Therefore, as a result of the meeting the Parties agree as follows:

1. NAPI agrees to continue to utilize electric power provided by the City for its center pivots located in the City's service area;

2. The use and amount of such service to the center pivots shall remain similar to the amount used by NAPI at the signing of this Agreement and shall continue until the City implements customer choice in its service area;

3. This Agreement will be applicable and bind any person, corporation, or entity which may purchase or acquire through any means the Farmington Electric Utility System (FEUS).

In consideration of NAPI's promises and covenants, the City agrees as follows:

1. To support NAPI's request for a legislative Change in Purpose of a remaining portion of their eighty-seven megawatts (87 mW) of CRSP allocation of federal power to be used to supply electricity to the proposed french fry plant;

2. To provide additional support through letters, communications and action which will facilitate the development of the french fry factory and is not contradictory to policy decisions the City has made; and

3. To review the FEUS rates for electric service within the next two years and make an effort to offer competitive rates for center pivot operations.

By this acknowledgment, the Parties agree to abide by the terms of this Agreement.

NAVAJO AGRICULTURAL PRODUCTS INDUSTRY.
CITY OF FARMINGTON.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF RECLAMATION,
Washington, DC, November 5, 1997.

Hon. JEFF BINGAMAN,
U.S. Senate, Washington, DC.

DEAR SENATOR BINGAMAN: Thank you for your May 8, 1997, letter co-signed by the New Mexico and Arizona Congressional delegation, regarding the use of Federal power for the Navajo Agricultural Products Industry's (NAPI) center pivot irrigation system and industrial uses. The Bureau of Reclamation (Reclamation) has no express authority to

allow the use of project power for these proposed on-farm uses. Although Reclamation might have implicit authority which would allow for the use of project power in the manner requested, such an interpretation would not be consistent with the past instances of Reclamation practice. While we will continue to review the matter, given the lack of express authority, legislation to resolve the matter conclusively and expeditiously may be appropriate.

The sale of Federal power from a Reclamation project is governed by general Federal Reclamation law and authorizing acts for specific projects. Reclamation may provide power only for the uses authorized by Congress. Power is sold either as project power at the project,[1] or for other uses, on or off the project (non-project power). The Navajo Indian Irrigation Project (NIIP) was authorized for construction and operation as a participating project of CRSP by Public Law 87–483 passed on June 13, 1962, pursuant to plans approved by the Secretary of the Interior on October 16, 1957. Although NIIP is an Indian irrigation project, it is subject to Federal Reclamation law as provided by Section 4 of the Colorado River Storage Project Act of April 11, 1956. The planning and authorization documents, along with subsequent planning reports, indicate that project power was intended to accommodate delivery of water to the farm by canals and by lifting water to heights sufficient to pressurize the sprinkler irrigation delivery system. No specific indication is made that project power would be available to run center pivot irrigation systems or for on-farm municipal and industrial uses, however, it is clear that the primary purpose of the project is to deliver water for the development of farming and allied industries.

Reclamation has reserved 87 Megawatts (MW) of project power from the CRSP for current and future use on the NIIP for authorized purposes. Although as you point out in your May 8, 1997, letter, the terms of the 1990 interagency agreement and revisions agreed to by the Western Area Power Administration, Reclamation, and NAPI provide that NAPI can use other Priority Use Power for sprinkler irrigation and industrial uses, specific Congressional authority for such uses does not exist and therefore legislation making such authority clear would be appropriate. As development of NIIP continues, there are increasing opportunities for application of various conservation measures with attendant energy saving. With specific Congressional authorization, we believe that overall power usage, including the proposed on-farm uses can be accommodated within the present 87 MW allocation.

If you desire to discuss these matters further, please contact Arlo Allen at (801) 524–3612.

Sincerely,

ELUID L. MARTINEZ,
Commissioner.

OFFICE OF THE GOVERNOR,
STATE CAPITOL,
Santa Fe, NM, February 11, 1998.

Hon. JEFF BINGAMAN,
U.S. Senate, Hart Senate Office Bldg., Washington, DC.

Hon. PETE V DOMENICI,
U.S. Senate, Hart Senate Office Bldg., Washington, DC.

DEAR SENATOR BINGAMAN AND SENATOR DOMENICI: It is with pleasure that I give my support to the Navajo Agricultural Products Industry French Fry Plant. This project offers great opportunities for self-sufficiency and economic development for the Navajo Nation, City of Farmington, San Juan County and the State of New Mexico, as well as the Navajo Agricultural Product Industry. The creation of up to 500 plant jobs and another 100 farming jobs will benefit the community and the state. We commend everyone involved for the collaboration between state, federal, local and tribal agencies to make the french fry project a reality.

The Department of Economic Development has been heavily involved in this project for several years and spearheaded the effort to pass a new law to allow Nations, Tribes and Pueblos access to the New Mexico Finance Authority bonding capacity. I supported and signed into law this piece of legislation. The New Mexico Department of Environment also gave a grant to the Navajo Nation of $200,000 to study water issues for the french fry factory. The funding for the study came through the State Legislature with my full support In 1997, the New Mexico Legislature and my administration worked to pass legislation to further assist the Navajo Nation recruit the french fry factory to NAPI.

Sincerely,

GARY E. JOHNSON,
Governor.

CITY OF FARMINGTON,
OFFICE OF THE MAYOR,
Farmington, NM, February 10, 1998.

Mr. LORENZO BATES,
General Manager, Navajo Agricultural Products Industry, Farmington, NM.

DEAR MR. BATES: Based upon information received from the Navajo Agricultural Products Industry (NAPI), the Navajo Tribal Utility Authority (NTUA) and Senator Bingaman's office, the City of Farmington (City) understands that the location of the proposed french fry plant will straddle the area served by NTUA and the City of Farmington's electric utility. Furthermore, our understanding is that the electricity required for the french fry plant will be provided from resources available to NAPI under the Interagency Agreement among NAPI and the US Department of Interior—Bureau of Indian Affairs and the US Department of Interior—Bureau of Reclamation and the US Department of Energy—Western Area Power Administration, Colorado River Storage Project and that NTUA proposes to build the transmission/distribution system necessary to deliver such resources to NAPI.

In order for NAPI to have access to the resources under the Agreement referred to above, it is necessary to have legislation introduced which will provide for a change in purpose for the use of the project power. Senator Bingaman's office is intending to introduce that legislation in the Senate during the latter part of February, 1998. The City of Farmington, in accordance with the Memorandum of Understanding between NAPI and the City dated December 10, 1997, supports NAPI's request for a legislative Change in Purpose of a remaining portion of the eighty-seven megawatts (87mW) of CRSP allocation of federal power to be used to supply electricity to the proposed french fry plant.

Sincerely,

THOMAS C. TAYLOR,
Mayor.

CITY OF FARMINGTON,
OFFICE OF THE MAYOR,
Farmington, NM, January 8, 1998.

LORENZO BATES,
General Manager, NAPI, Farmington, NM.

DEAR LORENZO: The City of Farmington supports and encourages the development of the potato processing facility at NAPI. This project has the potential of creating numerous job opportunities for a large, unemployed segment of the population. In the City's application to the Empowerment Zone/Enterprise Community program we attempted to focus on job creation in areas south of our city where residents live far below the poverty standards. This project is the best opportunity for Navajo employment in that area.

Sincerely,

THOMAS C. TAYLOR,
Mayor.

CITY OF BLOOMFIELD,
Bloomfield, NM, February 6, 1998.

Senator JEFF BINGAMAN,
Hart Office Building, Washington, DC.

RE: Navajo Agricultural Products Industry (NAPI)—Potato Processing Plant

DEAR SENATOR BINGAMAN: The City of Bloomfield has been supportive of NAPI since its inception and in particularly supportive of its efforts to develop a ''potato processing plant''. We understand that Legislation is being prepared to allow NAPI to utilize WAPA Power for the plant and other purposes. We therefore, request your support of this Legislation.

As you are well aware, the Navajo Nation has a 49% unemployment rate on the reservation, therefore we feel that the development of the potato processing plant is of utmost importance to the Navajo Nation, San Juan County and the City of Bloomfield.

On behalf of myself and the City Council I would like to reaffirm the City's support for what can only be an economic benefit to all the citizens in Northwest New Mexico.

Sincerely,

SAM MOHLER,
Mayor.

SAN JUAN COUNTY,
Aztec, NM, February 6, 1998.

Hon. JEFF BINGAMAN,
Hart Senate Office Building, Washington, DC.

Re: Navajo Agriculture Products Industry (NAPI)—Potato Processing Plant

DEAR SENATOR BINGAMAN: San Juan County has been supportive of the NAPI's ''Potato Processing Plant'' since its inception. On numerous occasions we have met with Mr. Lorenzo Bates of NAPI and our legislative delegation to attempt to bring this project to fruition.

The Navajo Nation has a 49% unemployment rate on the Reservation and because of this, we feel that the Potato Processing Plant is of upmost importance to the County.

On behalf of myself and the San Juan County Commission, I would like to reaffirm the County's support for what I feel will be an economic benefit to all the citizens in San Juan County.

Please let us know if we can be of further assistance.

Sincerely,

TONY ATKINSON,
County Manager.

NAVAJO TRIBAL UTILITY AUTHORITY,
Fort Defiance, AZ, February 10, 1998.

Hon. JEFF BINGAMAN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

Re: Navajo Indian Irrigation Project On Farm Use of Colorado River Storage Project Power

DEAR SENATOR BINGAMAN: The Navajo Tribal Utility Authority, the public agency and enterprise of the Navajo Nation which provides power and energy to consumers within the Navajo Indian Reservation, has been advised of the possibility of legislation which would authorize the use of an existing allocation of 87 megawatts of Colorado River Storage Project Power for certain on farm uses, including center pivot sprinkler irrigation and for processing agricultural products for consumer use.

[1] There are two types of project power, ''project use power'' and ''priority use power.''

The Utility Authority supports the proposed legislation which clarifies the availability of this power for on farm uses. The Navajo Indian Irrigation Project has for many years been delayed in its completion and the allocation of power, originally made on the basis of a flood irrigation arrangement, may not be totally used for many, many years.

Since the promised benefits for agreement to share water shortages have not materialized as expected, it seems appropriate to suggest that, in some small measure, passage of this legislation would attempt to address the many delays which have consistently plagued the Navajo Indian Irrigation Project.

The Authority recognizes that the initial allocations of ''project use'' power to the Irrigation Project did not specifically mention sprinkler irrigation by center pivot methods nor the development of municipal or industrial uses on the farm. However, these activities must have been contemplated within the plan for the development of a 110,000 acre irrigation farm for the Navajo Nation.

As the current serving utility for a substantial portion of the Irrigation Project, the Authority supports enactment of the legislation by the Congress.

Very truly yours,

MALCOLM P. DALTON,
General Manager.

ADDITIONAL COSPONSORS

S. 153

At the request of Mr. MOYNIHAN, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 153, a bill to amend the Age Discrimination in Employment Act of 1967 to allow institutions of higher education to offer faculty members who are serving under an arrangement providing for unlimited tenure, benefits on voluntary retirement that are reduced or eliminated on the basis of age, and for other purposes.

S. 263

At the request of Mr. MCCONNELL, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 263, a bill to prohibit the import, export, sale, purchase, possession, transportation, acquisition, and receipt of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 361

At the request of Mr. JEFFORDS, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 361, a bill to amend the Endangered Species Act of 1973 to prohibit the sale, import, and export of products labeled as containing endangered species, and for other purposes.

S. 389

At the request of Mr. ABRAHAM, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 389, a bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes.

S. 412

At the request of Mr. LAUTENBERG, the name of the Senator from Oregon [Mr. SMITH] was added as a cosponsor of S. 412, a bill to provide for a national standard to prohibit the operation of motor vehicles by intoxicated individuals.

S. 850

At the request of Mr. AKAKA, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor 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. 887

At the request of Ms. MOSELEY-BRAUN, the names of the Senator from California [Mrs. BOXER] and the Senator from New Jersey [Mr. TORRICELLI] were added as cosponsors of S. 887, a bill to establish in the National Service the National Underground Railroad Network to Freedom program, and for other purposes.

S. 1096

At the request of Mr. KERREY, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 1096, a bill to restructure the Internal Revenue Service, and for other purposes.

S. 1147

At the request of Mr. WELLSTONE, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 1147, a bill to amend the Public Health Service Act, Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to provide for nondiscriminatory coverage for substance abuse treatment services under private group and individual health coverage.

S. 1180

At the request of Mr. KEMPTHORNE, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1180, a bill to reauthorize the Endangered Species Act.

S. 1252

At the request of Mr. REED, his name was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1260

At the request of Mr. GRAMM, the name of the Senator from North Carolina [Mr. HELMS] 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. 1286

At the request of Mr. JEFFORDS, the names of the Senator from Vermont [Mr. LEAHY], the Senator from Maine [Ms. SNOWE], the Senator from Maine [Ms. COLLINS], and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 1286, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain amounts received as scholarships by an individual under the National Health Corps Scholarship Program.

S. 1287

At the request of Mr. JEFFORDS, the name of the Senator from Maine [Ms. COLLINS] was withdrawn as a cosponsor of S. 1287, a bill to assist in the conservation of Asian elephants by supporting and providing financial resources for the conservation programs of nations within the range of Asian elephants and projects of persons with demonstrated expertise in the conservation of Asian elephants.

S. 1311

At the request of Mr. LOTT, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 1311, a bill to impose certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles.

S. 1365

At the request of Mr. SARBANES, his name was added as a cosponsor of S. 1365, a bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 1461

At the request of Mr. LAUTENBERG, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 1461, a bill to establish a youth mentoring program.

S. 1504

At the request of Mr. GRAHAM, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 1504, a bill to adjust the immigration status of certain Haitian nationals who were provided refuge in the United States.

S. 1578

At the request of Mr. MCCAIN, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 1578, a bill to make available on the Internet, for purposes of access and retrieval by the public, certain information available through the Congressional Research Service web site.

S. 1605

At the request of Mr. LEAHY, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 1605, a bill to establish a matching grant program to help States, units of local government, and Indian tribes to purchase armor vests for use by law enforcement officers.

S. 1618

At the request of Mr. MCCAIN, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 1618, a bill to amend the Communications Act of 1934 to improve

the protection of consumers against ''slamming'' by telecommunications carriers, and for other purposes.

SENATE JOINT RESOLUTION 40

At the request of Mr. HATCH, the names of the Senator from Oklahoma [Mr. NICKLES] and the Senator from Wyoming [Mr. THOMAS] were added as cosponsors of Senate Joint Resolution 40, a joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

SENATE CONCURRENT RESOLUTION 55

At the request of Mr. GREGG, the names of the Senator from South Carolina [Mr. HOLLINGS] and the Senator from Indiana [Mr. COATS] were added as cosponsors of Senate Concurrent Resolution 55, a concurrent resolution declaring the annual memorial service sponsored by the National Emergency Medical Services Memorial Service Board of Directors to honor emergency medical services personnel to be the ''National Emergency Medical Services Memorial Service.''

SENATE CONCURRENT RESOLUTION 71

At the request of Mr. LOTT, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of Senate Concurrent Resolution 71, a concurrent resolution condemning Iraq's threat to international peace and security.

SENATE RESOLUTION 148

At the request of Mr. DOMENICI, the names of the Senator from Colorado [Mr. CAMPBELL], the Senator from Illinois [Mr. DURBIN], and the Senator from Montana [Mr. BAUCUS] were added as cosponsors of Senate Resolution 148, a resolution designating 1998 as the ''Onate Cuartocentenario'', the 400th anniversay commemoration of the first permanent Spanish settlement in New Mexico.

SENATE RESOLUTION 155

At the request of Mr. LOTT, the names of the Senator from Maine [Ms. SNOWE] and the Senator from Utah [Mr. HATCH] were added as cosponsors of Senate Resolution 155, a resolution designating April 6 of each year as ''National Tartan Day'' to recognize the outstanding achievements and contributions made by Scottish Americans to the United States.

SENATE RESOLUTION 168

At the request of Mr. HUTCHINSON, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Resolution 168, a resolution expressing the sense of the Senate that the Department of Education, States, and local educational agencies should spend a greater percentage of Federal education tax dollars in our children's classrooms.

SENATE RESOLUTION 171

At the request of Mr. SPECTER, the names of the Senator from Rhode Island [Mr. REED], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Washington [Mrs. MURRAY], the Senator from California [Mrs. FEINSTEIN], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Oregon [Mr. WYDEN] were added as cosponsors of Senate Resolution 171, a resolution designating March 25, 1998, as ''Greek Independence Day: A National Day of Celebration of Greek and American Democracy.''

SENATE RESOLUTION 174

At the request of Mr. ROTH, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of Senate Resolution 174, a resolution to state the sense of the Senate that Thailand is a key partner and friend of the United States, has committed itself to executing its responsibilites under its arrangements with the International Monetary Fund, and that the United States should be prepared to take appropriate steps to ensure continued close bilateral relations.

AMENDMENT NO. 1397

At the request of Mr. BYRD, the names of the Senator from Connecticut [Mr. DODD] and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Amendment No. 1397 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 CONCURRENT RESOLUTION 76—ENFORCING THE EMBARGO ON THE EXPORT OF OIL FROM IRAQ

Mr. MURKOWSKI submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 76

Whereas hostilities in Operation Desert Storm ended on February 28, 1991, and the cease fire was codified in United Nations Security Council Resolutions 686 (March 2, 1991) and 687 (April 3, 1991);

Whereas United Nations Security Council Resolution 687 requires that international economic sanctions, including an embargo on the sale of oil from Iraq, remain in place until Iraq discloses and destroys its weapons of mass destruction programs and capabilities and undertakes unconditionally never to resume such activities;

Whereas Resolution 687 further established the United Nations Special Commission (UNSCOM) on Iraq to uncover all aspects of Iraq's weapons of mass destruction program;

Whereas, despite the sustained opposition of the Government of Iraq, UNSCOM has discovered many instances of inaccurate actions by Iraq concerning Iraqi ballistic missile capabilities and chemical and biological programs;

Whereas Security Council Resolution 986 (April 14, 1995) partially lifted international economic sanctions by allowing Iraq to sell $1 billion in oil every 90 days, the proceeds of which are designed, in part, for humanitarian assistance to the people of Iraq;

Whereas a report by the Secretary General of the United Nations submitted on February 2, 1998 recommends further easing of economic sanctions by allowing Iraq to sell $5.2 billion in oil every six months;

Whereas the United States has indicated it will support the easing of further economic sanctions proposed by the UN Secretary General;

Whereas revenues from oil exports have historically represented nearly all (95 percent) of Iraq's foreign exchange earnings;

Whereas in the year preceding hostilities in Operation Desert Storm, Iraq's export earnings totaled $10.4 billion;

Whereas Iraq, since the end of Operation Desert Storm, has been steadily increasing exports of oil to Jordan from 60,000 to 80,000 barrels per day and in December 1997, agreed to increase such shipments to approximately 96,000 barrels per day;

Whereas Iraq has been able to circumvent international economic sanctions by exporting oil to Turkey;

Whereas the Multinational Interdiction Force that conducts maritime searches in the Persian Gulf has reported that exports of contraband Iraqi oil through the Gulf have increased seven-fold in the past year, from $10 million in diesel fuel sales in 1996 to $75 million in 1997;

Whereas Iraq's military capabilities, including its capacity to produce weapons of mass destruction, are significantly enhanced by its ability to earn foreign exchange primarily from oil exports;

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) condemns in the strongest possible terms the continued threat to international peace and security posed by Iraq's refusal to meet its international obligations and end its weapons of mass destruction programs;

(2) urges the Administration to oppose any further weakening of economic sanctions including extension of, or expansion of, United Nations Security Council Resolution 986;

(3) urges the President to propose to the United Nations Security Council measures to significantly tighten the international embargo on the sale of oil from Iraq, including efforts to strengthen the Multi-lateral Interdiction Force and inspection operations near the Port of Basra;

(4) urges the President to enter into negotiations with oil producing nations in the Gulf to encourage them to make subsidized sales of oil to Jordan;

(5) urges the President to submit a report to Congress 30 days before the UN is authorized to consider renewing Iraq's authority to export oil setting forth a detailed accounting for the disposition of the proceeds of UN authorized sales of oil from Iraq.

Mr. MURKOWSKI. Mr. President, I rise to submit a concurrent resolution addressing the international sanctions regime that has been in place against Iraq since the end of the Persian Gulf war. As we all know, there has been a great deal of deliberation in this Chamber relative to potential action that might be initiated by our Government against Iraq. And there is a feeling of, I think, growing concern as to just what type action we might take and what it will accomplish.

But, Mr. President, I think I bring a different approach to this dilemma. As we acknowledge the risk of the approach to this dilemma. As we acknowledge the risk of the approaching confrontation with Iraq that has been brought about by Saddam Hussein's continuing unwillingness to allow the U.N. inspectors the right to inspect the facilities in Iraq, what we also know is that Saddam Hussein is very likely continuing to manufacture and develop weapons of mass destruction, probably of a biological nature.

I was in Iraq in the early 1980s with a number of Senators and had an opportunity to visit with Saddam Hussein before the Persian Gulf war. It was clear from that meeting that we had a very unusual personality, one who is dangerous and clearly unpredictable.

As a consequence, we find ourselves in the position that until the U.N. inspectors are allowed unfettered access to the facilities in Iraq, the world will continue to be held hostage to the destructive and threatening tendencies of Saddam Hussein.

With the world's economy so heavily dependent on the free flow of oil from the Mideast, so long as these weapons of mass destruction exist, the economic stability of every nation in the world is somewhat at risk. Make no mistake about it, Mr. President, the Persian Gulf war was a war to ensure that Saddam did not take over the oil fields of Kuwait. That was Saddam's objective. It was a war about oil and the necessity of keeping oil flowing to the free markets of the world.

So, Mr. President, one question that seems to be lost in the debate is, how—how—has Saddam been able to obtain the technology and the resources to construct facilities capable of producing poison gas and biological weapons? The U.N. economic embargo has been in place for 7 years, but somehow—somehow—he appears to have been able to maintain a cash flow to purchase the necessary technology for building these laboratories of death.

Just this morning, the Washington Post is reporting that U.N. inspectors have uncovered evidence that in 1995 the Russian Government may have entered into a multimillion dollar deal to sell Iraq specialized fermentation equipment that could be used to develop biological weapons. If this story turns out to be true, Russia's credibility in its alleged efforts to broker a diplomatic solution to the current crisis could be seriously called into question.

More importantly, the question remains, how could Iraq have financed this deal? Well, surely the Russians were not going to sell such equipment in exchange for worthless Iraqi dinars. The deal had to be financed with dollars, had to be financed with hard currency. But how could Iraq amass millions in hard currency in the face of 7 years of U.N. sanctions?

Well, Mr. President, there is only one answer. It is an obvious one. The only mechanism that Iraq has to enable it to gain hard currency is to export its oil. There is virtually nothing else, besides dates and some agriculture products, that Iraq has to export.

Prior to the U.N. sanctions in 1990, Iraq had exports of $10.4 billion. Of that amount, more than 95 percent—or almost $10 billion—was derived from oil exports. Clearly, Iraq's capacity to purchase equipment in the world market to develop weapons of mass destruction is directly linked to its ability to sell oil, and only oil.

Ever since the gulf war ended, Iraq has been shipping oil into Jordan. Initially, Jordan received about 60,000 barrels of Iraqi oil a day. That figure has recently climbed to over 80,000 barrels a day, and in an agreement reached in December, the oil trade between Iraq and Jordan is scheduled to climb to 96,000 barrels a day.

Although the Jordanians claim that the oil is traded for food and medicine, I personally find it hard to believe that, with millions of dollars worth of oil and products daily crossing the Iraq/Jordanian border, that some of that oil is not leaking into the world market or that hard currency and sophisticated machinery are not flowing back into Iraq. As a matter of fact, we know that oil is leaking out.

Moreover, there is a great deal of evidence that Iraqi oil is being shipped across the border into Turkey. Dollars are surely being traded in exchange for the oil, and those dollars are likely to be used to finance Saddam's factories of death.

In addition, Mr. President, the Multinational Interdiction Force, the MIF, that conducts maritime searches in the Persian Gulf reported factually last fall that exports of contraband Iraqi oil through the gulf and jumped sevenfold in the past year, from $10 million in diesel fuel sales in 1996 to $75 million in 1997. Much of that oil is believed to be transshipped through Iran and the United Arab Emirates and on to the world market.

What does Saddam do with the revenues from those contraband sales? Well, he keeps his weapons factories running, keeps the Republican Guards well armed and fed.

Mr. President, the United States has been concerned about the hardships, of course, that the economic sanctions have imposed on the people of Iraq. Our conflict is not with the Iraqi people; it is with the dictator who has run that country for some 19 years while depriving the people of the basic dignities of life and slaughtering some tens of thousands of minority citizens of Iraq.

In 1995, the United States supported a fundamental weakening of the economic sanctions against Iraq. We supported a resolution permitting Iraq to sell $1 billion worth of oil every 90 days under the oil-for-food program. I believe this was a weakening of the sanctions, and as a consequence was a mistake.

What this has done is it has allowed Saddam to import food and medicine for the Iraqi people, which is true and certainly worthy, but it has also made it far easier for Saddam to divert some of the investment billions that he has hidden in accounts around the world. Prior to the oil-for-food program, Saddam had to use these investment profits to import food and medicine. The oil-for-food program frees up his investment profits to purchase equipment that can enhance all of his weapons capabilities, including his capacity to manufacture weapons of mass destruction.

Mr. President, I believe that the United States must make every effort now to ensure that Saddam cannot use his oil assets to obtain more hard currency for weapons programs. That is why I am introducing the resolution today. The resolution specifically urges the President to oppose any measure that weakens the international sanctions that permit Iraq to export oil.

Recently, the Secretary-General of the United Nations recommended a significant easing of the Iraq sanctions and proposed that Iraq be permitted to sell more than twice as much oil as is currently permitted. Under this proposal, Iraq could conceivably sell $10.4 billion worth of oil in a single year. I was shocked to learn that this administration has indicated it would support this unwarranted expansion of Iraqi oil exports. Mr. President, if this U.N. proposal is adopted we might just as well end all sanctions on Iraq. Mr. President, $10.4 billion dollars was the amount of oil that Iraq exported before her invasion of Kuwait. Are we going to allow Iraq to to return to that level of exports and still retain a public stance in support of sanctions? That proposal makes a mockery of the sanctions.

My concurrent resolution would also urge the President to develop measures that will tighten the oil embargo on Iraq and prevent the leakage into the would marketplace that we have seen over the past few years. It also urges the President to try and convince both the Governments of Kuwait and Saudi Arabia to end their boycott of Jordan and begin making subsidized oil sales to Jordan to replace the Iraqi oil. The Jordanian border is one of the most porous in the Middle East and the Jordanians are forced to trade with Iraq primarily because the Saudis and Kuwaitis will not sell Jordan oil. That policy may have made sense immediately after the gulf war but today it must be reconsidered. If we can replace 96,000 barrels of oil that Jordan imports from Iraq, we will have made a significant step toward tightening the flow of dollars to Iraq.

Mr. President, oil is the key to controlling the future military capacity and capabilities of Iraq, and we must move more vigilantly in our efforts to stop the leakage of Iraqi oil onto the would market if we are going to contain Saddam Hussein.

Mr. President, let me again highlight the specifics of the resolution I just introduced. The resolution urges the administration to oppose any further weakening of economic sanctions against Iraq. The resolution urges the President to propose to the United Nations measures to significantly tighten the international embargo on the sale of oil from Iraq, including efforts to strengthen the multilateral interdiction force so that these illegal shipments can be stopped. And finally, the resolution urges the President to enter into negotiations with oil producing

nations in the gulf to encourage these nations to make subsidized sales of oil to Jordan.

Mr. President, recognizing the concern that we all share over developments in Iraq since the Persian Gulf war, we are faced with the necessity to take a hard look at our options. One option is the strategic bombing of the sites where we believe we have enough information to satisfy ourselves that a strike will have a meaningful impact. On the other hand, strategic bombing is likely to result in television shots of injured children and women that undoubtedly will be placed as human shields around strategic sites in Iraq.

Another option is the use of ground forces to back up an air campaign to try and take out Saddam Hussein himself. Although the United States has significant resources, there is a recognition that a ground strike under current circumstances is unlikely given the increasing likelihood that American solders would lose their lives. Of course there is also the unanswered question of what we would do if Saddam survived such an attack?

With either of these options we must address the reality that we do not have the multilateral coalition which included our Arab neighbors that we had when the Bush administration initiated Desert Storm. I think it is unfortunate that this administration has not maintained that coalition. So now we are pretty much alone. Great Britain, Canada and Australia are with us, and for that we are grateful, but from there on it gets pretty lonesome.

Going it alone or going it with others, we still must talk about the end game. If Saddam Hussein survives, do we continue these same efforts in another few years? Are we going to give Saddam Hussein carte blanche in his ability to recover? Because he will recover by selling oil. That is what he has.

Saddam Hussein has been able to generate roughly $1 billion per quarter from the sale of oil. There is information—and unfortunately I can't reveal some of the information because it is classified—concerning the large amount of illegal oil that is flowing out of Iraq. And we are not able to stop this flow both because there are not enough multilateral intervention force (MIF) vessels in the area and because the rules of engagement under which the MIF forces operate don't allow them to stop such illegal movement.

It is these illegal sales that are primarily fueling Iraq's economy. Mr. President, it simply makes sense to this Senator to recognize that oil is the lifeblood of Iraq. We need to shut off this lifeblood, maybe through a combination of increased enforcement of the embargo and jawboning some of our allies who are purchasing Iraq's oil. Perhaps we need to go further, and consider the merits of a maritime blockade of some sort. A blockade certainly is not an unreasonable alternative when you consider that we might initiate a military action against Saddam. Stop Saddam Hussein's oil and you shut down his ability to funnel resources into his war machine and the economy, and ultimately, I think his regime will collapse.

As a Congress, we must address the issue of oil sales and we must do it in a prompt manner. I believe we must terminate these illegal sales of oil and we must be more vigilant in our oversight to ensure that the oil that is allowed to be sold under the sanctions and the dollars generated are really going for the benefit of the people and their social needs. That is the basis of my resolution. We must stop Saddam Hussein's ability to fund his war machine by cutting off his ability to supply the markets with Iraqi oil. That is an action that we should have taken some time ago.

I urge my colleagues to consider the merits of my concurrent resolution. It is certainly appropriate to consider this action as we address the merits of any further military action that might be contemplated to stop Saddam from whatever his ultimate objective is. Cut off his oil and you are going to get his attention.

SENATE CONCURRENT RESOLUTION 77—RELATIVE TO THE FEDERAL GOVERNMENT

Mr. SESSIONS submitted the following concurrent resolution; which was referred to the Committee on Labor and Human Resources:

S. CON. RES. 77

Whereas studies have found that quality child care, particularly for infants and young children, requires a sensitive, interactive, loving, and consistent caregiver;

Whereas most parents meet and exceed the aforementioned criteria, circumstances allowing, parental care marks the best form of child care;

Whereas the recent National Institute for Child Health and Development study found that the greatest factor in the development of a young child is ''what is happening at home and in families'';

Whereas a child's interaction with his or her parents has the most significant impact on their development, any Federal child care policy should enable and encourage parents to spend more time with their children;

Whereas 48 percent of mothers with preschool children under the age of 5 are full-time at-home parents and another 34 percent of mothers work part-time in order to spend more time with their preschool children;

Whereas a large number of low- and middle-income families sacrifice a second full-time income so that the mother may be at home with her child;

Whereas the average income of 2-parent families with a single income is $20,000 less than the average income of 2-parent families with two incomes;

Whereas only 30 percent of preschool children are in paid child care and the remaining 70 percent of preschool children are in families that do not pay for child care, many of which are low- to middle-income families struggling to provide child care at home;

Whereas child care proposals should not provide financial assistance solely to the 30 percent of families that pay for child care and should not discriminate against families in which children are cared for by an at-home parent; and

Whereas any congressional proposal that increases child care funding should provide financial relief to families that sacrifice an entire income in order that a mother or father may be at home for their young child: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress recognizes that—

(1) many American families make enormous sacrifices to forgo a second income in order to have a parent care for their child at home;

(2) there should be no bias against at-home parents;

(3) parents choose many legitimate forms of child care to meet their individual needs—an at-home parent, grandparent, aunt, uncle, neighbor, nanny, preschool, or child care center;

(4) child care needs of at-home parents and working parents should be given careful consideration by the Congress;

(5) any quality child care proposal should reflect careful consideration of providing financial relief for those families where there is an at-home parent; and

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SENATE RESOLUTION 176—PROCLAIMING ''NATIONAL CHARACTER COUNTS WEEK''

Mr. DOMENICI (for himself, Mr. DODD, Mr. COCHRAN, Ms. MIKULSKI, Mr. BENNETT, Mr. LIEBERMAN, Mr. KEMPTHORNE, Mr. DORGAN, Mr. FRIST, and Mr. CLELAND) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 176

Whereas young people will be the stewards of our communities, Nation, and world in critical times, and the present and future well-being of our society requires an involved, caring citizenry with good character;

Whereas concerns about the character training of children have taken on a new sense of urgency as violence by and against youth threatens the physical and psychological well-being of the Nation;

Whereas more than ever, children need strong and constructive guidance from their families and their communities, including schools, youth organizations, religious institutions, and civic groups;

Whereas the character of a nation is only as strong as the character of its individual citizens;

Whereas the public good is advanced when young people are taught the importance of good character and that character counts in personal relationships, in school, and in the workplace;

Whereas scholars and educators agree that people do not automatically develop good character and, therefore, conscientious efforts must be made by institutions and individuals that influence youth to help young people develop the essential traits and characteristics that comprise good character;

Whereas although character development is, first and foremost, an obligation of families, the efforts of faith communities, schools, and youth, civic, and human service organizations also play a very important role in supporting family efforts by fostering and promoting good character;

Whereas the Senate encourages students, teachers, parents, youth, and community leaders to recognize the valuable role our youth play in the present and future of our

Nation and to recognize that character is an important part of that future;

Whereas in July 1992, the Aspen Declaration was written by an eminent group of educators, youth leaders, and ethics scholars for the purpose of articulating a coherent framework for character education appropriate to a diverse and pluralistic society;

Whereas the Aspen Declaration states, ''Effective character education is based on core ethical values which form the foundation of democratic society.'';

Whereas the core ethical values identified by the Aspen Declaration constitute the 6 core elements of character;

Whereas the 6 core elements of character are trustworthiness, respect, responsibility, fairness, caring, and citizenship;

Whereas the 6 core elements of character transcend cultural, religious, and socioeconomic differences;

Whereas the Aspen Declaration states, ''The character and conduct of our youth reflect the character and conduct of society; therefore, every adult has the responsibility to teach and model the core ethical values and every social institution has the responsibility to promote the development of good character.'';

Whereas the Senate encourages individuals and organizations, especially those who have an interest in the education and training of our youth, to adopt the 6 core elements of character as intrinsic to the well-being of individuals, communities, and society as a whole; and

Whereas the Senate encourages communities, especially schools and youth organizations, to integrate the 6 core elements of character into programs serving students and children: Now, therefore, be it

Resolved, That the Senate—

(1) proclaims the week of October 18 through October 24, 1998, as ''National Character Counts Week''; and

(2) requests that the President issue a proclamation calling upon the people of the United States and interested groups to embrace the 6 core elements of character and to observe the week with appropriate ceremonies and activities.

NATIONAL CHARACTER COUNTS WEEK

Mr. DOMENICI. Mr. President, fellow Senators, today, for the fifth consecutive year I am going to submit a resolution on behalf of myself, Senators DODD, COCHRAN, BENNETT, LIEBERMAN, MIKULSKI, KEMPTHORNE, DORGAN, FRIST, and CLELAND. This resolution that we have introduced 5 consecutive years sets aside the week of October 18–24 of this year for what we call National Character Counts Week.

About 6½ years ago, a very distinguished group of Americans from all walks of life met for 3 or 4 days to talk about the character of America and the character of American people and decided after 3 days of debate that there were, in fact, six pillars of character. If these pillars could permeate our society and our children, we would all be better for it, America would be better for it and, most of all, our lives would be better for it.

These six pillars were determined at that point in time and they have remained ever since as trustworthiness, respect, responsibility, fairness, caring, and citizenship. They are referred to as the six pillars of character.

Mr. President and fellow Senators, when one looks at what has developed in these years, to help our teachers—be they in private or public schools—talk to students and teach them about these six pillars, it is obvious that these are basic concepts, basic ideas that hardly anyone in America would disagree with. That is not to say that anybody is preaching, but would we not like our children to learn the value of honesty? That is what trustworthiness is. Would we not like our young children and even our business community to be cognizant of and practice respect? And would we not want, as our children grow and as people begin to understand what holds a country together, would we not want responsibility to become part of the vocabulary of every child, every young person?

I can go through all six, and I can find different words to express each of the six. It is obvious, however, if you move throughout the State of New Mexico or the State of Georgia—I note my good friend, Senator CLELAND is here—if you ask a group of people from all walks of life, various religions, various degrees of faith, even agnostics: ''Do you object to our young people learning trustworthiness, respect, responsibility, fairness, caring, citizenship?'', you rarely get a negative response.

Now, this six pillars-character approach is spreading throughout our country, and those who came up with the idea and the foundation which has the right to use these pillars of character do not intend to impose from on high; rather they ask that individuals, schools, leaders, organizations such as the Boy Scouts, NFL player groups, adopt these six pillars and then do something about them.

I would be less than honest if I did not tell you the place these six pillars are spreading most rapidly is the right place—in the schools. Teachers are excited, believe it or not. Some have expressed to me they are now permitted to do what they always thought they should do but because we got all mixed up in terms of what you couldn't do in a classroom, these kind of lessons were left out. It now seems that without much objection, many school boards have said let's do it. Teachers are trying to permeate the halls, the classrooms, the meeting rooms and the minds of young people with these six pillars.

I will in my prepared remarks talk just a little bit about my State, the State of New Mexico. We organized partnerships with a number of mayors, the Governor joined, and we have now about 90 percent of all the schoolchildren in the State of New Mexico, parochial and private, that are exposed and taught and work with these six pillars—not some other words that describe it—these six words.

So there is a commonality now of usage of words. A commonality of examples that are used. Mr. President, you might have been thrilled to go to a grade school in New Mexico with me on a given day when the pillar called ''responsibility'' had been the subject matter in that school for one month. The way a significant number of schools do it is take one pillar a month. Teach everything else you teach, but also include the word of the month in these classes. You would have walked into that grade school and seen the walls plastered with signs and pictures the students had drawn about the word of the month, such as the word responsibility. You could then go to an assembly where all the little children with their teachers talked about responsibility for about an hour and gave awards where young people said that is the most responsible student in the class and this is what he or she did. It is rather exciting.

Now, frankly, it is not the business of any State Department of Education, If character education is going to be done, each school has to desire to do it along with the principal, teachers, and parents.

Needless to say, people ask, is it working? Frankly, I can't stand here and tell you I am absolutely certain of all the positive aspects, but I can tell you that we are beginning to get more than anecdotal information from schools that have been doing it for 2 or 3 years. They note that there is a noticeable change in behavior and relationship of children to children and, indeed, of teachers to children. Many would claim, indeed, that this does more for changing the character of our country in the right direction than almost anything that is going on out there except the organized activity of the faith people of the country as they proceed with their faith-filled lessons.

In our State we are now experimenting with the very first group of businessmen who are trying to inculcate the six pillars of character, in an institutional way, into their businesses. They are going to try to see if they can incorporate these values as a part of the life of a business, the life of the employees, and all of their relationships to the public. They hope that these values will then be passed on to others, if indeed, it has a measure of success.

Now, we are not unique. I happened to put the resolution in the Senate 5 years ago and asked ten Senators to join me. Former Senator Sam Nunn was one of the original ten. His successor, Senator MAX CLELAND, has joined us now as an original sponsor. He is here now in the chamber, and I will yield to him in a few minutes.

I in no way stand here suggesting that there are not many better examples than my State of New Mexico. There probably are. I just feel very good every now and then, once a year, to tell the Senate a few exciting stories about what is going on in our State in this regard. In the prepared remarks I cite many other examples of how the six pillars are working and how the public is responding and how televisions and radio stations help promote

these pillars. They are now kind of common, ordinary language among the people in the State of New Mexico. I think that is all a very good start.

This resolution will designate the week of October 18–24, 1998, as National Character Counts Week, when individuals and organizations may observe specifically their programs and activities supporting character development.

All of us who have been involved with character education programs know about the extraordinary growth of these efforts across the country. Regardless of our support here in Washington, the development of character programs the grassroots level has been the most exciting. Good character can be endorsed and supported by Government, but it is families, schools, and communities that make the real difference.

Over the past 4 years since we initiated community-based Character Counts programs in New Mexico, the public and private schools in the State have incorporated the Character Counts message in most of the State's schools. Almost 200,000 students are receiving instruction and are involved in activities that promote the Six Pillars of Character: Trustworthiness, Respect, Responsibility, Fairness, Caring, and Citizenship. Whether the Six Pillars appear on billboards, on town waterbills, or are incorporated into a school's curriculum, the message of good character permeates the community.

The six simple words are not just words in a vocabulary. They are concepts that have meaning to children and adults alike, resulting in tangible actions that change for the better how they relate to and interact with one another. Today, I would like mention just a couple of examples of how the Character Counts efforts in New Mexico are changing the daily lives of its citizens for the better.

I would like to recount one of the most inspiring Character Counts initiatives I have seen in New Mexico. It is about Emerson Elementary School in Albuquerque. The school has 800 students speaking more than 11 languages. The school is located in a densely populated, culturally diverse and highly mobile area, with a 98.5 percent poverty rating. Many refer to this area of the city as a ''war zone'' because of its high crime rate. The challenges facing the school administration, teachers, and its Principal Linda Torres far exceed those of most schools; its academic challenges are as great as the community's social challenges.

The Character Counts program at Emerson Elementary was initiated as a total Social Skills Curriculum, with the Six Pillars integrated into all its daily classes and reinforced with various activities to reward the students for good behavior. At the same time, the school utilizes a human services collaborative support program for the 500 families associated with the school. It works with social service organizations to ensure the entire family is assisted, whether it is providing nutritional advice or clothing to needy families. In an effort to maximize community involvement of adults and children, the school children adopted the Veterans Memorial Park across the street from the school as one of their civic projects. They help maintain and patrol the park, and since the project began there have been no problems with graffiti.

Emerson Elementary has become a virtual community center in this area of the city and a true haven for the children and their parents. Principal Linda Torres believes that among all the conflicts that need addressing or resolving within the school and in the community, it is clear that the values that reside ''inside a person'' are as critical as anything the school attempts to provide. In summarizing the success of Character Counts, Principal Torres says, ''the community gives back to the school and the school gives back to the community—it's not just a situation of taking, it's the concept of giving that makes a difference.''

In another New Mexico community far to the south of Albuquerque near the Texas border is a medium-sized town, Las Cruces, that has embraced Character Counts in both its private and public schools, and within the community itself.

As an example, the Las Cruces University Hills Elementary School sends parents regularly scheduled communications and newsletters explaining new Character Counts initiatives. Each month the school focuses on one of the six pillars with a school-wide assembly to kick off each new pillar. Teachers include the words in lessons throughout the school day, each day of the month. The students are urged to discuss their experiences and how the concepts relate to their daily lives. The school's monthly newsletters report how students identify with the various pillars.

I believe the children's own words best express how they apply the Character Counts concepts to their daily lives:

''Citizenship is caring about our country and other people * * * Make the community a better place by cleaning the environment and taking care of it. Take care of nature, animals, plants, and land. Be a nice neighbor.''

Jammal: ''In our group respect means treating one another equally, even if they are not good looking, handicapped, or if they're slow. Showing respect means not being bossy and treating people fairly. I respect people for what they are, and all their different abilities. When I show respect, I am kind and polite to people. My way of showing respect is by manners and helping others.''

Brenna, Karina, Christopher, Spencer and Shoji: ''If you want to be a respectful person, then it's a good time to start knowing about respect and be one to the end. Be polite and the world will be safe once again. If you respect others, respect is what you will get back.''

Tyrel: Sometimes we forget that each and every day there are ways of practicing good character traits. Parents, teachers, civic and business organizations, and community leaders are responding with enthusiasm to this fairly simple program of teaching and practicing the tenets of good character.

Creative community programs are developed so the messages are not confined to the classrooms but are shared by all citizens. In Albuquerque, a new program Character Counts in the Workplace is designed to apply the Six Pillars to workplace ethics. In Lea County, the Character Counts Board of Directors meets monthly to coordinate activities, with each community independently expanding its Character Counts message through its local festivities, service clubs, and schools. In Roswell, the Future Homemakers of America of Sierra Middle School, using the lessons learned about caring, assisted students at Valley View Elementary School with holiday crafts projects.

In April, the State of New Mexico will host the National Character Counts Conference, followed by 2 days of its own State Conference. Just a quick review of a few of the planned meetings at the New Mexico Conference tells us of the variety of programs being developed throughout the State: the Police Role in Community Character Counts Programs; Join-A-School Projects—What to Do; Character Counts in the Workplace; At-Risk Youth and Character Counts; School and Community Youth Athletics; and Parenting for Character Development. These sessions clearly show how broadly-based the Character Counts activities have become throughout the State.

When we first introduced the National Character Counts Week resolution in 1994, I doubt we could have envisioned how quickly parents, teachers, schools, towns, cities, and civic organizations would develop programs to address the issue of character building. It has universal appeal, and it has touched the lives of millions of our citizens. The ''crisis in character'' is being addressed by America's citizens, at the local level, where it matters most. I am very proud to be a part of this effort. Practicing the principles of good character pays enormous dividends not only to each of us personally but to countless generations in the future.

Mr. CLELAND. Mr. President, I thank the distinguished Senator from New Mexico, Senator DOMENICI, my personal friend and dear colleague, for his character and especially his courage in putting forward this resolution and in taking the leadership in making sure that this resolution is enacted. I am honored to be a cosponsor of the National Character Council Week resolution.

Mr. President, the stories and statistics are painfully familiar; we have all

heard them—children having children, young boys joining gangs out of a need to belong, children as young as 9 years old smoking marijuana or shooting up heroin or inhaling freon from the living room air conditioner just to find a high.

Now the latest figures are in from the Department of Justice: 25,000 juveniles murdered between 1985 and 1995. Half of all high school students who carry a weapon take that weapon to school. Juvenile arrestees are now more likely, according to the Department of Justice, than adult arrestees to have used a gun in committing a crime.

James Agee once said, ''In every child who is born, under no matter what circumstances * * * the potentiality of the human race is born again.''

Mr. President, how many times have we heard that our children are the future of our country? I believe that our highest obligation is, and our biggest challenge is, with the children of America. We can work together to help ensure that all children will start school ready to learn. We can pool our efforts—parents, teachers, community leaders, and elected officials—to enable our students to be first in the world of scientific and academic achievement. But I believe the greatest gift and most effective tool we can give to our children is to instill in them, from the beginning, the values and beliefs which mold their character. Character is the essential building block in each youngster's journey to become a responsible, moral adult.

George Matthew Adams once said:

There is no such thing as a ''self-made'' man. We are made up of thousands of others. Everyone who has ever done a kind deed for us, or spoken one word of encouragement to us, has entered into the makeup of our character, and of our thoughts, as well as our success.

Robert Kennedy credited his father with shaping his beliefs about what the definition of true character is. He said:

He has called on the best that was in us. There was no such thing as half-trying. Whether it was running a race or catching a football, or competing in school, we were to try. We might not be the best, and none of us were, but we were to make the best effort to be the best.

For Ronald Reagan, it was his mother, Nelle, who was his source of inspiration. He said about his mother:

My mother, God rest her soul, had an unshakable faith in God's goodness. And while I may not have realized it in my youth, I know now that she planted that faith very deeply in me.

Mr. President, I urge my colleagues to support this resolution. It calls on our citizens and communities to teach and promote the core elements of character: trustworthiness, respect, responsibility, fairness, caring and citizenship.

Decades ago, during the war in Korea, one of our generals was captured by the Communists. He was taken to an isolated prison camp and told that he had but a few minutes to write a letter to his family. The implication was that he was to be executed shortly. The general's letter was brief and to the point: ''Tell Bill,'' he wrote, ''the word is integrity.''

The word is indeed integrity, Mr. President. As our resolution states, ''the character of a nation is only as strong as the character of its individual citizens.'' If this is so, Mr. President—and I hope it is and I think it will be—the future of this country will be in very good hands.

Mr. DODD. Mr. President, I am pleased this morning to join with the distinguished Senator from New Mexico and a group of my colleagues in cosponsoring this Senate Resolution designating October 18th through 24th as National Character Counts Week.

Nothing that we do in this country will have a more direct impact on our collective future than how we educate our children. And as the face of our society changes, and children are faced with modern problems like illegal drug use and violence, we should look at ways to expand our traditional definition of education. We must recognize that education should be more than the transmission off acts. It ought to be more than the relaying of concepts. Education should also seek to develop the moral character of our children. Schools need to reinforce the lessons that children are taught at home. Education must help teach young people what they need to know to be good citizens in our society. Strengthening the mind is not enough. We must also nurture the character.

That is why so many of us in the Senate come to the Floor each year to speak in support of character education in our schools. We believe that it is entirely appropriate for schools to instruct students on the importance of qualities like trustworthiness, respect, responsibility, fairness, caring, and citizenship. This is not a substitute for disciplined instruction in reading, math, composition, and other subjects. This is simply an effort to instill in our young people the values that we cherish in a civil society.

I have been working on character education issues for about 5 years now, and all of my experiences with this initiative have reinforced my belief that this is a good idea that can have a positive impact in the lives of our children. In 1994, I Introduced a character education amendment to the elementary and secondary education bill when it was being considered by the Labor Committee. This amendment was adopted, and it provided funding for schools to start character education curriculums.

Over the past few years, I have had the pleasure of visiting schools in Connecticut that have received some of these funds and begun teaching character education. In each and every classroom, I have seen the positive impact that these programs are having in our children's lives. Children, as well as teachers and parents, are responding enthusiastically to these lessons, and the result has been better attendance, higher academic performance, and improved behavior among our students. Character education may be a relatively new initiative, but these programs are already reaching 100,000 students in the State of Connecticut alone. And character education is not only making a difference in my home State, but all over the country as many of my colleagues can confirm.

Theodore Roosevelt once said, ''To educate a person's mind and not his character is to educate a menace.'' It is imperative that we build a society whose institutions will help support a strong ethical upbringing for our children, and character education should be a critical component of our efforts to reach that goal.

Again, I commend my friend and colleague from New Mexico for all of his work in this area. And I invite all my colleagues from both sides of the aisle to join us in supporting National Character Counts week and embracing character education as a vital means of molding better individual, strengthening families and creating a responsible American citizenry.

Mr. COCHRAN. Mr. President, I am proud to join Senator DOMENICI in sponsoring the 1998 Character Counts Week resolution. As an original member of the Character Counts Coalition here in the United States Senate, it has been my honor to cosponsor Character Counts Week every year since 1994.

In the past we learned the Golden Rule and were taught how to act by our parents and teachers or at Sunday School, and the community helped reinforce acceptable conduct. Today, because there are so many who don't have a chance to grow up in that kind of environment, we must develop alternative ways of teaching and learning how to behave in a free society.

Former United States Deputy Under Secretary of Education, Dr. Peter R. Greer, wrote an article, called ''Teaching Virtue,'' published in Education Week, February 4, 1998. In his article, he describes his experiences in developing effective curriculum for teaching ethics and character in kindergarten through grade twelve. He found that one of the most troublesome aspects for teachers to overcome was their reluctance to identify right and wrong. He also found that teaching virtues had to be a school-wide and a community-wide commitment.

The Character Counts! Coalition began as an effort to put values education at the top of the national agenda. The values are called ''Pillars of Character,'' and they are: trustworthiness, respect, responsibility, fairness, caring, and citizenship.

The core elements of good character reflect a consensus that was reached by eminent and diverse educators and youth leaders who thought the pillars would be widely understood, accepted and effective.

The Coalition is made up of over 180-member organizations who collectively pursue the goal of teaching that character does count and is essential for our nation's survival and success. Included in this group are the American Association of School Administrators, American Red Cross, Boys and Girls Clubs of America, Little League Baseball, 4–H, National Honor Society and many regional and community-based organizations. They are all working to build awareness of the pillars of character and to encourage their teaching ''from the family room to the school room to the locker room.''

In my state of Mississippi, Ocean Springs is a Character Counts Community. The Chamber of Commerce sponsors programs that stress the importance of making good character traits an intrinsic part of the lives of students, teachers, administrators, and citizens.

The Ocean Springs Character Counts Business Club members display Character Counts stickers in their windows and help raise funds for the Chamber of Commerce. Each year, those funds are used for programs and materials to train teachers in the Ocean Springs public schools on better ways to incorporate character education into their regular curriculum.

The programs are designed for repetition and emphasize action and behavior. Youngsters are encouraged to express their thoughts about character through essays, poems, songs, artwork, posters or videos.

I am very proud of the people of Ocean Springs, Mississippi. They understand that teaching good character begins at home, but it must be reinforced at school and by the entire community.

Character Counts! Week is October 18–24 this year. I hope that communities will use this as a time for new and renewed commitments to character education.

If we all practiced what Character Counts teaches, America would be better indeed.

Ms. MIKULSKY. Mr. President, I rise today in support of the resolution submitted by my colleague Senator DOMENICI to designate October 18 through October 24, 1998 as ''National Character Counts Week.''

I have cosponsored this resolution for the past four years and I am honored to do so again this year.

Character is an increasingly important issue in our society. I believe character counts. It counts in our homes, our schools, and our neighborhoods.

I believe character is the foundation of our society and will continue to be into the next century. I have been concerned that we have gone from being a progressive society to being a permissive society.

Character shapes how we behave in our families, in our own communities, and in our own workplaces.

Character education helps our children grow into responsible and caring adults. But character must be taught. It is our responsibility to teach character to children.

In this day and age of juvenile crime, particularly crime in schools, a renewed commitment to character education is even more important for our society.

Character development should be taught along with other core academic subjects. The state of Maryland has encourage the inclusion of character education in schools. I support this approach.

There are six pillars of character: trustworthiness, respect, responsibility, fairness, caring, and citizenship. These are values that last a lifetime.

Our country was built on the foundation of virtue and value. These are the ties that bind and the habits of the heart. Character encourages self-respect and the respect of others.

I believe in supporting character education as much as possible. In making sure that character counts, we will create the habits of the mind and the habits of the heart that will be the social glue that will hold our society together.

I urge my colleagues to support this bipartisan resolution. I believe in support for character education. It is even more crucial as we enter the next century.

Mr. KEMPTHORNE. Mr. President, I rise today to express my strong support for the National Character Counts week resolutions submitted by my esteemed colleague, Senator DOMENICI. I have cosponsored similar resolutions for the past 4 years and am honored to have the opportunity to do so again this year.

I stand before you today, because children and adults alike are constantly being bombarded by violence, profanity, and immorality, both through the media and in every day life. This onslaught of negative images and expressions has expanded the issue of character from a casual concern to a matter of considerable social importance. During my tenure in the Senate it has been my goal, and the goal of many of my colleagues, to raise awareness of the importance of raising our younger generations in an atmosphere of strong principles. I can think of few things we could do to better achieve this goal than to bring the attributes of good character to a level that will be admired by our children. If, through our own actions, we demonstrate the value, and indeed the necessity, of good character, we may help turn future generations away from the all too often glamorized visions of unscrupulous activities.

As a father, I am concerned that the role models our nation's children seek for leadership and guidance do not exemplify the integrity and character that most parents would condone. As an elected leader, I believe it is my job, and the obligation of my colleagues, to take an initial step to reinvigorate the attributes of character—trustworthiness, respect, responsibility, justice and fairness, caring, civic virtue, and citizenship—which National Character Counts Week highlights. We need to regain these qualities in our communities, in our families, and in the development of our own lives.

Mr. President, as we watch our children blossom into the leaders of the future it is my hope that each and every one of them will be able to look up to individuals who epitomize the values and attributes that are represented by National Character Counts Week. I am proud to stand with my fellow colleagues today, to discuss the importance of having genuine character. The simple step of raising awareness of the value of good character can have a powerful and long lasting impact. In the words of President Ronald Reagan, ''They say the world has become far too complex for simple answers. They are wrong. There are no easy answers, but there are simple answers. We must have the courage to do what we know is morally right.''

Mr. President, I believe by standing before you today, the supporters of National Character Counts Week are taking the initial step in accomplishing what is morally right. We are, however, only a single piece in the puzzle. My colleagues and I, along with civic organizations around the Nation, are only emissaries of a message. The true fundamental values that will instill character in our children must begin at home. No amount of moral instruction from outside the home can replace the guidance of a loving and supportive family.

Recognizing a national week to stress the importance of character is but a small step in addressing the crisis of ethics the Nation faces. At the same time, it is an important step which I believe all of us should support. I would like to thank Senator DOMENICI for his continued leadership on National Character Counts Week, and urge my colleagues to cosponsor the resolution.

SENATE RESOLUTION 177—RELATIVE TO PRISONERS OF WAR

Mr. COVERDELL (for himself, Mr. CLELAND, Mr. SMITH of New Hampshire, Mr. LOTT, Mr. HAGEL, and Ms. MOSELEY-BRAUN) submitted the following resolution; which was considered:

S. RES. 177

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

Whereas the first such United States serviceman taken as a prisoner of war, Navy Lt. Commander Everett Alvarez, was captured on August 5, 1964;

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

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

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

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

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

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

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

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

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

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

Whereas two of these patriots, Congressman Sam Johnson, of Texas, and Senator John McCain, of Arizona, have continued to honor the Nation with devoted service; and

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

Resolved, That the Senate—

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

(2) acting on behalf of all Americans—

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

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

SENATE RESOLUTION 178—TO AUTHORIZE THE PRODUCTION OF SENATE DOCUMENTS AND REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 178

Whereas, in the case of *United States f.u.b.o. Kimberly Industries* v. *Trafalgar House Construction,* Civil Case No. 97–0462, pending in the United States District Court for the Southern District of West Virginia, documents have been requested from the offices of Senator Robert C. Byrd and Senator John D. Rockefeller IV;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for evidence relating to their official responsibilities;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That the offices of Senator Byrd and Senator Rockefeller are authorized to produce documents in the case of *United States f.u.b.o. Kimberly Industries* v. *Trafalgar House Construction,* except concerning matters for which a privilege or objection should be asserted.

SEC. 2. That the Senate Legal Counsel is authorized to represent employees of Senator Byrd and Senator Rockefeller in connection with any subpoena or request for documents or testimony in *United States f.u.b.o. Kimberly Industries* v. *Trafalgar House Construction.*

AMENDMENTS SUBMITTED

THE ENERGY POLICY AND CONSERVATION ACT PROVISIONS EXTENSION ACT

MURKOWSKI AMENDMENT NO. 1645

Mr. COVERDELL (for Mr. MURKOWSKI) proposed an amendment to the bill (H.R. 2472) to extend certain programs under the Energy Policy and Conservation Act; as follows:

In lieu of the matter proposed to be inserted insert the following:

''SECTION 1. ENERGY POLICY AND CONSERVATION ACT AMENDMENTS.

''The Energy Policy and Conservation Act is amended—

''(1) in section 166 (42 U.S.C. 6246) by striking '1997' and inserting in lieu thereof '1999';

''(2) in section 181 (42 U.S.C. 6251) by striking '1997' both places it appears and inserting in lieu thereof '1999';

''(3) by striking 'section 252(l)(1)' in section 251(e)(1) (42 U.S.C. 6271(e)(1)) and inserting 'section 252(k)(1)';

''(4) in section 252 (42 U.S.C. 6272)—

''(A) in subsections (a)(1) and (b), by striking 'allocation and information provisions of the international energy program' and inserting 'international emergency response provisions';

''(B) in subsection (d)(3), by striking 'known' and inserting after 'circumstances' 'known at the time of approval';

''(C) in subsection (e)(2) by striking 'shall' and inserting 'may';

''(D) in subsection (f)(2) by inserting 'voluntary agreement or' after 'approved';

''(E) by amending subsection (h) to read as follows—

'' '(h) Section 708 of the Defense Production Act of 1950 shall not apply to any agreement or action undertaken for the purpose of developing or carrying out—

'' '(1) the international energy program, or

'' '(2) any allocation, price control, or similar program with respect to petroleum products under this Act.';

''(F) in subsection (k) by amending paragraph (2) to read as follows—

'' '(2) The term 'international emergency response provisions' means—

'' '(A) the provisions of the international energy program which relate to international allocation of petroleum products and to the information system provided in the program, and

'' '(B) the emergency response measures adopted by the Governing Board of the International Energy Agency (including the July 11, 1984, decision by the Governing Board on 'Stocks and Supply Disruptions') for—

'' '(i) the coordinated drawdown of stocks of petroleum products held or controlled by governments; and

'' '(ii) complementary actions taken by governments during an existing or impending international oil supply disruption.'; and

''(G) by amending subsection (l) to read as follows—

'' '(l) The antitrust defense under subsection (f) shall not extend to the international allocation of petroleum products unless allocation is required by chapters III and IV of the international energy program during an international energy supply emergency.'; and

'' '(5) in section 281 (42 U.S.C. 6285) by striking '1997' both places it appears and inserting in lieu thereof '1999'.

''(6) at the end of section 154 by adding the following new subsection:

'' '(f)(1) The drawdown and distribution of petroleum products from the Strategic Petroleum Reserve is authorized only under section 161 of this Act, and drawndown and distribution of petroleum products for purposes other than those described in section 161 of this Act shall be prohibited.

'' '(2) In the Secretary's annual budget submission, the Secretary shall request funds for acquisition, transportation, and injection of petroleum products for storage in the Reserve. If no request for funds is made, the Secretary shall provide a written explanation of the reason therefor.'.''

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that several hearings have been scheduled before the Full energy and Natural Resources Committee to consider the President's proposed FY 1999 budget.

The Committee will hear testimony from the following:

1. The Forest Service on Tuesday, March 3, 1998, beginning at 9:30 A.M. in room SD–366 of the Dirksen Senate Office Building in Washington, D.C.

2. The Department of Energy on Wednesday, March 4, 1998, beginning at 10:00 A.M., in room SD–366 of the Dirksen Senate Office Building in Washington, D.C.

3. The Department of the Interior on Thursday, March 5, 1998, beginning at 9:30 A.M. in room SD–366 of the Dirksen Senate Office Building in Washington, D.C.

For further information, please call Betty Nevitt, Staff Assistant at (202) 224–0765.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, February 12, 1998, at 10:00 A.M. in open session, to receive testimony on the Defense Authorization request for fiscal year 1999 and the future years defense plan.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ALLARD. Mr. President, I ask unanimous consent that the Commerce, Science, and Transportation Committee be authorized to meet on Thursday, February 12, 1998, at 9:30 AM on the nomination of Winter Horton to be a member of the Corporation for Public Broadcasting.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ALLARD. Mr. President, I ask unanimous consent that the Commerce, Science, and Transportation Committee be authorized to meet on Thursday, February 12, 1998, at 10:00 AM (or immediately following) the 9:30 AM hearing) on S. 1422—FCC Satellite Carrier Oversight.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on February 12, 1998 at 2:00 pm to hold a hearing.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ALLARD. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Subcommittee on Oversight of Government Management, Restructuring, and the District of Columbia, to meet on Thursday, February 12, 1998, at 9:00 a.m. for a hearing on ''Adoption and Foster Care Reforms in D.C.''

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

COMMITTEE ON INDIAN AFFAIRS

Mr. ALLARD. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Thursday, February 12, 1998 at 9:30 a.m. in room 485 of the Russell Senate Building to conduct a hearing on the Indian provisions contained in the following Tobacco settlement legislation: S. 1414, S. 1415, and S. 1530.

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

COMMITTEE ON THE JUDICIARY

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on the Judiciary, be authorized to hold an executive business meeting during the session on the Senate on Thursday, February 12, 1998, at 10:00 a.m. in room 226 of the Senate Dirksen Office Building.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on Education of the Deaf Act during the session of the Senate on Thursday, February 12, 1998, at 10:00 a.m.

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

COMMITTEE ON SMALL BUSINESS

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate for a hearing entitled ''IRS Reform: What Taxpayers Need Now.'' The hearing will be held on Thursday, February 12, 1998, and will begin at 9:30 a.m. in room 428A of the Russell Senate Office Building.

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

SUBCOMMITTEE ON AVIATION

Mr. ALLARD. Mr. President, I ask unanimous consent that the Subcommittee on Aviation be authorized to meet on Thursday, February 12, 1998, at 2:00 p.m. on the Airport Improvement Program

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

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. ALLARD. 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 Thursday, February 12, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2:00 p.m. The purpose of this hearing is to receive testimony on S. 62, a bill to prohibit further extension or establishment of any national monument in Idaho without full public participation and an express Act of Congress, and for other purposes; S. 477, a bill to amend the Antiquities Act to require an Act of Congress and the consultation with the Governor and State legislature prior to the establishment by the President of national monuments in excess of 5,000 acres; S. 691, a bill to ensure that the public and the Congress have both the right and a reasonable opportunity to participate in decisions that affect the use and management of all public lands owned or controlled by the Government of the United States H.R. 901, an act to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands; and H.R. 1127, an act to amend the Antiquities Act regarding the establishment by the President of certain national monuments.

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

ADDITIONAL STATEMENTS

NATIONAL DONOR DAY: FEBRUARY 14, 1998

• Mr. FRIST. Mr. President, Saturday, February 14, has a special significance: it is the first National Donor Day to promote the Five Points of Life, gifts that we can give others to help save lives. The Five Points of Life are whole blood, platelets, bone marrow, umbilical cord blood, and organ/tissue transplants; gifts of these valuable resources have been responsible for saving numerous lives.

The National Donor Day was developed by a partnership of the Saturn Motor Company, one of the leading corporations in my home state of Tennessee, and the United Auto Workers. The National Donor Day has the strong support of the Department of Health and Human Services and the enthusiastic cooperation of other volunteer associations, such as the American Red Cross, America's Blood Centers, National Marrow Donor Program, National Minority Organ/Tissue Transplant Education Program, the Transplant Recipients International Organization, Coalition on Donation, and Rotary International.

On National Donor Day, February 14, all Saturn automobile dealerships will be participating in a program to promote donation of the Five Points of Life. Blood donor drives will be conducted, and registration forms will be available to sign up as an organ donor or bone marrow donor.

This type of public/private partnership is the key to solving the shortage of donors. The stocks of whole blood and platelets have to be constantly replaced so their life-saving components will be available to the millions who use them. There are over 56,000 people on the waiting list for organ transplants, and ten die each day because organs are not available to save their lives. The National Marrow Donor Program has over 2.6 million people registered, but still there are many people who need bone marrow donation who are unable to find a suitable match among these individuals. Medical science has developed ways to save peoples' lives by using these resources, but unless everyone helps by offering the gift of Five Points of Life, all the skills of our doctors and physicians are for nought.

In response to this need for the Five Points of Life, people from all over the country are stepping up to meet the call. Tom Meredith from Nashville is a donor dad whose tragedy at the loss of two children was somewhat alleviated by the thought that their donated organs benefitted 97 people. Dr. Kenneth

Moritsugu, an Assistant Surgeon General of the United States, is a donor husband and donor dad who tells movingly how organs donated by his wife and daughter, who were killed in separate traffic accidents, brought life to many others.

Mr. President, this altruism in the face of despair is a challenge to us all to become donors and give a gift of the Five Points of Life. I only wish all of you had the chance to see first-hand, as I have, the look of joy on the face of a child who, after receiving a transplant, no longer has to gasp for breath. As we give gifts of love to our spouses and sweethearts this Saturday, Valentine's Day, let us promise to give another gift of love to others we may not even know, the greatest gift of all, the gift of life.●

SOUTH DAKOTANS DEPLOYED TO THE PERSIAN GULF

● Mr. JOHNSON. Mr. President, I want to take this opportunity to thank the brave South Dakotans who are part of the latest deployment of American troops to the Persian Gulf. The men and women from Ellsworth Air Force Base and the South Dakota Air National Guard embody the spirit of all Americans by assisting the international effort to rid Iraq of nuclear and biological weapons.

Saddam Hussein's deportation of United Nations weapons inspectors and his continued obstruction of international monitoring efforts clearly show that Iraq does not desire to live by international rules of peace and commerce.

We now face the possibility of using force against Saddam Hussein to ensure that Iraq does not develop the capability to make and use weapons of mass destruction, and our thoughts and prayers are with our American troops stationed overseas and their families back home. We have faith in the readiness of our troops and know that, if called upon, they will succeed in their mission. The 114th Fighter Wing of the South Dakota Air National Guard will be enforcing the no-fly zone over southern Iraq, a task they have performed since 1992. The recent deployment is also a historic occasion for Ellsworth Air Force Base because it marks the first time B–1 bombers have been deployed in a potential military conflict.

I am a strong supporter of the National Guard working alongside active duty personnel in response to future emergencies, both at home and abroad. The Persian Gulf War was the truest test of this strategy and illustrated the Guard's ability to be trained, mobilized, deployed, fight alongside active duty personnel, and demobilized in response to a national emergency. As you know, Mr. President, South Dakota National Guard participated in that impressive effort.

The National Guard's effectiveness further proved itself in the natural disasters of the past few years. Our state is indebted to the National Guard for its stellar performance in the recent past in helping communities deal with crises ranging from flood waters to snow drifts.

I join all South Dakotans in wishing our troops from Ellsworth Air Force Base and the South Dakota Air National Guard a safe and successful completion of their mission as they protect our interests overseas.●

WOMEN'S RIGHTS NATIONAL HISTORIC TRAIL ACT

● Mr. D'AMATO. Mr. President, I rise today with my friend and colleague, the senior Senator from New York, Senator MOYNIHAN to introduce the ''Women's Rights National Historic Trail Act'' which authorizes that the Secretary of the Interior study alternatives for establishing a national historic trail to commemorate and interpret the history of women's rights. New York has that history.

In 1848, despite social, legal and economic constraints, the action of several women from New York led to a movement that would eventually provide freedom to women across this country and for generations to come.

In Seneca Falls, 1848, the first Women's Rights Convention was held leading the way for the 19th Amendment which granted women the right to vote. On July 19th, the first day of the two day convention, the Declaration of Sentiments was read at the convention promoting the right to vote, the right for a woman to attain a higher education, the right to own property and the right to retain one's own wages—some of the most fundamental principles of our democracy. As stated by Elizabeth Cady Stanton, one of the leaders of the convention, ''We hold these truths to be self-evident: that all men and women are created equal.''

The other leaders of the Convention including Lucretia Mott, Jane Hunt, Ann M'Clintock and Martha Wright began the movement to fulfill the freedom of Americans by changing the treatment of women in American society.

I support the designation of a corridor commemorating the triumphs of these and other women, and believe that the Buffalo-Boston trail deserves serious consideration. Areas like Seneca Falls, where we can find the Elizabeth Cady Stanton House, and her church, the Old Trinity Church, I believe, should be part of the historical trail for women's history. Other areas in New York have a tremendous historical significance for women's rights including: the Susan B. Anthony House, voting site and gravesite in Rochester and the M'Clintock House where the idea of a convention was conceived and the Declaration of Sentiments was written.

This bill only requires the Secretary to study the alternatives available to him and does not dictate where that commemoration occurs. But the events that occurred the summer of 1848 should be remembered and treated as part of a historical connection. The importance of Seneca Falls is key in the advancement of the rights of women in our nation and that is why I have also joined with Senator MOYNIHAN in June 1997 to introduce a S. Con. Res. 35, urging the U.S. Postal Service to issue a commemorative postage stamp to celebrate the 150th anniversary of the first Women's Right Convention.

I am pleased to join Senator MOYNIHAN in this effort to preserve the historical significance of women's rights in New York and I urge my colleagues to join us in co-sponsoring this legislation.●

HARRY S. ASHMORE: COURAGEOUS JOURNALIST

● Mr. MOYNIHAN. Mr. President, the revered journalist Harry Ashmore died last month at the age of 81. He died one day after the day set aside to observe Dr. Martin Luther King Jr.'s birthday and our nation's bitter struggle for civil rights. Mr. Ashmore was a leader in the struggle to integrate schools in Little Rock, Arkansas. His writings helped deliver Americans peacefully from unjust and oppressive laws.

A native of Greenville, South Carolina, Mr. Ashmore was raised to revere Southern traditions. His grandfathers fought for the Confederacy. As a young man, he was graduated from Clemson Agricultural College and then worked as a reporter in Greenville and in Charlotte, North Carolina. He served during the Second World War as an infantry battalion commander in the European theater and completed his military service a Lieutenant Colonel. After the war, he returned to North Carolina and to The Charlotte News, where he rose to the position of editor. In 1948, he moved to Little Rock and began his eleven years at The Arkansas Gazette. There, he would become The Gazette's executive editor.

Harry Ashmore loved the South. He embodied the dignity of a southern gentlemen throughout his years. But he was never provincial—either in his writing or his thinking. He studied at Harvard University as a Nieman fellow; from 1960 to 1963, he was editor-in-chief of the Encyclopedia Britannica and from 1969 to 1974, he was president of the Center for the Study of Democracy in Santa Barbara, California. In addition, he found time to author, co-author and/or edit a dozen books. In 1996, he was honored with the Robert F. Kennedy Memorial Lifetime Achievement Award.

But it was in newspapers where he would have his greatest influence on American life. In 1957, three years after the Supreme Court's decision in Brown, Arkansas' Governor Orval E. Faubus called out the National Guard because of ''evidence of disorder and threats of disorder.'' As ever, Harry Ashmore called it like he saw it. He described

the eerie scene as, ''the incredible spectacle of an empty high school surrounded by the National Guard, troops called out by Governor Faubus to protect life and property against a mob that never materialized.''

Ashmore knew Governor Faubus wanted to prevent nine students from entering Little Rock High School. He warned against delay, realizing that resisting the Supreme Court would bring bloodshed. In The Gazette, he argued dispassionately for the people of Arkansas to uphold the law. He wrote: ''There is no valid reason to assume that delay will resolve the impasse which Mr. Faubus has made. We doubt that Mr. Faubus can simply wear the Federals out—although he is doing a pretty good job of wearing out his own people.'' Harry Ashmore understood before so many others the power and the moral force of civil liberty. And yet, he also knew the rooted strength of the opposition.

Above all he was honest, to himself and to his readers. Through his calm and reasoned editorials he stood for justice despite daily threats on his life and on his family. The Gazette suffered financially for his courage. It lost advertising revenue and circulation. Harry Ashmore, however, fought for his beliefs, and he helped lead Arkansas and the Nation toward equality for all its citizens. In 1958, the Pulitzer committee recognized Harry's excellence in editorial writing by awarding him the Pulitzer Prize for ''clearness of style, moral purpose, sound reasoning, and power to influence public opinion.'' In addition to his own Pulitzer, in 1958, The Gazette was awarded the Pulitzer for public service.

Harry Ashmore was on the front lines of the struggle for civil rights in this country. His leadership, courage, and wise words must not be forgotten.

I ask that the New York Times' article on Harry Ashmore from January 22, 1998, be printed in the RECORD.

The article follows:

[From the New York Times, Jan. 22, 1998]

HARRY S. ASHMORE, 81, WHOSE EDITORIALS SUPPORTED INTEGRATION IN ARKANSAS, DIES

(By Eric Pace)

Harry S. Ashmore, who was executive editor of The Arkansas Gazette when he won a Pulitzer Prize for antisegregation editorials he wrote during the crisis and confrontation over admission of black students to a Little Rock high school in 1957, died on Tuesday night in the infirmary of the Valle Verde retirement home in Santa Barbara, Calif., where he and his wife moved several years ago. He was 81.

He evidently died as the result of a stroke he suffered early this month, his wife, Barbara, said.

Mr. Ashmore, a native of South Carolina, was a prominent figure in Southern journalism while he was executive editor of The Gazette—published in Little Rock—from 1948 to 1959. He went on to be the editor in chief of the Encyclopedia Britannica from 1960 to 1963 and president of the Center for the Study of Democratic Institutions, a liberal think tank headquartered in Santa Barbara, from 1969 to 1974.

On The Gazette's editorial pages in the eventful days of 1957, he argued with controlled but eloquent passion that the law of the land—following the Supreme Court's 1954 ruling that all segregation in public schools was ''inherently unequal''—should be honored and that Arkansans should permit the admission of nine black students who wanted to enter the school under an integration plan drawn up by the Little Rock school board. He contended that resistance was useless.

Confrontation loomed when Arkansas' populist Governor, Orval E. Faubus—formerly a boon companion of Mr. Ashmore's—ordered the National Guard to bar the nine from the school. But President Dwight D. Eisenhower gained control of the Guard and ordered Federal troops to be sent to Little Rock to restore order and accompany the nine. And the school became integrated.

Well before the crisis, a plan was adopted by the Little Rock school board that restricted integration of the city's schools initially to only one of them, Central High School, and scheduled that for 1957.

Tension rose as the integration date approached. Resistance to the plan, called the Phase Program, swelled among white people. Robert Ewing Brown, leader of a segregationist group in Little Rock, said, ''The Negroes have ample and fine schools here, and there is no need for this problem except to satisfy the aims of a few white and Negro revolutionaries.'' And early in 1956, Mr. Faubus declared he could not cooperate in ''any attempt to force acceptance of change to which the people are so overwhelmingly opposed.''

In August 1957, someone hurled a stone through the window of an Arkansas N.A.A.C.P. leader, Daisy Bates. An attached note said: ''Stone this time, dynamite next.''

In September 1957, the night before Little Rock's schools were to open, Governor Faubus proclaimed that he was going to deploy National Guard troops around Central High School because of ''evidence of disorder and threats of disorder.''

And when Central High opened, more than 200 National Guard troops were on guard. As Mr. Ashmore put it in an editorial, there was ''the incredible spectacle of an empty high school surrounded by the National Guard, troops called out by Governor Faubus to protect life and property against a mob that never materialized.''

But a 15-year-old black girl, Elizabeth Eckford, who tried to enter the school, recounted later that ''somebody started yelling, 'Lynch her! Lynch her!' '' A white woman accompanied her away from the scene.

After the nine black teenagers were eventually permitted to begin attending the school and, as Mr. Ashmore wrote in one editorial, ''peacefully attending Central High School under Federal court order and Federal military protection,'' Governor Faubus contended that resolving the crisis required that the nine withdraw from the school. He said that all he wanted was delay in integrating the high school until some unspecified future time.

But Mr. Ashmore said in that editorial: ''There is no valid reason to assume that delay will resolve the impasse which Mr. Faubus has made. We doubt that Mr. Faubus can simply wear the Federals out—although he is doing a pretty good job of wearing out his own people.''

Yet Mr. Ashmore's approval of integration was limited then, though it became complete later. One of his editorials during the crisis advocated acceptance of the phased desegregation plan worked out by the school board as the handiwork of individuals who felt ''(as we do) they were working to preserve the existing pattern of social segregation'' by coming up with a program which would lead to ''the admission of only a few, carefully screened Negro students to a single white high school.''

Recalling those days, Henry Woods, a Federal district judge in Little Rock who was a leading Little Rock lawyer in 1957, said: ''Harry was the central figure in the crisis. He was the leader of the opposition to mob rule, and all of us who opposed Faubus rallied around him. The thing I admire most was the great courage Harry displayed. He received daily threats against his life and his family, but he stood in the breech and held the walls against the barbarians.''

During the crisis, Mr. Ashmore's editorials caused declines in advertising revenue and circulation. An unsigned letter was sent to some business people in Little Rock saying that The Gazette, in taking its antisegregation stand, was ''playing a leading role in destroying time-honored traditions that have made up our Southern way of life.''

In 1990, Mr. Ashmore, speaking of himself and two other Southern editors of that era, Ralph McGill of The Atlanta Constitution and Hodding Carter of The Delta Democrat-Times of Greenville, Miss., said, ''As refugees of the Old South, we were never comfortable being called liberals or integrationists. Philosophically, we all knew segregation was wrong, but we weren't doctrinaire liberals. I had a temperamental difference with the two of them, though. They were more glandular, more angry about the segregationist abuses, whereas I tended to laugh more at the absurdity of it all.''

He also did not take himself too seriously. A former colleague at The Gazette recalled not long ago that after attending a daily afternoon meeting about the paper's news coverage, Mr. Ashmore would go off to write editorials and, as he departed, he would often observe wryly, ''I'm off to think great thoughts.''

When Mr. Ashmore won his Pulitzer Prize, The Gazette was given another Pulitzer award, for public service, for its news reporting about the events of 1957. Mr. Ashmore was cited for ''the forcefulness, dispassionate analysis and clarity'' of his editorials during the crisis, and The Gazette was cited for ''demonstrating the highest qualities of civic leadership, journalistic responsibility and moral courage in the face of mounting public tension.''

In 1991 the newspaper ceased publication, and its competitor, The Arkansas Democrat, acquired its assets and became The Arkansas Democrat-Gazette. The paper's editorial page editor, Paul Greenberg, said yesterday that Mr. Ashmore ''was a part of the great epic of The Gazette's courageous stand in coverage of the Central High crisis of 1957.'' Mr. Greenberg, who won a 1969 Pulitzer Prize for editorials on race that he wrote for The Pine Bluff Commercial of Arkansas, said: ''He will always be a much admired figure in Arkansas journalism. No account of Arkansas history will ever be complete without mentioning Harry Ashmore.''

Mr. Ashmore wrote, was co-author or editor of a dozen books. Over the years, he was also in the active leadership of the American Society of Newspaper Editors, the Fund for the Republic, the Committee for an Effective Congress, the American Civil Liberties Union and other national organizations.

He received the Robert F. Kennedy Memorial Lifetime Achievement Award in 1996.

Harry Scott Ashmore was born in Greenville, S.C. He became aware of black people's problems partly when he became a summer laborer on a cotton farm. He went on to graduate in 1937 from Clemson Agricultural College in Clemson, S.C., worked for some southern newspapers and studied as a Nieman Fellow in Journalism at Harvard.

During World War II he served with the Army in France and elsewhere and rose to

the rank of lieutenant colonel. After the war he rose to become editor of The Charlotte News in North Carolina. He went to The Arkansas Gazette as editor of its editorial page in 1947 and was promoted to executive editor.

In addition to his wife, the former Barbara Edith Laier, whom he married in 1940, Mr. Ashmore is survived by a daughter, Anne Ashmore of Washington.●

PRAISING CRAIG A. HIGGINS FOR HIS SENATE SERVICE

● Mr. SPECTER. Mr. President, Mr. Craig A. Higgins, Clerk of the Senate Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, recently announced that he will soon be joining the National Human Genome Research Institute at the National Institutes of Health as its Senior Advisor for Legislative Affairs. I offer him, on behalf of all my Senate colleagues, our goodwill and best wishes as he assumes his new duties and responsibilities at NIH.

Mr. Higgins has served with loyalty and with distinction in the United States Senate for nearly 18 years. He has worked for Senator Mark O. Hatfield as a legislative assistant from 1980 to 1987. He then joined the subcommittee staff, becoming Clerk of the subcommittee in 1995. He is well known to be a dedicated and conscientious staff member who, like many staff members, has spent countless hours of energy, time, and effort in producing bills, reports, and hearings. During his stewardship of our subcommittee, Craig has continued the tradition of bipartisanship in the formulation of this very important bill. He understands the many needs of the American people and sought constructive solutions to better enable our government to address those needs. He devoted considerable time helping individual constituents and informing the public about the work of the subcommittee.

Craig has earned the respect of the leadership of these agencies and of the Members and staff of the Senate by being fair, responsive, and helpful. Both Democrats and Republicans have trusted his advice and counsel as our subcommittee confronted the many issues.

In his new position at NIH, Craig will no doubt continue his outstanding work in advancing the promise of genome research. With his professionalism and legislative experience, he brings to the task exceptional talent and energy, and I have the highest degree of confidence that his ability and dedication will continue his remarkable record of excellence.

I would take this opportunity again to thank Craig for his service to our subcommittee. As a devoted father to his children, Keith and Kristin, and husband to his wife, Wendy, Craig, like the many other parents in our workforce, has balanced home life with career. In many ways, his work in the Senate is motivated in large part in securing a stronger future for all families, including his own. I join my Senate colleagues in wishing Craig well and we expect for him to continue the highest traditions of excellence at his new post at the National Human Genome Research Institute.●

CRS PRODUCTS OVER THE INTERNET

● Mr. LEAHY. Mr. President, I rise to offer my support to legislation introduced by Senator MCCAIN, S. 1578, to make Congressional Research Service Reports, Issue Briefs, and Authorization and Appropriations products available over the Internet to the general public.

I applaud the goal of this legislation to allow every citizen the same access to the wealth of information at the Congressional Research Service (CRS) as a Member of Congress enjoys today. CRS performs invaluable research and produces first-rate reports on hundreds of topics. The taxpayers of this country, who pay CRS's annual budget of $60 million, deserve speedy access to these wonderful resources.

I understand that the staff at CRS has raised some questions about how this bill may affect their charter mandate to provide ''confidential analysis and information exclusively for Congressional clients.'' I want to work with Senator MCCAIN, the other cosponsors of this bill and the Senate Rules Committee to ensure that Members who request confidential research have control over the release of that research. But we can do both—protect truly confidential research and give our citizens electronic access to nonconfidential CRS products.

I want to commend the Senior Senator from Arizona for his leadership on opening public access to Congressional documents. I share his desire for the American people to have electronic access to many more Congressional resources. I look forward to working with him in the days to come on harnessing the power of the information age to open up the halls of Congress to all our citizens.●

REGULATING DUNGENESS CRAB HARVEST ON THE WEST COAST

● Mr. GORTON. Mr. President, I rise today to state that I intend, with my colleague from Washington state, Senator MURRAY, to introduce legislation shortly after this recess to ensure fair management of Dungeness crab on the West Coast. The legislation is supported by the Pacific Fishery Management Council, and represents an agreement reached by industry representatives, tribal representatives, and state fishery management agencies in Washington, Oregon, and California. The legislation will extend and expand the current interim authority for these states to manage Dungeness crab beyond three miles from their shores.

Historically, the crab fisheries off the coasts of California, Oregon, and Washington have been managed by the three states, and through cooperative agreements between them. The state jurisdiction, however, extends only to three miles. This limitation is particularly significant in Washington state, where approximately 60–80 percent of the crab is caught beyond three miles. While states can regulate their own fishermen beyond three miles, they have not historically been able to regulate fishermen from other states.

Although Washington, Oregon, and California have all adopted limited entry programs to conserve and manage crab, Oregon vessels can and do fish for Dungeness crab in waters more than three miles off Washington, and, until interim authority was granted in 1996 in the Sustainable Fisheries Act, Washington could not regulate these vessels. The same, of course, was true of Washington vessels fishing off the coast of Oregon.

The problem with the inability to manage out-of-state vessels beyond three miles became critical in 1995, when a Federal district court allocated a large portion of the crab to Indian tribes, and threatened in this way to deprive non-tribal fishermen, who have been fishing for generations, of their livelihoods. Without the ability to regulate vessels from Oregon, all of the allocation to the tribes would come from Washington non-tribal fishermen. This simply is not fair. The bill I will introduce will continue to give the fishery managers in Oregon, California, and Washington, the authority to regulate all crabbers equally in the exclusive economic zone adjacent to the state. This regulatory authority will help to ensure that the cost of the tribal allocation will be borne more fairly by all commercial crabbers who fish in the EEZ adjacent to Washington, not just crabbers whose vessels are registered in the state.

As I mentioned, in 1996, I succeeded in obtaining a provision in the Sustainable Fisheries Act, which gave limited interim authority to the West Coast states to manage the Dungeness crab fishery beyond three miles. This interim authority expires in 1999. It was anticipated that the Pacific Council would, by that time, prepare a Fishery Management Plan that could be delegated to the states. The Council has determined, however, through a careful, public, and inclusive process, that, given the unique nature of the West Coast fisheries in which you have effective state management, cooperation among the states, and agreement on the legislation I will introduce, there is no need for Federal management of this fishery.

I look forward to working with my colleagues to secure quick passage of the bill.●

PHILIP HITCH

● Mr. STEVENS. Mr. President, the Defense Department and Congress recently lost an able and dedicated adviser. Mr. Philip Hitch, Department of

Defense Deputy General Counsel for Fiscal Matters died recently at the age of 52. Phil had served the Department of Defense for 27 years in a number of positions.

Mr. Hitch began his career in the Army, serving from 1971 to 1975 as an Assistant Staff Judge Advocate for the Military Traffic Management Command. Upon leaving the Army in 1975, he represented the Office of the Counsel for the Navy Comptroller. He became the Counsel for the Navy Comptroller in 1981.

In 1992, Philip Hitch became the Deputy General Counsel for Fiscal Matters for the Department of Defense. In this role, Phil served the Defense Department capably by supporting DOD's legislative proposals regarding financial matters. Equally important, at a time of significant Congressional activity in the areas of Defense navigate its way through the process of change.

However, few know that the Congress, particularly the Senate Appropriations Committee's Subcommittee on Defense, relied heavily on Phil for advice on general provisions and other financial legislation under consideration. In this sensitive and occasionally conflicting role, Phil was able to provide thoughtful and precise legal counsel while maintaining the trust the Committee needed in the delicate task of seeking Defense Department views on legislative proposals. In this role, Phil was able to make a significant contribution to the nation's defense acquisition process, serving both the Defense Department and committee on Appropriations as confidant and counsel.

In a busy town dominated by people seeking to be heard and recognized, Phil Hitch generally sought neither. Indeed, one of Phil's strong qualities as his willingness to take time and listen to all aspects of the issue at hand. When asked for his advice, it was clear and concise—formulated to make the process of managing fiscal legal matters more productive for the nation as a whole.

Fortunately, I can tell you that the quality of Phil's work was recognized through his receipt of the Presidential Rank Award for Meritorious Service and the Navy Distinguished Service Award. The Navy Distinguished Service Award notes that ''Mr. Hitch has left indelible contributions to the management and operations on the Department of the Navy.''

Mr. President, the Defense Department and the Senate will miss his wise counsel.●

100TH ANNIVERSARY OF SINKING OF U.S.S. ''MAINE''

● Ms. SNOWE. Mr. President, one hundred years ago this Sunday, February 15, a tragic event took place in Havana harbor which claimed the lives of 260 officers and crew and hurtled our nation into war. I rise today to remember the U.S.S. *Maine* on the 100th anniversary of her destruction, and to honor the memories of those brave men who died in service aboard that mighty ship.

True to her namesake's motto, ''Dirigo'', or ''I Lead'', the *Maine* was one of the first surface combatants to be designated as a battleship. When she was commissioned in 1895 she was, at 319 feet in length, the largest ship ever built in a U.S. Navy shipyard. A state-of-the-art vessel, the *Maine* was showcased in many ceremonial events and was the pride of the U.S. Navy.

Then, on February 15, 1898, destiny called upon the U.S.S. *Maine*, her officers and her crew. On that night—a quiet and still evening by accounts from survivors—an explosion shattered the tranquility of Havana Harbor and tore through the *Maine*, blowing apart her berthing deck and hurling much of her starboard side into the water. After several smaller explosions in the ship's magazines, only 88 men remained among the living, and the United States and Spain were one giant step closer to war.

Soon after the tragedy, eight more men died and in the weeks following six more deaths would be attributed to injuries suffered aboard the *Maine*. Initial Navy reports suspected a mine sank the *Maine*, but urged caution until further investigations could be conducted. The outrage surrounding the incident was taking on a life of its own, however, as papers throughout America reported to a stunned and outraged nation that the pride of our Navy had been destroyed by an enemy mine set in Havana Harbor with the sole and deadly purpose of sinking the *Maine*.

On March 23, 1898, a Navy board officially concluded that it was, in fact, a mine that put the *Maine* on the bottom of Havana Harbor. By April, the infamous expression ''Remember the *Maine*'' became a rallying cry for a nation and by the end of that month, President McKinley had ordered a naval blockade which precipitated a formal declaration of war by the U.S. Congress against Spain.

The Captain of the U.S.S. *Maine*, Captain Charles Sigsbee, who survived the tragedy, put the scope of the U.S.S. *Maine* disaster in perspective after the Spanish-American War ended. He said: ''During the recent war with Spain, about 75 men were killed and wounded in the United States Navy. Only 17 were killed. On board the *Maine*, 252 men were killed outright and eight died later—nearly fifteen times as many as were killed in the United States Navy by the Spanish land and naval forces during the entire war.''

We may never know precisely why the *Maine* met her end that night one hundred years ago. Today, controversy still surrounds the original theory that it was a mine that sank her. Indeed, a 1976 report compiled by the order of Admiral Hyman Rickover concluded that it was an internal fire in a coal bunker next to the *Maine*'s powder magazines that led to the fatal explosion. More recently, tests results reported in National Geographic magazine, based on a careful computer analysis of photographs of the twisted hull, proved inconclusive.

While the means by which she met her end may always be a mystery, one thing is for certain: there will never be a debate about her place in history. And there will never be a debate about the bravery of those souls lost aboard the *Maine* in a flash of fire and chaos.

That is why we remember the *Maine*. Captain Sigsbee, knowing of the controversy surrounding the cause of the explosion and its consequences, admonished us to recall the most honorable reason to remember her: ''In the way that the men of the *Maine* suffered there was enough of the heroic to provide a sound foundation for the motto, ''Remember the *Maine*''.

And so we do so today, and always. Remembrance events are scheduled to take place across the country: at Arlington Cemetery, in Bangor, Maine—where the shield and scroll of the ship rest today, in Central Park in New York City, in Key West, Florida, and at the Naval Academy in Annapolis, Maryland. Liz Henning, Midshipman at the Naval Academy, will likely be there: in the recent National Geographic story on the *Maine*, she was quoted as saying, ''We still think about those guys on the *Maine* * * * Navy people never forget''.

Nor will Mainers ever forget. In Bangor, an appropriate memorial to the *Maine* reminds us of that fateful day one hundred years ago. In the Blaine House in Augusta—the Governor's residence—the silver soup tureen and vegetable dish from the original U.S.S. *Maine*, along with the loving cup, have been displayed for the past 70 years and have become one of our state's most unique treasures. The story of the recovery of these pieces from the bottom of the ocean in Havana Harbor has always brought a look of awe and amazement to the eyes of Maine's children, and it was always clear to me that these pieces are our living link to Maine's maritime heritage.

And now, I am proud to say that the U.S. Postal Service will help keep the spirit of those lost on the *Maine* alive. Key West, Florida, one of the last ports of call for the U.S.S. *Maine*, and the place where many of the brave Americans who died aboard the *Maine* are buried, is the location for the First Day and City of Issue for the stamp. Key West will host a first-day ceremony and will use a distinctive First Day of Issue cancellation.

I would like to thank Postmaster General Marvin Runyon for agreeing to my request for a special, limited advance release this weekend of the Postal Service stamp commemorating the centennial of the sinking of the *Maine*. The stamp will be distributed during the U.S.S. *Maine* Centennial observance in Bangor. Rather than the First Day of Issue cancellation, the stamps will be canceled with a special pictorial of the U.S.S. *Maine* designed in Bangor.

This and other centennial celebrations will ensure that the *Maine* will indeed not be forgotten—nor will those aboard who made the ultimate sacrifice. They answered the call when their country needed them, and we must honor their memories with our respect and remembrance. As a Mainer and a member of the Senate Armed Services Committee, I have nothing but the utmost respect for the men and women who throughout history have risked their lives and invested their careers in our armed forces.

In that light, let us keep their memory alive, and let us ensure that future generations will understand and appreciate the legacy of the U.S.S. *Maine*, and the tragic sacrifice of her gallant crew. Let us remember the *Maine*.●

OLYMPIAN ERIC BERGOUST

● Mr. BURNS. Mr. President, I stand today to recognize an Olympian from the great state of Montana. Eric Bergoust, a Western Montana native from Missoula, will represent our nation next week in the 1998 Winter Olympics in Nagano, Japan.

Eric, 28, is a freestyle aerialist skier—a sport that requires athletes to launch themselves off a snow ski ramp, twist and turn their body in mid-air and land on the slope below. You certainly cannot appreciate the physical requirements of this sport until you are able to see it. And the landings don't always end up feet down. Watch the sport long enough and you are bound to see an unplanned landing.

But Eric is not new to the challenges of freestyle aerial skiing. Eric was profiled on network television earlier this week during a look at the 1998 Winter Olympics. The profile included photos of Eric diving off the roof of his parents' Missoula home into mattresses on the ground below. Mr. President, I am happy to see that Eric's adventurous spirit is now compensated and insured.

When I was a kid, we also had to be creative to fill our time, but my feet stayed on the ground and rarely reached a height higher than the stirrups of a tall horse.

Although he has claimed his share of injuries from the physically demanding sport, I am proud to claim Eric as a native Montanan. He has represented our state well in world class events.

Eric is participating in his second Olympic games and has matured into one of the sport's premiere athletes. Last month, Eric won a World Cup event in British Columbia and is at the top of the World Cup standing entering the Olympics.

I've sent Eric a telegram wishing him well next week in the freestyle aerial events. I wanted to make sure my colleagues and the American people are aware of Eric's roots and the Montana spirit that drives him to be the world's best in his sport.●

TRIBUTE TO JANE JOHNSON

● Mr. DODD. Mr. President, throughout the years, I have had the opportunity to criss-cross the State of Connecticut countless times, and along the way I have met a number of remarkable individuals. Their occupations and backgrounds may vary, but they are all linked by a common commitment to helping others and making a positive difference in their communities. These are the unsung heroes in our society, and they are the foundation on which our communities are built. Sadly, Connecticut lost one its heroes earlier this month, when Jane Johnson of New Britain died at the age of 59.

Jane Johnson's entire career was dedicated to working with poor and underprivileged children so that they may have a brighter future. A native of New Britain, she spent more than 30 years working in her home town's Head Start program, and for the past 17 years she served as its Director.

I was fortunate to work with Jane over the years, and I, along with everyone else who knew her, had the highest regard for Jane and for her opinions on issues concerning children. Not only was she well-respected throughout the State but her efforts on behalf of young people earned her national recognition. That is why she was invited to several White House Conferences on Head Start.

As if her efforts with Head Start were not enough, Jane also volunteered her free time to serve her community. She was involved with many service organizations, including as a member of the board of directors for the Sheldon Community Guidance Clinic and the United Way of New Britain. She was also active in her church, singing in the choir and actively working with the young people in the congregation.

No one really knows exactly how many children showed up to their first day of school ready to learn and came closer to reaching their full potential because of Jane Johnson's efforts. But everyone in New Britain and throughout the State of Connecticut knows that she was a remarkable woman who touched many young lives and will be dearly missed.

I offer my heartfelt condolences to her friends and family, and I ask that her obituary be printed in the RECORD.

The obituary follows:

[From the New Britain Herald, Feb. 6, 1998]

JANE JOHNSON

NEW BRITAIN.—Jane Johnson, 59, of New Britain, Director of the New Britain Head Start Program, died Tuesday, Feb. 3, 1998, at New Britain General Hospital.

Born in New Britain, she was the daughter of Josephine (Gray) Hines of New Britain and the late James Johnson. She was a lifelong New Britain resident. Jane Johnson worked for the New Britain Head Start Program at the Human Resources Agency for 30 years. She began her career in public service as a teacher's assistant in 1965, the first year of the national Head Start Program which was begun by President Lyndon Johnson as a central part of his Great Society Program. In order to fight the ''War on Poverty,'' programs like Head Start were developed on the national level.

Ms. Johnson was an exemplary model of the program. She began participating as a client through the Parent Involvement Component of the Head Start Program. From 1965–67, she worked directly with the children as a teacher's assistant. The first director of the program, John E. Francisco, recognized Ms. Johnson's talent and promoted her. For the next five years, she worked first as an assistant, and then as the coordinator in the Social Service component of the Head Start Program. During the mid-1970's, she returned to school and earned an Associate Degree from Tunxis Community College in 1976.

Mr. Francisco promoted Ms. Johnson again in 1977, when she became his Administrative Assistant. She continued her education, earning a Bachelor of the Arts Degree from Central Connecticut State University in 1979. She graduated with honors and was named to Alpha Kappa Delta National Honor Society.

From 1980–98, Ms. Johnson was the Director of the Head Start Program. During this period, her innovative public policy initiatives earned National recognition. She was selected as a Johnson and Johnson Management Fellow and attended an honorary program at the University of Southern California in 1995.

In addition to her brilliant work as a leader in the National Head Start Program, Ms. Johnson served her community as a volunteer. She served as a member of the Board of Directors at the Sheldon Community Guidance Clinic and at the United Way of New Britain. She was a member of the Connecticut and National Association of Head Start Directors. Ms. Johnson also volunteered as a coordinator for the Conference on Coordinated Child Care For The State of Massachusetts.

Ms. Johnson was a member of the McCullough Temple C.M.E. and during the 1960's, was active as a choir member and served as a Junior District and Secretary Delegate to their young people's conference.

Throughout her life, she made countless contributions to the children and their families who came to the New Britain Head Start Program. The staff, the children, and the families who were involved with the program for the past 30 years will miss her loving guidance, her wonderful sense of humor and, most of all, her kind heart. She will continue to inspire them to serve their community with hard work and commitment.

In addition to her mother, she is survived by three children, Carnell Small of New Britain, Cheryl Small-Parris and her husband, Colin Parris of New Britain, and Wayne Small of Calif.; two sisters, Beatrice Walker of New Britain, and Margaret Johnson of Hartford; two grandchildren, Torey Small and Tia Parris; a great granddaughter, Taryn Fudge; and several nieces and nephews. She was predeceased by an infant son, Todd Anthony Small.

Funeral services will be held on Monday, 11 a.m. at the Spottswood AME Zion Church. Burial will take place at Fairview Cemetery, New Britain. Calling hours are Sunday evening from 6 to 8 p.m. at the church. Memorial donations may be made to the HRA Head Start Program, 180 Clinton St., New Britain, CT 06053. Erickson-Hansen Funeral Home is in charge of arrangements.●

JOHN HAMRE'S SPEECH ON NATO ENLARGEMENT

● Mr. ROTH. Mr. President, few have had as distinguished a career in the Senate as Howell Heflin, our former colleague from the great state of Alabama. One of the ways through which I

came to know and appreciate the indomitable optimism and warmth of Senator Heflin was through our work together as chairmen of the Senate Delegation to the North Atlantic Assembly.

The NAA brings together on a regular basis parliamentary and legislative leaders of NATO's 16 nations to discuss matters of transatlantic concern, generate initiatives addressing key challenges, and reinforce this strategic partnership.

Senator Heflin was not only an outstanding representative of the Senate to the Assembly and an ardent supporter of the NATO Alliance, but he was also an energetic and persuasive leader on an important initiative before us today, NATO enlargement.

I recently corresponded with Senator Heflin. He brought to my attention a speech on NATO enlargement by Deputy Secretary of Defense John Hamre delivered on Veteran's day before an audience in Birmingham.

Senator Heflin suggested that I submit this speech for the RECORD, and I gladly do so. It's a strong articulation of the moral and strategic underpinnings of NATO enlargement. It decisively addresses the key concerns voiced by those who still harbor reservations about this policy.

I urge my colleagues to take Senator Heflin's advice and read this speech.

The speech follows:

REMARKS BY DEPUTY SECRETARY HAMRE AT BIRMINGHAM WORLD PEACE LUNCHEON, 11 NOVEMBER 1997

Senator Jeff Sessions, Senator Howell Heflin, Congressman Spencer Bachus, and Mayor Richard Arrington. It is great to be in Birmingham on Veterans' Day. The sons and daughters of Birmingham have served our nation both on the battlefront and on the homefront. So many served in World War II that this area was known as the ''great arsenal of the South.''

November 11th is set aside to honor all veterans of American wars. But I would like to single out two individual veterans today because their feats in uniform are a tribute to all veterans. In fact, their names are inscribed in the Hall of Heroes at the Pentagon, which honors America's Medal of Honor winners. We are fortunate to have these two heroes seated with us today: Bill Lawley and Lee Mize. Bill received his Medal of Honor after World War II for flying his damaged B–17 and his crew to safety in spite of his terrible wounds and continued enemy attacks. Lee received his Medal of Honor after the Korean War for almost singlehandedly defending a strategic outpost from brutal and continuous enemy assaults, and then leading the counterattack that drove the enemy off. Ladies and gentlemen, on behalf of all veterans here and everywhere, let's show our appreciation to these two American heroes.

Colonels Lawley and Mize—and all their comrades-in-arms—did a great deal to make America safe, both at home and abroad.

Let me share with you a story—a true story. It now seems so long ago, but let me remind you of events back in 1989 before the Warsaw Pact collapsed and before the Berlin Wall came down. At that time there was an announcement by Hungary that they would not block East German citizens living in Hungary from emigrating to West Germany. Within days of that announcement East German citizens started showing up in Budapest. Some 800 individuals, as I recall, were ''camping'' in the yard at the West German embassy in Budapest. It became a crisis—what to do with them all.

After a day or so the West German government rented an entire train and transported these East German refugees to Frankfurt. I recall how CNN was on the scene, showing the train as it slowly moved west.

The night it arrived in Frankfurt a CNN news crew was on the scene and interviewing the refugees. I recall they cornered a young German couple—probably in the mid-20s. The wife was holding an infant. After asking a series of inane questions, the reporter asked the Germans, ''Is there anything you would like to say?'' The man said, ''Yes, there is something I would like to say. I would like to thank America for keeping a place in the world that is free.''

For me, it was a stunning moment. The United States decided after painful deliberation to retain troops in Europe. We had spent hundreds of billions of dollars during the Cold War maintaining a tense peace. And just when many Americans were getting tired and forgetting what it was all about, this young German said in such simple words what it all amounted to—''keeping a place in the world that is free.''

Right now, America is at relative peace. But it is an uneasy peace because we face new dangers of regional aggression, terrorism, and the spread of weapons of mass destruction. Just look at the headlines—Iraq rattling its saber, North Korea threatening and unstable, conflict brewing just below the surface in Bosnia. The challenge before our nation today was posed recently by a scholar named Donald Kagan in his book, *On the Origins of War*. He writes that: ''A persistent and repeated error through the ages has been the failure to understand that the preservation of peace requires active effort, planning, the expenditure of resources, and sacrifice, just as war does.''

President Clinton and Secretary Cohen are determined that the United States will not fail to seize the opportunity to preserve peace. Today, I want to talk about how we are going to preserve peace in Europe. The United States has devoted too much blood and treasure in two World Wars and a Cold War. The key to preventing war in Europe in the 21st Century is to spread the democracy, stability, and prosperity of Western Europe into Eastern and Central Europe, all the way to Russia. And the key to that is by enlarging NATO—inviting new members into the North Atlantic Treaty Organization.

Last summer, President Clinton and his 15 NATO counterparts took the historic step of inviting three former communist countries—Poland, Hungary, and the Czech Republic—to join NATO in 1999. But before this can happen, it must be approved by the citizens of all 16 NATO nations through their elected legislatures, including the United States Senate. This is a very serious decision for American and our Senate to make.

Fifty years ago, when George Marshall proposed the Marshall Plan to help rebuild Europe after World War II, he went around the country explaining the importance of rebuilding Europe. As a result, the Marshall Plan—in Harry Truman's words—was ''more than the creation of statesmen. It comes from the minds and hearts of the people.'' NATO enlargement must also come from the minds and hearts of the people. As President Clinton said, ''Because [NATO enlargement] is not without cost and risk, it is appropriate to have an open, full, national discussion.''

As the Senate prepares to consider NATO enlargement, it is crucial that all Americans join in this debate. We especially need to hear from our veterans. It is your voice—the voice of the American veteran—that must be heard in support of NATO enlargement.

We must remind America how the fiery hatreds of Europe drew us into World War I. Too many failed to make it to the 11th hour of the 11th day of the 11th month, the anniversary we honor today. We all must remind Americans how this ''lost generation'' served and sacrificed to give America a chance to build a safer Europe for the next generation. We must warn them how, when the guns of November fell silent, American ignored the embers of hatred that still smoldered in Europe, and we missed the opportunity to prevent another war.

To those who would turn our backs on Europe today, tell them the price our veterans paid in World War II as Hitler stoked the embers of hate into the deadliest war in human history. Tell them how sons returned to the very same terrain that their fathers had died to set free, as they plunged into the crashing surf at Normandy. A reporter for Star and Stripes was there, and filed this searing dispatch: ''There have been only a handful of days since the beginning of time in which the direction the world was taking has been changed for the better in one 24-hour period by an act of man. June 6, 1944 was one of them. What the Americans, the British, and the Canadians were trying to do was to get back an entire continent that had been taken from its rightful owners, whose citizens had been taken captive. It was one of the most monumentally unselfish things that one group of people ever did for another.'' That D-Day observer was today's Andy Rooney of ''60 Minutes'' fame.

We cannot turn our backs on Europe today. The generation that won the second World War gave us a second chance to build a safer world. The Marshall Plan offered an American hand of help and hope, to lift Europe out of the slough of despair and snuff the embers of war forever. Western Europe embraced the Marshall Plan and built strong democracies, strong economies, and a strong alliance called NATO. But the other half of Europe was denied the Marshall Plan when Joseph Stalin slammed down the Iron Curtain on America's helping hand. But still, America did not turn its back.

Through the long winter of the Cold War, we stood again with the free people of Europe. And today, having emerged victorious from that long, twilight struggle, we have an historic opportunity and a very sober challenge. We must complete George Marshall's vision for a Europe healed, whole, and free to ensure that Americans never again have to fight and die on European battlefields. The key is for NATO to reach out across the old Cold War divides, to nurture the new democracies in Eastern and Central Europe that have emerged from the iron grip of Soviet domination, and, when these countries are ready, willing, and able to join the Western Alliance, to invite them to join NATO.

That is what NATO has done. And today, when you visit the old capitals of the former Warsaw Pact nations, you can see a new spring in the air—of liberty, prosperity, and national security. The lines of commerce and communications are criss-crossing the old Cold War fault lines, knitting the continent closer together. Former NATO enemies are seizing every opportunity to meet, engage, and exercise their militaries with NATO—and three of these nations are now ready to join the Alliance.

This is a major step and we must have a full national debate. Some will argue that making NATO larger is going to make NATO weaker and therefore weaken America. I believe the reverse is true; a larger NATO reflects a wider allegiance to our values. Veterans of our European wars know the power of military alliances in deterring and defeating a common enemy. It was the creation of NATO in 1949 that halted Soviet designs on

Western Europe. It was the enlargement of NATO with Greece, Turkey, West Germany, and Spain that helped to strengthen the wall of democracy. And thanks to NATO, no American blood has been shed fighting another war in Europe for more than 50 years. So enlarging NATO with Poland and Hungary and the Czech Republic is going to carry that promise into the next century.

Some argue that these countries aren't ready to bear the burdens of membership. But in the past few months, our national security leaders have visited these nations and they came away convinced that the Poles, the Hungarians, and the Czechs fully intend to carry their responsibilities to contribute to the Alliance, not just benefit from it.

Some argue that by enlarging NATO we are going to be creating new lines of division in Europe. But in fact, NATO is at the center of a new dynamic in Europe that is rapidly erasing these old lines and bridging over old divisions. The mere prospect of jointing NATO has unleashed a powerful impetus for peace on that continent. Old rivals have settled their historic disputes and they have struck new accords and arrangements. Poland and Lithuania, Poland and Ukraine, Hungary and Romania, Italy and Slovenia, Germany and the Czech Republic—all have healed border disputes and other kinds of controversies that in the past have erupted into war. More than that, these old rivals are sealing these new ties by working together in the conference rooms and the training fields under NATO auspices.

Some argue that enlarging NATO is going to create new tensions and divisions in Russia and jeopardize Russia's move to democracy and its cooperation with the West. But in numerous actions, large and small, NATO and Russia are forging new links to overcome these old divisions. NATO and Russian air forces are now making authorized observation flights over each other's territory. Last spring, NATO and Russia signed a Founding Act that gives Russia a voice in—but not a vote or a veto over—NATO deliberations. And for the past two years, Russian and American troops have been serving together in Bosnia, going out on joint patrols to settle disputes before they ignite into conflict.

Finally, there are those who claim that NATO enlargement will cost too much. But alliances actually save money because they promote cooperation, interoperability, and they reduce redundancy. Simply put, it costs America less to defend our interests in Europe if Poland, Hungary, and the Czech Republic are in alliance with us, just as it costs them less to defend their interests by joining hands in the alliance itself. And we estimate that the cost to the United States each year over the next decade will be less than one-tenth of one percent of our defense budget. The costs of enlarging NATO are meager when weighed against the cost of potential instability and aggression in Europe if we fail to enlarge.

George Marshall knew the cost of war in Europe. He said it is ''spread before us, written neatly in the ledger, whose volumes are grave stones.'' Well, today, there are more than 70,000 such volumes written across Europe, the grave stones of Americans who rest where they fell, liberating a continent. And so their sacrifice echoes down to us through the decades from the hillsides in Florence, from the sloping green in Luxembourg, from the dignified rows on a cliff overlooking the Normandy shore. They did not serve, they did not sacrifice, they did not die for us so that we could walk away from the lands that they freed. It's their voices that we have to heed and the voices of every veteran of every conflict that we have ever fought. You know it is better to pay the price for peace than suffer the cost of war.

John F. Kennedy once said, ''A nation reveals itself not only by the individuals it produces, but also by those it honors, those it remembers.'' Here, today, on behalf of every man and woman who serves in the Department of Defense, let me say thank you to Birmingham. Thank you for remembering. Too many Americans observe Veterans Day in shopping malls. Too many school kids think of Veterans Day as a holiday. Too few cities pause to honor their native sons and daughters—the quiet heroes of freedom. But not Birmingham. It is because of Birmingham that America still keeps places in the world that are free. Every Veterans Day, America reveals its commitment to our armed forces by honoring and remembering the sacrifices of America's veterans. So I want to thank all the citizens of Birmingham for hosting this special event for 50 years and for making veterans everywhere feel like the heroes they are. And I want to thank all our veterans for keeping our nation safe and our citizens secure. God bless our veterans . . . God bless Birmingham . . . and God bless the United States of America.●

DUNGENESS CRAB CONSERVATION AND MANAGEMENT ACT

●Mrs. MURRAY. Mr. President, soon after the upcoming recess, I will join my colleague, Senator SLADE GORTON, to introduce the Dungeness Crab Conservation and Management Act. The ocean Dungeness crab fishery in WA, OR, and CA has been successfully managed by the three states for many years. The states cooperate on season openings, male-only harvest requirements, and minimum sizes; and all three states have enacted limited entry programs. Although the resource demonstrates natural cycles in abundance, over time the fishery has been sustained at a profitable level for fishermen and harvesters with no biological problems.

The fishery is conducted both within state waters and in the federal exclusive economic zone (EEZ). Although state landing laws restrict fishermen to delivering crab only to those states in which they are licensed, the actual harvest takes place along most of the West Coast, roughly from San Francisco to the Canadian border. Thus, it is not unusual for an Oregon-licensed fisherman from Newport to fish in the EEZ northwest of Westport, WA, and deliver his catch to a processor in Astoria, OR.

In recent years, federal court decisions under the umbrella of U.S. versus Washington have held that Northwest Indian tribes have treaty rights to harvest a share of the crab resource off Washington. To accommodate these rights, the State of Washington, has restricted fishing by Washington-licensed fishermen. This led Washington fishermen to request an extension of state fisheries jurisdiction into the EEZ. The Congress partially granted this request during the last Congress by giving the West Coast states interim authority over Dungeness crab, which expires in 1999 (16 U.S.C. 1856 *note*). The Congress also expressed its interest in seeing a fishery management plan established for Dungeness crab and asked the Pacific Fishery Management Council (PFMC) to report to Congress on this issue by December, 1997.

The PFMC established an industry committee to examine the issues, which developed several options. At its June meeting, the PFMC selected two options for further development and referred them for analysis to the Tri-State Dungeness Crab Committee which operates under the Pacific States Marine Fisheries Commission. After lengthy debate, the Tri-State Committee recommended to the Council that the Congress be requested to make the interim authority permanent with certain changes, including a clarification of what license is required for the fishery, broader authority for the states to ensure equitable access to the resource, and clarification of tribal rights. The Tri-State Committee agrees that each state's limited entry laws should apply only to vessels registered in that state. I ask unanimous consent to include the report of the Tri-State Dungeness Crab Committee and the membership list of the Committee in the RECORD following my remarks.

On September 12, 1997, the PFMC unanimously agreed to accept and support the Tri-State Committee recommendation. The Council agreed that the existing management structure effectively conserves the resource, that allocation issues are resolved by the restriction on application of state limited entry laws, that tribal rights are protected, and that the public interest in conservation and fiscal responsibility after better served by the legislative proposal than by developing and implemeting a fishery management plan under the Magnuson-Stevens Fishery Conservation and Management Act. This legislation will fully implement the Tri-State Committee recommendation and ensure the conservation and sound management of this important West Coast fishery.

I look foward to the Senate's timely consideration of this bill.

REPORT OF THE TRI-STATE DUNGENESS CRAB COMMITTEE TO THE PACIFIC FISHERY MANAGEMENT COUNCIL ON OPTIONS FOR DUNGENESS CRAB FISHERY MANAGEMENT, AUGUST 7, 1997

The Tri-State Dungeness Crab Committee met on August 6–7, 1997 to review the Pacific Fishery Management Council (PFMC) Analysis of Options for Dungeness Crab Management. A list of the attending Committee members, advisors, and observers is attached. After completing that review, the Committee discussed the merits of each option and offered the following comments for PFMC consideration.

There was general agreement within the Committee that Option 1, No Action, would not satisfy the current needs of the industry. There was unanimous opposition, however, among Oregon and California representatives to Option 3, Development of a Limited Federal Fishery Management Plan (FMP). Washington representatives were not strongly in favor of a FMP, but viewed it as the only realistic means to address their concerns for the fishery. After an extended discussion, it

was the consensus of the Committee that a modified version of Option 2, Extension of Interim Authority, was preferred.

There were three common themes that appeared during the discussion. No Committee members believe that there should be fishing or processing of Dungeness crab in waters of the EEZ under PFMC jurisdiction by any vessel not permitted or licensed in either Washington, Oregon, or California. The Committee generally accepted that additional tools beyond area closures and pot limits could be needed to address tribal allocation issues. Finally, the Committee also agreed that as a matter of fairness, vessels fishing alongside each other in an area should be subject to the same regulations. On that basis, the Tri-State Dungeness Crab Committee recommends that:

1. The PFMC immediately request that Congress make the current Interim Authority a permanent part of the Magnuson-Stevens Fishery Conservation and Management Act, applying only to Pacific coast Dungeness crab, with the following adjustments.

(a) delete the limitations listed in the current Section 2 of the Interim Authority so that state regulations will apply equally to all vessels in the EEZ and adjacent State waters; and

(b) clarify the language in the current Section 3B of the Interim Authority to prohibit participation in the fishery by vessels that are not registered in either Washington, Oregon, or California.

2. The PFMC defer action on a Dungeness crab FMP until March 1998 to determine whether Congress will be receptive to this extension of the Interim Authority.

Proposed draft bill language for an extension of the Interim Authority is attached.

This recommendation is not made without reservations on both sides. Washington representatives were reluctant to totally withdraw consideration of a federal FMP option, in the event that efforts to extend the Interim Authority fail. They expressed little confidence that a request for Congressional action would be successful. Representatives from Oregon were concerned that discriminatory regulations could be enacted in the future by other states that could effectively exclude them from participation on traditional fishing grounds. They preferred this risk over the involvement of federal agencies under a federal fishery management plan.

TRI-STATE DUNGENESS CRAB COMMITTEE MEETING, ATTENDANCE—AUGUST 6–7, 1997, PORTLAND, OR

COMMITTEE MEMBERS

Dick Sheldon, Columbia River Dungeness Crab Fishermen's Association, Ocean Park, WA
Ernie Summers, Washington Dungeness Crab Fishermen's Association, Westport, WA
Larry Thevik, Washington Dungeness Crab Fishermen's Association, Westport, WA
Terry Krager, Chinook Packing, Chinook, WA
Paul Davis, Oregon Fisher, Brookings, OR
Bob Eder, Oregon Fisher, Newport, OR
Tom Nowlin, Oregon Fisher, Coos Bay, OR
Stan Schones, Oregon Fisher, Newport, OR
Russell Smotherman, Oregon Fisher, Warrenton, OR
Joe Speir, Oregon Fisher, Brookings, OR
Rod Moore, West Coast Seafood Processors Association, Portland, OR
Harold Ames, CA Fisher, Bodega Bay, CA
Mike Cunningham, CA Fisher, Eureka, CA
Tom Fulkerson, CA Fisher, Trinidad, CA
Tom Timmer, CA Fisher, Crescent City, CA
Jerry Thomas, Eureka Fisheries, Inc., Eureka, CA

ADVISORS

Steve Barry, Washington Department of Fish and Wildlife, Montesano, WA
Paul LaRiviere, Washington Department of Fish and Wildlife, Montesano, WA
Neil Richmond, Oregon Department of Fish and Wildlife, Charleston, OR

OBSERVERS

Tom Kelly, WA Fisher, Westport, WA
Mike Mail, Quinault Tribe, Taholah, WA
Nick Furman, Oregon Dungeness Crab Commission, Coos Bay, OR●

JULIAN SIMON

● Mr. ABRAHAM. Mr. President, I would like to bring to my colleagues attention an article by Ben Wattenberg on the recent passing of economist Julian Simon. Dr. Simon, who I had the pleasure of meeting, was a great lover of freedom and a strong advocate for free markets. He was a pioneer who presented important research showing the benefits of legal immigration. His research also demonstrated that the rationale for the type of population control practiced in many places in the world is misguided and harmful. In other words, human beings are not problems to be solved. Such positions never won him popularity contests among certain groups, but as The Washington Times wrote of Julian Simon: ''His forecasts about trends in resource availability, pollution and other effects of additional people have been completely borne out by events.'' A fitting epitaph. I ask that the articles by Ben Wattenberg and Julian Simon be printed in the RECORD.

The articles follow:

[From The Wall Street Journal, Feb. 11, 1998]

MALTHUS, WATCH OUT

(By Ben Wattenberg)

Julian Simon, who waged intellectual war on environmentalists and Malthusians, died suddenly on Sunday. He would have been 66 tomorrow, the day of his funeral.

Simon could sometimes glow like an exposed wire, crackling with nervous intellectual intensity. Privately, he had a soul of purest honey. But by force of will, fueled by his sizzling energy, Simon helped push a generation of Americans to rethink their views on population, resources and the environment. By now it is clear that in this task he was largely successful. As the years roll on he will be more successful yet, his work studied, and picked at, by regiments of graduate students.

His keystone work was ''The Ultimate Resource,'' published in 1981 and updated in 1996 as ''The Ultimate Resource 2'' (Princeton University Press). Its central point is clear: Supplies of natural resources are not finite in any serious way; they are created by the intellect of man, an always renewable resource. Coal, oil and uranium were not resources at all until mixed well with human intellect.

The notion drove some environmentalists crazy. If it were true, poof!—there went so many of the crises that justified their existence. From their air-conditioned offices in high-rise buildings, they brayed: Simon believes in a technological fix! The attacks often got personal: Simon's doctorate was in business economics, they sniffed; he had merely been a professor of advertising and marketing, and—get this—he had actually started a mail order business and written a book about how to do it. Never mind that he also studied population economics for a quarter century.

In fact, it was Simon's knowledge of real-world commerce that gave him an edge in the intellectual wars. He knew firsthand about some things that many environmentalists had only touched gingerly, like prices. If the real resource was the human intellect, Simon reasoned, and the amount of human intellect was increasing, both quantitatively through population growth and qualitatively through education, then the supply of resources would grow, outrunning demand, pushing prices down and giving people more access to what they wanted, with more than enough left over to deal with pollution and congestion. In short, mankind faced the very opposite of a crisis.

Simon rarely presented a sentence not supported by facts—facts arranged in serried ranks to confront the opposition; facts about forests and food, pollution and poverty, nuclear power and nonrenewable resources; facts used as foot soldiers to strike blows for accuracy.

In a famous bet, gloom-meister Paul Ehrlich took up Simon's challenge and wagered that between 1980 and 1990 scarcity would drive resource prices up. Simon bet that progress would push prices down. Simon won the bet, easily. Mr. Ehrlich won a MacArthur Foundation ''genius'' grant. But the wheel turns, and we'll see who's a genius. Fortune magazine listed Simon among ''the world's most stimulating thinkers.'' Mr. Ehrlich didn't make the cut.

Simon sensed the primacy of something else that many environmentalists and crisis-mongers didn't catch on to for a quite a time: Human intellect could best be transformed into beneficial goods and services in an atmosphere of political and economic liberty. At the United Nations' Mexico City population conference in 1984 Simon winced, and counterattacked, when population alarmists caricatured the Reagan-appointed American delegation as promoting the idea that ''capitalism is the best contraceptive.'' It was not a good idea to ridicule capitalism, or free markets, or human liberty, in Simon's presence.

Of course, rising living standards do tend to depress fertility. Living standards do rise faster under democratic market systems. Smart folks now know that the fruits of economic growth can be used to diminish pollution. You don't hear much anymore about how we're running out of everything. (Next task: Simonize the Global Warmists.)

Finally, unlike many of his opponents, Julian was a traditionalist. He did not work on the Sabbath, and the Friday Sabbath dinner at the Simon house was always a gentle and joyous celebration.

At rest on the Sabbath, Julian was indefatigable the rest of the week, chasing his precious facts. If Thomas Malthus is in heaven, he's in for an argument, laced with facts, facts, facts.

[From the Wall Street Journal Tuesday, April 22, 1997]

ANOTHER SURE BET ON EARTH DAY

[By Julian L. Simon]

The message of Earth Day is uplifting today just as it was in 1970. But any reasonable person who looks at the statistical evidence must agree that Earth Day's original scientific premises are simply wrong.

Panic reigned during the first Earth Week. The doomsaying environmentalists—among whom the pre-eminent figure was Paul Ehrlich—asserted that the oceans and the Great Lakes were dying; great famines were impending; the death rate would quickly increase, due to pollution; and increasingly-scarce raw materials would reverse the past centuries' progress in the standard of living.

Every ill was the result of exploding populations in the U.S. and abroad. The doomsayers urged government-coerced birth control, abroad and even at home.

Of course none of those calamities have occurred. Indeed, long before 1970, however, most agricultural economists—led by Nobel Prize winner Theodore Schultz—had known that people throughout the world have been living longer and eating better since at least 1950 in the poor countries, and for two centuries in the rich countries. Fewer people die of famine than a century ago. The real prices of food are lower than in earlier periods.

All other raw materials, too: In the great 1963 book ''Scarcity and Growth,'' Harold Barnett and Chandler Morse had documented that prices had been declining throughout history, signaling increased natural-resource availability rather than growing scarcity.

Data showing improved cleanliness of air and purity of water in the rich countries had been published before 1970. Since then the major air and water pollutions in the advanced countries have continued to abate rather than worsen. And statistical studies by Richard Easterlin and Nobel Prize winner Simon Kuznets had in 1967 shown there to be no statistical evidence that population growth hinders economic progress. Yet the environmental organizations, the press, and the Clinton administration still take as doctrine exactly the same falsified ideas expressed by the doomsayers in 1970.

Scientific opinion about population growth has now shifted away from the doomsayers' apocalyptic views. In 1986 the National Academy of Sciences published a report on population growth and economic development prepared by a prestigious scholarly committee chaired by economists D. Gale Johnson and Ronald Lee. It reversed almost completely the frightening conclusions of the previous NAS report in 1971. The expert group found ''no statistical association between national rates of population growth and growth rates of income per capita,'' though they hedged their qualitative judgment a bit. The report found benefits of additional population as well as costs.

I'm sufficiently certain about these trends that I'm willing to put my money where my mouth is. In 1980, Mr. Ehrlich and two associates bet me that increasing scarcity would bring higher prices of raw materials. We agreed to assess the trends in $1,000 worth of copper, chrome, nickel, tin, and tungsten for ten years. I would win if resources grew more abundant and thus cheaper, and they would win if resources became more expensive. At settling time in 1990, the Ehrlich team sent me a check for $576.07. The inflation-adjusted price of our basket of metals had declined more than 40% over the bet period.

More environmental and resource data are available nowadays. And a single bet proves little. Hence I make the new broader bet offer to any prominent doomsayer that just about any trend pertaining to material human welfare will improve rather than get worse. The other person picks the trend(s)—life expectancy, a price of a natural resource, some measure of air or water pollution, the number of telephones per person, or whatever—and chooses the area of the world, and the future year a decade or more hence.

Professor Ehrlich and global-warming climatologist Stephen Schneider have responded to my offer with a strategy one might call switch-and-bait. They first switch the subject from material human welfare, and offer to bet on a set of physical indicators such as sperm count, global temperature, and levels of carbon dioxide and ozone. They call these elusive measures ''indirect indicators.'' But they are not relevant. The subject is economic welfare (including health) and not atmospheric science.

Furthermore, the economic goodness or badness of many physical indicators is quite unknown. Carbon dioxide makes the plants grow faster; more of it may be a good thing. And only two decades ago Mr. Schneider wrote a book about the imminent danger of global cooling, so perhaps a higher mean temperature is not the demon he now warns us of.

When I explain these ideas, Mr. Ehrlich baits me—on National Public Radio and elsewhere—by saying that I ''chickened out'' and ''ran.'' The fact that these folks have to resort to such a switch-and-bait ploy reveals a lot about the strength of their position.

The continuing influence of the failed forecasters among the media and policy makers is frustrating. But it's spring, so let's look at the good news. There is every scientific reason to be joyful about the trends in Earth's condition, and to be hopeful for humanity's future. So we can safely ignore the scare stories and have a Happy Earth Day.

TODAY'S LINE-ITEM VETO DECISION

● Mr. LEAHY. Mr. President, today, the United States District Court for the District of Columbia has again held the line-item veto unconstitutional. I respect the decision of Judge Thomas F. Hogan. I respect it not only because his analysis is consistent with that which led me to oppose this legislation when it was being considered by the Senate. I also respect it because it was right as a matter of constitutional law and as a means to preserve the separation of powers that is so central to the checks and balances that preserve our freedoms and liberty.

We hear a lot of speeches around here condemning judges. Here is a Judge who has done his job and stood up for the Constitution against the ill-advised action of the political branches.

It is not our independent federal judiciary that is upsetting the limits of government and fundamental freedoms of us all. Congress has shown a dangerous tendency over the last few years to ignore constitutional limits on Federal legislative branch authority. Maybe it is Members of Congress who need to read the Constitution and consider its wisdom.

The last week of its last term, the United States Supreme Court struck down three congressional actions as unconstitutional, including the so-called Communications Decency Act and the Brady Act, both of which I voted against. The Supreme Court withheld ruling on the line-item veto law at that time, because it held that the plaintiffs in that case were without standing to bring the challenge. It was just a matter of time and occasion. The decision by Judge Thomas Penfield Jackson in the earlier case had presaged the ruling today. The line-item veto was and is unconstitutional. I proudly stand with Senator BYRD on this matter.

I would ask Congress to step back from this specific decision and consider how unprecedented this is: Four statutes that do not comport with the constitutional limits on congressional authority overturned from a single Congress.

It is unfortunate that Congress is far too often overstepping its constitutional bounds. It is unfortunate that the courts have to rein Congress in from time to time, with increasing frequency as the Republican majority loses its moorings, but that is the thankless responsibility of the courts under our system of checks and balances.

I have come to this floor often in the last several months to defend the judiciary against shrill attacks. I come today to offer my continuing gratitude and respect for our co-equal branch of government. We are the envy of the world in part because our free and independent judicial branch has served our country so well for more than 200 years.

We should be doing more to keep it that way, not less. We are finally beginning to consider longstanding judicial nominations to fill the vacancies that plague the federal judiciary and threaten the administration of justice. We need to do more. We should consider without further delay the judiciary's requests for the resources that they need. We should consider S. 678, the Federal Judgeship Act, which I introduced at the request of the Judicial Conference to provide an additional 55 judges where needed around the country. We should act on S. 394, which I sponsored with Senator HATCH to unlink judicial salaries from our own. We should consider and confirm qualified nominees to the 83 vacancies to the federal courts.

Finally, I hope that members of Congress will rethink the rush to propose amendment to our Constitution and consider how well our fundamental charter serves us. We do not need to rewrite the Constitution, we need to respect it and act in accordance with its design.●

KATHLEEN JONES AND MOIRA DELAHANTY—WINNERS OF THE PRUDENTIAL SPIRIT OF COMMUNITY AWARD AND CHRISTOPHER VACHON, CHRISTOPHER PAPPAJOHN, JOSEPH ALLISON, JUSTINE BARRETT, DISTINGUISHED FINALISTS

● Mr. SMITH of New Hampshire. Mr. President, I rise today to congratulate Kathleen Jones and Moira Delahanty who have achieved national recognition for recieving the Prudential Spirit of Community Award. I commend their youthful spirit and aggressive drive to improve the quality of life in New Hampshire through community service.

The award, presented by The Prudential Insurance Company of America in partnership with the National Association of Secondary School Principals, recognizes young people who have shown a great deal of commitment and dedication to improving their community. As New Hampshire's honorees,

Kathleen and Moira will receive $1,000, a silver medallion and a trip in May to Washington, D.C., where they will join other honorees for four days of national events.

According to Kathleen, she wanted to make a difference in her community and spend time helping others. As a result, she launched an environmental group called Earth Service Corps. Today, the group has nearly 70 members who help build and maintain hiking trails, initiate and conduct recycling programs, and plant trees throughout the state. Kathleen not only was the founder, but she also plans group meetings, serves as a liaison with community groups, and handles all administrative work for the Corps.

Moira volunteers as an aide to a swimming instructor with the local chapter of the American Red Cross. She helps younger kids overcome their fears of water and then teaches them to swim. She completed a special training session and volunteered for one month over the course of two summers. Her love for teaching and her passion to help others overcome individual fears is a great attribute I admire dearly.

I also would like to salute four other young people who were named Distinguished Finalists by The Prudential Spirit of Community Award and recieved the bronze medallion for their outstanding volunteer service. They are: Christopher Vachon, 14, Pinkerton Academy in Derry, created several multimedia presentations to promote driving safety among teenagers; Christopher Pappajohn, 16, Keene High School, raised $40,000 with a group of friends to build a skate park in his town; Joseph Allison, 13, Hudson Memorial Middle School, volunteers in his community for a variety of nearby organizations; and Justine Barrett, 14, West Running Brook Middle School in Derry, helped collect money for the needy through a Holiday Fund at her school.

These extraordinary young people continue to keep alive the virtue of community service and inspire others to do the same. Their personal initiatives, dedicated service and hard work have impacted the lives of many. In a time when Americans seem to be less involved in their communities, these young Americans continue to defend and keep the community flame shining brightly. Mr. President, I want to congratulate these individuals for their outstanding work and I am proud to represent them in the U.S. Senate.●

JAMES FARMER AWARDED THE PRESIDENTIAL MEDAL OF FREEDOM

● Mr. ROBB. Mr. President, while this Congress was in recess, the President of the United States awarded the Presidential Medal of Freedom, our country's highest civilian honor, to James Farmer. The Medal was given to Mr. Farmer on January 15, 1998, the birthday of the Reverend Martin Luther King, Jr., in a symbolic gesture that reminded us again of the value of freedom, and the debt we owe those who sacrificed greatly for racial equality in America.

Mr. President, James Farmer was one of the six major civil rights leaders of the civil rights era, joining A. Philip Randolph, Roy Wilkins, Whitney Young, John Lewis and Martin Luther King, Jr. He helped establish, and later lead, the Congress of Racial Equality (CORE). He was the father of the famous Freedom Rides through the South. He organized and inspired. He placed himself in great personal danger again and again. Today, he teaches civil rights history to some very lucky students at Mary Washington College in Fredericksburg, Virginia.

Last year, I was pleased to join Congressman JOHN LEWIS and others in asking that the President award the Medal of Freedom to James Farmer. Last month, Lynda and I were privileged to be at the White House when President Clinton officially presented the Medal to Mr. Farmer.

Before the White House ceremony, Congressman LEWIS and I prepared a tribute to James Farmer, which I ask be printed in the RECORD following my remarks today. In this tribute, we thank James Farmer for a lifetime of fighting for racial equality in America. We challenge our nation to continue to learn from this great American hero—to continue to reach for a truly color-blind society—to finally lay down the burden of race.●

HUMAN CLONING PROHIBITION ACT

● Mr. DORGAN. Mr. President, I want to take a few minutes to explain why I voted against cloture on S. 1601, the Human Cloning Prohibition Act introduced by Senators BOND, FRIST, LOTT, and GREGG.

First of all, I want to state unequivocally that I am against the cloning of a human being. Cloning of a human child raises serious moral and ethical questions about society's perception of human life. The National Bioethics Advisory Commission, after a thorough review of the ethical and legal issues involved, has recommended that Congress enact legislation to prohibit the use of cloning to create a child, and I agree that Congress needs to act on this issue.

We should not, however, rush to enact legislation that could do serious harm to other critical medical research. The legislation before the Senate today is only eight days old. The Senate Labor Committee and Senate Judiciary Committee, which have jurisdiction over this bill, have not had the opportunity to hold hearings on this specific legislation or the other bills that have recently been introduced, much less consider amendments to the language.

In the meantime, the Food and Drug Administration has already determined that it has authority and jurisdiction over human cloning and has stated that it would act to prohibit any attempt to clone a human being. In addition, professional organizations representing more than 64,000 scientists have voluntarily imposed upon themselves a five-year moratorium on human cloning.

Most importantly, as we take action to ban the cloning of humans, I want to be sure that we do not also ban valuable medical research that could lead to cures or treatments for the millions of Americans suffering from cancer, heart disease, diabetes, organ failure, Alzheimer's disease, Parkinson's disease, severe skin burns, and many other diseases that perhaps we haven't even identified yet. Scientists do not yet understand exactly how somatic cell nuclear transfer, the technique used in cloning Dolly the sheep in Scotland last spring, worked.

But medical researchers believe that this technology can be used to generate stem cells to treat disease. For instance, imagine being able in the not-so-distant future to repair the damage to the cardiac muscle caused by a heart attack. Using stem cell technology, we may be able to replace damaged cardiac cells with healthy cells that would then differentiate into cardiac muscle. I do not know whether this will ultimately prove to work, but I believe we should continue to pursue this type of research if it could help to save the lives of millions of Americans each year.

The Nation's scientific community has expressed deep concern that the legislation before us, as currently drafted, could halt stem cell research and other related research that would not lead to the cloning of human beings. Everyone I have talked to agrees that this is a complicated and difficult issue. We need to proceed, but we need to do so in the careful, considered way that has earned the Senate the reputation of the ''world's greatest deliberative body.''

Mr. President, I ask that a New York Times editorial on this subject be printed in the RECORD.

The editorial follows:

[From the New York Times, Feb. 10, 1998]

A SLAPDASH PROPOSAL ON CLONING

The shock caused by the physicist Richard Seed's grandiose intention to clone human beings may be about to cause more damage than anything Dr. Seed could do in the laboratory. Senate Republicans are now rushing to enact a bill that would outlaw cloning a human embryo and, in the process, ban a valuable technique that could potentially cure a wide range of diseases. No wonder a slew of scientific associations and high-tech industry groups are urging more carefully constructed legislation. The sensitive scientific and moral issues involved here require careful handling, not grandstanding by politicians more interested in pandering than in reaching a reasoned solution.

Congress may ultimately want to impose limits on cloning, a technique that has arrived sooner than expected with the announcement last year that Scottish scientists had cloned a lamb from the cell of an adult sheep. That achievement, if it proves practical in humans, would make it possible to take a cell from an adult and use it to produce a genetically identical twin many years younger than the parent. A national bioethics commission, the biotechnology and pharmaceutical industries and many scientific groups have all called for a moratorium on actually cloning a person until society has time to grapple with the ethical and moral issues.

But the bill sponsored by the Republican Senators Christopher Bond, William Frist and Judd Gregg does not simply prohibit the use of cloning to produce a human embryo for implantation in the womb. It would also prohibit use of the technique to produce genetically identical tissues in the laboratory to treat diseases or injuries where a person's existing cells are damaged or insufficient. Such ailments include leukemia, diabetes, Alzheimer's disease, spinal cord injury, heart attacks and severe burns, among others.

The Republicans contend that even these approaches require creating what amounts to an embryo in the laboratory and then experimenting on it to produce the desired tissues. But that is a complex matter of definitions and techniques that requires careful evaluation. The Republican bill and others on the subject have not even gone through committee hearings. When the matter comes up for a floor vote this week, the Senate should postpone action and demand more considered deliberation. It would be a shame if the rush to ban cloning of people ended up crippling biomedical research.●

50TH BIRTHDAY OF MICHAEL B. ROBERTSON

● Mr. MOYNIHAN. Mr. President, next Wednesday, February 18, marks an auspicious occasion: Michael B. Robertson—a constituent—will turn 50. He will become a quinquagenarian. Individuals often approach this milestone with some trepidation. That need not be, for as Sir Richard Steele wrote, ''Age in a virtuous person, of either sex, carries in it an authority which makes it preferable to all the pleasures of youth.'' Now, Steele was all of 38 or 39 when he wrote that in 1711, but I can attest to the sentiment, having become a septuagenarian last March. More important, we learn from Leviticus 25:10 that ''Ye shall hallow the fiftieth year, and proclaim liberty throughout all the land unto all the inhabitants thereof: it shall be a jubilee unto you.''

Michael Robertson was born in Scotland in 1948. But he ''left fair Scotland's strand'' at the age of six and moved with his family to the United States. He obtained a bachelor of arts degree in English from Wilkes University in Wilkes Barre, Pennsylvania in 1969. From there, as a young man, he headed west, following the advice of Horace Greeley (actually, it was the advice of John Babsone Lane Soule, in an article published in the Terre Haute Express in 1851).

His car and his funds made it to Los Angeles. He had to find work, and ended up taking a job in the mailroom of Carson/Roberts Advertising. His superiors quickly recognized his innate ability and work ethic, and promoted him to copywriter. Soon thereafter, he was an associate creative director with Young & Rubicam, eventually returning to the East Coast. Onward and upward in the highly competitive business of advertising to his present position as executive creative director of Bates USA, where he is responsible for the overall creative product of a $1.1 billion agency.

Mr. Robertson, I might note, is a neighbor of sorts. His office is in the venerable Chrysler Building, a few floors below the suite which is my New York City office. He has a lovely family, including a daughter, Megan (just recently married); a son, Brendan (a strapping young man presently in college); and another daughter, Charlotte (a star fourth-grader at the Nightingale-Bamford School). His wife, Linda, is quite accomplished in her own right: she produced the television commercials commemorating the fiftieth anniversary of the United Nations.

I would like to take this opportunity, Mr. President, to join with Michael Robertson's family and friends too numerous to count in wishing him a very happy fiftieth birthday. May it truly be a jubilee.●

LONDONDERRY HIGH SCHOOL LANCER MARCHING BAND, PARTICIPANT IN THE WASHINGTON, D.C., ST. PATRICK'S DAY PARADE

● Mr. SMITH of New Hampshire. Mr. President, I rise today to congratulate the students of the Londonderry High School Lancers Marching Band for the distinguished honor of representing New Hampshire in the Washington, D.C., St. Patrick's Day Parade. All 201 band members and Andrew Soucy, the Band's director, deserve special commendation for their hard work and achievement.

These band members have proven that determination, hardwork and dedication are the hallmarks of success both as musicians and students. Many of the songs they play symbolize American pride and forever keep patriotism alive through the language of music. ''Londonderry Ear,'' also known as ''Oh Danny Boy,'' is a hometown favorite that is also played in tribute to the Granite State and their home town.

I am indeed honored to have the Londonderry High School Lancer Marching Band representing New Hampshire with their outstanding musical performances. I had the pleasure of meeting some of the band members, young men and women, who have recognized their own talents and continue to develop them into something great. I am proud to say, this continual drive for perfection and aggressive strive for greatness are commendable characteristics among Granite State students.

These students not only attended school and practice, but they also had to raise money through several fundraisers to come to Washington, D.C. As a result, the band accomplished their goal by implementing a plan and having the right attitude and talent to meet their goal.

The Londonderry High School Lancers Marching Band with their classic red, white, and blue uniforms have performed for audiences throughout the country. To name a few, they played at the Foxboro Stadium, home of the New England Patriots in Boston, Massachusetts, Nascar Winston Cup Series, and for Good Morning America, an ABC Television Network.

I also want to recognize the Londonderry community, for giving so much support in helping these young adults. I am well aware of the pride the community has for this talented band. It is much easier to be successful when you have the support of others and the backing from friends and family.

Mr. President, I want to congratulate all the students and the director on such a magnificent accomplishment and I am proud to represent them in the U.S. Senate. I also ask that a list of the names of these outstanding students be printed in the RECORD.

The list follows:

LONDONDERRY HIGH SCHOOL LANCER MARCHING BAND

Scott Abernethy, Noura Alkhamis, Bridget Ambrose, Heather Applegate, Jordon Avalos, Christina Belmonte, Matthew Blake, Danielle Boshetto, Katie Broadhead, Carolynne Camillieri, Greta Carlson, Sarah Chretien, Ashley Clover, James Dahlfred, Jessica Davis, Arthur Decaneas, Tim Desmarais, William Doss, Amanda Eaton, Sheridan Farrah Jr., Bethany Ferreira, Nathan Formalarie, Kim Garrison, Madelyn Gonzalez, Bridget Gugliotta, John Harding, Andrew Hatin, Tara Henry, Nik Janson, Adam Keller, Kerry Kilpatrick, Joy Arbruzese, Vanessa Allum,

Dan Anderson, Patrick Applegate, Sabrina Baker, Kristin Beltrimini, Suzanne Blundell, Meleah Brackett, Candice Brown, Ashley Carlson, Mike Carlson, Tim Christensen, Sarah Cody, Katie Daneau, Dave Day, Robert Decker Jr., Jenn Dillon, Kristen Dubois, Michelle Eddy, Mike Fawcett, Greg Fisher, Rachael Fryd, Leah Gaumont, Nicole Gregorio, Kate Gunnery, Jason Harrington, Kristen Hatin, Neil Huntemann, Elizabeth Jones, Andrew Keller, Katie Klasner, Alexandra Adams, Allison Alper, Andrew Applegate, Ryan Arnold, Diego Batista, Erin Blake,

Robyn Bookman, Christine Bradbury, Melissa Burns, Drew Carlson, Leslie Cast, Diana Church, Rachel Cox, Abby Davidson, Karen Day, Barbara Deluca, Michelle Dillon, Dan Dussault, Michael Edwards, Adam Fernald, Marc Flore, Dana Garrison, Jamie Gogla, Kirsten Griffiths, Chris Hajjar, Karen Harvey, Erin Hegarty, Kim Huston, Kristine Jones, Carin Kilar,

Jason Krampfert, Kristen Krampfert, Danielle Levison, Greg Lufkin, Jaimie Machado, Caitlin Marrinan, Kaylie Matos, Katie McCarthy, Dary Mcgrath, Julia Mechachonis, Kim Mendonca, Paul Mistovish, Tom Morse, Sarah Munday, Kim Novielli, Elizabeth Oswald, Jason Pelletier, Katie Piper, Tim Porter, Jennifer Reynolds, Elizabeth Rockwell, Melissa Ross, Steven Roy, Collean Scali, Shannon Scioscia, Anne Shea, Katie Silvius, Matthew Smith, Joseph Soucy, James Stewart, Ashley Taylor, Jamie Thomas, Mark Tuden, Marianne Vanagel,

Christine Walker, Melissa Wills, Stephanie Young, Amanda Leitch, Ryan Levison, Dave Lymburner, Kelly Macneil, Joseph Martin, Jim Maxwell, Kerry McCarty, Caitlin McIntire, Robert Mee, Eric Meyer, Emily Morgano, Eric Mosse, Colleen Murphy, Cortiney Nye, Brian Paciulan, Jessica Pelletier, Lindsay Piper, Toby Porter, David Poberson, Katherine Rork, Seana Roussel, Amanda Rudy, Paul Schacht, Kayla Seaman, Carly Sheehan, Dennis Slozak, Stephanie Smith, Sarah Soucy, Jackie Sunderland, Georgia Theodore, Robert Tobin, Jay Vaccaro, Emily Violette,

Kerry Walton, Adam Wobrock, Victoria Zabierek, Amanda Lever, Jesse Lore, Drew Macculloch, Dan Marchegiani, Lance Martin, Rachel McCarter, Shannon McCarty, Jen McMahon, Dan Melnick, Deryc Miller, John Morse, Jessica Moulton, Jessica Napier, Amanda Oswald, Enrique Paniagua, John Perry, Sue Plissey, Rebecca Predko, Mike Roberson, Jennifer Ross, Melissa Roy, Jack Ryan, Andrew Schroeder, Matthew Sharpe, Tim Sheehan, Crystal Smith, Kevin Socha, Ethan Stern, Nicki Sweet, Sarah Thesse, Peter Tomaselli, Jeff Vaccaro, Christina Vitale, Richard Williams, Renee Wright, Scott Zdankiewicz.●

A TRIBUTE TO AN AMERICAN FREEDOM FIGHTER

● Mr. ROBB. Mr. President, as one man who had the privilege to march and demonstrate alongside this dedicated pioneer during the Civil Rights Movement, and another who has long respected his courage and is proud to represent him in the U.S. Senate, we both have enormous respect and admiration for James Farmer. Now, all Americans are being given the opportunity both to learn more about this man and to appreciate his lifetime of contributions to our nation as a civil rights activist, community leader and teacher.

Yesterday, on the birth date of the Reverend Martin Luther King, Jr., President Clinton presented the Presidential Medal of Freedom, our country's highest civilian honor, to fifteen distinguished Americans. We are grateful that James Farmer, one of the ''Big Six'' leaders of the Civil Rights Movement and the father of the Freedom Rides, was among them.

As the Nation prepares to officially celebrate the life and legacy of Dr. Martin Luther King, Jr., it is also fitting that we join the President in recognizing one of the great soldiers and leaders of the Civil Rights Movement. In the 1940's, while still in his early twenties, James Farmer was already leading some of the earliest nonviolent demonstrations and sit-ins in the Nation, over a decade before nonviolent tactics became a vehicle for the modern Civil Rights Movement in the South.

Early in his academic career, James Farmer became interested in the Ghandian principles of civil disobedience, direct action, and nonviolence. In 1942, at the age of 22, he enlisted an interracial group, mostly students, and founded the Congress of Racial Equality (CORE), with the goal of using nonviolent protest to fight segregation in America. During these early years, James Farmer and other CORE members staged our Nation's first nonviolent sit-in, which successfully desegregated the Jack Spratt Coffee Shop in Chicago.

Five years later, in what he called the ''Journey of Reconciliation,'' James Farmer led other CORE members to challenge segregated seating on interstate buses.

In 1961, James Farmer orchestrated and led the famous Freedom Rides through the South, which are renown for forcing Americans to confront segregation in bus terminals and on interstate buses. In the spring of that year, James Farmer trained a small group of freedom riders, teaching them to deal with the hostility they were likely to encounter using nonviolent resistance. This training would serve them well.

During the journeys, freedom riders were beaten. Buses were burned. When riders and their supporters—including James Farmer and the Reverend Martin Luther King, Jr.—were trapped during a rally in Montgomery's First Baptist Church, Attorney General Robert Kennedy ordered U.S. marshals to come to their aid and protect them from the angry mob that had gathered outside.

In reflecting on the ride from Montgomery, Alabama to Jackson, Mississippi, James Farmer said, ''I don't think any of us thought we were going to get to Jackson * * * I was scared and I am sure the kids were scared.'' He later wrote in his autobiography, ''If any man says that he had no fear in the action of the sixties, he is a liar. Or without imagination.''

James Farmer made it to Jackson and spent forty days in jail after he tried to enter a white restroom at the bus station. On November 1, 1961, six months after the freedom rides began, the Interstate Commerce Commission ordered all interstate buses and terminal facilities to be integrated.

Six years ago, James Farmer told a reporter that while the fight against racism in the 1960's ''required tough skulls and guts * * * now it requires intellect, training and education.''

Not surprisingly, James Farmer continues to do his part. Just as he taught his freedom riders how to battle segregation over three decades ago, he has taught civil rights history at Mary Washington College in Fredericksburg, Virginia, for the past twelve years. He teaches his students how to remember and how to learn from history.

James Farmer has, in truth, spent a lifetime teaching America the value of equality and opportunity. He has taught America that its most volatile social problems could be solved nonviolently. He has reminded us of the countless acts of courage and conviction needed to bring about great change. He has shown us the idealism needed to act and the pragmatism needed to succeed. His respect for humanity and his belief in justice will forever inspire those of us privileged to call him mentor and friend.

As we celebrate the Martin Luther King Holiday on Monday, and as we honor James Farmer with the Presidential Medal of Freedom, let us vow to continue to learn. If we truly believe in the idea of the beloved community and an interracial democracy, we cannot give up. As a nation and a people, we must join together and strive towards laying down the burden of race. And we must follow in the footsteps of a courageous leader, to whom, with the Presidential Medal of Freedom, we can finally say: thank you, James Farmer.●

AUTHORIZING PRODUCTION OF SENATE DOCUMENTS BY SENATE LEGAL COUNSEL

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 178, submitted earlier today by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. The clerk will report the resolution.

The bill clerk read as follows:

A resolution (S. Res. 178) to authorize production of Senate documents and representation by Senate Legal Counsel in *United States f.u.b.o. Kimberly Industries, Inc., et al.* v. *Trafalgar House Construction, Inc., et al.*

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

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

Mr. LOTT. Mr. President, this resolution concerns a contract dispute, pending as a civil case in the United States District Court for the Southern District of West Virginia, between a subcontractor and the prime contractor constructing a Department of Labor Job Corps facility in Charleston, West Virginia. Prior to the litigation, the subcontractor, a West Virginia firm, sought assistance from Senator BYRD's and Senator ROCKEFELLER's offices in contacting the Labor Department regarding the firm's difficulties over payment for its work on the project. In the civil lawsuit that has ensued between the two contracting firms, the prime contractor has now requested that the offices of Senator BYRD and Senator ROCKEFELLER produce from their files copies of documents concerning the West Virginia Job Corps project.

The constituent subcontractor firm has advised, through the Senate Legal Counsel, that it has no objection to the release of its correspondence with the Senator's offices. Thus, the usual principle of constituent confidentiality is not implicated here. However, as is often the case when a constituent reports difficulties in dealing with an executive agency, Senator BYRD's office and Senator ROCKEFELLER's office have advised that their constituent's communications regarding this matter informed the Senators' consideration of potential alternatives to address the problem, including undertaking legislative or oversight action regarding the Labor Department's construction program and procurement procedures. In

order to protect Senators' ability to undertake their legislative responsibilities free from interference and questioning, the Speech or Debate Clause of the Constitution privileges from compelled production in court proceedings materials from Senators' files relating to the legislative sphere.

Nevertheless, Senators BYRD and ROCKEFELLER are willing to provide to the parties in this case copies of documents reflecting their offices' role, to the extent that they may properly do so without impairing the important interests underlying the Senate's constitutional privileges. In view of the subcontractor's lack of objection, the Senators also have no objection to furnishing copies of their correspondence with the subcontractor. In addition, both Senators would like to provide the records of their communications with the Labor Department regarding this matter. Consistent with the overriding importance that the Constitution recognizes in fostering unimpeded communications between Senators and their staffs concerning matters of potential legislative action, the Senators will not waive their legislative privileges for their offices' internal records and work product.

Accordingly, this resolution would authorize Senator BYRD's and Senator ROCKEFELLER's offices to produce documents in this case, except where a privilege or objection should be asserted. The resolution also would authorize the Senate Legal Counsel to represent employees in Senator BYRD's and Senator ROCKEFELLER's offices, should such representation become necessary to protect the Senate's privileges in connection with this matter.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

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

The resolution (S. Res. 178) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 178

Whereas, in the case of *United States f.u.b.o. Kimberly Industries* v. *Trafalgar House Construction*, Civil Case No. 97–0462, pending in the United States District Court for the Southern District of West Virginia, documents have been requested from the offices of Senator Robert C. Byrd and Senator John D. Rockefeller IV;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for evidence relating to their official responsibilities;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved That the offices of Senator Byrd and Senator Rockefeller are authorized to produce documents in the case of *United States f.u.b.o. Kimberly Industries* v. *Trafalgar House Construction* except concerning matters for which a privilege or objection should be asserted.

SEC. 2. That the Senate Legal Counsel is authorized to represent employees of the Senator Byrd and Senator Rockefeller in connection with any subpoena or request for documents or testimony in *United States f.u.b.o. Kimberly Industries* v. *Trafalgar House Construction*.

ORDERS FOR FRIDAY, FEBRUARY 13, 1998

Mr. COVERDELL. 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 Friday, February 13, for a pro forma session only and immediately the Senate stand in adjournment until Monday, February 23, as under the provisions of H. Con. Res 201, the adjournment resolution.

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

ORDERS FOR MONDAY, FEBRUARY 23, 1998

Mr. COVERDELL. Mr. President, I ask unanimous consent that on Monday, immediately following the prayer, the routine requests through the morning hour be granted, and the Senate then proceed to the reading of President Washington's Farewell Address by Senator LANDRIEU.

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

Mr. COVERDELL. Mr. President, I ask unanimous consent that, following the reading, the Senate proceed to a period for the transaction of morning business until 3 p.m., with Senators permitted to speak therein for up to 10 minutes each.

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

PROGRAM

Mr. COVERDELL. Mr. President, in conjunction with the previous unanimous consent agreements, tomorrow the Senate will be in a pro forma session only. Upon the return from the President's Day recess on February 23, the Senate will reconvene at 12 noon, and following Senator LANDRIEU's reading of George Washington's Address, the Senate will be in a period for morning business until 3 p.m. No rollcall votes will occur during the Monday, February 23, session of the Senate. Members can anticipate rollcall votes after 2:15 p.m. on Tuesday, February 24.

UNANIMOUS CONSENT AGREEMENT—CAMPAIGN FINANCE REFORM

Mr. COVERDELL. At 3 p.m. on Monday, February 23, 1998, I ask unanimous consent that the Senate proceed to the campaign finance reform legislation, as outlined in the consent agreement of October 30, 1997.

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

ORDER FOR ADJOURNMENT

Mr. COVERDELL. 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 LAUTENBERG and Senator SPECTER.

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

The Senator from New Jersey is recognized.

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

The PRESIDING OFFICER. Under the previous order, the Senator from Pennsylvania is recognized.

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

IRAQ

Mr. SPECTER. Mr. President, I have sought recognition, and as the final speaker before we adjourn for a recess, I am going to comment about the situation in Iraq.

It had been my hope that the Congress might have addressed this issue. But it is obvious now that we will not. I think that the Congress—at least the Senate—is not addressing the issue because there is not clear-cut agreement in this body as to how to proceed.

My own view is that an air attack and a missile attack, if one is to be carried out, constitutes an act of war. And under the Constitution that requires Congressional authorization. The President is authorized as the Commander in Chief—and there is only one Commander in Chief, and it is obvious that where the 535 Members of the Congress cannot agree upon a program that we are not committed to be the executive. That is why we have an executive. But still the Constitution requires that war would be declared only by an act of Congress. And I think the international law interpretations make it plain that military action, like air attack or missile attack, does constitute an act of war.

I believe that we have not yet seen a clear definition of U.S. objectives as to what we are seeking to accomplish. My sense is that the American people are not prepared for what may occur.

I make it a practice, as I know the Chair does, of having open house town meetings. And I had three this week—

on Monday in Cumberland County, Lebanon County, and Lancaster County, PA. There is great concern among my constituents—those whom I have talked to there and other places—of not having an idea as to precisely what we are going to accomplish.

It is my hope, if action is to be taken, that before any action is taken the President of the United States will address the American people and will identify the goals as he sees them and evaluate our likelihood of attaining those goals so that the people of the United States will be prepared and understand what is going to happen. But I do not see at this date how there can be public support for an attack in the absence of informing the American people, preparing them and having a public dialog on the subject. The Congress is speaking loudly by not speaking at all on a resolution to authorize the use of force against Iraq.

In 1991, on January 10, this body authorized the use of force. I was at the forefront arguing that force should be used at that time. We had an extended debate. The Congress—the Senate specifically—was complimented for having a classic debate on what our vital national interests were and how we should respond. I do believe that we have a vital national interest in what is going on in Iraq at the present time. I do believe that there are great dangers posed by Saddam Hussein and by his weapons of mass destruction.

I had an opportunity back in January of 1990—just 8 years ago on a trip with Senator RICHARD SHELBY—to talk to Saddam Hussein. It is not an easy matter to deal with Saddam Hussein, as we have seen. There is some talk that Saddam Hussein ought to be toppled. But the air attacks, the missiles, and the planes will not accomplish that. It is plain at this juncture that there is no positioning of the kind of ground forces necessary to topple Saddam Hussein. Even as to the air attacks, it is plain that we will not destroy all of Saddam Hussein's weapons of mass destruction.

The question is: How will Saddam Hussein come out of whatever military force we use? I am very much concerned that he may come out a martyr. Certainly the lack of support for the United States raises major questions as to how the rest of the world views this issue.

On my travels—and I have traveled extensively, Mr. President, in my capacity as Chairman of the Senate Intelligence Committee in the 104th Congress, and my work on the Foreign Operations Subcommittee—I have found that there is great admiration for the United States around the world. People all over the globe admire our economic achievements. They admire our values. They admire our freedom, and the success of our free enterprise system. But there is also a touch of concern about abuse of power or excessive use of power, perhaps arrogance. And, we have to evaluate that very carefully in what we do as to Iraq.

I made a trip to the Mideast from late December to mid-January, and wherever I went I heard concerns about the projection of American power and concerns about the Iraqi civilian population, not Saddam Hussein, but concern about the Iraqi civilian population. It is an odd quirk of history that after the great success of the United States, the coalition put together by President Bush, which was a masterful job, President Bush is in Houston and Saddam is still in Baghdad running Iraq.

I have spoken with some frequency on the question of greater personal Presidential involvement in international dispute resolution, a subject that I have discussed personally with the President. It is my view that President Clinton can leave the Department of Agriculture to Secretary Glickman and the Department of the Interior to Secretary Babbitt, and so forth, but only the President of the United States can wield the enormous power that comes from the Presidency.

In 1995, Senator Brown and I spoke to Prime Minister Gowda of India, who said to us that he hoped the subcontinent could become nuclear free. The next day we passed that information on to Prime Minister Benazir Bhutto of Pakistan, who asked us if we had it in writing. We told her, of course, we did not. But we asked her when she had last talked to the Prime Minister of India. She said, ''We don't talk.''

That night Senator Brown and I cabled President Clinton with those views fresh in our mind, urging the President to call those Prime Ministers to the Oval Office; nobody turns down an invitation to the Oval Office. And later talking to the President, he said, well, I intend to do that after I am reelected. I have talked to him since, and it has not yet happened.

I think the President did an outstanding job, and I compliment him on the negotiations in the Mideast in the 1995 timeframe where the President and the Secretary of State, Warren Christopher, almost brokered an agreement between Syria and Israel. When I met with the President in mid-December before my trip to the Mideast, I urged him to become active again on that track of the peace process because I think the parties are very close.

I had a chance to talk to Prime Minister Netanyahu and President Assad in August-November of 1996, and they were pretty far apart. Prime Minister Netanyahu said that he wanted to resume peace negotiations but he had a new mandate, he wanted to start fresh. President Assad of Syria said that he would want to start negotiations but would want to pick up where he, or Syria, and Prime Minister Rabin left off before Prime Minister Rabin's assassination in November of 1995. In talking to them last month the words were about the same but the music was different.

I think that Presidential involvement there might find success, especially with the explicit condition that any agreement would be subject to ratification by the Israeli electorate on the Golan Heights, something about which only Israel could make a decision for themselves considering all the security factors, and the issue with the Palestinians much more difficult, the Israel-Palestine crack. But here I think personal Presidential involvement might be very successful. I think there has been the absence of that, where we find ourselves with only Great Britain at our side now as we look to action against Iraq. I have heard what the Secretary of Defense has had to say, and I have total respect and confidence in Secretary Cohen based on the 16 years that I worked with him in the Senate. But he alone cannot carry the Executive burden in this matter.

On the information at hand, we do not have the cooperation of others in a military attack. I think that has to be weighed very carefully. I do think that there are alternatives. I do think that the issue of a blockade is something that might bring Saddam Hussein, if not to his knees, to a greater economic impasse. It would be my hope that before action is taken which constitutes an act of war, the issue would be debated by the Senate and by the House of Representatives and an appropriate resolution would be put before us to have the appropriate constitutional authorization.

I know that many of our colleagues have spoken on this matter in the course of the last several days, and as the last speaker in the Senate before we go to adjournment, I did want to make these comments for whatever consideration the President and the Executive may choose to make of them.

NOMINATION OF JUDGE MASSIAH-JACKSON

Mr. SPECTER. Mr. President, I did not have an opportunity yesterday after the Majority Leader announced the resolution of the proceedings as to the pending nomination of Judge Massiah-Jackson for the United States District Court for the Eastern District of Pennsylvania. I sought recognition to speak with unanimous consent for up to 1 minute, and there was an objection levied so I was not able to talk at that time.

I cannot limit my remarks to a single minute today because there are other things to be commented upon, but I believe that the referral of this matter to the Judiciary Committee is the appropriate course of conduct. Notwithstanding my continuing efforts to set forth the facts, my own personal activities have been grossly inaccurately reported.

First, it is President Clinton who has recommended Judge Massiah-Jackson for the Federal court. That is the President's nomination. It is not my nomination or the nomination of Senator SANTORUM. It is true that Massiah-Jackson was cleared by a nonpartisan panel appointed by Senator SANTORUM and me, but that approval

does not involve any personal activity or action by either of the Senators.

Second, in my capacity as a member of the Senate Judiciary Committee and since Judge Massiah-Jackson is a constituent, I have vigorously sought to see that she received fair treatment, just as I did when the Judiciary Committee considered the nomination of Justice Clarence Thomas.

Third, I have made a public commitment to review all the matters submitted by her opponents before casting my vote on the Senate floor.

Fourth, I have been proactive in seeking all the facts against her confirmation as well as all of the facts of those who support her.

The charge has been made that I made a ''deal'' with the White House to appoint Judge Massiah-Jackson in exchange for the appointment of Judge Bruce Kauffman, who was sworn into the United States District Court on January 20. The facts are that I am party to an arrangement for Republicans to receive one nomination for the district courts for every three Democrats who are nominated, an arrangement identical with that now applicable to the State of New York. But I am not under any obligation to support any specific nominee, nor anybody submitted by the White House from the Democratic ranks. I am not under any obligation to support anyone, including Judge Massiah-Jackson, if I conclude the person is not qualified.

When Judge Massiah-Jackson's nomination was announced by the President on July 31, 1997, there were rumors of opposition, and in order to try to find out what the facts were in opposition, Senator SANTORUM, Senator BIDEN and I held a hearing in Philadelphia on October 3. All of the witnesses who testified favored Judge Massiah-Jackson, including five of her colleagues from the Common Pleas bench.

Mayor Rendell, who had been district attorney for 3 of her 7 years on the criminal bench, was enthusiastically in support of her nomination. Then the Judiciary Committee held its formal hearing on October 29, and again no witnesses opposed her. Senator KYL, Senator SESSIONS and I questioned her closely on her record, and on November 6 she was reported out of the Committee by a vote of 12 to 6.

Thereafter, when district attorneys from Pennsylvania raised objections, Senator SANTORUM and I took a proactive position to meet those district attorneys, and we heard them out on January 23. I then arranged to get all of their opposing cases by January 30, with an opportunity for Judge Massiah-Jackson to respond, and that is what we await at the present time. As a matter of fundamental fairness, she is entitled to that hearing.

So, I think the Senate has taken the appropriate stand to have the hearing, and those who object will hear what Judge Massiah-Jackson has to say and then I, as a juror, along with my colleagues, will take a look at all of the facts and make a decision as to whether she is to be confirmed or whether she should be rejected. I thank the Chair for the courtesy and I yield the floor.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. The Senate, under the previous order, will stand adjourned until 10 a.m., Friday, February 13, 1998.

Thereupon, the Senate, at 5:31 p.m, adjourned until Friday, February 13, 1998, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate February 12, 1998:

IN THE NAVY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) KEITH W. LIPPERT, 0000
REAR ADM. (LH) PAUL O. SODERBERG, 0000

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) MARTIN E. JANCZAK, 0000
REAR ADM. (LH) PIERCE J. JOHNSON, 0000
REAR ADM. (LH) LARY L. POE, 0000
REAR ADM. (LH) MICHAEL R. SCOTT, 0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. (LH) KATHLEEN L. MARTIN, 0000

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

JOHN R. ABEL, 0000
JOAN M. ABELMAN, 0000
GRANT O. ADAMS, 0000
ELIZABETH Z. ANDERSON, 0000
EDWARD L. ANGEL, 0000
ENRIQUE ARROYO, 0000
SISSAY AWOKE, 0000
GARY M. BAGLIEBTER, 0000
HILMAR H. BARTELS, 0000
JOHN BARTUS, 0000
MARK R. BASSETT, 0000
JAMES B. BECHTEL, 0000
JAMES A. BOUSKA, 0000
MICHAEL D. BRATLIEN, 0000
DONALD C. BROWN, 0000
JEFFERY W. BRYANT, 0000
MICHAEL J. BUNDSHUH, 0000
ROBERT E. BURGY, 0000
JOHN B. BURROUGHS, JR, 0000
BENTON L. BUSBEE, 0000
SUSAN T. BUSLER, 0000
FRANK L. BUTLER III, 0000
JAMES R. CALLARD, 0000
BLANCHE A. CASEY, 0000
JOE E. CASLER, 0000
PATRICIA S. CHRISTIE, 0000
RANDALL B. CLARK, 0000
THOMAS A. CLARKE, 0000
SYLVIA L. COLEMAN, 0000
GEORGE R. COOK, 0000
GEORGE J. COYLE, JR., 0000
ERIC W. CRABTREE, 0000
EDWARD F. CROWELL, 0000
WILLIAM R. CULVER, 0000
JAMES H. DEATLEY, 0000
JAMES D. DESHEFY, 0000
EDWARD D. DINGIVAN, 0000
DONNA K. DOUGHERTY, 0000
JAMES M. EITEL II, 0000
MARC I. EPSTEIN, 0000
MARIANNE G. FARRAR, 0000
DONALD E. FLETCHER, JR., 0000
JOHN C. FOBIAN, 0000
KEITH R. GABRIEL, 0000
ANITA R. GALLENTINE, 0000
DANIEL D. GAMMAGE, 0000
JAMES A. GEBHARDT, 0000
STEVEN J. GENTLING, 0000
DANIEL P. GILLEN, 0000
LARRY N. GOFF, 0000
MARIO GOICO, 0000
JAMES W. GRAVES, 0000
ROBERT S. GRAVES, 0000
ROBERT A. GUALTIERI, 0000
LYNN M. GULICK, 0000
ADELINE F. HAMMOND, 0000
REDMOND H. HANDY, 0000
JOHN S. HANSEN, 0000
ALBERT S. HARTMAN III, 0000
THOMAS W. HARTMANN, 0000
THOMAS B. HAYTHORN, 0000
ROSEMARY A. HEREDY, 0000
PATRICIA HOLDERNESS, 0000
RICHARD C. HOLLOMAN, 0000
KENNETH K. HSU, 0000
GARY C. HUCKABAY, 0000
DORIS E. HUNOLT, 0000
WILLIAM W. HURD, 0000
PHILIP D. INSCOE, 0000
JEFFREY W. IPPOLITO, 0000
CANDACE A. JACOBS, 0000
DANIEL G. JARLENSKI, JR., 0000
ARMAS J. JASKEY, JR., 0000
DAVID E. JOHNSON, 0000
PERRY C. JOHNSON, 0000
KENNETH I. JOHNSTON, 0000
ALLAN M. JONES III, 0000
LEONARD R. KIGHT, 0000
RAYMOND F. KNAPP, 0000
ELAINE L. KNIGHT, 0000
ROBERT E. KOENEN, 0000
MARK V. KOLLEDA, 0000
CRAIG W. KUEBKER, 0000
HUGH K. LANCASTER, JR., 0000
FREDERICK K. LANGE, 0000
CAROL A. LEE, 0000
ALAN F. LEHMAN, 0000
RALPH F. LIEBHABER, 0000
JOHN L. LITZENBERGER, JR., 0000
DENNIS E. LUNDQUIST, 0000
ROBERT W. MARCOTT, 0000
DEBRA L. MATTHEW, 0000
SHERYL M. MAY, 0000
MARYJO MAZICK, 0000
NEAL F. MCBRIDE, 0000
LINDA L. MCHALE, 0000
CHRISTOPHER C. MEARS, 0000
JEFFREY S. MEINTS, 0000
KATHY S. MEISETSCHLEAGER, 0000
NELSON L. MELLITZ, 0000
GERALD F. MICHELETTI, 0000
DONALD R. MICHELS, 0000
JIMMY W. MILLER, 0000
WILLIAM F. MORGAN, JR., 0000
KENNETH J. MORRIS, 0000
GEOFFREY C. MORRISON, 0000
PATRICIA A. MORRISON, 0000
RAFIK D. MUAWWAD, 0000
BRIAN D. MUDD, 0000
CARLYN R. MUNN, 0000
KATHLEEN M. MURRAY, 0000
MARK D. NICKERSON, 0000
MAUREEN OMALLEY, 0000
JON M OWINGS, 0000
LOUIS E. PAPE II, 0000
JAMES L. PARTINGTON, 0000
GREGORY B. PAVLIN, 0000
LINDA K. PEARCE, 0000
WAYNE F. PETITTO, 0000
SUSAN J. POTTER, 0000
THOMAS G. POTTS, 0000
PAMELA E. PRETE, 0000
GARY P. PRICE, 0000
WILLIAM M. PRICE, 0000
RODOLFO C. PRUNEDA, 0000
ROCKY R. QUINTANA, 0000
SANDRA B. RAUSCH, 0000
CHARLES E. REED, JR., 0000
JOHN D. REED, 0000
HAROLD G. REPASKY, 0000
CLAIR D. REPPLE, 0000
SHIRLEY RIBAK, 0000
WILLIS T. RICHIE, JR., 0000
DAVID C. RIDER, 0000
BARBARA U. RILEY-CUNNINGHAM, 0000
CRAIG M. RIRIE, 0000
BARRY K. ROBERTS, 0000
JAMES B. ROBERTS, JR., 0000
JULIO E. ROLDAN, 0000
WILLIAM F. ROLLIN, 0000
ROBERT D. ROSENBLOOM, 0000
DAVID B. ROSS, 0000
ROARK M. ROSSON, 0000
KENTON E. RUDICEL, 0000
JAMES H. RUFFNER, 0000
DIANE M. RUSSELL, 0000
RONALD A. RUTLAND, 0000
RICHARD S. SCHMIDT, 0000
HARRY W. SCHONAU III, 0000
KEVIN M. SCHROEDER, 0000
RONALD R. SEE, 0000
JAMES L. SELZER, 0000
KENNETH R. SETTLE, 0000
ROBERT D. SHANKS, JR., 0000
RICHARD V. SHAWLEY, 0000
JEFFREY J. SHORT, 0000
CARL M. SKINNER, 0000
JOHN M. SMILEY, 0000
GARY W. SMITH, 0000
SANDRA E. SMITHPOLING, 0000
GREGORY K. SPACKMAN, 0000
MICHAEL C. STAMPLEY, 0000
NORMAN P. STEELE, JR., 0000
EDWARD S. STOKES III, 0000
WILLIAM H. STROM, 0000
WILLIAM N. STRYKER, 0000
LAURA A. TALBOT, 0000

PAUL M. TORPEY, 0000
SHEILA LYNN BUCKLEY TOW, 0000
JOHN W. TURNER, 0000
THOMAS J. UNDERWOOD, 0000
MAUREEN A. VACCARO, 0000
DANIEL J. VICIAN, 0000
CHARLES T. VONO, 0000
TAKESHI WAJIMA, 0000
DAVID D. WALLS, JR., 0000
JANE D. WEAVER, 0000
SUSAN J. WENTZELL, 0000
RONALD E. WHITCOMB, 0000
KENNETH F. WIEGAND, JR., 0000
DAVID W. WOLLENBURG, 0000
TIMOTHY W. WROTEN, 0000
LINDA J. WYSE, 0000
MICHAEL J. YASZEMSKI, 0000
HELENE R. YOSKO, 0000

CONFIRMATIONS

Executive nominations confirmed by the Senate February 12, 1998:

THE JUDICIARY

MICHAEL B. THORNTON, OF VIRGINIA, TO BE A JUDGE OF THE UNITED STATES TAX COURT FOR A TERM OF FIFTEEN YEARS AFTER HE TAKES OFFICE.

DEPARTMENT OF THE TREASURY

DONALD C. LUBICK, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

THE JUDICIARY

L. PAIGE MARVEL, OF MARYLAND, TO BE A JUDGE OF THE UNITED STATES TAX COURT FOR A TERM OF FIFTEEN YEARS AFTER SHE TAKES OFFICE.

EXECUTIVE OFFICE OF THE PRESIDENT

RICHARD W. FISHER, OF TEXAS, TO BE DEPUTY UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR.

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.

WITHDRAWALS

Executive messages transmitted by the President to the Senate on February 12, 1998, withdrawing from further Senate consideration the following nominations:

THE JUDICIARY

LYNNE R. LASRY, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA, VICE JOHN S. RHODES, SR., RETIRED, WHICH WAS SENT TO THE SENATE ON FEBRUARY 12, 1997.

JOHN H. BINGLER, JR., OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA, VICE MAURICE B. COHILL, JR., RETIRED, WHICH WAS SENT TO THE SENATE ON JULY 31, 1997.