



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 105<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 143

WASHINGTON, THURSDAY, SEPTEMBER 25, 1997

No. 130

## Senate

The Senate met at 12 noon and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, the Reverend Charles Nestor, Manassas Assembly of God, Manassas, VA. We are pleased to have you with us.

### PRAYER

The guest Chaplain, Rev. Charles Nestor, Manassas Assembly of God, Manassas, VA, offered the following prayer:

Let us pray.

Almighty and Holy God, we bow before You, recognizing Your lordship over us and Your loving kindness toward us. Thank You for Your faithfulness in spite of our faults, Your mercy and grace in times of disobedience to You, and Your generous provision always. You have blessed our Nation by bringing together the gifts of a diverse people and the benefits of individuality. We ask that You aid us in our continued quest to become one out of many. Remind us always of our deep dependence upon You and forgive us when in arrogance we forget You. May He who rises with healing in his wings bring healing to us and strengthen our conviction to love each other even as You have loved us. I ask You to grant wisdom to the men and women who labor for all of us in the Senate. May they know power beyond their limitations, as they put their trust in You. Teach us to understand that the greatest among us is servant to all. May this day find the embrace of Your constant presence and the smile of Your approval upon it. In the name that is above every name. Amen.

### RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, the distinguished Senator from North Carolina, is recognized.

Mr. FAIRCLOTH. Thank you, Mr. President.

### SCHEDULE

Mr. FAIRCLOTH. Mr. President, today the Senate will resume consideration of S. 1156, the D.C. appropriations bill. Under the previous order, the Senate will debate the Coats amendment No. 1249, regarding school vouchers, from 12 noon until 5 p.m. As a reminder to all Members, a cloture motion was filed last night on the Coats amendment, with the cloture vote scheduled to occur Tuesday, September 30 at 11 a.m. Following the debate on the Coats amendment, it is expected that the Senate will continue debating amendments to the D.C. appropriations bill throughout the evening. As Members are aware, this is the last of 13 appropriations bills that the Senate will consider. Therefore, all Members' cooperation is appreciated in notifying the managers of their intention to offer any amendments. We would like to have those as early as possible. In addition, the Senate may consider any appropriate conference reports as they become available. I thank all Members for their attention.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Oklahoma.

### OKLAHOMA CITY NATIONAL MEMORIAL ACT OF 1997

Mr. NICKLES. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on (S. 871) to establish the Oklahoma City National Memorial as a unit of the National Park System; to designate the Oklahoma City Memorial Trust, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved*, That the bill from the Senate (S. 871) entitled "An Act to establish the Okla-

homa City National Memorial as a unit of the National Park System; to designate the Oklahoma City Memorial Trust, and for other purposes.", 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 "Oklahoma City National Memorial Act of 1997".*

#### SEC. 2. FINDINGS AND PURPOSES.

*Congress finds that—*

(1) few events in the past quarter-century have rocked Americans' perception of themselves and their institutions, and brought together the people of our Nation with greater intensity than the April 19, 1995, bombing of the Alfred P. Murrah Federal Building in downtown Oklahoma City;

(2) the resulting deaths of 168 people, some of whom were children, immediately touched thousands of family members whose lives will forever bear scars of having those precious to them taken away so brutally;

(3) suffering with such families are countless survivors, including children, who struggle not only with the suffering around them, but their own physical and emotional injuries and with shaping a life beyond April 19;

(4) such losses and struggles are personal and, since they resulted from so public an attack, they are also shared with a community, a Nation, and the world;

(5) the story of the bombing does not stop with the attack itself or with the many losses it caused. The responses of Oklahoma's public servants and private citizens, and those from throughout the Nation, remain as a testament to the sense of unity, compassion, even heroism, that characterized the rescue and recovery following the bombing;

(6) during the days immediately following the Oklahoma City bombing, Americans and people from around the world of all races, political philosophies, religions and walks of life responded with unprecedented solidarity and selflessness; and

(7) given the national and international impact and reaction, the Federal character of the site of the bombing, and the significant percentage of the victims and survivors who were Federal employees the Oklahoma City Memorial will be established, designed, managed and maintained to educate present and future generations, through a public/private partnership, to work together efficiently and respectfully in developing a National Memorial relating to all aspects of the April 19, 1995, bombing in Oklahoma City.

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



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**SEC. 3. DEFINITIONS.**

In this Act—

(1) **MEMORIAL.**—The term “Memorial” means the Oklahoma City National Memorial designated under section 4(a).

(2) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(3) **TRUST.**—The term “Trust” means the Oklahoma City National Memorial Trust designated under section 5(a).

**SEC. 4. OKLAHOMA CITY NATIONAL MEMORIAL.**

(a) In order to preserve for the benefit and inspiration of the people of the United States and the world, as a National Memorial certain lands located in Oklahoma City, Oklahoma, there is established as a unit of the National Park System the Oklahoma City National Memorial. The Memorial shall be administered by the Trust in cooperation with the Secretary and in accordance with the provisions of this Act, the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

(b) The Memorial area shall be comprised of the lands, facilities and structures generally depicted on the map entitled “Oklahoma City National Memorial”, numbered OCNM 001, and dated May 1997 (hereafter referred to in this Act as the “map”):

(1) Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service and the Trust.

(2) After advising the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives, in writing, the Trust, as established by section 5 of this Act, in consultation with the Secretary, may make minor revisions of the boundaries of the Memorial when necessary by publication of a revised drawing or other boundary description in the Federal Register.

**SEC. 5. OKLAHOMA CITY NATIONAL MEMORIAL TRUST.**

(a) **ESTABLISHMENT.**—There is established a wholly owned Government corporation to be known as the Oklahoma City National Memorial Trust.

(b) **BOARD OF DIRECTORS.**—

(1) **IN GENERAL.**—The powers and management of the Trust shall be vested in a board of Directors (hereinafter referred to as the “Board”) consisting of the following 9 members:

(A) The Secretary or the Secretary’s designee.

(B) Eight individuals, appointed by the President, from a list of recommendations submitted by the Governor of the State of Oklahoma; and a list of recommendations submitted by the Mayor of Oklahoma City, Oklahoma; and a list of recommendations submitted by the United States Senators from Oklahoma; and a list of recommendations submitted by United States Representatives from Oklahoma. The President shall make the appointments referred to in this subparagraph within 90 days after the enactment of this Act.

(2) **TERMS.**—Members of the Board appointed under paragraph (1)(B) shall each serve for a term of 4 years, except that of the members first appointed, 2 shall serve for a term of 3 years; and 2 shall serve a term of 2 years. Any vacancy in the Board shall be filled in the same manner in which the original appointment was made, and any member appointed to fill a vacancy shall serve for the remainder of that term for which his or her predecessor was appointed. No appointed member may serve more than 8 years in consecutive terms.

(3) **QUORUM.**—Five members of the Board shall constitute a quorum for the conduct of business by the Board.

(4) **ORGANIZATION AND COMPENSATION.**—The Board shall organize itself in such a manner as it deems most appropriate to effectively carry out the authorized activities of the Trust. Board members shall serve without pay, but may be reimbursed for the actual and necessary travel and subsistence expenses incurred by them in the performance of the duties of the Trust.

(5) **LIABILITY OF DIRECTORS.**—Members of the Board of Directors shall not be considered Federal employees by virtue of their membership on the Board, except for purposes of the Federal Tort Claims Act and the Ethics in Government Act, and the provisions of chapter 11 of title 18, United States Code.

(6) **MEETINGS.**—The Board shall meet at least three times per year in Oklahoma City, Oklahoma and at least two of those meetings shall be opened to the public. Upon a majority vote, the Board may close any other meetings to the public. The Board shall establish procedures for providing public information and opportunities for public comment regarding operations maintenance and management of the Memorial; as well as, policy, planning and design issues.

(7) **STAFF.**—

(A) **NON-NATIONAL PARK SERVICE STAFF.**—The Trust is authorized to appoint and fix the compensation and duties of an executive director and such other officers and employees as it deems necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may pay them without regard to the provisions of chapter 51, and subchapter III of chapter 53, title 5, United States Code, relating to classification and General Schedule pay rates.

(B) **INTERIM PARK SERVICE STAFF.**—At the request of the Trust, the Secretary shall provide for a period not to exceed 2 years, such personnel and technical expertise, as necessary, to provide assistance in the implementation of the provisions of this Act.

(C) **PARK SERVICE STAFF.**—At the request of the Trust, the Secretary shall provide such uniformed personnel, on a reimbursable basis, to carry out day-to-day visitor service programs.

(D) **OTHER FEDERAL EMPLOYEES.**—At the request of the Trust, the Director of any other Federal agency may provide such personnel, on a reimbursable basis, to carry out day-to-day visitor service programs.

(8) **NECESSARY POWERS.**—The Trust shall have all necessary and proper powers for the exercise of the authorities vested in it.

(9) **TAXES.**—The Trust and all properties administered by the Trust shall be exempt from all taxes and special assessments of every kind by the State of Oklahoma, and its political subdivisions including the county of Oklahoma and the city of Oklahoma City.

(10) **GOVERNMENT CORPORATION.**—

(A) The Trust shall be treated as a wholly owned Government corporation subject to chapter 91 of title 31, United States Code (commonly referred to as the Government Corporation Control Act). Financial statements of the Trust shall be audited annually in accordance with section 9105 of title 31 of the United States Code.

(B) At the end of each calendar year, the Trust shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives a comprehensive and detailed report of its operations, activities, and accomplishments for the prior fiscal year. The report also shall include a section that describes in general terms the Trust’s goals for the current fiscal year.

**SEC. 6. DUTIES AND AUTHORITIES OF THE TRUST.**

(a) **OVERALL REQUIREMENTS OF THE TRUST.**—The Trust shall administer the operation, maintenance, management and interpretation of the Memorial including, but not limited to, leasing, rehabilitation, repair and improvement of property within the Memorial under its administrative jurisdiction using the authorities provided in this section, which shall be exercised in accordance with—

(1) the provisions of law generally applicable to units of the National Park Service, including: “An Act to establish a National Park Service, and for other purposes” approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4);

(2) the Act of August 21, 1935 (49 Stat. 666; U.S.C. 461–467;

(3) the general objectives of the “Memorial Mission Statement”, adopted March 26, 1996, by the Oklahoma City Memorial Foundation;

(4) the “Oklahoma City Memorial Foundation Intergovernmental Letter of Understanding”, dated October 28, 1996; and

(5) the Cooperative Agreement to be entered into between the Trust and the Secretary pursuant to this Act.

(b) **AUTHORITIES.**—

(1) The Trust may participate in the development of programs and activities at the properties designated by the map, and the Trust shall have the authority to negotiate and enter into such agreements, leases, contracts and other arrangements with any person, firm, association, organization, corporation or governmental entity, including, without limitation, entities of Federal, State and local governments as are necessary and appropriate to carry out its authorized activities. Any such agreements may be entered into without regard to section 321 of the Act of June 30, 1932 (40 U.S.C. 303b).

(2) The Trust shall establish procedures for lease agreements and other agreements for use and occupancy of Memorial facilities, including a requirement that in entering into such agreements the Trust shall obtain reasonable competition.

(3) The Trust may not dispose of or convey fee title to any real property transferred to it under this Act.

(4) Federal laws and regulations governing procurement by Federal agencies shall not apply to the Trust, with the exception of laws and regulations related to Federal Government contracts governing working conditions, and any civil rights provisions otherwise applicable thereto.

(5) The Trust, in consultation with the Administrator of Federal Procurement Policy, shall establish and promulgate procedures applicable to the Trust’s procurement of goods and services including, but not limited to, the award of contracts on the basis of contractor qualifications, price, commercially reasonable buying practices, and reasonable competition.

(c) **MANAGEMENT PROGRAM.**—Within one year after the enactment of this Act, the Trust, in consultation with the Secretary, shall develop a cooperative agreement for management of those lands, operations and facilities within the Memorial established by this Act. In furtherance of the general purposes of this Act, the Secretary and the Trust shall enter into a Cooperative Agreement pursuant to which the Secretary shall provide technical assistance for the planning, preservation, maintenance, management, and interpretation of the Memorial. The Secretary also shall provide such maintenance, interpretation, curatorial management, and general management as mutually agreed to by the Secretary and the Trust.

(d) **DONATIONS.**—The Trust may solicit and accept donations of funds, property, supplies, or services from individuals, foundations, corporations, and other private or public entities for the purposes of carrying out its duties.

(e) **PROCEEDS.**—Notwithstanding section 1341 of title 31 of the United States Code, all proceeds received by the Trust shall be retained by the Trust, and such proceeds shall be available, without further appropriation, for the administration, operation, preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to Memorial properties under its administrative jurisdiction. The Secretary of the Treasury, at the option of the Trust shall invest excess monies of the Trust in public debt securities which shall bear interest at rates determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturity.

(f) **SUITS.**—The Trust may sue and be sued in its own name to the same extent as the Federal

Government. Litigation arising out of the activities of the Trust shall be conducted by the Attorney General; except that the Trust may retain private attorneys to provide advice and counsel. The District Court for the Western District of Oklahoma shall have exclusive jurisdiction over any suit filed against the Trust.

(g) **BYLAWS, RULES AND REGULATIONS.**—The Trust may adopt, amend, repeal, and enforce bylaws, rules and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised. The Trust is authorized, in consultation with the Secretary, to adopt and to enforce those rules and regulations that are applicable to the operation of the National Park System and that may be necessary and appropriate to carry out its duties and responsibilities under this Act. The Trust shall give notice of the adoption of such rules and regulations by publication in the Federal Register.

(h) **INSURANCE.**—The Trust shall require that all leaseholders and contractors procure proper insurance against any loss in connection with properties under lease or contract, or the authorized activities granted in such lease or contract, as is reasonable and customary.

#### **SEC. 7. LIMITATIONS ON FUNDING.**

Authorization of Appropriations—

(1) **IN GENERAL.**—In furtherance of the purposes of this Act, there is hereby authorized the sum of \$5,000,000, to remain available until expended.

(2) **MATCHING REQUIREMENT.**—Amounts appropriated in any fiscal year to carry out the provisions of this Act may only be expended on a matching basis in a ratio of at least one non-Federal dollar to every Federal dollar. For the purposes of this provision, each non-Federal dollar donated to the Trust or to the Oklahoma City Memorial Foundation for the creation, maintenance, or operation of the Memorial shall satisfy the matching dollar requirement without regard to the fiscal year in which such donation is made.

#### **SEC. 8. ALFRED P. MURRAH FEDERAL BUILDING.**

Prior to the construction of the Memorial the Administrator of General Services shall, among other actions, exchange, sell, lease, donate, or otherwise dispose of the site of the Alfred P. Murrah Federal Building, or a portion thereof, to the Trust. Any such disposal shall not be subject to—

(1) the Public Buildings Act of 1959 (40 U.S.C. 601 et seq.);

(2) the Federal Property and Administrative Services Act of 1949 (40 U.S.C. et seq.); or

(3) any other Federal law establishing requirements or procedures for the disposal of Federal property.

#### **SEC. 9. GENERAL ACCOUNTING OFFICE STUDY.**

Six years after the first meeting of the Board of Directors of the Trust, the General Accounting Office shall conduct an interim study of the activities of the Trust and shall report the results of the study to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, and the Committee on Resources and Committee on Appropriations of the House of Representatives. The study shall include, but shall not be limited to, details of how the Trust is meeting its obligations under this Act.

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate concur in the amendment of the House.

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

Mr. NICKLES. Mr. President, on behalf of myself and the cosponsor of this legislation, Senator INHOFE, the legislation we passed today, S. 871, the Oklahoma City National Memorial Act of 1997, will create a permanent Memorial to commemorate the national

tragedy ingrained in all of our minds that occurred in downtown Oklahoma City at 9:02 a.m. on April 19, 1995, in which 168 Americans lost their lives and countless thousands more lost family members and friends.

The Oklahoma City memorial, established as a unit of the National Park Service, will serve as a monument to those whose lives were taken and those who will bear the physical and mental scars for the rest of their days. The memorial will stand as a symbol to the hope, generosity, and courage shown by Oklahomans and fellow Americans across the country following the Oklahoma City bombing. This will be a place of remembrance, peace, spirituality, comfort and learning.

The National Park Service memorial site will encompass the footprint of the Alfred P. Murrah Federal Building, 5th Street between Robinson and Harvey, the site of the Water Resources Building and the Journal Record Building. An international competition was held to determine the design of the Oklahoma City National Memorial, and I commend the Oklahoma City Memorial Foundation for an excellent selection of the winning design.

In addition to designating the memorial site as a unit of the National Park Service, this bill also establishes a wholly owned Government corporation to be known as the Oklahoma City National Memorial Trust. The trust, in cooperation with the National Park Service, will be charged with administering the operation, maintenance, management and interpretation of the memorial site.

Further, the legislation authorizes a one-time \$5 million Federal donation for construction and maintenance of the memorial. I commend the hard work of my colleagues, Senator GORTON and Senator BYRD, for their help in securing a \$5 million Federal appropriation in this year's appropriations bill. The \$5 million Federal commitment will be matched by \$5 million from the Oklahoma State Legislature and \$14 million in private donations.

While the thousands of family members and friends of those killed in the bombing will forever bear scars of having their loved ones taken away, the Oklahoma City National Memorial will revere the memory of the survivors and those lost and venerate the bonds that drew us all closer together as a result.

Mr. President, while it is impossible to recognize everyone whose hard work and effort made this memorial possible, I submit for the RECORD a list of individuals who formed the core of the Memorial Design Foundation. In addition, I would commend and extend particular appreciation to Gov. Frank Keating; his wife, Kathy Keating; Oklahoma City mayor Ron Norick; Mr. Bob Johnson, director of the Oklahoma City Memorial Foundation, charged with selecting the design for the memorial; vice chairman Karen Luke; Mr. Tom McDaniel; Mr. Zach Taylor; Mr. Bud Welch; Oklahoma City Fire Chief

Gary Marrs; Mrs. Polly Nichols; Mr. Don Ferrell; Mr. Don Rogers; Mr. Richard Williams; and all others who worked hard to make this memorial possible. Our country is, indeed, proud of you, and I am very confident that our country will be proud of the Oklahoma City National Memorial.

I also compliment and thank my colleague, Representative FRANK LUCAS, for his leadership in passing this in the House of Representatives, as well as my colleague, JIM INHOFE, who worked with me in putting this legislation together.

Mr. President, I ask unanimous consent that a list of the Oklahoma City Memorial Board of Directors be printed in the RECORD.

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

#### **OKLAHOMA CITY MEMORIAL BOARD OF DIRECTORS**

Ann Alspaugh, Anita Arnold, Clark Bailey, Dr. Edward Brandt, Ron Bradshaw, Terry Childers, John Cole, Richard Denman, Tiana Douglas, Jeanette Gamba, Gerald L. Gamble.

Dr. Kay Goebel, Kathi Goebel, Kevin Gotshall, Jean Gumerson, Frank D. Hill, LeAnn Jenkins, Kirk Jewell, Robert M. Johnson, Doris Jones, Kim Jones-Shelton.

Jackie L. Jones, Barbara Kerrick, Linda Lambert, Sam Armstrong-Lopez, Karen Luke, Deborah Ferrell-Lynn, Thomas J. McDaniel, Sunni Mercer, Leslie Nance, Polly Nichols.

Tim O'Connor, Dr. Betty Pfefferbaum, H.E. (Gene) Rainbolt, John Rex, Florence Rogers, Chris Salyer, Lee Allan Smith, Phyllis Stough, Zach D. Taylor, Phillip Thompson.

Toby Thompson, Beth Tolbert, Tom Toperzer, III, Kathleen Treanor, Be V Tu, Cheryl Vaught, Bud Welch, G. Rainey Williams, Richard Williams, Kathy Wyche, Sydney W. Dobson.

Mr. INHOFE. Mr. President, I am pleased that the Senate has seen fit to pass the Oklahoma City National Memorial Act of 1997 (S. 871). I believe this was an important piece of legislation and one deserving immediate enactment. Once again, I would like to thank my colleague, Senator NICKLES, for being the originating and driving force behind this piece of legislation in the Senate and Representative LUCAS for shepherding through similar legislation in the House.

Earlier, when we considered this bill, we were given the opportunity and the responsibility of remembering a unique group of American heroes. To most, these individuals are nameless, faceless victims of a savage terrorist attack. However, to friends and family of the victims they are remembered as far more. They are remembered as husbands, wives, and children. It was important for the rest of us to recognize the lives of these men, women, and children in their proper context.

The 168 individuals who were killed during this cowardly attack, as well as those who were fortunate to survive, deserve our honor and utmost respect. It is fitting that the memorial was designed to honor them both in an appropriate and visible way. The victims of the bombing represent the true backbone of America. Their lives serve as a

testament to what this country is, what it can be, and what will be. As heroes, they will be honored. As individuals, they will be missed, mourned, and remembered as the true embodiment of our great American spirit.

In addition to the immediate victims of the bombing, we have also recognized the law enforcement officials, the emergency rescue personnel, and the countless volunteers who rushed to our aid in our moment of crisis. The proposed memorial's acknowledgment of not only the victims, but the others involved in the rescue process, was artfully done to remind all of us that we are part of a nation that cares and responds to those in need.

The establishment of the memorial is not only appropriate but an important tool for teaching future generations of Americans what we are all about—coming together. It is also a reminder to us that the price of our freedom is eternal vigilance against those who would rob us of our sense of security through acts of terrorism.

Throughout the entire legislative process, I was pleased to note the extent of involvement by the survivors and the families of those who tragically lost their lives, as well as the larger community. This type of cooperation is not only indicative of how Oklahomans get things done, but will result in a Memorial that is aesthetically designed and truly meaningful to all those who will visit the site for generations to come.

In closing, I would like to thank my colleagues for recognizing the importance of this legislation and giving it their immediate attention. We can all be proud we will now have a suitable memorial to honor the lives of the men, women, and children killed in the bombing.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

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

Mr. NICKLES. Will the Senator withhold for a moment?

Mr. FAIRCLOTH. Excuse me.

The PRESIDING OFFICER. If the Senator will withhold. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I would like to make sure we have taken final action on S. 871.

The PRESIDING OFFICER. We have taken final action.

Mr. NICKLES. I thank my colleague from North Carolina for his patience, as well as my colleague from Indiana for setting aside some time to pass this legislation. This is very important legislation to the people of Oklahoma and I think to our country as well.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. I thank the Senator from Oklahoma, and I thank the Chair.

(The remarks of Mr. FAIRCLOTH pertaining to the introduction of S. 1219

are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SMITH of Oregon. Mr. President, with the permission of the Senator from Indiana, I ask unanimous consent to speak as in morning business. I will take a couple minutes.

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

Mr. SMITH of Oregon. I thank the Chair and the Senator from Indiana, Senator COATS.

#### FREEDOM OF RELIGION IN RUSSIA

Mr. SMITH of Oregon. Mr. President, I wanted to come to the Senate floor this morning and talk about a development in Russia that is of concern to this body because of the action we took earlier this summer.

Earlier in the year the Russian Duma passed a law which would reintegrate a Stalinist system when it comes to freedom of conscience, freedom of religion. Four religions: Judaism, Buddhism, the Russian Orthodox Church, and Islam were identified as sanctioned by the Russian Federation, but left out all Protestant religions, the Catholic religion, and any other minority faith that is currently operating there according to international treaty and according to Russian law, previous Russian law and the Russian Constitution.

These new groups would be treated in minority fashion, in that they could not own property, they could not operate schools, have missionaries there, publish Bibles or distribute them or employ people. They would be required to get rid of bank accounts and to register with the state. What I am describing is a huge setback for Russia, back into Stalinist times. And so, this body took very courageous action. It voted 95 to 4 to withhold foreign aid to Russia, should this be enacted. I was delighted after we did that, that President Boris Yeltsin was good to his word and vetoed that legislation. After that, however, he participated in a compromise bill, which an honest reading would tell a person is of no difference.

The upper house of the Duma, yesterday, passed compromise legislation. The President is expected to sign it, and unfortunately, the worst things that could happen to religion in Russia could still happen. There is reason to believe that the Russian Government will implement this law differently than it is actually written. It is for this reason that I have worked with Senator MITCH MCCONNELL, and other members of the Foreign Operations Subcommittee, to modify our bill in a small, but significant way. The word "enact" will be changed in conference to "implement" in order to give the Russian leaders some latitude in interpreting this legislation. The foreign operations bill language will now allow the Russian Government 6 months to enact the new legislation in a manner that will not discriminate against minority religions before a decision is made to withhold foreign aid.

I come to the floor today to plead with my colleagues to support this language. I would tell you that the people we represent would not be amused by our inaction or our unwillingness to do something. This isn't about trade, this isn't about freedom of contract, this is about taking tax dollars from the American people and giving them to a government that is reimposing Stalinist restrictions. Imagine going to a townhall in your State, or mine in Oregon, and talking to Catholics who are watching the spectacle of their church being removed from Russia—and then trying to explain why Russia should get American tax dollars as foreign aid.

I thank the Chair for this time. I thank my colleague again from Indiana. I yield back the balance of my time.

#### DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1998

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1156, which the clerk will report.

The bill clerk read as follows:

A bill (S. 1156) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Coats amendment No. 1249, to provide scholarship assistance for District of Columbia elementary and secondary school students.

Wyden amendment No. 1250, to establish that it is the standing order of the Senate that a Senator who objects to a motion or matter shall disclose the objection in the CONGRESSIONAL RECORD.

#### AMENDMENT NO. 1249

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of amendment No. 1249 with the time until 5 p.m. equally divided and controlled in the usual form.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, we will now for about the next 5 hours be discussing an issue that I believe is important to every Member of the U.S. Senate and important to this country and important to the future of education.

The amendment is titled the "District of Columbia Student Opportunity Scholarship" amendment. It is being offered by myself and Senator LIEBERMAN from Connecticut. We will be presenting the case for this amendment to our colleagues who we trust they will be listening carefully to what is said, and I think the important debate that will ensue as a result of our offering this amendment.

The amendment is fairly basic. It provides opportunity scholarships for children in grades K through 12 for District of Columbia residents whose family incomes are below 185 percent of the

poverty level. Scholarships may be used to pay tuition costs at a public or private school in the District of Columbia and in adjacent counties in Maryland and Virginia.

Scholarships are also available under this amendment for tutoring assistance for students who attend public schools within the District.

We establish a District of Columbia scholarship corporation that will determine how the money is distributed.

Student eligibility goes to those, as I said, whose family incomes are 185 percent or below of the poverty line. For those at or below the poverty line, these scholarships can total \$3,200. For those who are between the poverty line and 185 percent of that, they can receive the lesser of 75 percent of the cost of tuition and monetary funds and transportation to attend an eligible institution of up to \$2,400. The tuition scholarship is also available for tutoring in amounts up to \$500 for students who stay in D.C. public schools.

The election process is designed to not discriminate in any way. All eligible applicants will be considered. If there are more applicants than scholarships available selection will be on a random basis.

The funding in no way takes one penny out of funds available for D.C. public schools. In fact, the \$7 million in spending for fiscal year 1998 comes out of the Federal contribution to the District of Columbia that is earmarked for deficit reduction. That total contribution—\$30 million more than the President requested—we will deduct \$7 million out of that. So no, the District is not denied any funds, schools are not denied any funds. This is taken out of a fund that was added by Congress in addition to the President's budget.

Mr. President, there is one unavoidable fact at the center of the school choice debate. When education collapses, it is generally not the middle-class children who suffer the most. Their parents, in response to that collapse, have already chosen other private schools, other public schools or moved to the suburbs or away from that particular school, leaving only the low-income, often minority children, in these dysfunctional, often drug- and crime-infested institutions, with little pretense of learning or educational opportunity.

We have seen this happen in large cities across our country—in Philadelphia, New York, Detroit, and others. We have seen it happen around us. Every day as we meet here in the Capitol, every day surrounding us in the District of Columbia, our Capital City, we see this happening with tragic results.

The D.C. public school system spends more money per pupil than any other district in America. I am going to be repeating that phrase. The District of Columbia public school system spends more money per pupil than any other school district in America.

In 1996, 12 percent of the classrooms in the District of Columbia did not

have textbooks at the beginning of the year and 20 percent lacked adequate supplies. The D.C. public school system spends more money per pupil than any other district in America, and yet 65 percent of all D.C. public schoolchildren test below their grade level. And 56 percent who take the Armed Forces qualification test—one of the few ways out of poverty in America for low-income students—56 percent who take the Armed Forces qualification test fail.

The D.C. public school system spends more money per pupil than any other district in America, yet only about 50 percent of education spending—that money that is available in the District of Columbia—goes toward instruction.

The system has 1 administrator for every 16 teachers while the national average is 1 administrator for every 42 teachers. That fact alone gives us an explanation as to one of the primary reasons for the failure of D.C. students, mostly minority students, to learn in the D.C. school system—a bureaucracy which consumes an extraordinary amount of money, over 50 percent of education funding in the District.

The D.C. public school system spends more money per pupil than any other district in America, and two-thirds of the teachers report that violent student behavior is a serious obstacle to teaching. And 16 percent of students report carrying a weapon to school. Over 1 in 10 avoid school because they fear for their safety.

It is safe to say, Mr. President, that if these results were found in suburban schools, the education reform movement would more closely resemble the French Revolution. But because these children are powerless and distant from our experience, because of the color of their skin and the size of their parents' bank accounts, we seem content to debate and delay help for those students.

We are content to promise reforms that never arrive. There is a price for our patience, a cost to our inertia, measured in squandered potential and stolen hope, measured by the advance of rage or retreat into apathy.

#### PRIVILEGE OF THE FLOOR

Mr. President, at this point I would like to offer a UC that I omitted to offer earlier. I ask unanimous consent that Brent Orrell, my legislative director, who has been very instrumental in putting all this together be granted floor privileges.

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

Mr. COATS. Mr. President, Gen. Julius Becton has been charged with reforming education in the District. He deserves our support. But by his own estimates, it will take 5 or 10 years to test his approaches. Similar changes have been promised by five new superintendents in the last 15 years.

I suspect that many District parents are skeptical. I believe they have every right to be. Put yourself for a moment into their shoes. What good does it do a parent who fears for the current safe-

ty and future prospects of their 13-year-old child to wait 10 more years for the results of public school reform? By admitting that public school reform in the District will be accomplished in decades, we are saying that the sacrifice of a generation of students is unavoidable.

But what if that child were our child? What if that child was the child or the grandchild of a Member of this body who was assigned to a school where physical attacks and robberies and drug sales are rampant, where education is failing, where the one opportunity they have to escape the poverty that they are living in, a decent education, is unavailable to them? Would we be content to sit back and let the bureaucrats tell us it will take a decade to reform these schools? Would those of us who have a 10- or 12- or 13-year-old be content for one moment to allow that situation to exist if there was anything we could do about it?

We are asking poor inner-city children and their parents to tolerate circumstances for years that most middle-class and affluent Americans would not tolerate for a moment. And we expect them to be satisfied and gratified with tinkering changes and symbolic votes on funding which have shown no history of results at all—nothing but failure, endlessly repeated, mindlessly accepted.

This city should be ashamed of its incompetence. And we in Congress should be ashamed of our failure to deliver some hope, some measure of improvement for these children. This is not an issue of whether or not local or State governments have a right to control education.

We in the Federal Government have the responsibility for this Federal city. We have a responsibility for the conduct of affairs in this city and in particular for the educational system in this city. That educational system has failed. It is time we offered some remedies.

With this bill we have set out to turn this justified embarrassment and shame into something productive, something immediately helpful, something hopeful, not something 10 years down the line, but something that can be hopeful immediately to children caught in this tragic situation.

The argument in favor of low-income school choice comes down to a single question which I hope every Member of this body will seriously ponder. Is it just, is it fair, is it compassionate to insist on the coercive assignment of poor children to failed schools?

It is a question which answers itself. No, it is not just, it is not fair, it is not compassionate, if there are alternatives that work, that can provide hope to these students, that can provide opportunity for these students to escape the failed education system that they currently are forced to comply with, alternatives that teach care and discipline.

Right now in the District of Columbia these alternatives exist but they

are rationed by cost, distributed by wealth. And that is not just, that is not fair, and that is not compassionate. Yet we can do something about it, at least in the District for at least some of the District's children.

Mr. President, I am entirely confident about two things in this debate, two facts that I think are beyond dispute. First of all, the children of our cities, even from broken homes in desolate neighborhoods, are capable of educational achievement. This should not be necessary to say because it is obvious to so many of us, but it is not obvious to the educational establishment.

The educational establishment argues exactly the opposite. They claim that schools fail because parents and students are failures themselves, complicating the work of educators with personal problems. I am sure you have heard this excuse that the jobs of teachers are impossible because families and communities refuse to help.

But, Mr. President, we know this is not true. We know that disadvantaged children are not educational failures by birth or circumstance or destiny. We know this as a matter of hard social science. We know this because of the success of nonpublic schools, primarily Catholic schools, that admit the same pool of urban students.

The late James Coleman of the University of Chicago found lower dropout rates and higher test scores among disadvantaged Catholic school students than their public school peers. William Evans and Robert Schwab, of the University of Maryland, came to similar conclusions, recording disproportionate gains by disadvantaged kids in Catholic schools. Other studies reveal that Catholic schools are more racially integrated than their public counterparts and succeed at about half the cost.

I want to repeat, studies have indicated that the Catholic schools are more racially integrated than urban public schools and they succeed where public schools fail, at half the cost of public schools.

These efforts succeed—with the same group of at-risk children—because Catholic education begins with an entirely different premise than the educational establishment: that every student can succeed if properly guided, and that 8 hours a day is a significant, even decisive, intervention in a child's life. This is not skimming. This is not creaming. This is faith and tenacity.

I pointed to Catholic urban schools because they have done such a remarkable job in our inner cities. There are other non-Catholic but religious schools and private schools that are secular schools that have demonstrated an ability to take the same students from the same areas, at half the cost or less, and do a better job in preparing those students for educational opportunities for the future or for employment opportunities for the future—an astoundingly better job.

So this argument that what can you do with these kids, "After all, look at

the families they are from, look at the disadvantages that they have, there is nothing that we can do except provide some kind of a baby-sitting service during daylight hours," that is untrue. We have side by side with these failing public schools in our urban areas, side by side, schools that are accomplishing success and not reaping failure, that are taking the same students and providing that success at less than half the cost of our public schools.

The second fact I am sure about is that low-income, inner city parents support school choice in growing and overwhelming numbers—75 percent in Philadelphia, 95 percent in Milwaukee. The Milwaukee and Cleveland school choice programs, the only ones of their kind, were not started by Republicans. They were started by parents fed up with their schools that their children were compelled to attend. They were sponsored and supported by an emerging element of African American leadership. Councilwoman Fannie Lewis of Cleveland, Annette "Polly" Williams of Milwaukee, Anyam Palmer of Los Angeles, State Representative Glenn Lewis of Ft. Worth, State Representative Dwight Evans of Philadelphia—these are not black Republican conservatives; they are activist Democrats who view school choice as a matter of equity. They are men and women who have come to resent a nanny state in which the nanny has grown surly and arrogant and abusive and unresponsive.

Alveda King, niece of Martin Luther King, Jr., in this Capitol just 2 weeks ago, referred to school choice as a matter of civil rights. She says:

In the name of civil rights, some oppose relief for religious parents who want their children to attend a religious school. In the name of helping poor and minority children, opponents of "opportunity scholarships" want to continue business as usual in the Washington schools. . . . U.S. citizenship guarantees all parents an education for their children. This is a true civil right. Yet some children receive a better education than others, due to their parents' abilities to pay for benefits that are often missing in public schools. This inequity is a violation of the civil rights of the parents and children who are so afflicted by lack of income and by the mismanagement endemic to so many of the country's public school systems.

Ms. King concludes:

The District of Columbia Student Opportunity Scholarship Act was designed specifically to alleviate this inequality—to restore parents' and children's civil rights.

To Alveda King and to many African-Americans today, this is a civil right, the opportunity for equality of opportunity in the education of their children.

In July of this year, the Labor and Human Resources Committee, on which I proudly serve, held a hearing on the school choice issue. It was particularly instructive. One witness was Howard Fuller, former superintendent of Milwaukee public schools—former superintendent of Milwaukee public schools, an outside-the-box thinker on education. He began by asking a fun-

damental question: What makes a school public? This is the answer he gave:

What makes a school public is that it functions in the public interest.

That interest involves high standards, consistently met—not the provision of services by one group or another. The public interest is to ensure that this happens, through whatever mix of public policies which make it happen.

He goes on to say:

Although there must continue to be strong support for public education, it is, in the final analysis, not the system that is important; it is the students and their families who must be primary. We must ask the question, what is the best interests of the children, not in the best interests of the system. And in my professional opinion, the interests of poor students are best served if they are truly given choice which permits them to pursue a variety of successful options, public and private.

Fuller testified that the most basic problem with the current system is a structure of power relationships that leads to inertia:

If you do not somehow change the existing power relationships, the existing configurations, no matter how deeply you might feel about making change, it is not going to occur, because the dynamics of the system are a curb to the kind of change you want to make. If you leave it intact, and you operate under its current form, we are not going to make the difference that we want to make for all of the children. But this need not be the end of public education.

I want to repeat that for my colleagues, the former superintendent of the Milwaukee Public School System, who is talking about the need to change the structure of public education so that it truly can begin the real process of reform, this man says that it need not mean the end of the public school system.

Opponents of this opportunity scholarship program say, "You really want to do away with the public school system." Not at all. We absolutely need a public school system in this country to begin to touch and educate the millions of children who live in this country, but we need a system that will provide them with equal opportunities for education, and they are not getting that now, particularly in many urban areas, and particularly among our minority children.

As Howard Fuller says:

This need not be the end of public education. It is redefining what is a public educational system in 1997—not what it was in 1960, but what it should look like in 1997, 1998, the year 2000—[and beyond].

This shift in power and philosophy that Dr. Fuller describes involves a mix of approaches: strengthened public schools, low-income scholarships and charter schools. I am a supporter of all of those things. They are not mutually exclusive. Senator LIEBERMAN and I are not here today to say undo the public system and replace it with choice. We are saying we support a mix of things. They are not mutually exclusive. In fact, they are necessary to one another.



Dr. Fuller concludes:

I think you have to have a series of options for parents. I support charter schools. I support site-based management. I support anything that changes the options for parents. But I am here to say that if one of those options is not choice that gives poor parents a way to leave, the kind of pressure that you need internally is simply not going to occur.

Dr. Fuller, who supports a range of choice for parents, says if one of those options is not choice then poor parents have no way to leave the system and apply the kind of pressure that has to be applied internally if any major change is going to occur.

His points were buttressed by several inner-city parents who telephoned. Listen to Pam Ballard of Cleveland:

After being in the Cleveland public schools and having a child who attended Cleveland public schools, my daughter was listed a behavior problem. She was listed a "D" or "F" student in all subjects. She did not want to go to school. She had no interest in school. The students would hit her, kick her, mistreat her.

But Pam Ballard got a scholarship for her child at Hope Central Academy:

It made a difference. I see that difference every time I watch my daughters at play, studying, reading, learning. . . Please keep the scholarship and tutoring programs alive. It is a beginning, and we all need new beginnings. It has helped keep me and my daughters alive.

Listen to Barbara Lewis from Indianapolis, who got similar help for her child:

My son began to struggle in school. He was not getting the attention he needed. At no time did a teacher ever try to set up a parent-teacher conference to see what we could come up with to help my child. I requested extra credit work, and I tried to set up meetings with the teacher, to no avail. I began to lose hope. I felt that my child's gifts were being wasted.

Then an individual provided Ms. Lewis with a scholarship that the Indiana State Legislature failed to provide:

The values I was teaching him at home were finally reinforced at school. My son blossomed into an honor roll student, a student council leader, and a football standout.

School choice is not a new issue. People of financial means have always had this choice of where they would send their children, to what school. They could afford to move where they wanted, and they could afford the tuition for private schools, while lower-income families with the same hopes and dreams for their children and their children's futures are denied the choice, and they should not be.

Mr. President, it is my hope that the Senate will listen to these quiet voices rather than the strident voices of the education unions—voices of hyperbole and hypocrisy. The hyperbole comes in the accusation that we are destroying public education in the District with this measure. On the contrary, we are not even touching it. These scholarships are not deducted from District education funds. They represent entirely new money. The only challenge to public education in the District that they provide is the challenge of example—the example of at-risk students succeeding and private and religious

schools where they have not succeed in public schools.

The hypocrisy is equally clear. While education unions oppose school choice, many inner-city public school teachers send their children to schools other than those which they teach. They are, in fact, two to three times more likely than other parents to send their children to private schools. In Milwaukee and Cleveland, for example, more than 50 percent of public school teachers send their own children to private schools. In the District, that figure is 28 percent, still twice the national average. I don't blame them. They are doing what is in the best interests of their own child. But I do blame education unions for actively denying that choice to others. The hypocrisy of those who say we must maintain the public school system and not allow opportunities for low-income people when they, themselves, send their children away from the public schools that they teach in so that they can get a better education at a private school.

We are not talking about sending children to St. Alban's or Sidwell-Friends. We are talking about sending young, fragile kids to schools with a little order, a little sanity, a little discipline, a little individual attention, a little love—schools like St. Thomas More in Anacostia, or the Nanny Hellen Burroughs School in Northeast, islands of nurture and learning.

I visited those schools. Senator LIEBERMAN and I have taken the opportunity to visit those schools. What a remarkable, remarkable difference at a fraction of the cost of the public schools. We cannot even begin to imagine the fears of a mother in the District who is forced to send her child through barbed wire and metal detectors, into a combat zone masquerading as an education institution. If we do not take the side of that mother with immediate, practical help, we will betray her yet again. I, for one, intend to take the side of these parents without hesitation or without apology and without delay. I urge my colleagues to do the same.

I yield the floor but reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from California

Mrs. BOXER. Mr. President, this is a very important debate. Yesterday when we opened debate on the D.C. appropriations, I urged colleagues on both sides not to come forward with controversial amendments because I feel, particularly in light of the situation in the District of Columbia, we need to move on with this bill. But such is not the case and every Senator has every right to bring an issue to the floor at any time, and that is what has happened here. We do have a long, extensive debate on the issue of vouchers.

Mr. President, as I said yesterday, I don't think this is about anything but our children. I don't think it is about strong voices. I don't think it is about quiet voices.

I don't think it is about passionate voices. I think it is about our children. How can we help our children? I think there is complete agreement that one way to help our children is to make sure they have the best education in the world. I don't think that is the question. So what I think it is about is not about us, it is about the children. It is about how we help them get the best education possible. As someone who believes in a free public education, as someone who attended public schools all the way from kindergarten to college, and as someone who sent my children to public schools, and as someone who represents a State that has rejected private school vouchers with taxpayer funds twice overwhelmingly, I think I stand here with some credibility on the subject.

It really amazes me, in a year when the District of Columbia students started their school year late because many of their school buildings were not safe, that we are voting on amendments that essentially gives money to private schools. What I said yesterday when I alluded to this amendment is that it would be very hard for many of us to support an amendment that helps 3 percent of the students—or purports to help 3 percent of the students, while leaving 97 percent without any additional help.

I want to make the point with a chart that I am going to just leave up here. I think that what we need is a 100-percent solution, which is quality public schools for all the children. That is what we need. As I go around my State, I have an "Excellence in Education" award that I give out to parents, to teachers, to principals, to business leaders, who are all helping get to quality public schools for all. Yes, we have problem public schools in our State. We also have some great public schools in our State. I think what we need to do, rather than give money to the private schools when we know we don't have extra funding, is to ensure that we taxpayers don't divert the money into private schools, but instead, make sure that it is diverted where it belongs, to all the children. So we are faced here with private school vouchers for a few—for 3 percent, a couple thousand of the kids in the District of Columbia while there are 78,000 who absolutely are going to lose by this. And so I hope people will support the 100 percent solution that many of us are supporting, rather than a 3-percent solution.

Now, what do I mean by a 100-percent solution? I mean that we should do things that help all of our children. What are some of those things? We know that our colleague, Senator CAROL MOSELEY-BRAUN, has pointed out that many of our schools are crumbling, that there are serious problems with them. It certainly was brought home not only here in the District of Columbia, but in other parts of the country, as other schools also opened late because they were dealing with

these repairs. So here we go, some want to give \$7 million—\$7 million—to private schools. By the way, allowing a lot off the top for administration—and I will get into that—and that whole new bureaucracy that is set up in this amendment is extraordinary. I am going to read you the amendment, about the bureaucracy it sets up. The schools need help in terms of the facilities. We could have mentoring programs for these children, academic assistance, bringing in the business community, recreational activities, technology training. As the President has said, every child should know how to log onto a computer in our schools.

There are other viable school activities, drug, alcohol and gang prevention, health and nutrition counseling, and job skills preparation. Mr. President, if you look at the rate of crime committed by juveniles, it would amaze you to see the spike-up between the hours of 3 and 6 p.m. It seems to me that since we do have a great desire here to help the kids of the District of Columbia, we ought to be helping all of them from a menu of things that we could do for the \$7 million that, if this amendment passes, will be diverted away from all the children.

Now, I want to point out that, under this amendment, the District of Columbia would be used as a guinea pig. It is a scheme that many States have rejected. I talked about my own State of California. Recent voucher proposals in Washington State and Colorado and California have lost by over 2-to-1 margins. A recent Gallup poll said that 71 percent of Americans believe the focus of improvement efforts should be on reforming the existing public school system rather than on finding an alternative system. Congress should not enact what the American people reject.

Funds should not go to private schools when the District of Columbia has such stark needs. Their needs are \$2.1 billion to repair the schools, and 41 percent don't have enough power outlets and electrical wiring to accommodate computers and multimedia equipment. So we are taking \$7 million and giving it to the private schools, many of which have endowments. And 66 percent of D.C. schools have inadequate heating, ventilation, and air conditioning. So we are taking 3 percent of the kids out of there and leaving 97 percent of the kids in a situation where they don't even have basic heating and air conditioning. Public dollars should not be routed to private schools before public school students in the District of Columbia get what they need.

Now, I want to point this out because the Senator from Indiana quoted a number of people from the District of Columbia and called them the "quiet voices." Let me add to some of the voices from a press conference that was held on September 17, with 11 ministers and the D.C. Congresswoman ELEANOR HOLMES NORTON. Representative ELEANOR HOLMES NORTON, who worked so very hard on this underlying bill, so very hard with Republicans and Democrats alike, talks about this proposal

that would divert \$7 million to private schools and leave 97 percent of the kids without any improvement. She says: "Virtually the entire city is speaking out against vouchers. The voucher movement is trying to use the children of the District of Columbia as stepping-stones. We know what we want, and it's not vouchers. Hear the people: We can't waste money in this District."

The Reverend Graylan Ellis-Hagler from the Plymouth Congregational UCC Church says: "[Sterling] Tucker's letter sent to D.C. clergy was deceptive at best—it never even used the word 'voucher'. The voice of the people has been ignored. We are having vouchers rammed down our throats."

The Reverend Vernor Clay, Lincoln United Methodist Church: "We have voted down vouchers in the past. Our voice will not be undermined. Put money into the infrastructure of our schools if you're going to put it anywhere. [Put it] into our public students." He said, "I'm ashamed I signed my name to Tucker's letter. I was misled my him and his hired lobbyist."

Reverend Dr. Earl Trent from the Florida Avenue Baptist Church: "I am outraged that Congress has stepped on our rights. We want nothing to do with vouchers. It is going to harm a majority of our schools. Let the Congressmen try vouchers in their own States."

Well, of course, in my State, it was voted down twice.

Rev. Anthony Moore, Carolina Missionary Baptist Church: "We all [the ministers] stand united against vouchers. If you want to help our schools, give them money for repairs and supplies, not foolish programs."

Rev. Willie Wilson, Union Temple Baptist Church: "This has been a very undemocratic process. The Government should be by and for the people. As a community, we voted vouchers out, but now they're being forced on us. I was lied to by Rep. Tucker and his lobbyist. The letter was designed to rob the District of Columbia."

Rev. Jennifer Knutson, Foundry United Methodist Church: "Vouchers are not the answer. Public money should be spent on our public schools."

So here are some religious voices that are speaking out pretty unified. ELEANOR HOLMES NORTON, who is a tremendous representative of the people here and works so hard on these bills, is adamant on this point because she represents all the children, not just 3 percent of the children. She doesn't want a 3 percent solution, she wants a 100 percent solution. It is such an abandonment of the children to go this route. That is why voters in California, which is on the cutting edge of change, rejected this idea. We should not give up on our children.

Now, here is an interesting point. The Senator from Indiana has very eloquent, heartfelt remarks and, believe me, I greatly respect them. He talked a lot about the bureaucracy of the D.C. schools. He took probably several moments of his introduction to go after them. I don't defend any bureaucracy. I never have and I never will. But I have

to tell you, he talked about the "nanny" State. If ever there was an example of bureaucracy, it is the way this program is going to be administered. I am not going to put my own spin on it, I say to my colleagues, I am going to read the bill. I am going to read the bill, starting on page 7 and ending—I have to get the right page number here—on page 34. That is how long it takes to explain how this thing is going to work.

#### DISTRICT OF COLUMBIA SCHOLARSHIP CORPORATION.

##### GENERAL REQUIREMENTS.—

This is the bill, folks, this is the amendment we are being asked to vote on that will address 3 percent of the kids. This is the bureaucracy that is going to address a couple of thousand kids. This is the bureaucracy that is going to be created that is political when you hear how the appointments are made. It sticks politics right in the middle of these children. This is the bureaucracy that is the answer to what my colleague calls the "nanny State."

Let me read it to you:

There is authorized to be established a private, nonprofit corporation, to be known as the "District of Columbia Scholarship Corporation," which is neither an agency nor establishment of the United States Government or the District of Columbia government.

(2) DUTIES.—The Corporation shall have the responsibility and authority to administer, publicize, and evaluate the scholarship program in accordance with this title, and to determine student and school eligibility for participation in such program.

(3) CONSULTATION.—The Corporation shall exercise its authority—

(A) in a manner consistent with maximizing educational opportunities for the maximum number of interested families; and

(B) in consultation with the District of Columbia Board of Education or entity exercising administrative jurisdiction over the District of Columbia Public Schools, the Superintendent of the District of Columbia Public Schools, and other school scholarship programs in the District of Columbia.

(4) APPLICATION OF PROVISIONS.—The Corporation shall be subject to the provisions of this title, and, to the extent consistent with this title, to the District of Columbia Non-profit Corporation Act (D.C. Code, sec. 29-501 et seq.).

(5) RESIDENCE.—The Corporation shall have its place of business in the District of Columbia and shall be considered, for purposes of venue in civil actions, to be a resident of the District of Columbia.

(6) FUND.—There is established in the Treasury a fund that shall be known as the District of Columbia Scholarship Fund, to be administered by the Secretary of the Treasury.

(7) DISBURSEMENT.—The Secretary of the Treasury shall make available and disburse to the Corporation, before October 15 of each fiscal year or not later than 15 days after the date of enactment of an Act making appropriations for the District of Columbia for such year, whichever occurs later, such funds as have been appropriated to the District of Columbia Scholarship Fund for the fiscal year in which such disbursement is made.

(8) AVAILABILITY.—Funds authorized to be appropriated under this title shall remain available until expended.



(9) USES.—Funds authorized to be appropriated under this title shall be used by the Corporation in a prudent and financially responsible manner, solely for scholarships, contracts, and administrative costs.

(10) AUTHORIZATION.—

(A) IN GENERAL.—There are authorized to be appropriated to the District of Columbia Scholarship Fund—

(i) \$7,000,000 for fiscal year 1998;

(ii) \$8,000,000 for fiscal year 1999; and

(iii) \$10,000,000 for each of fiscal years 2000 through 2002.

(B) LIMITATION.—Not more than 7.5 percent of the amount appropriated to carry out this title for any fiscal year may be used by the Corporation for salaries and administrative costs.

(b) ORGANIZATION AND MANAGEMENT; BOARD OF DIRECTORS.—

(1) BOARD OF DIRECTORS; MEMBERSHIP.—

(A) IN GENERAL.—The Corporation shall have a Board of Directors (referred to in this title as the “Board”), comprised of 7 members with 6 members of the Board appointed by the President not later than 30 days after receipt of nominations from the Speaker of the House of Representatives and the Majority Leader of the Senate.

So NEWT GINGRICH and TRENT LOTT will recommend these to the President.

(B) HOUSE NOMINATIONS.—The President shall appoint 3 of the members from a list of 9 individuals nominated by the Speaker of the House of Representatives in consultation with the Minority Leader of the House of Representatives.

(C) SENATE NOMINATIONS.—The President shall appoint 3 members from a list of 9 individuals nominated by the Majority Leader of the Senate in consultation with the Minority Leader of the Senate.

(D) DEADLINE.—The Speaker of the House of Representatives and Majority Leader of the Senate shall submit their nominations to the President not later than 30 days after the date of the enactment of this Act.

(E) APPOINTEE OF MAYOR.—The Mayor shall appoint 1 member of the Board not later than 60 days after the date of the enactment of this Act.

(F) POSSIBLE INTERIM MEMBERS.—If the President does not appoint the 6 members of the Board in the 30-day period described in subparagraph (A), then the Speaker of the House of Representatives and the Majority Leader of the Senate shall each appoint 2 members of the Board, and the Minority Leader of the House of Representatives and the Minority Leader of the Senate shall each appoint 1 member of the Board, from among the individuals nominated pursuant to subparagraphs (A) and (B), as the case may be. The appointees under the preceding sentence together with the appointee of the Mayor, shall serve as an interim Board with all the powers and other duties of the Board described in this title, until the President makes the appointments as described in this subsection.

(2) POWERS.—All powers of the Corporation shall vest in and be exercised under the authority of the Board.

(3) ELECTIONS.—Members of the Board annually shall elect 1 of the members of the Board to be the Chairperson of the Board.

(4) RESIDENCY.—All members appointed to the Board shall be residents of the District of Columbia at the time of appointment and while serving on the Board.

(5) NONEMPLOYEE.—No member of the Board may be an employee of the United States Government or the District of Columbia Government when appointed to or during tenure on the Board, unless the individual is on a leave of absence from such a position while serving on the Board.

My colleagues know that this is not one of the most inspiring speeches that I have ever made. But I think it is important that we read this entire amendment because it deals with setting up a whole other bureaucracy for 2,000 children in the District of Columbia—just 3 percent of the children—and enables this bureaucracy to take 7.5 percent off the top of the \$7 million. I think it is important that we see what we are creating here.

(6) INCORPORATION.—The members of the initial Board shall serve as incorporators and shall take whatever steps are necessary to establish the Corporation under the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29-501 et seq.).

(7) GENERAL TERM.—The term of office of each member of the Board shall be 5 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed for the remainder of such term.

(8) CONSECUTIVE TERM.—No member of the Board shall be eligible to serve in excess of 2 consecutive terms of 5 years each. A partial term shall be considered as 1 full term. Any vacancy on the Board shall not affect the Board's power, but shall be filled in a manner consistent with this title.

(9) NO BENEFIT.—No part of the income or assets of the Corporation shall inure to the benefit of any Director, officer, or employee of the Corporation, except as salary or reasonable compensation for services.

(10) POLITICAL ACTIVITY.—The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

(11) NO OFFICERS OR EMPLOYEES.—The members of the Board shall not, by reason of such membership, be considered to be officers or employees of the United States Government or of the District of Columbia Government.

(12) STIPENDS.—The members of the Board, while attending meetings of the Board or while engaged in duties related to such meetings or other activities of the Board pursuant to this title, shall be provided a stipend. Such stipend shall be at the rate of \$150 per day for which the member of the Board is officially recorded as having worked, except that no member may be paid a total stipend amount in any calendar year in excess of \$5,000.

(c) OFFICERS AND STAFF.—

So members of the board can be paid \$5,000 and they are helping 3 percent of the kids in the District of Columbia.

(1) EXECUTIVE DIRECTOR.—The Corporation shall have an Executive Director, and such other staff, as may be appointed by the Board for terms and at rates of compensation, not to exceed level EG-16 of the Educational Service of the District of Columbia, to be fixed by the Board.

(2) STAFF.—With the approval of the Board, the Executive Director may appoint and fix the salary of such additional personnel as the Executive Director considers appropriate.

So we have a board where members can have a stipend not to exceed \$5,000. We have an executive director, and he or she can appoint and fix the salary of such additional personnel as the executive director considers appropriate, all to help 3 percent of the kids while 97 percent of the kids get no benefit from this.

(3) ANNUAL RATE.—No staff of the Corporation may be compensated by the Corporation

at an annual rate of pay greater than the annual rate of pay of the Executive Director.

(4) SERVICE.—All officers and employees of the Corporation shall serve at the pleasure of the Board.

(5) QUALIFICATION.—No political test or qualification may be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, or employees of the Corporation.

(d) POWERS OF THE CORPORATION.—

(1) GENERALLY.—The Corporation is authorized to obtain grants from, and make contracts with, individuals and with private, State, and Federal agencies, organizations, and institutions.

(2) HIRING AUTHORITY.—The Corporation may hire, or accept the voluntary services of, consultants, experts, advisory boards, and panels to aid the Corporation in carrying out this title.

(e) FINANCIAL MANAGEMENT AND RECORDS.—

(1) AUDITS.—The financial statements of the Corporation shall be—

(A) maintained in accordance with generally accepted accounting principles for nonprofit corporations; and

(B) audited annually by independent certified public accountants.

(2) REPORT.—The report for each such audit shall be included in the annual report to Congress required by section 11(c).

We are only on page 16 and we have to go to page 32. But I think we are learning by reading this what a bureaucracy we are about to embark upon.

(f) ADMINISTRATIVE RESPONSIBILITIES.—

(1) SCHOLARSHIP APPLICATION SCHEDULE AND PROCEDURES.—Not later than 30 days after the initial Board is appointed and the first Executive Director of the Corporation is hired under this title, the Corporation shall implement a schedule and procedures for processing applications for, and awarding, student scholarships under this title. The schedule and procedures shall include establishing a list of certified eligible institutions, distributing scholarship information to parents and the general public (including through a newspaper of general circulation), and establishing deadlines for steps in the scholarship application and award process.

(2) INSTITUTIONAL APPLICATIONS AND ELIGIBILITY.—

(A) IN GENERAL.—An eligible institution that desires to participate in the scholarship program under this title shall file an application with the Corporation for certification for participation in the scholarship program under this title that shall—

(i) demonstrate that the eligible institution has operated with not less than 25 students during the 3 years preceding the year for which the determination is made unless the eligible institution is applying for certification as a new eligible institution under subparagraph (C);

So, if you hear that, schools can be created that have no track record and pop up and get this taxpayer dollar. There it is on page 17.

Two, contain insurance that the eligible institution will comply with all of the applicable requirements, three, contain an annual statement of the eligible institutions budget, four, describe the eligible institutions proposed program including personnel qualifications and fees.

(ii) contain an assurance that the eligible institution will comply with all applicable requirements of this title;

(iii) contain an annual statement of the eligible institution's budget; and

(iv) describe the eligible institution's proposed program, including personnel qualifications and fees.

So, it is possible under this bill to create a brandnew institution just to get this publicized.

(B) CERTIFICATION.—

(i) IN GENERAL.—Except as provided in subparagraph (C), not later than 60 days after receipt of an application in accordance with subparagraph (A), the Corporation shall certify an eligible institution to participate in the scholarship program under this title.

(ii) CONTINUATION.—An eligible institution's certification to participate in the scholarship program shall continue unless such eligible institution's certification is revoked in accordance with subparagraph (D).

(C) NEW ELIGIBLE INSTITUTIONS.—

(i) IN GENERAL.—An eligible institution that did not operate with at least 25 students in the 3 years preceding the year for which the determination is made may apply for a 1-year provisional certification to participate in the scholarship program under this title for a single year by providing to the Corporation not later than July 1 of the year preceding the year for which the determination is made—

(I) a list of the eligible institution's board of directors;

(II) letters of support from not less than 10 members of the community served by such eligible institution;

(III) a business plan;

(IV) an intended course of study;

(V) assurances that the eligible institution will begin operations with not less than 25 students;

(VI) assurances that the eligible institution will comply with all applicable requirements of this title; and

(VII) a statement that satisfies the requirements of clauses (ii) and (iv) of subparagraph (A).

(ii) CERTIFICATION.—Not later than 60 days after the date of receipt of an application described in clause (i), the Corporation shall certify in writing the eligible institution's provisional certification to participate in the scholarship program under this title unless the Corporation determines that good cause exists to deny certification.

So, here we have it, folks. The Senator from Indiana talked about the great private schools, and, yet, under this you can just spring up with a new one, and bring in those tax dollars for 2,000 kids, and you leave behind 97 percent of the children. There are 78,000 children in D.C. schools. You are setting up in this amendment and a bureaucracy that is extraordinary allowing new schools to pop up, and scholarships are going to be made available to 2,000 children. And the stipend that goes to the board of directors exceeds the amount of the scholarship, and the executive director can hire anyone he or she wants. They have a cap on overall administration, but do whatever he or she wants as long as they are not paid more than he gets paid or she gets paid. But I am only on page 20.

There I pause.

(iii) RENEWAL OF PROVISIONAL CERTIFICATION.—After receipt of an application under clause (i) from an eligible institution that includes a statement of the eligible institution's budget completed not earlier than 12 months before the date such application is filed, the Corporation shall renew an eligible institution's provisional certification for the second and third years of the school's participation in the scholarship program under this title unless the Corporation finds—

(I) good cause to deny the renewal, including a finding of a pattern of violation of requirements described in paragraph (3)(A); or

(II) consistent failure of 25 percent or more of the students receiving scholarships under this title and attending such school to make appropriate progress (as determined by the Corporation) in academic achievement.

(iv) DENIAL OF CERTIFICATION.—If provisional certification or renewal of provisional certification under this subsection is denied, then the Corporation shall provide a written explanation to the eligible institution of the reasons for such denial.

(D) REVOCATION OF ELIGIBILITY.—

(i) IN GENERAL.—The Corporation, after notice and hearing, may revoke an eligible institution's certification to participate in the scholarship program under this title for a year succeeding the year for which the determination is made for—

(I) good cause, including a finding of a pattern of violation of program requirements described in paragraph (3)(A); or

(II) consistent failure of 25 percent or more of the students receiving scholarships under this title and attending such school to make appropriate progress (as determined by the Corporation) in academic achievement.

(ii) EXPLANATION.—If the certification of an eligible institution is revoked, the Corporation shall provide a written explanation of the Corporation's decision to such eligible institution and require a pro rata refund of the proceeds of the scholarship funds received under this title.

(3) PARTICIPATION REQUIREMENTS FOR ELIGIBLE INSTITUTIONS.—

(A) REQUIREMENTS.—Each eligible institution participating in the scholarship program under this title shall—

(i) provide to the Corporation not later than June 30 of each year the most recent annual statement of the eligible institution's budget; and

(ii) charge a student that receives a scholarship under this title not more than the cost of tuition and mandatory fees for, and transportation to attend, such eligible institution as other students who are residents of the District of Columbia and enrolled in such eligible institution.

(B) COMPLIANCE.—The Corporation may require documentation of compliance with the requirements of subparagraph (A), but neither the Corporation nor any governmental entity may impose requirements upon an eligible institution as a condition for participation in the scholarship program under this title, other than requirements established under this title.

SEC. 4. SCHOLARSHIPS AUTHORIZED.

(a) ELIGIBLE STUDENTS.—The Corporation is authorized to award tuition scholarships under subsection (c)(1) and enhanced achievement scholarships under subsection (c)(2) to students in kindergarten through grade 12—

(1) who are residents of the District of Columbia; and

(2) whose family income does not exceed 185 percent of the poverty line.

(b) SCHOLARSHIP PRIORITY.—

(1) FIRST.—The Corporation first shall award scholarships to students described in subsection (a) who—

(A) are enrolled in a District of Columbia public school or preparing to enter a District of Columbia public kindergarten, except that this subparagraph shall apply only for academic years 1997-1998, 1998-1999, and 1999-2000; or

(B) have received a scholarship from the Corporation for the academic year preceding the academic year for which the scholarship is awarded.

I see the Senator from Rhode Island is here. I know the Senator from Connecticut is waiting to be heard. But I think it is very important that we read this amendment because one of the criticisms about schools in general is that they are bureaucratic and you can't get more bureaucratic in my mind than this.

I want to point out that 7.5 percent of \$7 million for administration and reimbursement to this board of directors is \$525,000. That is over half a million dollars for a brand new bureaucracy—just what we do not need, frankly, at this point.

Now, I am going to skip some of this in the interest of time, but I am going to read some of it.

(3) LOTTERY SELECTION.—The Corporation shall award scholarships to students under this subsection using a lottery selection process whenever the amount made available to carry out this title for a fiscal year is insufficient to award a scholarship to each student who is eligible to receive a scholarship under this title for the fiscal year.

So we are helping 3 percent of the kids, and sometimes it will be a lottery.

And so as to save time, I am going to go to a very interesting part here. It goes on and on and on. There is a subsection on civil rights and a very important part in here.

An eligible institution participating in the scholarship program under this title shall not discriminate on the basis of race, color, national origin, or sex in carrying out the provisions of this title.

It is very important that that be in here.

APPLICABILITY AND CONSTRUCTION WITH RESPECT TO DISCRIMINATION ON THE BASIS OF SEX.—

With respect to discrimination on the basis of sex, subsection (a) shall not apply to an eligible institution that is controlled by a religious organization if the application of subsection (a) is inconsistent with the religious tenets of the eligible institution.

Now, this goes on and talks about single-sex schools, classes or activities, revocations, and then there is actually a part in this amendment that I saw that deals with abortion.

OK, on page 29 of this bill that sets up scholarships for children, we say here:

With respect to discrimination on the basis of sex nothing in subsection (a) shall be construed to require any person, or public or private entity to provide or pay, or to prohibit any such person or entity from providing or paying, for any benefit or service, including the use of facilities, related to an abortion.

Now, I just have to say we are talking about a scholarship program for kids aged from kindergarten until about age 12, and we have a section in here on abortion.

I say to anybody reading this—and I have slowed it down in deference to my colleagues who are on the other side of the issue who want to be heard on this—I say that anybody reading this would have to agree, how you can stand up here and fight against bureaucracy and the nanny state and then defend an

amendment like this which sets up an entire new bureaucracy, which sets up a board of directors that can be paid as much as \$5,000 a year, more than the scholarships you are giving, which sets up a situation that a brand new school can pop up, I suppose as long as they get through the board of directors. Maybe they have some clout because who is appointing the board of directors? Politicians—politicians—the majority leader, in consultation with the minority leader, the Speaker in consultation with the Democratic leader over there.

What is this? For a scholarship program that at best will serve 2,000 students and leaving 76,000 students with nothing, and a half-million dollars off the top for administrative costs, and that is just now.

I was on the board of directors once of a preschool center when my kids were little. It was wonderful. It was nonsectarian, but it actually happened to be a community that used a church facility. We had a tremendous scholarship program. And I have to tell you, it was a great scholarship program—a private institution, nonprofit—and we did not need to have all of this. If the private sector wants to help the kids, they can put forward some scholarships on their own. We do not need to set up a new, massive bureaucracy. That is what I call it. Because you read this—I am sure everyone who might have been listening to it fell asleep—going through pages and pages of regulations, you find out that in fact members of the board can be paid more than an individual gets who gets the scholarship; you find out in fact it is the Speaker of the House and majority leader, and in this case the Democratic minority, who have input into who sits on this board of directors. The President gets to appoint them on recommendation from at this point TRENT LOTT and NEWT GINGRICH after consultation with their counterparts.

This is not the end of the nanny state. This is the beginning of the political state in the middle of our children's lives.

I look forward to working with my colleagues on both sides of the aisle to putting forward something that is going to help 100 percent of the kids. We know after-school programs are needed by these children. We know that after-school programs work. I say to my colleagues who are for this, let me show you LA's Best, an after-school program for LA's kids. Boy, those kids are so successful. They are doing 75 percent better than the kids that do not go to that after-school program.

Let's get new textbooks. This amendment provides \$7 million. For \$1 million, we can get new textbooks for every third, fourth and fifth grader in the D.C. schools. I remember when I was a kid opening the books and smelling the new school books. We all remember those days. And today our kids get textbooks that are falling apart. For \$1 million of the \$7 million we can

do this. For \$3.5 million we can have 70 after-school programs so our kids are not home alone and they have somebody to say "yes" to. We could get new boilers for the schools. It costs \$19,000 per boiler to keep those kids warm. We could fix many of the problems in our D.C. schools for 100-percent of the children.

I hope as Members consider how to vote on this they will go for a 100 percent solution, not the 3 percent solution which is so unfair to the children and sets up a bureaucracy that steals money right off the top—a half-million dollars to go to boards of directors and executive directors and all of those things I read to you. And so I thank my colleagues for their patience and I yield the floor but retain the remainder of our time on this side.

Mr. COATS addressed the Chair.

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

Mr. COATS. Mr. President, I would like to yield as much time as the Senator from Connecticut, coauthor of this provision and partner with me in this effort, may consume. I appreciate his support and help in this effort.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair. I thank my friend and colleague from Indiana. I thank him particularly for his consistent leadership in this effort. I am proud to be his cosponsor along with Senator BROWNBACK, a Republican Senator, colleague, and friend from Kansas, and—and I mention this with some pleasure—Senator LANDRIEU, our new colleague, Democratic Senator from Louisiana, is also a cosponsor.

Mr. President, before I get to laying out the reasons why I am for this measure, I just want to respond to something our colleague from California said.

The Senator from California kept stressing over and over again this foundation, this nonprofit board that we are setting up to administer these scholarships and talked about the enormous amount of money that it was going to spend—bureaucracy, overhead. In the amendment, which we are putting in to create this program, the non-instructional, the administrative costs are capped to 7.5 percent. It does come to a little bit over a half-million dollars. But take a look at the budget of the District of Columbia Public School System. Noninstructional central administration and overhead, 33 percent. Only two-thirds of the money we give—and we give well over half a billion of public money to the District of Columbia—two-thirds of that gets spent on instruction, one-third on central administration.

The amendment Senator COATS and I are putting in caps central administration for this scholarship program at 7.5 percent. So I do not think that is a very good argument to oppose our amendment. In fact, our amendment is pretty tightly drawn where 92.5 percent of the money we give will go to the

kids and the parents. Let them decide where they want it to go for their education.

Mr. President, this is a very important amendment. There is a certain way in which a lot of us—and I am guilty of this some myself—are kind of predisposed. We go by momentum. We judge, well, which group of my friends, which interest is on which side, which interest group is on the other side. I appeal to people, our colleagues here and, frankly, particularly directly to those in my own party, to take a look at this amendment. Senator BOXER read from the amendment.

After you read the amendment, read this: "Children in Crisis, a Report on the Failure of D.C.'s Public Schools, November 1996," written on behalf of the District of Columbia Financial Responsibility and Management Assistance Authority, the control board we created.

What is the conclusion? It is documented in painful—if I had a child in this system I would say infuriating, heartbreaking—detail. I quote:

The deplorable record of the District's public schools by every important educational and management measure has left one of the city's most important public responsibilities in a state of crisis, creating an emergency which can no longer be ignored or excused. The District of Columbia Public School [System] is failing in its mission to educate the children of the District of Columbia. In virtually every area and for every grade level, the system has failed to provide our children with a quality education and a safe environment in which to learn.

I stress the word "emergency" because I am going to come back to that word. There is an emergency in the District of Columbia Public School System and we are devoting a lot of effort—as I said before, over \$500 million, \$564 million in this bill, going from the Federal taxpayers to the District of Columbia Public School System. We are doing everything we can to try to make it better. What is wrong with taking \$7 million, compared to the \$564 million, and saying in this state of emergency, good God, let's give 2,000 kids and their parents a chance to get out of the emergency and better their own lives, better their education so they can provide for themselves?

That is what this is about. It would do nothing more than offer 2,000 children from low-income homes the opportunity to attend a better school. Incidentally, we often don't mention it, but there is another part of it. It would offer 2,000 additional disadvantaged children of the District of Columbia, who go to the public schools and want to stay there, the opportunity for a \$500 scholarship to use for exactly the kind of program Senator BOXER talked about: After-school tutoring, enrichment, the kind of program that will help that child have a better prospect of doing better, even within the tough circumstances in the District of Columbia system. That is all this is about.

People talk about this as if, I don't know, it is un-American. It is actually

fundamentally American, because it deals with equal opportunity, making it real for kids who are trapped in a school system in which, no matter how much most of them work, and their parents hope for them, they are not going to have an equal opportunity. They are not going to have the same opportunity that those many in the District of Columbia, the richer ones, who send their kids to private schools and other schools, are going to have.

Listen to some of the critics of this amendment and you would think we were going to cause the sky to fall down on public education. Just over the last week a number of organizations that I consider to be well-intentioned have flooded the Hill with shrill letters proclaiming that this bill is discriminatory, that it is unconstitutional; possibly, from what you read, the single greatest threat to American education since I don't know what. Even Secretary of Education Richard Riley, a man I admire so much, went so far as to suggest this week that our bill would "undermine a 200-year American commitment to the common school."

Mr. Secretary, respectfully, that is just not so. Those of us sponsoring this amendment are having a hard time reconciling the exaggerated rhetoric of our critics with the actual details of our plan. Let me repeat. We are talking about spending \$7 million next year to fund this program, compared to the \$564 million we are giving to the public schools in the District. That is about two-tenths of 1 percent for this test, for this pilot program, for this lifeline to a couple of thousand disadvantaged kids in the District. We don't take one dime away from the D.C. public schools with this amendment. And this small, experimental program is purely voluntary. No people who are satisfied with their current public school will be forced to make any other choice.

The only explanation I can come up with, after the years of listening to the wild allegations that have accompanied the school choice debate, is, if I may put it this way, that love is blind, even in public policy circles. Our critics are so committed to the noble mission of public education that they have shut their eyes to the egregious failures in so many of our public schools and insisted on defending the indefensible; insisted on blocking children in a situation that the D.C. control board describes as an emergency from getting out of that emergency. So they are conditioned to believe that any departure from their orthodoxy is tantamount to the death of their cause. They refuse to even concede the possibility that offering children this kind of choice would give them a chance at a better life while we are investing so much and working so hard nationally and here in the District to repair and reform our public schools.

Of course our public schools will always be our priority concern when it comes to educating our children. But what about the ones who are—this is as

if a child was in the middle of a fire and somebody was offering a lifeline out and somebody says, "Oh, no, no, no, the building they are in is a historic building. That is not fair to the child."

Listen to the complaints of some of the critics and you will see, I am afraid, that they have concocted a flexible fiction that allows them to believe this fight, their fight, is right, no matter what the facts say. In the alternative universe of the critics, money is the solution to problems that, in fact, are often created by wasteful bureaucracies. Private schools to which many choice critics themselves send their kids are not right, somehow, for children of the poor, seems to be the implication in the criticism, and giving a poor parent the same choices that heretofore have been reserved for those who can afford them amounts, somehow, to an act of discrimination instead of what it is, an act of empowerment.

Nowhere have the myths been stretched further than in the case of this D.C. scholarship amendment. I just want to spend a few moments to recite for my colleagues some of the more spurious charges that have been made, and to respond to them. I think it is important to do so because I want to make every effort I can to make sure that Members of the Senate have accurate information about this amendment before they make up their minds on how to vote. I also hope to demonstrate the extraordinary lengths to which our critics have gone to attack this plan and uphold what I feel is a failed dogma, which is irrelevant to and insensitive to the trap in which thousands of D.C. students and their parents find themselves today: Unsafe schools—unsafe structurally and unsafe in terms of crime—where too many teachers are not actually educating the children.

I am going to talk about some myths.

Myth No. 1: This amendment would drain desperately needed resources from D.C. public schools. I think I have talked a bit about that, but, very briefly, the funding for our program comes from the Federal payment to the city. It would have no impact on the D.C. school budget. Put it another way, if this amendment fails, the D.C. schools will not get one additional penny. This criticism is based on the misguided notion that throwing more money at the D.C. public schools will solve the crisis they are experiencing. The truth is that the Washington Post did not label the D.C. public school system a well-financed failure for nothing.

The Senator from California said, "Why not take the \$7 million and give it to 100 percent of the children? Give it to the school system." For what? To better finance the failure that too many of them are struggling to get an education and build a life for themselves under?

I refer my colleagues briefly to this chart which was taken directly from

that D.C. control board study that I referenced earlier. The District of Columbia Public School System in fact has one of the highest per-pupil expenditures in the country, spending an average of \$1,100 more per child than cities of comparable size. Here is the District of Columbia. It spends \$7,655. These are per-pupil, from 1994 and 1995—\$7,655. The national average is \$6,084. And look at neighboring districts, districts around the District of Columbia: \$6,552. They spend slightly more than \$1,000 less than the D.C. school systems spend. You can go on. The chart speaks for itself. Only Newark spends more than the District of Columbia per child.

So it is not money here, it is the way the money is being spent. Put \$7 million to 100 percent of the kids, what are you going to get? If I may build on the Washington Post conclusion, a better financed failure. Take the \$7 million, give it to these 2,000—4,000 students, you are going to give them a chance at a better education and a better life. I will readily concede that the \$7 million could be tacked onto the public school budget. But we have to ask ourselves, will that really help the kids who are there now, spreading the money on top of a bureaucracy that is still having trouble counting how many students it has—which is what this Control Board report tells us? Or putting it directly into the hands of 2,000 families so they can attend a school they are confident can educate their child. If we are asking what is best for the students and not what is best for the system, there is no question what will do more good right away, in this coming year, and that is the scholarship program.

Myth No. 2, often heard about school choice and heard about this program. The scholarship is too low to pay for private school and there is no space at private schools for these kids, so it is kind of a sham. Wrong. Our critics seem to have a dated image of the universe of private and faith-based schools, one that assumes that every school is Saint Alban's or Sidwell Friends. There are 88 private and parochial schools inside the beltway that cost less than \$4,000 per student, including 60 that cost less than the \$3,200 scholarship our amendment would provide. There are at least 2,200 spots now open in schools with tuition less than \$4,000, and that is according to just a partial survey of the schools inside the beltway.

A related complaint we hear is the scholarships will not do much good because private and religious schools can and do discriminate. Certainly not discrimination based on race. This charge ignores what is happening today at private and parochial schools here and in other urban areas around this country. Studies show that Catholic schools, as an example, in New York and Chicago and in my own capital city of Hartford, are serving overwhelmingly minority populations. And that is more than true here in the District. This chart, I

think, is a startling one. The student population of the District's 16 center-city Catholic schools is 93 percent African-American. Center-city Catholic, 93 percent African-American, actually 5 percent higher than the 88 percent African-American enrollment in the public schools of the District of Columbia. Catholic schools are hardly an exception. For example, Senator COATS and I have been to visit the Nannie Helen Burroughs School, an elementary school run by the National Baptist Convention here in Washington. It is in an area in the northeast section. It has 100-percent African-American school population. We talked to the principal. She said literally they have an open-door policy. She said to Senator COATS and me, "We will accept anyone who comes to the door—anyone who comes to the door." So much for the charge of discrimination.

Members of the Senate should also know that this amendment contains explicit civil rights protections that would prohibit schools participating in this program from discrimination based on race, color, gender, national origin, and it references the District of Columbia Human Rights Act, which actually has a broader series of anti-discrimination protections.

Myth No. 3: The voters of the District have already rejected choice. That is what the critics say. They will continue to cite the results of a referendum held—when?—17 years ago on a tuition tax credit plan totally different from the scholarship amendment Senators COATS, BROWNBACK, LANDRIEU, and I are proposing here.

A much more recent, May 1997, poll and a more relevant poll, found that 62 percent of low-income parents in the District, the people this program is designed to serve, thought a scholarship plan was an excellent or good idea.

Mr. President, the fascinating part of that poll—I don't have the exact number in front of me—is that the more white and higher income the group polled, the more likely they were to oppose this proposal, the more likely also that their children were in private or faith-based schools. The people that this scholarship program is aimed at helping desperately want this kind of lifeline.

Later in the debate I will cite a study done among African-Americans nationally that a joint center, distinguished think tank, in town shows remarkable rising support for school choice programs, vouchers, particularly among younger African-Americans. I wonder why, sadly, too many African-American children are suffering from a lack of real opportunity in school systems like the one in the District of Columbia.

Myth No. 4: There is no evidence, the critics say, that scholarships will improve academic performance. Well, just a few days ago, a research team from Harvard released a study showing that students participating in the Cleveland choice program made significant gains

in their first year. Math test scores rose an average 15 percent in 1 year for kids involved in the choice program there; reading tests 5 percent—just 1 year after leaving public schools.

That data builds on several convincing studies demonstrating that low-income students attending center-city Catholic schools have achieved far higher scores than their peer groups in the local public schools. Comparable populations in each case, two different settings, kids in the center-city Catholic schools doing much better.

A 1990 Rand Corp. comparison of schools in New York City, for instance, found that the Catholic schools graduated 95 percent of their students annually, while the comparable public schools graduated slightly more than 50 percent. These are numbers, but behind these numbers are thousands of children—thousands of children—who, when they don't finish school, are generally confined to a life without real opportunity.

Look at the difference: 95 percent of the kids in the Catholic schools graduate; slightly more than 50 percent in the comparable public schools.

The Rand Corp. report also showed that the Catholic school students outperformed their counterparts in the public schools and—again, this is in New York City—on the SAT exam by an average of 160 points.

A study released earlier this year by Derek Neal of the University of Chicago found that low-income Catholic school students were twice as likely to graduate from college as their public school counterparts. What a story. It shows what we all know; it shows it so powerfully.

The problem here is not the kids. Put the kids in an environment where they have a real chance to learn, where they are going to be taught in a way that is focused on them, and they will blossom, they will rise, they will soar, with twice as many graduating from college. Not surprising, then, that Paul Vallas, the man charged with rebuilding the decrepit Chicago Public School System, and doing a great job from all reports, is working closely with educators in the schools of the Catholic Archdiocese of Chicago to learn what has made these faith-based schools succeed where the public schools have failed. It is surprising, though, that few other urban administrators have been willing to do the same thing.

Myth No. 5, another false allegation: This amendment is part of a Republican-only agenda. It is a sad fact that most of the choice proponents in Congress are members of the Republican Party, although I am proud to say that Senator LANDRIEU and I are cosponsors of this amendment, and in the House, Congressman FLOYD FLAKE of New York and Congressman BILL LIPINSKI of Chicago have joined in cosponsoring this bill.

But you have to go beyond that. To write this effort off as a partisan effort is to ignore the growing demand for

programs that give parents greater educational choice, a demand that cuts across partisan, racial, class, and ideological lines.

Take a look at who is driving the choice movement at the grassroots level around the country. Mothers like Zakiya Courtney in Milwaukee and Barbara Lewis in Indianapolis. Educators like Howard Fuller, the former Milwaukee superintendent of schools. Legislators like Glenn Lewis from Texas. Civil rights leaders like Alveda King from Atlanta, Dolores Fridge, the Minnesota Commissioner of Human Rights. All happen to be African-Americans. To the best of my knowledge, most of them are Democrats.

They are not moved by politics. What moves them is love for their children and frustration and anger that their children are being denied a chance at the American dream because they are being forced, for reasons of income, to attend chronically dysfunctional public schools.

These activists have been joined by thoughtful thinkers, independents like Bill Raspberry and Democrats like Bill Galston, former domestic policy adviser to President Clinton, who have both endorsed the program that we are proposing in this amendment today.

Consider the fact that polls routinely show that support for just the kind of program we are proposing is growing into a majority. For example, just this week, the Center for Education Reform released a survey showing that 82 percent of American adults favored giving parents greater educational choice, and 72 percent approve of using taxpayer funds to allow poor parents to choose a better school for their child—72 percent on a poll released just this week.

This is not partisan. Unfortunately, the vote in Congress too often has been divided along party lines, but that is not the reality out across America. Why? Because the American people are fair, they are realistic, they are practical. They see what is happening to too many of the children in too many of our public school systems. While we are working feverishly to repair those school systems, they think some of the kids are trapped in them, not because they are less able, but only because their parents don't have the money to take them out of those school systems that aren't working for them.

The parents and activists and local political leaders who are demanding choices are not out to destroy the public schools, as so often is alleged. Senator COATS and I, Senator BROWNBACK, Senator LANDRIEU—none of us are out to destroy the public schools. I am the proud product of a public school. I received a great education. I know the role that the public school has played in America as a blender, a meeting ground for people of all kinds who come to the public schools. But the reality is, in too many of our schools today, that is not happening.

Mr. President, I can't think of a public school education support proposal

that I haven't supported in the 8½ years I have been in the Senate of the United States. IDEA, special education funding, School to Work Act, the President's national testing initiative, charter school programs, funding, more and more funding for the public schools. What the critics fail to realize is that you can support this scholarship program and support public education. This is not an either/or equation.

In fact, Senator BROWNBACK and I, particularly as the Chair and ranking member of the Senate D.C. oversight committee, are working constantly with General Becton, now the head of the D.C. Public School System, to give him real support in meeting the overwhelming challenge he has of resuscitating the D.C. school system.

I repeat, again, the very bill on which we are aiming to attach this amendment provides \$564 million, over one-half billion dollars of money from the taxpayers of the United States for the D.C. Public School System. General Becton himself concedes that the D.C. public schools—he said this before our committee—will not get better really to where he wants them to be for at least 5 or 10 years. They are going to get better along the way. He said, "Don't expect an overnight miracle here. I am not going to reach what you want to make of the school system for another 5 or 10 years."

What do we tell the children who are in the school system in the meantime, and what do we tell their parents? That in the name of some ideology, for some reason of history, to protect the ideal of the public school system as some of us experienced it that doesn't have any realistic relationship to what is happening every day for thousands of kids in the District of Columbia, in the name of preserving public education, that we as adults are willing to sacrifice children's futures, the kids who are there now, in a system described by the control board as in a state of emergency? We are willing to sacrifice them for the sake of a process, an idea that is not real in their lives? Go into the District school system, go into the schools and see what kids face. It is not acceptable, and that is why we are pushing so hard to establish this scholarship program.

Senator COATS and I and the other cosponsors are not suggesting that this is the cure-all for the city's educational woes, but it will give 4,000 kids from disadvantaged families, not kids who are not able, kids who have the same God-given ability as any other group of kids, it will give them the opportunity to realize that ability and a better life. It will make a statement that we are not going to tolerate the unacceptable status quo any longer.

In the long run, it will, hopefully, increase the positive pressure on the public schools to become more accountable, to raise their standards, to win back the public's confidence. Mr. President, later in the debate, if there is time, I am going to read from an affi-

davit filed by a member of the Milwaukee school system in a school choice case where that member testified to the positive competitive effect that the school choice program in Milwaukee had on the public schools.

For all this, Senator COATS and the other cosponsors and I are accused of leaving behind or abandoning the 76,000 children who would not have access to the scholarship program. The irony, of course, is that just the opposite is true. Too many of these children have already been abandoned by a school system that has been driven into the ground by too much incompetence, too much indifference to the best interests of the city's families, a system that is so bad that the control board report that I mentioned earlier concludes something that I had to look at two or three times to understand:

The longer students stay in the District's Public School System, the less likely they are to succeed educationally.

I couldn't believe that. "The longer students stay in the District's Public School System, the less likely they are to succeed educationally." I went back. What does that mean? It means as the grade levels go up, the District school kids fall further and further below the national average on standardized tests. To continue to do nothing, other than to call for more money, while these children suffer is unfair to these children.

That is why the onus should not be on us to defend our plan or alternative, our scholarships, but on those who oppose doing anything that does not fit inside the box of status quo public education which is failing thousands of children here in the District of Columbia.

We have to ask, what are you willing to do to change things right now? What are we willing to do to rescue these kids who must go to schools that have more metal detectors than computers? To continue to do nothing out of fear of being divisive or offending one or another group is irresponsible. And, you know, that is a major argument against this amendment, that it is divisive. Those who opposed the civil rights laws when they were first proposed also liked to complain that those being proposed were going to be divisive and thereby damaging to the country. It was an unconvincing argument then just as it is now.

Mr. President, it is a remarkable twist of fate that we stand debating this amendment, as I am sure my colleagues have seen in the news today, on the 40th anniversary of the desegregation of a Little Rock high school, Central High School. President Clinton will be down there this weekend to commemorate that historic event. Of course, that school was desegregated and other schools were saved from legal segregation.

But what is the reality today? Too many schools are still effectively segregated, but really more fundamentally to the point, too many children are

being denied the equal opportunity for an education that the desegregation movement, that Brown versus Board of Education, that all the tumult that followed it was all about.

The kids in the District school system do not have a real equal opportunity to an education. And that is what our amendment is all about.

Mr. President, finally, I want to make a plea to the Members of my own party. If I may be partisan in this sense, this Democratic Party of ours in its modern expression was built on a central principle, equal opportunity, building on the bedrock insight that the Declaration of Independence and the Constitution have, that everybody is created equal, and that these are inalienable rights that we have, incidentally not given to us by the founders of the country or by Congress or any other group but given to us by our Creator.

The Democratic Party in the modern history of this country has focused on making this ideal of equal opportunity real. At our best we have been the party of upward mobility, we have been the party that welcomed people to this country, immigrants to this country. We have stood for giving everybody a fair chance to go up. Getting a decent education was at the heart of that.

That ultimately is what is at the heart of this debate—basic fairness, equal opportunity. The reality is that we already have de facto educational choice in this country. It is just limited to those who can pay for it. The question we now face is, whether we make that kind of choice available to the children who really need it most or whether we continue to deny them the opportunity out of some fear of upsetting the status quo or some interest groups who support the status quo.

I urge my Democratic colleagues to think about why they became Democrats, what the party is all about, and how, when we think about that, how they can oppose scholarships for 4,000 poor children. Nothing mandatory. Parents have the right to apply for this. Where have we come when we end up in that position that we are denying a lifeline to 4,000 poor children in the District of Columbia?

I urge my colleagues to take a look at the final chart I am going to show, which is this one. Ward 3 in the District, the upper northwest part of the District; 65 percent of the families send their children to private schools. So 65 percent of the families send their children to private schools; the poverty rate is 6 percent. Well, look. That is the most, of course, of any ward in the city.

Look at Ward 1, a poverty rate of 17 percent; only 11 percent can send their kids to private school. Ward 7, the poverty rate is 18 percent; only 7 percent can send their kids to private school. It is clear what is going on here. And 65 percent of the families from Ward 3 sending their kids to private school is



six times the national average. Probably some Members of this Senate are in that statistic in Ward 3.

We have to ask ourselves, is it fair, given the factual indictment of the status quo of the D.C. public schools—which, as I said, over and over again today, we are spending a half a billion dollars and working with General Becton in all sorts of ways to fix it—is it fair for us to force the disenfranchised, not by reason of law, not by reason of the God-given potential of each and every one of their children, are we going to force them to go to schools that we ourselves, and in fact that statistics show that most D.C. public schoolteachers, will not risk sending their own children to?

I say to my colleagues, as you wrestle with that question, I want to leave you with the wisdom of a Nigerian proverb that I saw on the wall of a D.C. school that I visited recently. It said, "To not know is bad; to not want to know is worse." We can no longer profess not to know about what is happening to thousands of children in the D.C. public school system today who the superintendent of the school system says are in a school system that will not be what we want it to be for 5 or 10 years.

We cannot profess any longer not to know this reality. Therefore, for us not to act now, frankly, is not to want to know. And the terror of that is that for that willful ignorance, it is these children who are going to pay the price. So I have spoken strongly here today because I feel strongly about this.

Mr. President, this is about kids, this is about their future, this is about the reality of the American dream for those who have the hardest time of reaching for it. This is a small program—\$7 million—to try it out.

Hey, can anybody say that things are so good in the District of Columbia Public School System that it is not worth experimenting with an alternative for a couple of years? No. I hope my colleagues will think about this and will face the reality and will give this scholarship program a chance, which is to say, that they will give 4,000 children in the District of Columbia a chance that they will otherwise not have.

I thank the Chair and yield the floor.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Indiana.

Mr. COATS. I have three unanimous-consent requests the leader has requested. And I know the Senator from Minnesota has been very patient. And if I could just get these in I would appreciate it.

#### UNANIMOUS-CONSENT AGREE- MENT—CONFERENCE REPORT TO ACCOMPANY H.R. 2266

Mr. COATS. Mr. President, I ask unanimous consent that at 4:30 p.m. today, the Chair lay before the Senate the conference report to accompany H.R. 2266, the Defense appropriations

bill. I further ask unanimous consent that the conference report be considered read and there be 60 minutes of debate on the report, divided as follows: Senator STEVENS for 10 minutes, Senator INOUE for 10 minutes, Senator MCCAIN for 10 minutes, Senator ROBERTS for 10 minutes, Senator COATS for 15 minutes, and Senator REED for 5 minutes. I also ask unanimous consent that following that debate, the Senate proceed to a vote on the adoption of the conference report with no intervening action or debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

#### UNANIMOUS-CONSENT AGREE- MENT—EXECUTIVE NOMINATION

Mr. COATS. Mr. President, as in executive session, I ask unanimous consent that immediately following the vote on the DOD appropriations conference report, the Senate go into Executive Session and proceed to a vote on the confirmation of Executive Calendar No. 165, the nomination of Katherine Hayden, to be U.S. District judge for the district of New Jersey. I further ask unanimous consent that immediately following that vote, the motion to reconsider be laid upon the table, any statements relating to the nomination appear at that point in the RECORD, 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.

#### DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1998

The Senate continued with the consideration of the bill.

##### MODIFICATION TO AMENDMENT NO. 1249

Mr. COATS. Mr. President, there has been either a printing error or technical omission in the current pending amendment—the line 22 on page 34 was omitted, as well as line 23. It simply is a section reference describing the language that follows in the section, plus the line "Notwithstanding any other provision of law." Everything else is as submitted. And it is a technical change to offset a printing error.

I ask unanimous consent that the amendment be modified to reflect this change.

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

The modification is as follows:

On page 34, strike lines 7 through 16, and insert in lieu:

##### SEC. 13. EFFECTIVE DATE.

This title shall be effective for the period beginning on the day after the date of enactment of this Act and ending on September 30, 2002.

##### SEC. 14. OFFSET.

Notwithstanding any other provision of law—

(1) the total amount of funds made available under this Act under the heading "FED-

ERAL CONTRIBUTION TO THE OPERATIONS OF THE NATION'S CAPITAL" to repay the accumulated general fund deficit shall be \$23,000,000; and

(2) \$7,000,000 of the funds made available under this Act under the heading "FEDERAL CONTRIBUTION TO THE OPERATIONS OF THE NATION'S CAPITAL" shall be used to carry out the District of Columbia Student Opportunity Scholarship Act of 1997."

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

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, the last item, which has already been approved, apparently has not been checked by staff. What was the last unanimous consent, if you would not mind? You already have gotten it approved, but out of courtesy. Apparently, the Democrats have not had a chance to look at it.

Mr. COATS. I thought it was cleared. It is a printing error, a descriptive—I tell you what. We will talk to them about it. If there is any problem, we will reset that.

Mr. WELLSTONE. That will be fine.

Mr. President, I first of all want to start out with some praise for my colleague, Senator COATS, from Indiana and for that matter, Senator LIEBERMAN. I think they speak with a great deal of conviction and eloquence on this matter. I think both of them are very committed to the idea of equal opportunity for every child in America. There is no question about that in my mind.

Mr. President, I too think that there has to be a way that we reinvigorate or renew our national vow of equal opportunity for every child. And I think that education is key to that.

But, Mr. President, let me just say at the beginning that there are a whole lot of things that we can and should be doing that we are not doing if we are serious about it. And that is sort of the context that I look at this proposal for the District of Columbia, which I will get to in a few minutes. But let me start out, if you will, with a kind of nationwide focus.

First of all, Mr. President, I have been traveling the country and I have been spending time in communities where people are struggling economically. I spent time with quite a few poor people around our country.

I am struck by the fact—and I have said this on the floor of the Senate before—that in all too many cases you walk into schools and the ceilings are caving in and the toilets do not work, the buildings are dilapidated, the lab facilities are not up to par, there are not enough textbooks. And with all due respect, quite frankly, until we make the investment in this area, just in infrastructure so schools are inviting places for children, we are not doing that much for kids. A voucher plan, be it a demonstration project in the District of Columbia for \$7 million or anything else is just a great leap sideways or backward.

Mr. President, Senators and Representatives have had the opportunity to put some investment in rebuilding crumbling schools in America, and we voted against it. If we are serious about equal opportunity for every child—my colleague from Connecticut spoke about this with a great deal of eloquence—then we ought to just follow the direction of all of the studies that are coming out about early childhood development. It is not surprising that kids are not doing well in these different tests, in the way in which we measure how children are doing in our schools.

I try to be in a school every 2 weeks in Minnesota. There are so many children that come to schools that have never been read to. There are so many children that come to school that don't know the alphabet, don't know how to spell their name, don't know colors, shapes, and sizes, and we are doing precious little by way of investing in early childhood development.

Now, I don't know how in the world my colleagues believe that the children we say we care a great deal about, and they do, are going to do well unless we make a commitment here. The answer to the problem is not a voucher plan. The answer is to make the commitment to early childhood development.

Deborah Meyer, a great urban educator from New York, said, "We can have a debate about tests, we can have a debate about standards, we can have a debate about how we measure this, but there is no debate about the need for you all to get busy investing in the dilapidated schools." We tell children we care next to nothing about them when the schools look the way they are.

The judge's court order in Washington, DC, which dealt with getting the asbestos out of our schools, there could be judges issuing these orders in just about every major city in the United States of America, and we haven't invested the resources in this, and we are now saying that the answer is vouchers?

Mr. President, if we are going to talk about equal opportunity for every child, maybe we ought to take a look at what happens to children before they go to school and what happens to them when they go home. Some of the cuts we have made in nutrition programs—and we have made rather deep cuts in nutrition programs; we are going to cut the major food safety program, the major safety net, which is the Food Stamp Program, by 20 percent by the year 2002 all in the name of welfare reform.

Or, Mr. President, the cuts we have made in affordable housing. Has anybody looked at some of the homes, some of the apartments, some of the housing that these young children live in? And we are cutting funding for affordable housing. We have a lot of kids that are living in shacks. We have a lot of kids that are living in rat-infested apartments. We have a lot of children that go cold during the winter.

My colleagues are trying to make the argument that the voucher plan is the way we are going to make sure that these children do well. We do hardly anything to change the concerns and circumstances of their lives outside of the schools. We do hardly anything by way of early childhood development. We do next to nothing when it comes to rebuilding these crumbling schools. And then we turn around and say what we want to do is have a voucher plan.

Mr. President, my colleague from Connecticut said that he had been in some schools. I have been in some of the schools. I know Senator COATS has. I don't know anybody that has done more travel around the country than Jonathan Kozol who wrote "Savage Inequalities: Children in America's schools."

I read from page 83: "In a country where there is no distinction of class," written of the United States 130 years ago, "a child is not born to the station of his parents but with an infinite claim to all of the prizes that could be won by thought and labor. It is in conformity with the theory of equality as near as possible to give to every youth an equal state of life. Americans are unwilling that any be deprived in childhood the means of competition."

It is hard to read these words today without a sense of irony and sadness, denial. Means of competition is perhaps the single most consistent outcome of the education offered to poor children in the schools of our large cities, and nowhere is this pattern of denial more explicit or more absolute than public schools in New York City. Average expenditures per pupil in the city of New York were under \$5,500, and in the suburbs you have funding levels that are above \$11,000 a year, and some cases up to \$15,000 a year.

All across the country, too much of the education the children get by way of teacher recruitment and teacher salaries, by way of facilities, by way of teacher training, by way of support services, is dependent on the property tax—huge inequalities—and we think that the voucher plan is the way to deal with this problem?

My good friend Jonathan Kozol wrote another book called "Amazing Grace," poor children and the conscience of America. It is a difficult book to read. It is devastating. It is about children in New York City in the Bronx. Mr. President, the thesis of the book is that no country that really loved children would ever let any group of children grow up under these conditions.

Looking at the housing in the neighborhoods, the rat-infested housing, looking at the pollution, looking at the number of children suffering from asthma, looking at the lead content still in the paints in the apartments, looking at families without jobs, without jobs that pay a decent wage, looking at children that are malnourished, looking at a school that doesn't get its fair share of resources, why don't we make those commitments if we want to make

sure that every child has the same chance? The voucher plan nationally and this voucher plan in the District of Columbia is not the answer. It is not a step forward. It is a great leap backward from the kind of commitment we ought to make to children in our country.

Mr. President, I said to my colleague from Indiana and I meant it sincerely, we don't need to be starting to put public money into private schools. We have some of the best public schools in the world. We have some of the best public schools in the world. Go out to some of our suburbs and look at those schools. They are great schools with great teachers with great facilities. What we should be doing is making all the public schools that good. That is the commitment we ought to make.

One-third of America's schools, serving 14 million of America's 52 million students, are considered deteriorating, according to the Department of Education. Ten million students don't have access to computers; 50 percent of the teachers have no experience with technology in the classroom; 50,000 teachers enter school annually on emergency basis, without a proper teaching license; and within the next decade, thanks to a retirement in the baby boom, we will need 2 million new teachers, and we are now on the floor of the Senate discussing an amendment that would provide resources to private schools.

Mr. President, Horace Mann said it best in 1830, 170 years ago:

Choice is not a new idea . . . the newness is who pays for it. As a nation, we are rightly absorbed with improving education. We cannot do it by isolating its problems, and pretending to leave those problems behind to be dealt with by those least able to solve them. The problems of our public schools lie deep in the American experience—poverty, racism, decades of public apathy, drugs, and growing inability of the family, the church, and the neighborhood to nurture many of our children. These problems—and not the attractively sounding solution of private school choice—need to be addressed.

Mr. President, that is exactly the argument that I just made. Horace Mann just happens to be someone of quite a bit more stature. He was right in 1830 and the same argument applies today, nearly 170 years later.

You can't take public funds, you can't take public funds, and my colleague ELEANOR HOLMES NORTON informs me that indeed this \$7 million comes out of the D.C. budget, you can't take public funds, precious funds, and funnel them to private schools. You have fewer dollars helping kids in math and science, you have fewer dollars in terms of raising the standards of achievement, you have fewer dollars for teacher training, and you have less prevention of drugs and violence in the schools. This is not the time to be making such a decision.

Mr. President, I want to also point out that there is a Senator from the District of Columbia, a shadow Senator, Paul Strauss, and it is a shame

that he doesn't get a chance to be more directly involved in this debate. He has been by my office a lot. He cares about this. I think this has some problem to do with the whole question of lack of representation.

I think we ought to remember that people in D.C. and my colleague from Connecticut said it was 1981, but by a ratio of 8 to 1 vote against the voucher initiative. If you want to argue that was a long time ago, take a look at the D.C. Board of Education which unanimously opposes the provision. "Private school vouchers is not where the voters of this city want to put their money," D.C. School Board member Karen Shook reminds us. "To have Congress impose this on us after we soundly voted against it runs counter to democracy."

These are elected members to the school board. They voted unanimously one way, and we come to the floor of the Senate and impose a whole different other view. I thought we were interested in local initiative. I thought we wanted local communities to have more decisionmaking power over their children's lives and what happened in their communities.

Mr. President, I think that if we are going to be talking about improving education, the answer is right before us. We have great schools in our suburbs. We have some great schools in some of our cities. Make all the public schools that way. Make sure that we have a system of financing of schools so that not one school in America, not one school in America, is dilapidated, not one school in America has a roof that is caving in, not one school in America is laden with asbestos, not one school in America has teachers that have to take money out of their pockets and buy textbooks for their students because there isn't enough resource to do so, not one school in America is a school without heat or without air-conditioning during the hot summers. Let's make that commitment. Let's make the commitment to early childhood development. Let's make the commitment to support services for students. Those are the kind of commitments we make, and then we can have all of the public schools being great schools. The voucher doesn't do that.

Karen Shook, the vice president of the D.C. Board of Education and former Chair of the D.C. Finance Committee said, "Students in the District of Columbia go to school in 100-year-old buildings that have never been renovated." Why don't we renovate the buildings? The city has a \$600 million need to repair schools, yet it has no capital budget. As for social services for troubled youth, "only one counselor is available for every 400 students" in the D.C. public schools.

As D.C. parent and PTA leader Alieze Stallworth points out: "The majority of children are going to remain in the public school system. What happens to them?"

Mr. President, I could go on and on. There are other colleagues who want to

speak. But let me be clear about this, take the \$7 million, and for \$7 million we could establish "Success for All," a proven research-based reading program for disadvantaged students, for every elementary school in the District of Columbia. Put the \$7 million into that.

We could link 116 public schools in the District of Columbia to improve reform efforts such as New American Schools. Put the \$7 million into that.

We could put in place 140 after-school programs based in public schools to help 14,000 children otherwise home alone after schooldays, after school ends each day. Put the \$7 million into that.

We could provide brandnew textbooks for every elementary and secondary school student in every single the District of Columbia school. Put the \$7 million into that.

We could buy 66,000 new hardcover books for the District of Columbia's public libraries, or we could buy 368 new boilers for D.C. schools and protect all the students who go cold during the winter. Put the \$7 million into that.

I am going to be very clear about it. I will try to end on another note. I think that my colleagues are onto something important. I think this amendment is a huge mistake. I think it actually represents a retreat from living up to our national vow of equal opportunity for every child. I think the focus ought to be on all of our schools and all of our children. We ought to make sure that every school in this country, including the schools in the District of Columbia and a lot of other cities in the country, and rural areas as well, are as good as the very best school in some of our wealthy suburbs that have all the resources and teachers that they can hire and all the support services and all of the rest. That is the direction we ought to be going in.

The voucher plan represents a retreat from that. But I want to say to my colleagues on the floor of the Senate, these Senators, with this amendment, are operating in good faith. They are not operating in bad faith. I probably should not end this way because I am so strongly opposed to the amendment. But I really do want to sort of talk about two points that I think they are making that are important. One of them is that, although, again, the per pupil expenditure in the District of Columbia, as I look at these figures, which has been declining now, is now down to \$5,923 for fiscal year 1998, that is not nearly as much as the surrounding suburbs. So I don't think we should go overboard on these figures, given the concerns and circumstances of children's lives and, in many ways, a bigger challenge to educate some of the children in the D.C. school system. Nevertheless, I think it is quite appropriate to say, when are we going to cut through this bureaucracy and when are we going to make sure that these dollars that are out there really connect to the education of children?

I think what my colleagues are trying to say is that they have grown very

impatient, they are getting tired of waiting. I share that impatience. I just would do it a whole different way. I would put a lot more investment than I think they want to in what happens to kids in the early years, investment in good programs for kids when they get out of school in the middle of the day when not such good things happen. I would put a whole lot more investment in teacher training and a whole lot more investment in making sure that the best facilities and resources and the schools are inviting places. That is where I would go. I would figure out ways—and I think the District of Columbia is starting to do it—of really making this bureaucracy accountable. I would not be condemning the public school teachers—and they are not doing that. I get angry because I think some of the harshest critics of the public school teachers could not last 1 hour in the classrooms they condemn.

I spoke the other night at Howard University. In the audience was a public school teacher, and she said it is really hard to go on. They feel so beaten down from all of the bashing. I think these public school teachers do a marvelous job. I understand my colleagues' impatience.

Second, I think it is true that some of the private schools, and some of the Catholic schools in particular, in some of our innercity communities are schools where, when children come to school every day, they know they are loved and some very important things are happening. They are doing some things in their schools that we are not doing nearly as well as we should do in some of our public schools. It can't be said that children in our public schools, or in near enough public schools, feel as if every day they are loved and they are supported. There are some important things going on in the Catholic schools. There are important things going on in some of these other schools that I think make a huge difference.

But, Mr. President, this voucher plan, in the context of what is happening nationally, and even in the context of what is happening in the District of Columbia, however well-intentioned it is, I think does not represent a step forward. I think it represents a great leap backward from equity. It represents a great leap backward from the idea of truly equal opportunity for every child, and it represents the beginning of a great leap backward from a commitment to public schools, where all of the schools and all of the children represent the best of America, which is opportunity, which is good education, education that fires up young people, that gives them hope that they can do well in their lives. That is the direction we ought to go. This voucher proposal, in the District of Columbia or anywhere else, doesn't take us in that direction.

I yield the floor.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I would like to yield myself 3 minutes to briefly respond to the Senator. I know the Senator from Rhode Island has been waiting patiently. I don't want to take away from his opportunity. We have speakers on our side, too. The Senator from Rhode Island is next in line.

I want to respond to some comments made by the Senator from Minnesota, to whom I want to return the compliment. The Senator from Minnesota has been passionate in his efforts to reach out to the disadvantaged in this country and address many of their concerns. I know he comes at this issue—even though it is different from where I come in terms of the solution, I think the goals are the same for both of us. I know he comes at it from a different perspective, but with great sincerity, and he matches his sincerity and his rhetoric with his actions. I noted that the Senator came and paid rapt attention to particularly the comments by the Senator from Connecticut, Senator LIEBERMAN. Senator WELLSTONE and I have discussed this and have exchanged our views. I just appreciate the Senator's commitment to this and his sincerity about that commitment.

I would like to comment on a couple of things briefly. There have been different figures thrown around here about per pupil spending in the District of Columbia. We have tried mightily to find out the exact figures. Estimates range from \$10,000 to \$5,000, as the Senator has mentioned. It is probably somewhere in between. One of the sad things about the D.C. Public School System is that they can't tell us. The accounting is so bad in the District of Columbia—whether it is on roads, housing, police salaries, or public schools—they can't tell us how much they spend per pupil. They can't even tell us the number of pupils. We said, "We know how much we give you; tell us the number of pupils you are educating, and we will divide that into how much we give you." They say, "We don't know exactly. We can't tell you the number of pupils." That is kind of a sorry comment on the inefficiency and really incompetence of the D.C. Public School System as it currently exists.

Just two other things, real quickly. I want to make sure my colleagues know that the money—the \$7 million for this program—does not take one penny out of the money allocated to the D.C. public schools for education. In fact, it will increase the money per pupil because they will have 2,000 less students to divide the pot of money they get to educate those students. The money comes from an extra appropriation over and above the President's request, and that money is specifically designated for debt reduction and doesn't go to any operating expenses. So Delegate NORTON is wrong when she says this comes

out of textbooks, teacher salaries, and operating expenses. It doesn't come out of operating expenses; not one penny less will go to D.C. schools.

Finally, let me just say the Senator seems to imply that if we can't fix it all, we should not fix anything. We acknowledge that there are a lot of things that need to be fixed in the District of Columbia and around this country. Housing is in deplorable shape, roads are in deplorable shape, early childhood education probably could use funds, food stamps and, as he said, fix the buildings, and so forth. Well, we are not able to do everything, but we are able to do something, something that is focused not on fixing roofs, not on collateral problems—and they are problems that need to be addressed—but we are able to funnel funds directly to parents and students who can improve their educational opportunities. As important as it is to fix roofs, buildings, infrastructure, and so forth, more important and the highest priority ought to be to provide education to those children so that they then can become part of the solution.

Maybe this 3 percent will become part of the 100 percent solution, if they can get an education that would allow them to participate in this. If we were talking about public housing, which is in a disastrous state in this country, particularly in this city, and someone came along with an alternative that was tried elsewhere and would really improve the housing situation, and we said, can we test it here to see if it works here and it will improve housing for those 2,000 people? would you say, no, if we can't do the whole thing, we are not going to do it for anybody?

All we are asking for is a test that will help 2,000 kids get a better education, but will prove, right or wrong, whether or not school choice is a viable opportunity and viable program to do two things: First, give kids a chance and, second, put pressure on the public school system to reform and change. They have had decades to do this. We keep talking about these alternate solutions, but it doesn't happen. In the meantime, generations of children are being condemned to an inadequate education.

Mr. President, how much time is available on each side?

The PRESIDING OFFICER. The Senator from Indiana has 64 minutes. The opposition has 74 minutes.

Mr. COATS. Mr. President, we had said Senator REED, who was waiting, is next. We are not exactly alternating because we didn't have people available on both sides. If we can get back to the alternating system, we would be happy to do that.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. I yield myself such time, under the control of Senator KENNEDY, as I may consume.

I rise this afternoon in opposition to the Coats-Lieberman amendment. I have sensed from the comments of the

Senator from Indiana and the Senator from Connecticut that they, too, share our mutual frustration with the status of public schools in the United States and particularly in the District of Columbia. That frustration is forcing us to look at ways in which we can improve education because we believe it is so vitally important to the future of the young people of America and indeed to the very success of America in the future.

I don't think this frustration should cloud our vision as to what we are doing if we would adopt an amendment such as is proposed today. I believe it would represent an abandonment of public education, not a reform of public education. I feel very strongly that our first commitment should be to a strong system of public education throughout this Nation, that we should be seeking to make school reform and excellent schools the right of every child and not just those who may be fortunate enough to receive some type of voucher to leave the system.

Indeed, we can ask ourselves, even if this measure should pass and 2,000 children would leave the public education system in the District of Columbia, what about the thousands of children remaining? What have we done to make their lives better and their education better? I don't think we can save a few and sacrifice the many. I think what we have to do is sit down, conscientiously and cooperatively, and reform public education, not abandon it.

Now, the District of Columbia, as we all know, has stark educational needs. Their class year was delayed for days and days and days, not because of anything more complicated than the fact that the buildings were in disrepair. Yet, rather than investing in roofs or boilers or those items that would actually put children literally into the classroom, we are now debating a voucher bill that would take some of those resources that could be available for these activities and disburse them to private education. Indeed, I believe we have a special obligation here in the Nation's Capital to ensure that the schools are the best in the country. However, we are not talking about that today. Instead, we are talking about allowing 2,000 students to leave that system, rather than talking about how we can make every school in the District of Columbia the best in this country and in the world, and how we can give every child in the District of Columbia the chance to succeed educationally so that they can succeed in life.

The amendment offered by Senators COATS and LIEBERMAN brings the issue of the quality of education, particularly education in many of our urban areas, clearly into focus. For that, we thank them. It is a crisis we must address, but a crisis that I believe is not solved by vouchers. Vouchers would take the limited resources necessary to improve, reform, and reinvigorate public education and, instead, allow some students to leave the system.

Indeed, as part of this amendment which is being debated today there is absolutely no requirement that schools accepting the vouchers would also have to accept the great task of public education, which is to educate all students regardless of their abilities, regardless of their proficiency in the English language, regardless of discipline problems or troubles they may have. This is the task we set for public education. That is not the task that is frequently embraced or supported by private education.

In Cleveland, which has a voucher program, no students with disabilities are served. 1,460 students, nearly half of those that were given the vouchers, could not even find a private school that would accept them. The essence of a private school very clearly is they get to reject students, and they get to reject them on very subjective grounds. That is the nature of private education. That does not apply, obviously, to public education. Public education not only must accept every child but has a moral and legal requirement to serve those children as best they can. And that is a significant difference.

Private education works very, very well. It has provided good education to many Americans. I was a student in parochial schools in Rhode Island. But one thing that was true then and is true now when I talk to parents is that, if your child has a particular difficulty or disability, if your child needs enhanced care, specialized attention, the first choice is specifically the public schools because the public school not only has the obligation but will make available those resources as best they can. And, once again, in the arena of private schools it is not because of any ill-will but simply because of the fact that they just do not have to do that.

So we are talking about a system in which there is not equality, not equality admission, and in many cases not equality of resources either.

We have to support the mission of public education in the United States, and it is not just about training workers for the world economy. It is not just preparing young people to engage in the technologically challenging world of the next century. It is also about Americans, because one of the hallmarks of our country has always been that we have a system of public education that is a common ground for the American people—that children of all races, children of different national heritage, children of different religious convictions can come and be educated in a place that emphasizes not their differences but their common status as citizens of this great Republic.

We are in danger perhaps of losing that. We are in danger because there is a great deal of skepticism about the effectiveness of public education in the United States. And, looking at the record, one should be skeptical. But we should not respond to that skepticism and that frustration today by turning our back on public education. Rather,

we should look at the way we can make public education better for all students. What we should be thinking about and talking about and enacting is tough academic standards in public education.

How do we involve parents and the community more deeply and more intimately in the lives and schools in the neighborhood? How do we make schools safe and drug free? How do we bring technology into every classroom? And how do we ensure that every classroom is a place that is structurally sound, clean, and creates an environment where young people want to learn and want to strive to get ahead?

The notion of school choice in the public education system is a good one. Parents should have some flexibility within the public system to pick out charter schools, magnet schools, or special schools. Those types of schools help stimulate innovation and improvement in the public system.

In my home State of Rhode Island we are fortunate to have several different schools, particularly at the secondary level which draw on the special talents and special skills of the students and which give parents and students a choice. But when we start moving away from that system of public education into funded private education, funded now by these vouchers, we are stepping across a boundary which I think we will regret because inevitably we will be pulling resources away from the needed improvements and reforms in public education, and we will see our schools deteriorate even further.

There is a better way to reform education.

If you look at schools which have the same basic demographic characteristics, one of the most persuasive comments that I have seen is that the difference in performance between a good school and a bad school is most accounted for by the qualifications of their teachers. We are not talking about dealing with that issue of teacher preparation here today. We are skirting it, where, in fact, I think if we have scarce Federal dollars, and, indeed, we do have scarce Federal dollars in every category of expenditures, we have to look at where we can get our best value. And it is not balanced. It would be better spent, I feel, in improving the quality of teaching in our public schools.

I introduced legislation—the Teacher Excellence in America Challenge Act, the TEACH Act—which would turn around the model of professional development and training in the United States to provide for better teachers. This legislation is based upon an extensive study by the National Commission on Teaching and America's Future, which contains some disheartening statistics about the quality and preparation of teachers in America.

Over 12 percent of newly hired teachers have no training; 23 percent of all secondary teachers do not have even a minor in their main teaching field; and

in schools with the highest minority enrollment, students have less than a 50 percent chance of getting a science or mathematics teacher who holds a license and degree in his or her field of teaching.

These are the real problems of public education. These problems have to be addressed. And we can address them, and we must address them. If we do that we will be on much firmer ground in improving public education.

What is the price tag, as estimated by the National Commission on Teaching and America's Future, for improving the quality of teachers throughout this country? It is over \$4 billion. It may seem inconsequential today. We are debating a very small program with respect to the District of Columbia.

But we need all the resources we can to meet the greater challenge of preparing our teachers and the greater challenge of simply ensuring that school buildings are suitable and safe for children.

To turn away from these challenges and to adopt this amendment is, I believe, the wrong approach.

I believe we have a lot to do to improve public education. We have the necessary task ahead of us to improve teaching, to improve the school environment, and to challenge schools with demanding standards.

I also hope that this body will adopt a national evaluation system so that schools know where they stand, and so that when we talk about how well a school is doing it is not just anecdotal, but we will actually know how well they are doing.

In fact, I hope that the national evaluations would be participated in by both public and private schools so we can make a judgment about how well the public schools are doing versus private schools. I think we would be a bit surprised. I think we would find despite the disparagement, despite the criticism, despite the constant bombardment against public education, that it would stand up very well. But we all can do better, and we all must do better.

The dollars that we are talking about today are important. They should be applied to provide every student in the District of Columbia with a chance—not 2,000 lucky students—but every student in the District of Columbia. They should be focused not on retreating from our commitment to public education but to reaffirming it by assuring every child in this District, and we hope in this country, will have a good, safe school building; they will have well-prepared and motivated teachers; they will have textbooks that are current; and, they will have the chance to use all their talents not only for their own success but ultimately for the great success of this Nation.

I yield my time.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I would like to yield 5 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. Mr. President, I thank the Senator from Indiana for his having made it possible for me to stand and speak in favor of this very important opportunity to demonstrate what can happen when we offer individuals the chance to have competition, or the chance to have an influence on where our children are educated.

It is one of the agreed upon successes of the United States of America that our university and college system is second to none. Students from all over the world stream into American colleges and universities, and they come here in spite of the fact that they test very, very well in elementary and secondary systems in their own lands. They come here because there is something special about the collegiate and university level in the United States.

If I were asked why our collegiate system is tops, I would say, in my judgment, that it is because it is a pluralistic system; that it is diverse. There is no singularity with it. No one is scheduled to go to one school or another. Rather, people have an opportunity to make a selection. And students compete to get into the best schools and the best schools compete for faculty. There is lots of competition in the system. It drives the system forward. It provides a basis for not only education and learning on the part of students but it really develops the energy which provides the basis for research which is expanding the frontiers of knowledge all the time.

This concept of diversity, this concept of pluralism, this concept of not being forced to be in one setting, this concept of the energy and creativity, spontaneity and quality that comes when an institution knows it has to do its best for its students because those students aren't forced to go there. They are not locked in. They have the opportunity to be involved in educational experiences elsewhere. That is what drives quality. It is what has carried American higher education to the very top of the educational mountain. There is no dispute. There is no challenger. Second place isn't even close. The United States of America is the clear dominant force in higher education because we are pluralistic, because we are diverse, and no one has a monopoly.

On the contrary, if you are a student and you have one choice and one choice alone, the word "one" and the word "choice" is an oxymoron; that phrase together. One choice isn't a choice. It is a direction. Students that are locked into a single school don't have the capacity to say I am going to do better, I will go elsewhere. They don't have the capacity to say if you do not shape this place up, I will go elsewhere. They don't have the capacity to energize the system. A parent doesn't have the ability to go into the school and say you must do better. The school says we are the only school. You have one choice. One choice is no choice.

What we are really offering to individuals who have been locked into a school system which has failed—I think it is time for us to confess, the school system in Washington, DC, is a failure—is a plan to help energize this school system. It will help the public sector. It will help the private sector. But, most importantly, it will help students and parents.

When I had the privilege of being the Governor of my State, I was chairman of the Education Commission of the States. I followed in that responsibility one William Jefferson Clinton, who presided over the Education Commission of the States 1 year; I the next. And one of the things that became apparent in studies conducted from sea to shining sea in this country is that the single most important thing about a student's performance is whether the parents are involved in the education process. How do you get parents involved? You make them meaningful. How can you make parents meaningful in Washington, DC? You can give them the opportunity together with the student to make a choice to go to a school where their needs can be met instead of locking them into a situation where their needs aren't being met and have not been met. And it is a demonstrated fact—the studies tell it, the audits tell it, the school facilities tell it—that the needs aren't being met.

Unfortunately, our Secretary of Education has come out to oppose this program providing scholarships so that students could move from one school to another and get good training somewhere if they are not getting it where they are. And he indicated he was opposing it because he felt like it was reducing the funding.

Let me just repeat. This particular measure reduces funding not 1 cent. It adds funding to just introduce the concept of scholarships and to put into the hands of parents and students the ability to say we will go where our needs are met. Will this help the District of Columbia schools? It definitely will because they will understand they are no longer the exclusive provider of whatever it is they want to provide. They will have to start becoming the creative supplier of what it is that students need. Will it help the students? Obviously, it will help the students. It will get their parents involved. It will get them involved. It will meet their needs. And we will establish a model here in the District of Columbia, in the Nation's Capital, which in my judgment would well serve the entire country.

It is true that pluralism and diversity are the strength of this great land. They have carried our collegiate system and our research universities to the very top in education around the globe. It would be no accident if we were to allow this to happen at the elementary and secondary level. And it could happen if we were to simply embrace the opportunity of letting parents make meaningful choices. One

choice is an oxymoron. One choice is no choice at all. It is a trap. It is time to free students and parents to have an opportunity to select schools that can meet their needs and do so without impairing the financial viability and capacity of the District of Columbia school system in the process.

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

The PRESIDING OFFICER (Mr. KEMPTHORNE). Who yields time?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. I yield myself such time as I may need.

Mr. President, I oppose the voucher amendment to the District of Columbia appropriations bill. Although we all want to help the District's children get a good education, this is not the way to do it. Public funds should be used for public schools, not to pay for students to attend private and religious schools.

The current debate involves the schools in the District of Columbia. The use of Federal funds for private schools is a national issue that Congress has addressed and rejected many times before, and so have many States. Now the voucher proponents are attempting to make the D.C. public schools a guinea pig for a scheme that voters in the District of Columbia have soundly rejected, and so have voters across the country.

The recent voucher proposals in the States of Washington and Colorado and California lost by over 2 to 1 margins, and in 1981 voters defeated a voucher initiative by a ratio of 8 to 1 here in the District. The concept has never been brought up on the ballot again because it has so little support. So clearly Congress should not impose on the District of Columbia what the people of the District of Columbia and voters across the country reject.

D.C. parents and ministers and local leaders have made it clear that they do not want vouchers. Last week, a group of ministers from the District of Columbia publicly announced their opposition to vouchers. Rev. Eart Trent, Jr., of the Florida Avenue Baptist Church, said, "We want nothing to do with vouchers. It is going to harm a majority of our schools." Representative ELEANOR HOLMES NORTON opposes vouchers for the District.

The question is, who wants these vouchers? The Republicans in Congress cannot get to first base with this issue in their own States and want to impose it on the people of the District of Columbia.

Vouchers would erode local control in the District of Columbia and undermine D.C. school reforms already underway. Last year, Congress created a control board and all but eliminated the locally elected school board.

This bill would create another bureaucracy in the form of a federally appointed corporation to use Federal funds to run the voucher program. Six out of the seven corporation members would be nominated by the Federal



Government, and those nominations are controlled by the Republican leaders of Congress. Only one representative of D.C. would serve on the corporation.

I understand Senator BOXER did an excellent job earlier in the debate of going through the administrative process and machinery that would be set up and the weaknesses of that particular recommendation or inclusion in the amendment.

Congress created the D.C. control board less than a year ago. The board appointed as chief executive officer of the schools Gen. Julius Becton, Jr., with Congress' endorsement. His mission is to improve the public schools. Now this bill would pull the rug out from under him.

I noted, Mr. President, that in an earlier debate one of our colleagues who is supporting the amendment was talking about the \$500 million that is coming from taxpayers all over the country. That money is coming from the taxpayers here in the District of Columbia.

I haven't looked at the D.C. population recently, but generally it is larger than six or seven of our States. They pay in taxes, but they do not have representation in the House, with all respect to ELEANOR HOLMES NORTON. They are not reflected in the Senate of the United States. They are not given the full representation that they should have even in the District.

So General Becton, Mr. President, local leaders and D.C. parents are working hard to improve all D.C. public schools for all children. We should support them, not undermine them. The public funds should not go to private schools when D.C. public schools have such urgent needs. The opening of D.C. public schools for the 1997-1998 academic year was delayed because in 67 percent of the schools the roofs were crumbling. They were able to repair the most severe problems and open up the schools this week, but much more needs to be done.

In addition to completing the roof repairs, 65 percent of them have faulty plumbing; 41 percent of the schools do not have enough power outlets and electric wiring to accommodate computers and other needed technology; and 66 percent of the schools have inadequate heating, ventilation and air conditioning. Funding these repairs should be our top priority, not conducting a foolish ideological experiment on school vouchers.

Another serious problem with the private school voucher is the exclusionary policy of the private schools. Scarce Federal dollars should not go to schools that can exclude children. There is no requirement in the bill that schools receiving vouchers accept students with limited English proficiency, students with disabilities, homeless students or students with disciplinary problems.

Scarce funds should be targeted to public schools which do not have the

luxury of closing their doors to students who pose such challenges. As District of Columbia parent Alieze Stallworth says, "A lot of people think the poor kids will be able to go to the best private schools. They are fooling themselves."

The voucher proponents argue that vouchers increase the choice for parents. But parental choice is a mirage. Private schools apply different rules than public schools, and unlike the public schools, which must accept all children, the private schools decide whether to accept a child or not. The real choice goes to the schools, not the parents. The better the private school, the more parents and students are turned away. In Cleveland, nearly half of the public school students who received the vouchers could not find a private school that would accept them.

Vouchers will not help most children who need help. This voucher scheme will send 2,000 children to private and parochial schools, but of the 78,000 children who attend D.C. public schools, 50,000 of the children, or 65 percent, come from low-income families. Thus, this proposal would provide vouchers for 3 percent of D.C.'s children and do nothing for the other 97 percent.

Again, a point that has been well made by my friend and colleague from California, Senator BOXER.

This is no way to spend Federal dollars. We should invest in strategies that help all children, not just a few.

Another serious objection to this voucher scheme is its unconstitutionality. A vast majority of private schools that charge tuition below \$3,200 are religious schools. Providing vouchers to religious schools is unconstitutional. It violates the establishment clause of the first amendment of the U.S. Constitution by providing a Federal subsidy for sectarian schools. In many States, the voucher schemes would violate the State constitution, too.

In January 1997, a Wisconsin trial court held that the expansion of the Milwaukee voucher program to include religious schools was unconstitutional and violated the Wisconsin constitution. The court stated, "We do not object to the existence of parochial schools or that they attempt to spread their beliefs through the schools. They just cannot do it with State dollars."

On August 22, the Wisconsin State Court of Appeals affirmed by a 2 to 1 vote that the expansion of the State voucher program to include religious schools was unconstitutional under the Wisconsin constitution.

On May 1, 1997, the Ohio Tenth Appellate Court unanimously reversed the trial court's decision to allow public money to be paid to religious schools. The appellate court held that the voucher program violated the separation of church and state under both the United States and Ohio Constitutions. And the court ruled that the voucher program "steers aid to sectarian schools, resulting in what amounts to a direct Government subsidy."

On June 27, 1997, a Vermont State superior court held that the use of vouchers to pay tuition at private religious schools violates both the U.S. and Vermont constitutions. The courts are clear on the unconstitutionality of vouchers for religious schools, and Congress should abide by their rules, too.

These are all judgments that have been made within the last year under State constitutions and the Federal Constitution in terms of how this particular proposal would be unconstitutional.

Instead of subsidizing private schools, we need to support ways to improve and reform the public schools. That is the basic point, Mr. President. Instead of subsidizing private schools, we need to support ways to improve and reform the public schools—not in a few schools but in all schools, not for a few students but for all students. That is the challenge.

Supporting a few children at the expense of the many divides communities. The Federal Government should help rebuild communities, not undermine them. We should make investments that help all children in all the neighborhood schools to get a good, safe education. I think that is the heart of the argument against this amendment.

So far, Mr. President, in this debate, we have been focusing on this particular chart. Hopefully, we as a body could agree that we do not want to abandon our public schools; we do not want to undermine the communities. As we mentioned, this particular proposal only funds a few at the expense of many—about 3 percent of the total students. It gives scarce Federal dollars to schools that can exclude children. Unlike the public school system, private schools can exclude children. The choice is not made by the parents or the children; it is made by the schools. And we have given examples of how that is being done. We ignore the voter will. When vouchers were put to a vote here in the District of Columbia, they were rejected 8 to 1. The issue has not come up on the ballot again since then. All the public commentary by religious and other elected officials reflects that same position even today. And vouchers raise the constitutional problems which have been addressed, Mr. President, not just academically but in several States which have tried to adopt similar kinds of programs.

Many of us feel that the use of vouchers to subsidize parents who send their children to private schools is a serious mistake because it is a statement that encourages parents to abandon the public schools, not to work to improve them.

Vouchers are a bad idea for school reform, but they are far from the only idea, and what I want to do, Mr. President, is review briefly a number of the ideas that have been working here in the District of Columbia to improve the academic achievement of many

students. These ideas serve as an alternative to the unwise proposal to provide vouchers.

There are many worthwhile ideas for reform that deserve broad support in Congress. I have listened to the debate, and people are just throwing up their hands and saying, "We have problems in these schools. Let's just try vouchers," rather than being serious and looking at what is being attempted in many of these schools and what results they are achieving, evaluating where this additional money could go to benefit the most children. That is the test, I would think, that this voucher amendment fails.

So we know what works, Mr. President, in school reform. We know what teachers need to do to do their jobs well. We need higher standards, better trained teachers, up-to-date classrooms, safe facilities. These are commonsense, doable solutions, and we ought to be doing much more to implement them.

For example, Milwaukee taxpayers have spent \$7 million on the voucher program. The program shows no academic gains for the 1,600 students involved. But for that same amount they could have put what they call a Success For All Program in place, which has a solid track record of helping poor children learn more. And it would have benefited every elementary school in that city.

Instead of spending \$7 million in the District of Columbia on a private school subsidy that has no proven track record of improving academic achievement and could help at most 2,000 children, we should investigate the strategies that work for all children. The conclusion is obvious. We should choose the 100-percent solution, not the 3-percent solution.

Some D.C. schools have already restructured their facilities, improved teacher training, extended the school day, and enhanced family-centered learning. And they are getting results. We should make sure that every school and community has the resources to put into practice what works, so that no child is left out or left behind.

There are serious problems in the Nation's public schools—especially in urban areas. We can do much more to turn troubled schools around, and undertake a wide range of proven reforms to create and sustain safe and high-performing schools. There are no panaceas to improve schools and improve student learning. There is no blank check. That is why we need to use our limited resources wisely, to get the most benefit for our tax dollars.

Improving student performance starts with a focus on the basics—safety, discipline, high standards, and parent involvement. Sustained improvement must be based on what works, and what is supported by parents, educators, and the larger community. Research shows that student achievement can best be improved by supporting a comprehensive set of district-level and

school-level reforms. General Becton's plan supports these reforms, and we should too.

I refer up here to restructuring the whole school. Let me just develop that.

Greater school autonomy, when coupled with performance accountability, can contribute to conditions that make better learning possible. School leaders and teachers can exercise greater control over their school and have a greater sense of personal responsibility for its success. If teachers are to act as professionals and not as robots, they need to be given responsibility for making professional decisions regarding classroom practice and school policy. Holding students to higher standards requires that adults accept higher responsibility for improving student performance.

The Walker Jones Elementary School in northwest Washington is working with the Laboratory for Student Success using Community for Learning, a research-based reform model—and it's working. The concept is called whole school reform. With increased and more intensive teacher training in proven methods and materials geared toward better student learning, student test scores have improved. After 6 months in the program, the school raised its ranking in the District on reading scores from 99th in 1996, to 36th in 1997. In math, the school climbed from 81st in the District to 18th—dramatic, significant academic achievement and performance.

Another result of this reform will be increased accountability throughout the D.C. school system, with better performance measures and clear incentives and consequences for administrators, teachers, and students. Evaluations of teachers and principals will be tied to achievement, and schools that fail to demonstrate improvement will be put on probation.

The principles of Success for All have now been introduced into 475 schools in 31 States. Evaluations show that students in this program tend to perform about 3 months ahead of control students by the end of first grade and by more than a year ahead by the end of fifth grade.

What we are finding out in 475 schools across the country is that the impact that this approach is having in improving academic performance is not just on one or two children in a class, but on all the children. This is the kind of thing we should give attention to and give support to.

A second basic principle of school reform involves organizing schools around a clearer focus on educational excellence for all students, and an academic orientation that challenges all students to master basic and advanced skills in reading, math, and other core subjects.

The voucher program flunks this test. Five years of evaluations by Prof. John F. Witte of the University of Wisconsin-Madison show no achievement difference between voucher students

and comparable Milwaukee public school students.

By contrast, in the D.C. public schools, under a new promotion policy beginning this school year, students in grades three and eight must have at least basic reading skills before advancing to a higher grade. This requirement reflects a new commitment by the District to ensure that all children master their basic studies. The District has mandated a 90 minute literacy period for direct instruction each day and suggested additional silent reading times each day. That is giving emphasis, giving priority in local schools to the area that is basic to learning any other possible subject matter, and that is reading. With all respect to computer—reading.

In addition to mastering basic skills, children need to be challenged with a rigorous curriculum. One of the most effective choices that parents and students can make is to choose to take more challenging academic courses.

It works. A growing body of evidence demonstrates that public school reform efforts that include high standards and rigorous courses can improve achievement for the majority of students in the public schools. States and local communities that have set more challenging standards are seeing substantial gains in student achievement.

New York City's College preparatory initiative, mandating more rigorous science and mathematics courses, has resulted in the best-prepared class to enter the City University of New York since 1970. Elementary schools in the city are showing a 4-year rise in test scores. The number of Hispanic and black students who pass the science test more than doubled between 1993 and 1994. There are the result. The whole class is moving up. The whole entry class for the City College of New York is moving up in academic achievement, based on this particular New York College preparatory initiative.

A great deal of attention has been paid this fall to the problem of roof repairs in the D.C. public schools. Far less attention has been paid to the fact that beginning this fall all public schools in the District will have new content and higher performance standards to define what every child is expected to learn and do. D.C. public schools are committed to helping all children meet these standards.

The second point is foster world-class instruction. In addition, in order for students' performance to improve, teachers must be able to teach to higher standards. They must know the content of the curriculum and the best teaching methods for helping students to learn in genuinely challenging courses.

Teachers today, however, are not getting the training they need. One of the best programs we have, the Eisenhower Math-Science Training Program—a hands-on program to upgrade the skills of teachers in our high schools—has

just been block granted under the Gorton amendment, just been wiped off the books. We don't know what they are going to do with that money when it is distributed all over the country, but we know what a difference that funding makes to every one of those math and science teachers in every one of those communities that have benefited from this valuable teacher training program.

Math and science students in inner-city schools have only a 50-percent chance of being taught by a teacher qualified to teach these subjects.

Seven years ago, 53 percent of D.C. teachers were not certified. By last year, the number had dropped to 33 percent. In 1997, all new teachers are certified, and existing teachers must be certified by January 1998 or risk dismissal.

Extending the school day can also be effective. In addition to helping in education, it can also help to create safe havens for students in unsafe neighborhoods.

A recent report by the Office of Juvenile Justice and Delinquency Prevention shows that while violent youth crime is rising rapidly, children are safer in schools than anywhere else. To create a safer, more disciplined, and drug-free environment for children, we need to place more emphasis on hours spent outside school. After school programs that keep children off the street are a powerful and constructive answer to the serious problems of delinquency that plague so many communities. I would say even with regard to unwanted teenage pregnancies, the Centers for Disease Control's study shows that about 65 or 70 percent of these incidents take place in the after-school hours.

This step can work effectively even in individual schools. At the Spingarn School in northeast Washington, the principal made student safety the first priority. Mr. President, 740 students attend the after-school day program and 500 students attend the night program. The school was a safe haven for students.

Drug and violence prevention programs also keep students focused on learning. Students who break school rules are not dumped on the street where they are likely to become perpetrators or victims of violence. Instead, they are placed in separate programs in the school where their education is not interrupted.

We also know that the more time children spend learning, the more they will learn. Programs that extend the school day or the school week can enhance academic achievement. The District of Columbia has created so-called Saturday academies for students who read below grade level. The Saturday curriculum reinforces the weekday instruction, and benefits from a reduced student-teacher ratio.

I can remember when those Saturday programs were first suggested and the uniform impression was: Why bother with it? People won't show up. Parents

won't bother. They would rather take the children, if they are not working, to do something else.

That is just hogwash. When those classrooms opened, on Saturday especially, parents made sure their children took advantage of it. And that has been the case overwhelmingly.

In the programs that developed with the Saturday curriculum, we have seen a much better student-teacher ratio and we have seen extremely important progress made.

Schools in Massachusetts are benefiting from these ideas. The Timilty Middle School in Roxbury, MA was long known for its low test scores and high rates for suspending students. Project Promise was established, including an extended school day program to increase the amount of time that students spend in class. School attendance rose, math and reading skills improved, and suspension rates dropped significantly. As a result, the Timilty Middle School was recently cited as an exemplary school by the U.S. Department of Education. It was a dramatic change in the turning around of that school.

Finally, school reform must include greater family involvement. Thirty years of research shows that family involvement in children's learning is a critical link in achieving a high quality education and safe, disciplined learning for every student. Schools can reach out to parents and community members. Together they can develop a shared commitment to excellence for all students, and work in partnership to reach their goals. Family-centered services can be provided that include literacy training for parents, and teaching parents how to help their children with their homework. When teachers and parents work closely together, children can learn more effectively.

The Nalle School in the District of Columbia and the Freddie Mack Foundation are working together to create the District's first full service community school to address the wide range of family needs. Working with service organizations, parents and educators, and community leaders, the school is becoming a major hub of community activity, bringing the parents in, finding out what needs the parents have, and providing them with the instruments to help and assist the children move to higher academic achievement and accomplishment. And it is working. It is working if schools and communities have the resources.

Can we have a chance to go through each of these different proposals at greater length at another time?

I know others want to speak to this, and we have limited time this afternoon, but we will have a chance to go through this in greater detail, I am sure, at some time, Mr. President.

If schools and communities have the resources to choose effective ways, such as these, to ensure all children have an opportunity to reach higher academic standards, schools will be

able to offer real alternatives to students and parents while maintaining the kind of accountability that is fundamental to ensure a good education.

Congress can be part of these efforts, too. Instead of debating divisive ideological schemes like vouchers, that undermine the public schools and ignore 97 percent of the children, we can invest in what works and make school reform work for 100 percent of the children in the District of Columbia and in every community.

Good education begins with decent places to learn. Yet, too many of our public schools across the Nation are falling apart, and that is wrong.

I have a chart that reflects exactly what the situation is for the District of Columbia. D.C. schools have more hazardous conditions than the national average. This chart shows that District of Columbia schools' exterior walls and windows fail to meet the minimum standards in terms of safety and quality.

Roof conditions are also much worse than the national average, although this number has improved somewhat because of the action that has taken place in the past 2 to 3 weeks.

Heating and ventilation systems in D.C. schools have twice the problems that we have for the national average.

Plumbing, twice the problems.

Electric lighting, twice the problems that they have.

Life-safety codes, two and a half, three times the problems that they have.

Power for technology, again, well behind the curve, Mr. President.

So these problems are severe in the District schools. Sixty-seven percent of the public schools have crumbling roofs—although as I mentioned, there has been some change in the recent weeks—but only 27 percent of the schools across the country suffer from the problem.

I daresay, if you want to look at the national standards, they are not all that great. In Boston, there are a number of schools in the wintertime, anywhere from 15 to 18 schools, that do not open because of various heating problems every day.

The situation in Boston has improved somewhat under Mayor Menino and Tom Payzant. But go to the older towns of New Bedford, Fall River, Lowell, Lawrence, Holyoke, Springfield, North Adams, and many of the other smaller communities also on the north shore, and you find problems similar to those of the D.C. schools.

So the national average is not a very positive test. Senator MOSELEY-BRAUN has been the leader in the U.S. Senate in recognizing that unless facilities are suitable for learning purposes, we disadvantage children to such an extraordinary degree. Not just because there are no textbooks available or because it is colder in the wintertime, but the point that she has made, and I think so powerfully and effectively, is what it does to a child who goes into a classroom that is in such a state of deterioration. We say education is important.

People in the communities say education is important. The children every single day go into these dilapidated conditions where they are not able to get the school books they need, where the roofs are leaking, windows won't close, where they don't have adequate heating, where they don't have the electrical outlets for computers. Mr. President, what kind of message is it sending to those children when we are out there putting increasing demands on those children? That is something for which I think we as a society pay a very heavy price. But that is another issue for another time.

The point is, we tried to mention the places the \$7 million could be used that would enhance the academic achievement and accomplishments of a great number of the students.

The school facilities, as I mentioned, across the country are in poor condition. It is a national problem. Water damage from an old boiler has caused so much wall deterioration in one D.C. junior high school that the entire wing has been condemned. Leaking roofs have been causing ceilings to crumble on teachers' and students' desks. Fire doors are warped shut. Some schools are sweltering in hot weather because they lack air-conditioning. Others are so poorly insulated that students must wear coats indoors in the winter.

According to D.C. public schools, \$87 million was needed to make the critical repairs necessary to ensure all schools would be ready to open for the 1997-98 period. Yet, only \$50 million was appropriated to repair the schools. Requests for additional funding were initially denied by Congress and only made available at the last minute. So Congress deserves part of the responsibility for the crisis that was caused by the recent 3-week delay in the opening of the schools.

Isn't that wonderful? Here we are trying to tell the District of Columbia what they ought to do with scarce resources, and we were late in putting the money up so they could open in the first place, disadvantaging all of those children. Mr. President, we do not have a good enough record to dictate to the District of Columbia on education or on most other items.

D.C. schools need much more repair. Any funding that we invest should be spent on improving the public schools for students. We should not be diverting the Federal dollars to pay subsidies for the private schools when public schools have such pressing, urgent needs. It is preposterous to pretend that we can prepare for the 21st century in dilapidated 19th century classrooms.

Improving educational opportunities for all children deserves the highest priority at every level of Government and in every community across the Nation. Educating our youth is one of our Nation's most important responsibilities. If we fail to make sound investments in education, few other investments will make much difference for

our country and its role in the world in the years ahead.

In meeting the educational needs of children, we must allocate scarce resources wisely. We know what works. We must make sure that every child has access to it. We should not give public funds to schools that can exclude children. We should invest in public schools so that all children have the opportunity for a good education. We should rebuild communities, not divide them. Communities across the country are working hard to improve their public schools, and Congress should help them to do more as well, not make their current troubles worse. We should create improved conditions in all schools for all children, and we should start with safe buildings, decent roofs, good plumbing, and classrooms equipped for the 21st century of learning.

Mr. President, what could we do with the \$7 million? We can improve the infrastructure with that \$7 million. It could buy 368 new boilers for D.C. schools. There are 157 schools, and at least with regard to trying to make sure that they have hot water and heating systems, we could do much for the D.C. schools.

We could rewire 65 schools that don't have the capacity to accommodate computers and multimedia equipment. We have in the budget about \$300 million a year for new technology, technology grants to try to help assist local communities with new computers. Why don't we go ahead and wire some of the schools so at least they will be able to participate in these new kinds of technologies? Why don't we train the teachers to be able to use those technologies in a way that can integrate computers into the curriculum and give these children an opportunity so that they are going to be able to compete in the future? We could rewire 65 schools.

We could upgrade the plumbing in 102 schools with substandard facilities. We see the problem here, the challenge. We have double the problems in just basic fundamental plumbing in the schools. We could upgrade the plumbing in over 100 of those schools so that we can make some difference, again in terms of infrastructure. That \$7 million can do a lot for infrastructure.

What could \$7 million do to support other programs that are demonstrating enhanced academic achievement? The few that I mentioned—and at another opportunity, I will go into more detail on some others—\$1 million would buy 66,000 new hard-cover books for the D.C. school libraries. That is very important. If you look at what is available in those D.C. libraries and compare them to libraries in schools all over the country, you will find them dramatically shortchanged. We have a real opportunity to make a difference in the libraries of schools all over the District, and we could have an important impact in making sure that each student is going to have the textbooks

which they require in the classroom. They don't have those today.

Here we are talking about spending \$7 million to give vouchers to 2,000 students when the other students who are left back in the classroom don't even have the textbooks to be able to follow what is going on in the classroom. Maybe we will hear other testimony, I am sure we will, about the miracles of vouchers in improving academic achievement for students, but I haven't heard any convincing arguments made in the course of this debate. To the contrary; we can take additional time and demonstrate where the various reviews have failed.

Mr. President, \$1 million would fully fund after-school programs in 25 schools; \$7 million would fund after-school programs in every one of the District of Columbia schools and benefit every child—every child—not just 3 percent; every child.

In any fair evaluation about what is happening in these after-school programs, we must note what a difference these programs have meant, when we tie them in to academic help and assistance, in advancing students' academic achievements and accomplishments and in improving interest in school and attendance rates. The programs are reducing absenteeism and keeping children safe and secure and beginning to challenge and open up new opportunities of learning for children. You would be able to do this with the \$7 million for every school in the District of Columbia. But, no, we are going to take 3 percent of those children and give them a voucher with which they may or may not be able to get into some school, not which their parents are going to be able to get them into, or not that the child is going to be able to get into, but the school is going to make that judgment and decision.

Mr. President, \$3.5 million would link 58 more schools to research, improving designs and improving day-to-day instructions. Those are the other kinds of programs that I referred to earlier in my comments.

I certainly hope that this amendment will not be accepted. We too often around here look for easy answers to tough, complicated problems. Recently, if we find out we have a problem, more often than not we propose a constitutional amendment to deal with it. We have more constitutional amendments pending in the Judiciary Committee in this Congress than in the history of the country. We have gotten to where we think if we just pass a constitutional amendment, all of these problems are going to be resolved.

We are not going to be able to deal with all of the problems that all of us understand are out there in the public school system on the cheap. It is going to be tough, difficult work. Money in and of itself is not the only answer. In many instances, you can probably get a much better and higher grade education with the amount of resources

that are being expended. We understand that. We know that. But, nonetheless, what we are talking about here with this particular amendment is a reflection of our priorities—of our priorities.

How are we going to spend that \$7 million? Are we going to prioritize 3 percent of those children with a program that I believe is unconstitutional? And perhaps those that defend it are going to be able to make a case to respond to what is happening up in Wisconsin and what has happened in Vermont and other States that have struck down vouchers over the last year—maybe they will be able to sustain it. Perhaps they will be able to make the case with those 3 percent of children going to these private schools, that they are demonstrating what a breakthrough kind of academic brilliance that they are able to achieve and accomplish, and we are going to find the whole country is going to be shaken by this experience and we are going to do something dramatic about it.

The fact is, Mr. President, those that have demonstrated over the course of their lives—some with more success than others—know that this is hard, tough work, that it is a combination of elements.

Children are not going to learn if there is disruption in those classrooms, if the classrooms are not safe. Children are not going to learn if they go to school hungry during the course of the day. Children are not going to learn if they do not have the textbooks. Children are not going to learn if they have an inadequately trained teacher. Children are not going to learn if they know that their walls are crumbling down and they do not have light.

Just like the children are not going to learn if they have hearing problems or if they have vision problems or if they have some asthmatic problems—they are sick.

One of the benefits that we have taken care of, hopefully, in the recent action here, is to try and make sure that children are going to get the preventative health care so that when they go in there at least they are going to be healthy children when they go to those classrooms.

We know some of the things that inhibit children from learning. We do not know all the things that enhance their academic achievement, but we know some. And we know some of the ones that have a proven record, demonstrable record, with solid results.

The question that the Senate is going to have to ask is, are we going to try this kind of a program here for \$7 million when we can invest that \$7 million in some of the programs here in the District, replicating the ones here in the districts that the parents want, that the teachers know have been successful, that have been carefully evaluated, that will benefit the greatest number of children? Or are we going to reach down from Olympus and say,

“OK, we here in the Senate are deciding for you, even though you don’t want it. We’re going to experiment here. We can’t pass this kind of legislation back in our own States where it’s been defeated at times that it has gone before the electorate, but we’re going to try it on you here. We have \$7 million. And in spite of the fact that your religious leaders, your business leaders, your elected leaders do not want that, and want it invested in these other programs, that’s too bad. That’s too bad on this. We’re just going to say, ‘You’re going to have to have it because we want to experiment with it.’ We want to try and find some silver bullet to solve this problem”?

I hope, Mr. President, that this amendment is not accepted.

Mr. President, how much time is left?

The PRESIDING OFFICER. The Senator from Massachusetts controls 14 minutes, the Senator from Indiana 57 minutes.

Mr. KENNEDY. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. COATS. Mr. President, I very much want to respond—and so does Senator LIEBERMAN—to some of Senator KENNEDY’s remarks. But our colleague, Senator CRAIG, has been very patiently waiting. I yield to him up to 7 minutes or as much time as he consumes short of that.

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

Mr. CRAIG. Mr. President, let me, first of all, thank my colleague from Indiana for yielding.

I have been sitting here for the last 35 or 40 minutes listening to what is a truly sincere statement by the Senator from Massachusetts as it relates to the state and the condition of the D.C. school system.

He has left up a chart that recognizes seven categories of dilapidation that have resulted in the D.C. schools not opening on time this year. If you were to look at that chart, and all of the statistics of the D.C. school system separate from the rest of the country, you would say, “My goodness, what happened? Why didn’t we give them the money to fix the doors, the windows, the electrical, the plumbing, the physical structures of the school system? What happened?”

Mr. President, they had the money. They were given the money. I do not know what happened other than to say, they blew the money, they failed. By every measurement, the D.C. public school system is at the bottom. And that is a tragedy.

You can defend the status quo and argue you have to pour more money in. But even the Senator from Massachusetts agrees, it isn’t necessarily a money issue.

Well, then for goodness sakes, what is it? Is it a new program, a special program, a great idea, an infusion of a new concept that will turn this public school system around?

Many examples have been cited in one school system or another across this country by the Senator from Massachusetts over the last 40 minutes; and yet he condemns a program or an idea that is embodied in this amendment. It tries to do something very important to a failed system—inject it with a competitive idea that forces a new thinking that must be allowed to happen.

I must tell you, if the schools of Idaho had the kind of money that the schools of the District of Columbia have, because we provide—and I do not say this with any pride—nearly \$2,500 less per student than the District schools get here, and if we had the measurement of the standards and the failures of this school system, the Idaho system would have been changed dramatically years ago. You have heard the comparisons I am referencing.

Last year, 72 percent of D.C.’s eighth graders in public school scored below the basic proficiencies in math, and 29 percent failed to meet basic proficiencies in reading; and yet they got \$2,500 more per student than the Idaho students, and our scores are among the top in the country.

I do not mean to be pounding my chest about Idaho schools. I want to see our educators get more money and I want to see more money put into Idaho schools. But it is fair and it is important that we compare a failed system with a performing system and the dollars and cents involved, and to argue, as we must, that it is not a money issue. And it isn’t. And we know that.

And this voucher amendment isn’t to do with money. It is to do with the ability of parents to be able to decide what is best for their children and to have the flexibility to move on that decision.

Why has education, Mr. President, been nearly every person in this country’s No. 1 choice in the public polling of our country over the last decade when asked, “What’s the most important issue on your mind?” Not because it is so good—we are oftentimes reminded of quite the opposite. It is because the public school systems of our country are in trouble. Parents are concerned about the quality of education our children get, their children get and their futures.

When you can’t guarantee safety—and the District schools can’t; when you can’t guarantee discipline—and the District schools can’t; when you can’t guarantee high standards—and the District schools can’t; you fail. If there were an opportunity for the children of the District to go somewhere else, there would be one of the greatest educational exoduses in the history of this country. That is not going to happen.

But what this voucher amendment offers is some reasonable understanding that we ought to try to make a difference. It isn’t some grand experiment, not at all. It is, without question, an idea whose time has come, an

idea to inject a competitive environment into a monopolistic system that at the very best creates the lowest common denominator. That is not good enough for the young people of this District, and it is not good enough for any young person anywhere in this country.

The good side about the District schools not opening happened in my office over the last 3 weeks. A young lady who is a junior at Eastern High School here in the District came to intern in my office, Kimberly, a delightful young lady. We learned a lot from her; and I think she learned a lot from us.

But she did say this to me as she left to go back to school. "Senator Craig, I think I've learned more here in 3 weeks than I'll learn in a full semester in my school." She was being kind, but the problem is, I look at the statistics of the school she attends and she's right, she's accurate. This young lady deserves every opportunity possible that the public school system should offer her and yet it does not.

She said, "Can I come back to your office? Can I be a part of your office, because I know that I can learn a great deal? And I'll do extra time so I can do that." And we are going to see if we can make that happen.

School choice—that is what we are talking about today—transfers power over basic education away from the bureaucrat and to the parent. I suggest that the failures of the District system are a clear reflection of the bureaucrats having had that opportunity.

Nobody dare defend a school system where 40 percent of ninth graders drop out or leave before graduation or where only 50 percent of education expenditures go toward instruction, compared to 62 percent nationally.

Mr. President, we wouldn't tolerate failures such as this in my State, and we shouldn't except them in the Nation's capital.

Allowing for school choice is a viable solution to the woes of the District's schools. This amendment is a reasonable and appropriate answer to this crisis. This measure would provide scholarships to over 2,000 public school students, the poorest of the city's poor. These scholarships could be spent to attend any private or public school in the District or the neighboring counties of Maryland and Virginia. Most importantly, scholarships would be targeted to the poorest students, those living below or near the poverty line.

Opponents of the measure make one argument: school choice diverts money away from public schools for the benefit of a few students. However, nothing could be further from the truth.

This measure would not cost the public school system anything—not \$1 would leave the public school system. The funding is entirely new money—taken from an increase in the Federal Government's contribution to the city's debt.

Mr. President, today the Senate is being asked to make a choice between

the status quo and real reform. I thank Senator COATS, Senator LIEBERMAN, Senator BROWNBACK, Senator LANDRIEU for offering us this opportunity to debate school choice.

This is not a partisan issue. This is all about kids and a failing system and the responsibility of this country and its policymakers to make the difference, because it is a public educational school system. We are not going to worry about the private system. It competes. It has to be good or it will not get the kids.

But the public school system does not have to be good because the kids that cannot afford to get out of it have to go to it. We should not sit here and pound our chests and talk about all the good things because we need to correct the bad things. And that way a very important public education system will be better. It is good in a lot of places around the country. It is bad here in the District of Columbia, and we ought not hold anybody prisoner to that idea.

Let's give parents and students a fighting chance—let's give them a choice and a future.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. COATS. I yield such time as she may consume to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Mr. President.

I appreciate the opportunity to say a few words. I will be brief because I know a number of people have opinions on this subject. But, Mr. President, I think we are talking about the future of public education. I have heard people say, why not just improve public education? That is what we are trying to do. That is the bottom line of what this amendment is trying to do—introduce some new idea, introduce a new way of trying to improve public education by having competition in our system.

Mr. President, what makes America America, what makes America different from other countries in the world has always been our commitment to quality public education so that every child in our country would have the opportunity, with a full range of public education, to fulfill his or her potential.

I am a product of public education. I think it is important that we have the quality so that a person like me can stand on the floor with a person like Senator KENNEDY who has had quality private education. In order to do that, I think it is important that we have new ideas because, as they say in my home State, "If it ain't broke, don't fix it."

This is broken. The District of Columbia schools spend more money per student than any school in America, and yet steadily we have seen the decline of the quality of education as judged by the scores on tests.

So more money is clearly not the answer. Maybe some competition, maybe letting the mother of a 10-year-old boy who is going to a school that may or may not be open because of fire codes, that may not be able to educate this child because he is being offered drugs on the school grounds, give that mother a chance to do something different for her child, and that is to give her child a chance with a voucher to go somewhere else for competition. And then perhaps, if this works as a test, it might be something that we can do in low- and moderate-income areas all over our country. Maybe that is a new idea that might work.

Mr. President, this is an amendment that is a field test for another way to try to improve our public education system, which I think everyone in the U.S. Senate wants to do. But why are we not open to a new idea? Why wouldn't we say if any place deserves a try, it is this community, the District of Columbia, where we see the test scores go down in relation to the Federal money that has gone in. Let's try something new. This is the perfect place to do it.

I commend the Senator from Indiana, the Senator from Connecticut, and all those who are cosponsoring this innovative idea so we can have a test market to give every child a chance to have a great public education by introducing a choice. With that competition, encouraging every public school to come up in standards to attract those vouchers that would provide that quality public education that we have guaranteed to our people for the last 221 years in this country, and which if we are going to remain the greatest country on Earth, must be the hallmark of our freedom—a quality public education.

Mr. KENNEDY. Mr. President, I will just take one moment to ask Senator HUTCHISON—I understand this issue about vouchers was actually considered by the Texas legislature this year and was actually rejected. That is part of the problem that many of us have.

Mrs. HUTCHISON. I say perhaps, for once, maybe Washington could teach us a lesson.

Mr. KENNEDY. Touche.

I mention to my friend from Idaho before he leaves, we acknowledge the previous failure that he had outlined here very eloquently this afternoon when we established the control board. The D.C. school chief executive officer, General Becton, has had 10 months to enact changes. In that short time, they have consolidated and closed 12 school buildings, hired only certified teachers, established annual testing for all students, and set standards for teachers and principals.

They have only been in effect for 10 months and here we already are changing and interfering with their priority. I think for the reasons that the Senator has pointed out—there has been this dramatic change in terms of the leadership, those that are trying to



provide new leadership, and here we are in the Congress trying to second-guess.

Mr. CRAIG. Will the Senator yield?

Mr. KENNEDY. I yield.

Mr. CRAIG. I appreciate what the Senator from Massachusetts said. I think all of us are extremely excited about what we hope will happen here in the District. And, of course, you and I have both used the figures that demonstrate the failure of this system.

What I think we offer today is an enhancement and an accelerated opportunity to assist in what is underway. I appreciate what the Senator is saying.

Mr. KENNEDY. I yield the remaining time to the Senator from Illinois.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. Mr. President, I want to commend the Senator from Massachusetts for his leadership, for his consistency, and for his outstanding advocacy on behalf of children in this country. I think it is fair to say, and everyone who hears my voice will recognize, there is no one that TED KENNEDY takes second place to when it comes to fighting for children. He has been a leader and continues to be.

I am so pleased to have this opportunity to join him in strong opposition to this voucher proposal. Let me touch for a moment on what I see as the central flaw with this voucher proposal—whether it is for the District of Columbia or any other school system. Voucher programs for elementary and secondary education presume that a market-based solution will solve problems that exist within our public education system.

We have heard a lot about competition in the system. That suggests that there will be a meeting in the marketplace and that quality will rise out of that competition, out of that meeting of forces in the marketplace. I point out to anyone listening, if you think about it for a moment, markets by definition have winners and losers. The question then becomes whether or not we can afford to impose a market-based solution where the welfare of all of our children is involved. We cannot afford in this country any losers in a game of educational roulette, or, as much to the point, in an approach to what for all intents and purposes is an educational triage in which only those youngsters who have the family structure, who have the ability, can retreat from the public school system, leaving whatever else is behind.

It is very interesting, by the way, that a lot of the discussion goes to providing poor children with options. The fact of the matter is that public education in this country excelled precisely because it wasn't just about poor children. It was about providing quality education to any child of whatever wealth, from whatever communities, whether their parents were engaged with their education or whether their parents were found lying in a gutter somewhere. A child who had more tal-

ents than means could access quality education because our system supported quality public education.

Education is about more than an individual's ability to get trained for a good job, although certainly that is one of the benefits of it. We are very clear, without education individuals are handicapped when it comes to the job market.

The point has to be made, and made over and over again, that it is more than about just individuals. Education is a public good as well. It is a private benefit, to be sure, but it is also a public good. It is something that affects our entire community. It affects the quality of life in our community. It affects everything from health status to voter behavior, to whether or not individuals, or whether or not communities, will support our democracy and appreciate the higher values of our community.

Quality public education has shaped our democracy. It created a strong middle class. It propelled our country to the top of the world's economic pyramid. The rungs of the ladder of opportunity in our country have historically been crafted in the classroom. I think our generation has an obligation to see to it that the legacy of quality public education is not abandoned and, as much to the point, is not diluted by efforts, such as this one, to divert resources and divert support away from the public education system.

The reason that we have compulsory education in this country is not so that every child can access the best education that his or her parents can afford or find, but so that every child can receive a quality education. If our public schools are not meeting that challenge, then it is our responsibility to fix those schools. A federally funded voucher program would not fix a single public school. In fact, if anything, this effort represents a retreat from the challenge of making our schools work for every child, making our schools rise to the level of excellence that as a community we have every right to expect.

Vouchers represent putting individuals over the interests of the whole community. Vouchers necessarily will benefit only a small percentage, a small number of students. Consider for a moment there are roughly 46 million public school students and 6 million private school students. Any large-scale voucher program would obviously overwhelm the private schools. Advocates claim that entrepreneurs would start up high-quality schools to meet the demand. Just look at the potential for abuse and ask yourself the question, what do we do when we look up and discover a whole slew of less-than-quality school facilities in which people's only objective is to make money? There is no reason to think that by providing this spinoff of resources from public education that we would wind up with a system that was any better.

Supporters of the voucher proposals claim they would help the neediest

children the most. I submit that both research, experience, and common sense suggest otherwise. Researchers have concluded that academically and socially disadvantaged students are less likely to benefit from school voucher programs. It is amazing to me that the academic research on this subject has not gotten more attention. Voucher programs in other countries where they have had such programs confirm this research, that, indeed, the voucher approach, spinning off from the public school system, has led to economic as well as social segregation of students. Instead of narrowing the gap between wealthy and poor, instead of narrowing the gap between communities of students, the voucher proposals when implemented had the effect of widening the gap. I don't think we want in our time to be responsible for widening the inequalities among students. If anything, we should be endeavoring to narrow that.

As a matter of fact, in one study that took place in Chile, performance actually declined for low-income students. That is not surprising because any use of public funds for private schools requires that fewer resources be devoted to the public schools. Since the vast majority of low-income students will remain in the public schools and the worst of the schools are, for the most part, already sorely underfunded, it is just evident that private school vouchers would further weaken public education.

Right now, the Federal Government—it is ironic that we are having this debate—the Federal Government right now currently only meets about 6 percent of the costs of elementary and secondary public education in this country. We don't even provide the funding—and I know the Presiding Officer will recognize this issue—we don't even cover the costs of unfunded mandates in education. To further divert resources from what we are already not doing makes absolutely no sense at all.

Transferring funds from public schools to private schools will not buy new textbooks for public school students or encourage better teachers to move to the public schools nor fix a single leaking roof on a public school. All it does is divert resources, precious resources to begin with, away from the system that is already underfunded and that needs it the most.

Supporters of private school vouchers claim that those schools are better managed, they perform better, and cost less than public schools. Again, the facts suggest otherwise.

It is absolutely true that some public schools are inefficient. Again, vouchers don't solve those inefficiencies. What solves those problems are good managers. In Chicago, in my hometown of Chicago, IL, innovative leadership and a "no excuses" attitude totally reshaped the system there in the space of about 2 years. Under the leadership that is now in place, our school system is improving itself to the benefit of all

of the 425,000 students in that system, not just the select few who might have been spun off with a voucher plan.

Every school system calls upon the people, the leadership of that community, to focus in on management issues, to address the longstanding issues of neglect and of finance that have hamstrung our ability to provide quality public education to all children.

The evidence also disproves the claims that vouchers improve student achievement. Annual evaluations of the program in the city of Milwaukee concluded that vouchers have not done so. Again, I call my colleagues' attention to all of the research that has been done in this area. There is no scientific evidence to support the notion that somehow by taking away from public education you improve it.

As for cost, again, the private schools can cost less in some instances because only 17 percent of them provide special education, which, of course, is a high ticket item. It costs twice as much to educate disabled children. Again, the point ought to be made that the public schools take everyone. They are schools in which all consistencies, all kinds of students, whether they are rich, disabled, poor or whether their parents have problems, or whether they are troubled, all students come. With compulsory education they have to. By setting up a system that spins off a part of the student body, all we are doing, again, is creating a situation in which those who are the most able and the most capable and have the most family support will leave the school system and leave behind those who are least capable of doing well for themselves.

Here in the District of Columbia—and, again, this is once again the District of Columbia being made into a guinea pig, for all intents and purposes, for ideas that are floating around without addressing the real challenges of the District of Columbia—I, too, had interns in my office, students from the District of Columbia, who interned in my office precisely because the schools were closed here.

Why were they closed? Because the court had decreed that the school environment, the facilities were crumbling so badly that it was unsafe and hazardous for children to go to school there. It would be more appropriate for us to devote the money being proposed to be taken out here to rebuilding the crumbling schools in the District of Columbia, to making sure the roofs don't leak and the windows aren't broken and the electrical systems work, to fix the schools that we have, to meet the challenge of supporting public education instead of coming up with yet another excuse not to support the schools we have in place already.

This approach, in my opinion, represents, in the final analysis, a retreat, a pessimistic capitulation to a winnable challenge. We can fix these schools. We can do at least as much as the previous generation did, our par-

ents. The generation before us left us a legacy of a system of quality public education in which every child, no matter what the circumstances, can get an education consistent with their talent without regard to their means. We have an obligation to do no less for the next generation of Americans. Coming up with an approach that will spend away resources from our system of public education does not keep faith with that legacy of support for quality public education as an integral and central part of the American dream.

Mr. COATS. Mr. President, I yield 5 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. HUTCHINSON. Mr. President, I rise in the strongest support of the District of Columbia student opportunity scholarship amendment offered by Senators COATS and LIEBERMAN to the D.C. appropriations bill. I have long been convinced of the value of school choice programs. I think the debate this afternoon has been very healthy for our country.

Earlier this year, the Washington Post ran a five-part series on the D.C. schools, detailing the mounting problems of the physical deterioration of its school buildings, violence in the classrooms, and the falling academic success among students. Eighty-five percent of D.C. public school students who go on to college at the University of the District of Columbia [UDC] need 2 years of remedial education before beginning course work toward a degree at all. While this statistic is alarming and should not be tolerated, it is a prime example of how the D.C. public schools are failing the very children that they are supposed to be serving. It is the children who are the losers.

Some argue, as my colleague just argued, that if only more money were available to mend the crumbling school buildings, or to better train the teachers or to hire more teachers, then everything would be fine. Mr. President, more money is not really the answer. Despite spending more than \$7,300 per student in 1996, which is among the Nation's highest spending rates, 65 percent of all D.C. public schoolchildren, two-thirds of them, test below their grade levels; 72 percent of fourth graders in the D.C. public schools tested below basic proficiency on the NAEP test—worse than any other school system in the Nation.

More money is not the answer. What about the increased violence? The National Education Goals Panel reported last year that both students and teachers in D.C. schools are subjected to levels of violence that are twice the national average.

So I ask my colleagues on both sides of the aisle, isn't this bill the perfect place to give us the opportunity to show what vouchers can do? They do help real families. Some of my staff members are privileged to work with one D.C. family who was fortunate to have received \$4,000 of scholarship

money this fall to enroll six of their children in Our Lady of Perpetual Help Catholic School here in the District of Columbia. I had the honor of meeting one of those children, Shannon, when she visited my office in the spring to interview me as part of a school project on Arkansas. It was little Shannon who, 1 year ago, told her tutor that she wanted to go to a Catholic school. When asked why, she emphatically answered, "because I want to learn much."

Mr. President, even though Shannon had never been to a Catholic school, nor did she know anybody enrolled in a Catholic school, she knew that if she went to a Catholic school, she would learn. She wanted to learn much. Shannon's mother knew that, for her children to progress in their studies and graduate from high school, she desperately needed to get them out of the failing D.C. schools and into a place where the teachers would spend time with her children and teach them.

Under this amendment, nearly 2,000 of the District of Columbia's poorest children—not the wealthy kids, those from the rich side of town whose parents can afford to send them to elite schools—but the poorest children would receive scholarships for tuition costs at a private school in the District of Columbia, or in adjacent counties in Maryland and Virginia. Mothers like Shannon's are eyewitnesses to their children's improvement when their children are enrolled in a safe, stable, and thriving school environment.

The Coats-Lieberman plan is a lifeline of hope for thousands of D.C. parents, like Shannon's mom, who have waited and are still waiting for an opportunity to give their children a solid education and a chance to succeed.

This amendment makes so much common sense. The question is, will vouchers work? Let's give vouchers a chance right here in one of the worst school districts in the Nation. Let's not continue to put good money after bad by simply pouring it into a system that is broken. Let's give the children of this city hope. Let's give the parents of the poorest children in this city an opportunity to give their children the best educational opportunity.

I commend the Senator from Indiana, Senator COATS, and Senator LIEBERMAN for their leadership and for the opportunity to conduct this debate and to cast this important vote.

I yield the floor.

Mr. COATS. Mr. President, I yield 5 minutes to the patient Senator from Oklahoma, who has been waiting a long time to speak.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I was in the chair when I heard the very eloquent speech, of course, as always, by Senator LIEBERMAN. One thing he said at the very last surprised me a little bit. I think kind of out of desperation he said, "We are only talking about \$7 million. We try a lot of things that cost a lot more than that."

I am here to inform Senator LIEBERMAN—and I believe he knows it already—that it has been tried. I started with our mutual friend, Tony Coelho, in 1993, who established an organization called the Washington Scholarship Fund. There were many Democrats and Republicans involved. Senator KERREY, at that time, was an honorary chairman, and Bill Bennett was one of the honorary chairmen, also. Directors and advisors included Boyden Gray and Doreen Gentzler, a local Channel 4 TV news anchor.

Our goal was to help needy or low-income families send their children to private school—the very thing we are talking about here. We were trying it through the private sector to see if it would work. What we did was not pay the entire scholarship, as we are talking about here, for a number of students, but to pay half of it. I think the average tuition is around \$3,000 a year. Now, what we did was, we would offer a scholarship of \$1,500 a year, so that the parents would have to pay half of it, so they would have to have an interest in that. To be eligible, they had to be residents of the District of Columbia. Ours was K through 8, as opposed to K through 12. I think K through 12 is probably better. They must be low-income by Federal standards.

Anyway, we went ahead with this program on the half tuition. We had people lined up in the school year of 1993 and 1994, and we had 57 students. That is about \$75,000 that we raised privately for these one-half scholarships. Last year, we were up to 250 students that we helped. That is a substantial increase. But the interesting thing is that we have over 800 now on a waiting list. I am sure that there are probably more out there waiting that are not familiar with the program. But it is overwhelmingly successful. In the schools, they concentrate on strong values, basic reading and writing and math skills, and we have a lot of parental involvement.

A lot of people are not aware that in Washington, DC, there are at least 25 private schools with tuitions less than \$2,500 a school year. They average about \$3,000. Most of the private schools in the District of Columbia operate way below capacity, or their average tuition probably could come down, they would estimate.

The Washington Scholarship Fund is one of 32 private school scholarship programs nationwide in cities like Milwaukee, Los Angeles, New York, and, in fact, there is one in the home State of Senator COATS, in Indianapolis. They are currently helping approximately 12,000 needy children, and they have 40,000 on a waiting list.

Well, when I heard the Senator from Connecticut say he didn't know exactly how much it was costing the public school system in Washington, DC, I think he is right because the accounting system, as he points out, is very poor. However, I have heard the range to be somewhere between \$7,700 and

\$10,000. So here we are talking about being able to give a better education at approximately one-third of the cost—in other words, for the same cost, reaching three times the number of children.

Ms. MOSELEY-BRAUN. Will the Senator yield for a question?

Mr. INHOFE. Not on my time. On your time, I will.

Ms. MOSELEY-BRAUN. There is no time left.

Mr. INHOFE. I am sorry, I have to use my time. The dropout rate is a problem. I will read a couple of things that I think are significant.

One of the mothers, named Voni Eason, said:

My son loves the school. He even likes the uniform. He feels like he's a grown man. Without an education—and a good, strong education—he's not going to have a job. Without the Washington Scholarship Fund, he wouldn't be able to go to his school.

That is a mother making a testimonial.

Tanya Odemns' son actually tried the public schools system in Washington, DC. She said:

My son wasn't learning anything. He didn't know his ABCs, didn't know how to spell his name . . . public school didn't give him any homework. I know my son is very intelligent and wants to learn. When I heard about the Washington Scholarship Fund, I just hopped on it real quick. [Now] he's excited when he comes home, wants to do homework.

Mr. President, it has been tried and it is successful. It works.

I yield the floor.

THE PRESIDING OFFICER. The time of the Senator has expired.

Under the previous order, at 4:30, the Senate is to proceed to debate on the defense appropriations bill.

Mr. COATS. Mr. President, I promised the Senator from New York he could get a statement in.

I yield to the Senator from New York.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the time for the Senate to consider the defense appropriations bill be extended for 3 additional minutes.

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

Mr. D'AMATO. I thank the managers of the bill. Mr. President, let me say this. I strongly, strongly support this amendment. I want to commend Senator LIEBERMAN and Senator COATS for fighting to give the families, the parents, the youngsters in the Washington, DC, public school system a chance. Too many are trapped. We are talking about working families who don't have the ability to move to areas with better schools. They don't have the financial wherewithal to send their children to better schools, including private schools, that are safer and may give a stronger educational opportunity. Al Smith, a great Governor from our State, used to say, "Let's look at the record." Well, look at the record. How can we be defending the status quo of an education system in the District of Columbia that has been a failure—a failure. Forty percent of these young-

sters never graduate from high school; 40% of D.C. public school students leave the school system between ninth grade and graduation.

In terms of scores, it's incredible: during the 1996-97 school year, 72 percent of the eighth graders score below basic in math—72 percent; 78 percent of the D.C. public school fourth graders rank below basic reading achievement levels in 1994; 80 percent of the D.C. fourth graders in 1996 achieved below the basic math achievement levels.

Do we want to save these youngsters? Or are we so interested in protecting the status of the unions, because that is what this is about. We are talking about the status quo, where you have a system that cares more about tenure for teachers that can't teach, more about seeing that the perks and privileges of the unions are protected—as opposed to providing students and their parents an opportunity to have a choice for real opportunity and to break out of this mediocrity.

The fact is, we once had great and vibrant public educational institutions. That was before the days when the union perks and prerequisites came first.

I support merit pay for good teachers. Let's reward them and get rid of the tenure system that is guaranteed to provide mediocrity and less for students. Let's have renewable tenure.

Parents should be empowered to make choices, letting them have the opportunity to send their kids to the best schools.

Who is trapped in the sea of mediocrity? I will tell you. The poorest of the poor; the working families; the families that can't move to another area to give their kids a good educational opportunity.

I have to tell you something. I look to Congressman FLOYD FLAKE. The Reverend FLAKE is resigning his position. He is elected with 90-some-odd-plus percent when he runs. He truly is the servant of the people. This is not intended to be a testimonial to him. I will give that before October 15 when he retires. But let me tell you about one of the things that the Congressman is going to do. He is going to go back and fight in New York to empower parents and to give children and their parents choice and an educational opportunity that now is all but put aside.

We can make a difference. I don't care if it is 1,000 students that it helps, or 1,500 students. That is 1,500 more youngsters who will get a chance to flourish in an oasis of educational opportunity as opposed to a swamp and a sea of mediocrity that are tearing down educational opportunities for kids.

We have got to try to do something better. And it isn't putting more of this money into a system that is broken down.

Mr. President, I say this is the least we can do. This is an innovative opportunity to take one of the worst school systems in America and to begin to

empower parents on behalf of their children to give them real educational opportunity.

I yield the floor.

#### DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1998—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the clerk will report H.R. 2266, the conference report.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the H.R. 2266 having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by majority of the conferees.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 23, 1997.)

The PRESIDING OFFICER. The Senator from Alaska.

#### PRIVILEGE OF THE FLOOR

Mr. STEVENS. Mr. President, I ask unanimous consent that the following Members of the staff of the Defense Appropriations Subcommittee be granted the privilege of the floor during consideration of the conference report to accompany H.R. 2266: Sid Ashworth, Susan Hogan, Jay Kimmitt, Gary Reese, Mary Marshall, John Young, Mazie Mattson, Michelle Randolph, Charlie Houy, Emelie East, and Mike Morris, a legislative fellow detailed to the committee from the Department of Defense.

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

Mr. STEVENS. Mr. President, the conference report on H.R. 2269, the Department of Defense Appropriations Act for Fiscal Year 1998, closely follows the bill passed by the Senate on July 15.

The bill provides \$247.5 billion in new budget authority for the Department, an amount within the levels set in the budget agreement with the White House.

As in July, the conference report reflects a bipartisan effort, and I am grateful to my friend and colleague from Hawaii, Senator INOUE, for his partnership in bringing this bill back to the Senate, and bringing it back as a very good bill.

The House passed the conference report by a vote of 356 to 65, today.

The full text of the conference report, and the accompanying statement of the managers was printed in yesterday's CONGRESSIONAL RECORD.

The print of House Report 105-265 has been available to all Members today.

The tables and descriptive text of the statement of the managers details the funding levels for all the programs considered by the conferees—I will not take the Senate's time to summarize those adjustments.

I do want to highlight the toughest policy issue we faced—continued fund-

ing for operations in and around Bosnia.

The House of Representatives in its original bill passed a provision which was a total prohibition on spending for any operations in Bosnia after June 30, 1998.

Personally, I believe we should withdraw our forces from Bosnia.

Secretary Cohen and General Ralston met with us, and urged us not to take that unilateral step, at this time.

Prior to this conference, several of us traveled to the United Kingdom, for the periodic United States-United Kingdom interparliamentary meetings.

In those talks some of us came to appreciate better the total dependence by our European allies on the United States forces in Bosnia.

The compromise we reached retains the position of the House that we bring our forces out of Bosnia by June 30, but the President can waive that requirement if he certifies to the Congress the forces must stay in the interest of our national security.

The President must also inform the Congress on seven points: First, the reasons for the deployment; second, the number of personnel to be deployed; third, the duration of the mission; fourth, the mission and objectives; fifth, the exit strategy for U.S. forces; sixth, the costs for operations past June 30; and seventh, the impact on morale and retention.

This certification to Congress will constitute the first time this President has informed the Congress about Bosnia before deploying or extending our forces there.

I want to recognize the leadership of my good friend from Kansas, Senator PAT ROBERTS, who contributed to our discussions in the United Kingdom following the visit he made to the continent. And it was his ideas that he passed on to me that really led to the compromise that we have reached in this conference.

The Congress and the American people, Senator ROBERTS told me, deserve to know why our forces are in Bosnia and how long they must stay. The provision in this bill requires such a statement.

The President is also expected to submit a supplemental appropriations request for additional amounts needed to maintain our forces in Bosnia if he decides to keep them there without damaging the readiness or the quality of life of our Armed Forces.

Virtually every program funded in this bill when we originally passed it the House and the Senate were funded differently. And ultimately we had to find a compromise level between those two bills. We actually had to eliminate some \$4.5 billion of items that were funded in one bill or the other.

Let me point out just some instances.

In the case of the Dual Use Applications Program, we sustained the full \$125 million that was provided by the Senate. That is \$25 million more than the House had provided.

On ACTD's, we reached an even split with the House, which provides \$81 million—nearly a 50 percent increase compared to the level appropriated for fiscal year 1997.

For overseas humanitarian, disaster, and civic aid, we again split the difference with the House providing \$47 million.

One program where we sustained the full administration request is in the Cooperative Threat Reduction Program, known as the "Nunn-Lugar" initiative.

Secretary Cohen made the strong plea for the full \$382 million sought by the President, and we have convinced the conference to accommodate that request.

I again want to thank all conferees on both sides, and especially the House Chairman, Congressman BILL YOUNG, and the ranking member, Congressman JACK MURTHA.

I feel very proud about the work that was done by the conference working as a team.

I urge all Members of the Senate to vote in favor of approving the conference report before the Senate.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUE. Mr. President, I rise this moment to express my complete support for the conference report on the defense appropriations bill for fiscal year 1998.

As Chairman STEVENS noted, this bill is within the budget allocation provided by the committee for defense funding.

The amounts provided represents an increase of \$5.4 billion, 2 percent above the amounts available during the current fiscal year.

Mr. President, it is my view that this increase is very modest, and is fully justified under the circumstances.

The increase is necessary to allow us to continue to modernize our forces, to protect readiness, and to fully fund a 2.8-percent cost-of-living increase for our men and women in uniform. And it allows us to protect the priorities of the Members of the Senate.

This conference agreement is a compromise which I believe all Members should support.

The bill was passed by the House with two controversial matters to which the administration strongly objected to—the B-2, and Bosnia. This conference report has dealt with those matters to the satisfaction of the administration.

On the B-2 bomber, the conferees have provided the President with \$331 million to begin the purchase of additional B-2 bombers. However, it is up to the President to determine whether to buy more aircraft, or to upgrade the existing fleet of B-2 bombers. Mr. President, I for one hope the President chooses to buy more B-2's. But here the choice is his.

On Bosnia, the conferees agreed that consistent with the current plans of

the administration all United States troops be removed from Bosnia by June 30th of next year. However, if the President certifies that it is in our national interest to maintain our presence in and around Bosnia, he can waive the restriction by consulting with and informing the Congress of his decision. And should the President decide to keep the forces in Bosnia, as Chairman STEVENS noted, he shall submit a supplemental, if additional funds are required to pay for this deployment.

Mr. President, this is an agreement which can be supported by both the Congress and the President.

We should be grateful to Chairman STEVENS and the House conferees for negotiating this very workable compromise.

I would like to also mention the hard work of the staff under the staff director, Mr. Steve Cortese, and on the minority side, Mr. Charlie Houy.

Mr. President, I think it should be noted that the staff worked long hours—in one instance throughout the whole night—to ensure that this conference report was completed before the end of this fiscal year. I believe that the Senate owes them its gratitude for their efforts.

Mr. President, this is a good conference report. I urge all my colleagues to support its adoption.

Once again, may I express to my colleagues my great pleasure in being able to serve them, together with Chairman STEVENS. We are fortunate to have Chairman STEVENS at the helm.

Thank you, Mr. President. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, I thank the distinguished Chairman of the Appropriations Committee, and ranking member. Everyone involved in our military and our national security owes Senator STEVENS and Senator INOUE a depth of gratitude for their outstanding leadership.

Mr. President, I rise in strong support of the provisions contained in the defense appropriations bill—so kindly referred to by the chairman as the Roberts amendment—that will force the Clinton administration to clearly and articulately justify our policy in the use of military forces in Bosnia. Additionally, Mr. President, these provisions will also force Congress to debate the Bosnian dilemma and our policy in that shattered region.

These provisions are about being honest with the American public.

Specifically, these provisions require the President to certify to Congress by May 15 of next year that the continued presence of U.S. forces in Bosnia is in our national security interests, and why.

He must state the reasons for deployment, and the expected duration of deployment.

He must provide numbers of troops deployed, estimate the dollar costs in-

volved, and give the effect of such deployment on overall effectiveness of our U.S. forces.

Most importantly, the President must provide a clear statement of our mission, and our objective.

And he must provide an exit strategy for bringing our troops home.

If these specifics are not provided to the satisfaction of the Congress, funding for military deployment in Bosnia will end next May.

Let me repeat: We are requiring the administration—and, yes; the Congress—to clearly articulate our Bosnia policy, justify use of military forces, and tell us when and under what circumstances our troops can come home.

That is not asking too much.

In my view, events of recent weeks make this an urgent matter. It has become increasingly clear to me that in the wake of the Dayton accords, and after drifting for months, and with elections on the near horizon and the crippling winter only weeks away, the United States went from peacekeeping to peace enforcement with what I consider to be dubious tactics.

Troop protection, refugee relocation, democracy building, economic restoration, and, oh, by the way, if we run across a war criminal let's arrest him. Those goals have been replaced.

So today we see increased troop strengths—perhaps up to 16,000—we have picked a U.S. candidate in the election process, we have embarked upon an aggressive disarmament and location, and capture and prosecution of war criminals.

Is this mission creep, or is it long overdue action, Mr. President? And will these goals accomplish realistic progress?

Item: The world was treated to the spectacle of American troops, the symbol of freedom's defenders, taking over a Bosnia television station in an effort to muzzle its news. The troops were stoned by angry citizens. We gave the TV station back.

Item: In the country where benevolent leaders are scarce, we have chosen up sides, supporting the cause of one candidate over another. It is a cynical approach, it seems to this Senator, to foreign policy that says to the world, "Sure, he—or she—is a dictator, but he's our dictator." At least for the time being.

Item: Elections were conducted but to cast ballots—listen up—to cast ballots many citizens had to be bussed back to their homes, which they cannot now, or may never, occupy to vote for officials who will never serve unless SFOR stands at the ready.

In the Civil War in the United States, Quantrill's Raiders sacked Lawrence, then fled to Missouri. Should his ruffians have been bussed back to Lawrence to vote for city council? That makes about as much sense.

Item. A United States diplomat overruled a Norwegian judge, whose decision disqualified candidates with ties to indicted war crime suspect Radovan

Karadzic. Members of the group over-seeing the elections threatened to resign. Posters of Elmer Fudd—I am not making this up. That's right, the cartoon character Elmer Fudd sprouted up as a protest to "free" elections by one faction.

NATO forces, which include U.S. troops, have been cast into the role of cops on the beat chasing war crimes suspects. Just arrest Mr. Karadzic, we are told, try him for war crimes, and our problems will be solved.

Mr. President, as the New York Times pointed out recently, much as we do not like it, "Mr. Karadzic reflects widely held views in Serbian society." Those views are real.

Do these events reflect a sound, defensible Bosnian policy that is in our national interest? Or do they sound an ominous alarm as America is dragged down into a Byzantine nightmare straight out of a Kafka novel?

I visited Bosnia, like many of my colleagues. I talked with the troops in August, met with the officers, met with intelligence officials. They are outstanding individuals. They deserve our support, our respect, our gratitude. They are doing an outstanding job, Mr. President, even though they have not been given a coherent mission.

Just this past week, Gen. Hugh Shelton, our outstanding nominee for Chairman of the Joint Chiefs of Staff, was asked at his confirmation hearing by Senator MCCAIN of Arizona whether there is a strategy to remove United States troops from Bosnia, and the general was stumped. Let me repeat that. The general admitted he was aware of no exit strategy by the administration. That awareness is repeated in Tazar, Mr. President, which is our staging base in southern Hungary, 7 days in for our troops and 7 days out. We have no clear idea of how to extract them.

If the provisions of this bill do nothing else, they should force a major re-examination of our Bosnian involvement from top to bottom.

Now, our former Secretary of Defense, Casper Weinberger, articulated six conditions for military intervention, Mr. President. I repeat them here today just to show how much our Bosnian policy is lacking. He said troops should be committed only when the following things happen: No. 1. Vital national interests are threatened. I do not think that is the case in Bosnia. The United States clearly intends to win. We did win. We stopped the fighting. But the political settlement is contrary to the means by which we stopped the fighting. We separated the ethnic groups. Now we are trying to put them back together again. The intervention has precisely defined political and military objectives. As the former Secretary of Defense said, there is reasonable assurance that intervention will be supported by the American people and the Congress. The commitment of American forces and their objectives can be

reassessed and adjusted, if necessary. And, finally, Secretary Weinberger said this: The commitment of forces to combat is undertaken as a last resort.

As Chairman STEVENS will tell you, our involvement in Bosnia has come at a large price. There are approximately 10,000 troops. I personally think it is closer to 16,000. That is nearly one-third of the 35,000 NATO troops involved. From 1996 to 1998, costs are estimated to be \$7.8 billion—almost \$8 billion. That figure, too, may escalate.

In justifying our policy in Bosnia, the administration must include a plan to fund the costs. Do they intend to take these rising costs out of the current defense budget, money we need for modernization and procurement and quality of life for the armed services to protect our vital national security interests? Or is the administration prepared to come clean and ask for the money up front?

Finally, I offer these thoughts. All of us in this body, and I know President Clinton, Secretary of State Albright, Secretary of Defense Cohen, all of us, desperately want lasting peace in Bosnia—all of our allies as well. We want the killing to stop. We have stopped the killing. We want stability in that part of the world, permanent peace and permanent stability. But wishing it does not make it so.

Richard Grenier, writing for the Washington Times put it this way:

Generally speaking, Serbs didn't love Croats, Croats didn't love Serbs, nor do either of them love Muslims. Reciprocally, Muslims love neither the Croats or Serbs. What happened to the lessons we are supposed to have learned in Beirut and Somalia? What happened to our swearing off mission creep?

But here we go again in Bosnia. Once again, our goal was at first laudably humanitarian: to stop the killing. But it expanded as we thought how wonderful it would be if we could build a beautiful, tolerant, multiethnic Bosnia on the model of American multiculturalism.

I respond. The Bosnian situation is complex. It is shrouded by centuries—centuries of conflict that only a few understand. What we have seen in recent months is a lull in the fighting, not the end. It is a fragile "peace," held together only by a continued presence of military force. How long can that continue? Are we prepared to pay the price?

This week, National Security Adviser Sandy Berger said the United States must remain engaged in Bosnia beyond June of this year but that continued American troop presence has not yet been decided. It is time to decide.

Now, compare that statement with the advice of former Secretary of State, Dr. Henry Kissinger, who wrote just this week:

America has no national interest for which to risk lives to produce a multiethnic state in Bosnia.

Mr. President, no more drift. No more drift. It is time for candor, for honesty and clear purpose. Let the debate begin.

I urge acceptance of these provisions. We owe them as a debt of honesty to the American people. We owe them to our military men and women with their lives on the line.

I yield the floor.

The PRESIDING OFFICER. The time yielded to the Senator from Kansas has expired.

Mr. INOUE. Mr. President, I am pleased to yield 2 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island has 5 minutes of his own already.

Mr. INOUE. Yes.

Mr. REED. I thank the Chair.

I rise to express my support for the defense appropriations conference agreement, and I commend my colleagues, particularly Senator STEVENS and Senator INOUE, for their great work on this measure.

I am particularly pleased that an important provision in the conference report is language which will allow Newport News and Electric Boat, this country's only two manufacturers of submarines, to team together to design and build the next generation of attack submarines. Without this language, these shipyards and our submarine program could be endangered. With this language, however, we will continue to build the Navy's most valuable weapon, a silent and very effective submarine. Work will commence on the new attack submarines, which will boast great stealth and great strength with advanced war-fighting capabilities, yet will be smaller, more flexible and more cost effective.

This teaming agreement will preserve America's vital submarine industry base, which encompasses over 3,000 high-technology companies in 44 States. This conference report brings us one step closer to ensuring that the United States continues to maintain the finest submarine force in the world.

Since the first day I arrived in Congress, there has been a strong debate over the future of the U.S. naval submarine program. There are those who believe that the era of the submarine ended with the end of the cold war. But a majority of my colleagues and I believe that our submarine fleet needs to be maintained and modernized and that it will serve us as well in the future as it has in the past.

In a time when the mission of our armed services is constantly changing and a threat could emerge anywhere in the world, we need such flexibility. I think it is fitting to note the comments of our respected Chairman of the Joint Chiefs of Staff, Gen. John Shalikashvili, on the eve of his retirement. General Shalikashvili said, "Submarines are an integral part of U.S. global influence and presence. Their stealth and endurance provide the unified commander enormous capabilities across the full spectrum of conflict."

I believe that the provisions in this defense appropriations agreement indi-

cate that the submarine has proven itself. This legislation allocates scarce defense dollars to build up the submarine industrial base, to procure new torpedoes, to procure new submarine periscopes, and to assure excellent training programs for our submarine crews. This agreement will provide funding for the completion of the *Seawolf* program and for the first new attack submarine.

This report shows support for the submarine procurement program as well as a logical and cost-effective way to harness the expertise and skill of our Nation's submarine builders.

I would like particularly to again thank Chairman STEVENS and Senator INOUE for their continued support, Senator WARNER for his efforts on the committee, and all of those who have played a critical role in ensuring that our submarine fleet will continue to be the finest in the world, that our sailors will go forth with the best ships in the world and that with their service and these ships we will continue to protect America and defend our principles.

I thank the Senator for the time. I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. COATS. Mr. President, I think under the previous order I am to be recognized for 15 minutes.

The PRESIDING OFFICER. The Senator from Indiana has 15 minutes under the previous order and is recognized.

Mr. COATS. Mr. President, I rise to address this question of the defense appropriations bill with some degree of disappointment.

First of all, I am disappointed that an appropriations bill is going to be passed out of this Congress ahead of the authorization. That is not the way it is supposed to work. It renders much of the work done by the authorization committee this year of no effect in some of the critical areas. I do not blame the Appropriations Committee, however. There are 4 days remaining before the end of the fiscal year. The clock is ticking. Senate Armed Services and the House didn't get the job done in time, and the Appropriations Committee was patient in giving us that time. I regret that we were not able to get our authorization act together. So I am not here to condemn the Appropriations Committee.

I do, however, want to express my disappointment, sincere disappointment, that as chairman of the Air and Land Subcommittee the actions that we have taken in the Senate Armed Services Committee to address the question of TACAIR and where we are going in the future were forfeited in the negotiations with the House; that the Senate deferred to the House position particularly on the issue of F-22 funding, and I want to discuss that because there are consequences, I believe, to that decision.

First, a little bit of history.

Our committee withheld approximately \$500 million in development and



advanced procurement funds, and I want to state the reasons why we did so. It was not done on a whim. It was not done on a number picked out of the air. It was done as a result of a process of our methodical oversight of the F-22 program that dates back at least to the 103d Congress.

Here are the facts. The F-22 program as we speak today is approximately \$2.2 billion over budget for development alone. There is speculation that F-22 production could also run several billion dollars over program estimates. In fact, in just the last 2 years, the Air Force has cut the number of aircraft to be bought in the next 6 years from 128 to only 70, and yet there has been no decrease in program costs to the taxpayer or money freed up for Department of Defense expenditures in other areas. Yet we have not been told by the Air Force or the contractors how the F-22 program got to be in this situation.

Those of us on the Armed Services Committee felt it was time to definitively put this program on notice, and that is what we attempted to do.

Now, Mr. President, I say that as a supporter of the F-22. I think it is fair to say our committee is a strong supporter of the F-22. I have visited production facilities and engine facilities for the F-22. It is a leap ahead in technology. It lays the basis for our crucial joint strike fighter program. It will give us air dominance in the future. Had I thought that the actions we had taken in any way jeopardized further development of the F-22, I would not have considered them.

But to those who have argued that we must fully support the F-22 air dominance fighter because it is the No. 1 procurement priority of the Department of the Air Force without any questions, without any reservations, without any reports, without any event-based decisionmaking, I think those people are missing the point. They are missing the point of the consequences of doing so and the consequences to other systems.

Let me also say that I, in addition to supporting F-22, I support the importance of air dominance as a joint warfighting capability. But, we have to remember that the F-22 is just one piece of the Department of Defense TACAIR recapitalization strategy. We are acting like it is the whole thing.

As a matter of fact, the Navy's F/A-18EF is the Navy's No. 1 priority, and the Marine Corps has placed its priority on the joint strike fighter yet to be developed. So we are looking to balance our approach in joint warfighting capability across the full spectrum of military operations. If the F-22 program is not brought under control, it will severely jeopardize a prudent balance in TACAIR recapitalization.

So the issue before us is not support for the relative priority of the F-22 program. The issue before us is, does that support imply that we should blindly throw billions of dollars at the

program without some accountability? The issue is the viability of the F-22 program, and it is exactly because of the high priority of the F-22 that we need to send a powerful message to the Air Force and to the contractors that the Senate is watching, that we are watching the restructuring, and we are watching for schedule slippage, and we are watching for cost overruns. It is time to hold F-22 to a realistic level of accountability. It is time to end the promises of performance and cost control and instead focus on results. We do so because we want to protect the F-22. We want it to be a viable program, and we do not want it to go the way of other programs that have not been held accountable.

So, therefore, I regret deeply that the Senate yielded to the House, that we were not able to get the authorization approved, that we yielded to the House in the appropriations process and we are simply giving the Air Force and giving the contractor exactly what they asked for without any explanations, without any details, and without any accountability features built in.

Let me explain a little bit about why the Armed Services Committee's actions on the F-22 are good policy.

In the National Defense Authorization Act for fiscal year 1995, the Senate requested the Department of Defense and the General Accounting Office assess and provide us a report on the degree of concurrency—that is the testing-while-you-are-buying process that goes on sometimes in these programs; you are buying the planes at the same time you are testing them; many of us would argue that you need to test first and make sure that what you are buying is what you think you are buying—and we asked them for this report on risk, also. In April 1995, we received those reports and the Department of Defense report concluded, just a little over 2 years ago, "there is no reason, based upon risk/concurrency considerations to introduce a program stretch at this time." So we thought, fine, everything is on track.

At the same time the GAO conclude that the F-22 program involved considerable risk and that there may be adverse consequences from concurrent development and production. Furthermore, they felt the need for the F-22 program "is not urgent," it quoted, based on the threat and viability of the F-15 program.

Then we went into 1996. We held hearings. In those hearings surfaced additional concerns about the level of concurrent production and development, projected F-22 weight and specific fuel consumption. We came back in the National Defense Authorization Act for 1996 to, once again, require the Department of Defense to respond to 21 specific questions. And they did respond and indicated, again, that the level of concurrency in the program was acceptable using departmental risk criteria.

In short, less than 2 years ago, the Senate was being told the program was on track, no problems. Now in 1997, we held hearings and surfaced still yet other concerns about the F-22's transition from this engineering, manufacturing and development phase to production, based on what one witness calls an "event driven program that ensures that key production criteria are met as a prerequisite for production decisions." That gave us some assurance. Correspondingly, the Senate then included in the 1997 National Defense Authorization bill a requirement that the Department of Defense undertake a cost analysis and report on their events-based decisionmaking criteria.

We took them at their word. We said fine, give us a report. Within the last year, the Air Force commissioned a Joint Evaluation Team which concluded that the F-22 development program was \$2.2 billion over cost, and that much more time would be needed for testing. This was the first time that we had been notified that the F-22 was in trouble, despite numerous years of hearings and reports back from the Air Force. So, based on this information the committee held—I chaired—two additional hearings in 1997, on tactical aviation. And we learned then that the Air Force canceled four preproduction vehicles that it previously indicated were a key to the program going forward. And then it took that money, \$700 million, and put it back into development. This action, to infuse hundreds of millions of dollars into development, was taken by the Air Force again without specifying how the program had been changed, identifying cost-control measures, and describing the level of risk that remains. They have not told us how the program got in this shape. They have only told us that they have found the funds to fix it. They found the funds to fix it by canceling four preproduction aircraft, thereby jeopardizing a necessary step testing for most development programs, which they say now is not necessary, and taking that money and pumping it into engineering and manufacturing development.

They also promised that event-based decisionmaking would keep the F-22 program on track. We asked them to report on this aspect of the program. The Air Force said it would give us a report on it. They did. That report, 6 months late: 18 words. Here is the Air Force report. Specific exit criteria:

First EMD aircraft first flight complete.

Complete engine initial flight release.

Air vehicle interim production readiness review complete.

What does that tell us? This is the report that it took them 6 months to put together to respond to what we asked for, what we thought was legitimate?

Furthermore, each of these three events were supposed to have been completed before the fiscal year even started. What kind of confidence does that provide, for a program with nearly \$20 billion in development and well

over \$40 billion in procurement? We are talking about \$60 billion here. Consequently, the Senate Armed Services Committee came to the conclusion that, if tactical air modernization is going to be viable in the future from both a technical perspective and the perspective of affordability, that we had to take some action now in the F-22 program to achieve and ensure performance and cost-control goals. Therefore, I recommended to the Senate, and the Senate agreed, that we not permit the infusion of an additional \$420 million into F-22 research and development until we understand how this program came to be in this present condition.

Some people are going to argue that these actions are too severe. But I think it is just the opposite. We believe the actions that we have taken help to ensure the program's success. Remember, this is just the development phase and it is more than \$2 billion over budget. It was not that long ago that then Secretary of Defense Cheney canceled the Navy A-12 program because it was \$1 billion over cost. Now we have a plane more than \$2 billion over cost.

I have deep concern over whether we can maintain continuing support politically for the F-22 program here in Congress, and with the American people, if we cannot adequately address these cost overruns and explain to the American people that we are taking prudent steps to make sure that this does not continue. The steps that we have taken are not designed to put the program in jeopardy. They are designed to save the program. They are designed to demonstrate that we recognize there are problems and we must hold the contractors accountable.

We are told the Air Force and the contractors have this agreement. They don't have an agreement. All they have said is that they have agreed to agree; they have agreed to agree that there will not be any more cost overruns, that they will deliver on time. And I pray and hope—and maybe have some confidence—that they can do that. But the agreement has not been negotiated. It is not in print. It does not have signatures on the bottom line. And until it does, I think it is reasonable to withhold some funds so we know that those agreements are going to be guaranteed and performed.

What is in jeopardy if the F-22 does not get on track? I suggest four very important things. We may end up

treating the F-22 like we did the B-2, producing far fewer than we need but only what we can afford, and then we have an inadequate tactical air program for the future. Also, we could lose support for the next aircraft carrier, the CVN-77. In fact, I believe it's the advanced procurement for the smart-buy initiative that was to save taxpayers \$600 million on this carrier that was taken by the appropriators to fund the F-22. We may not get that carrier. Third, we may lose the Joint Strike Fighter. We cannot consider throwing more money at three TACAIR programs, given the low levels of procurement for land and sea systems. F-22 cost growth cannot be permitted to eat the lion's share of the funding pie. The Navy is absolutely counting on the Joint Strike Fighter to complement the F/A-18E/F. The Marine Corps has put their entire TACAIR future solely in the hands of the Joint Strike Fighter. If the Joint Strike Fighter does not come through on time, then we are going to have to radically rethink whether or not there will even be Marine Corps TACAIR in the future.

We all know that from a political standpoint there will not be a Joint Strike Fighter if we cannot control the F-22 cost. This places the Navy and the Marine Corps in deep jeopardy.

Finally, continued F-22 cost growth could rob funds from other key Air Force modernization initiatives, whether they be TACAIR, strategic airlift, or the communications and intelligence programs which the entire joint force will have to rely on for information superiority in the 21st century.

In short, we need to be confident and ensure ourselves that the F-22 program is under control. We don't know how else to get their attention. I found that the best way is to say: No performance, no money.

No, Mr. President, we did that some time back. We were confronted with a very similar cost and performance problem with the development of the C-17—a marvelous airplane, but they could not get their act together. So we told the manufacturer you either come in at cost or you are not going to building more planes. As a result, there was a huge banner erected in the production plant, which said, "Build 40 at cost, or no more." Guess what, they built 40 at cost and now we have a multiyear procurement of 120 C-17's. This is a success story because Congress held the line, and I am dis-

appointed that we have lost that opportunity with this action.

We should all ask ourselves whether the F-22 program would benefit from a similar policy from this body.

The PRESIDING OFFICER (Mr. ABRAHAM). The time of the Senator has expired.

Mr. DOMENICI. Mr. President, the pending conference report accompanying H.R. 2266, the Department of Defense appropriations bill, provides \$247.7 billion in new budget authority and \$164.7 billion in new outlays for Department of Defense programs for fiscal year 1998.

When outlays from prior-year budget authority and other completed actions are taken into account, the final bill totals \$247.7 billion in budget authority and \$244.4 billion in outlays for fiscal year 1998.

This legislation provides for military pay, procurement, research and development, operations and maintenance, and various other important activities of the Department of Defense and the U.S. military services throughout the world. This bill provides for the readiness, current, and future weapons systems, and all the other necessities of our national defenses—except for military construction and Department of Energy atomic energy defense activities—that enable our Armed Forces to protect U.S. national interests at home and abroad. It is certainly one of the most important pieces of legislation that Congress passes each year.

The spending in this conference report falls within the revised section 302(b) allocation for the Defense Appropriations Subcommittee. I commend the distinguished chairman, the Senator from Alaska, for bringing this bill to the floor within the subcommittee's revised allocation.

The bill provides important increases over the President's request for 1998. It is fully consistent with the bipartisan budget agreement that the President and Congress concluded earlier this year. I urge the adoption of the conference report.

Mr. President, I ask unanimous consent that a table displaying the Budget Committee scoring of the conference report be placed in the RECORD.

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

#### H.R. 2266, DEFENSE APPROPRIATIONS, 1998—SPENDING COMPARISONS—CONFERENCE REPORT

(Fiscal year 1998, in millions of dollars)

	Defense	Nondefense	Crime	Mandatory	Total
Conference Report:					
Budget authority .....	247,485	27		197	247,709
Outlays .....	244,167	31	197		244,395
Senate 302(b) allocation:					
Budget authority .....	247,485	27	197		247,709
Outlays .....	244,232	31		197	244,460
President's request:					
Budget authority .....	243,700	27		197	243,924
Outlays .....	243,874	31		197	244,102
House-passed bill:					
Budget authority .....	248,111	27		197	248,335
Outlays .....	244,527	31		197	244,755
Senate-passed bill:					
Budget authority .....	246,988			197	247,185

	Defense	Nondefense	Crime	Mandatory	Total
Outlays .....	244,185	7		197	244,389
Conference Report compared to:					
Senate 302(b) allocation:					
Budget authority .....					
Outlays .....	-65				-65
President's request:					
Budget authority .....	3,785				3,785
Outlays .....	293				293
House-passed bill:					
Budget authority .....	-626				-626
Outlays .....	-360				-360
Senate-passed bill:					
Budget authority .....	497	27			524
Outlays .....	-18	24			6

Note: Details may not add to total due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

Mr. DORGAN. Mr. President, I rise to speak in strong support of the Defense appropriations conference report, which the Senate is now considering.

The distinguished chairman and the distinguished ranking member, Senators STEVENS and INOUE, working with our House counterparts, have done a remarkable job in fashioning a truly balanced bill that will meet our Nation's security needs for the 21st century. I would like to salute Senators STEVENS and INOUE for their leadership and skill in balancing the competing needs of our Nation's military.

I also would like to thank the chairman and ranking member for working with me to address some Defense issues that are of a very high priority to North Dakota. Let me just highlight some of these matters.

#### B-52 BOMBERS

First, this Defense spending bill provides an additional \$57.3 million above the administration's budget request to fully fund our Nation's fleet of B-52 bombers. My colleagues will recall that we deployed 66 B-52's during Operation Desert Storm, and that these planes dropped 40 percent of the ordnance dropped by allied forces during the Persian Gulf war. Yet the administration has consistently recommended sending 23 of these valuable planes to the boneyard. I am pleased that the bill now before us specifically rejects that suggestion.

As those who fly B-52's out of Minot Air Force Base know, the B-52 is a highly capable bomber, one that can continue to contribute to our national defense through at least 2030. Nearly every part of the B-52 has been replaced or modernized, and we have spent over \$4 billion in recent years to upgrade and update these planes. The B-52's that entered service in the 1960's still have only about one-third of the flight hours of the average 747 now in commercial service.

If we were left with 71 B-52's, only about 44 of the aircraft would be combat-coded, making it impossible for us to repeat the B-52's gulf war performance in any future regional conflict, much less hold some in reserve for a second regional conflict or a nuclear role.

Lastly, to retire strategic bombers would reduce Russia's incentives to ratify the START II Treaty. This

major arms control agreement will help us achieve greater strategic stability. But we should not throw away bargaining chips before the Duma acts to approve START II.

#### AIR BATTLE CAPTAIN

In another area of interest to my State, this bill provides \$450,000 for the Air Battle Captain Program at the University of North Dakota's Center for Aerospace Sciences. Most importantly, report language accompanying the bill also directs that the program continue to accept new students. The Air Battle Captain Program trains helicopter pilots for the Army efficiently and cost effectively, and most of its graduates have gone on to become Army aviators. When the graduates reach Fort Rucker, they arrive as commissioned second lieutenants and are able to forego the primary flight training, thus enabling the Army to assign them to combat units 8 months ahead of their contemporaries.

#### FLOOD RELIEF

As my colleagues will recall, this spring the Red River Valley suffered its worst flooding in recorded history. When the water finally won, a 500-year flood emptied Grand Forks, ND, a city of 50,000 people, and sent 4,000 residents to the Grand Forks Air Force Base for shelter. Many of the base personnel who fought the flood for weeks, and who hosted evacuees when the flood water breached the dikes, were themselves flood victims. Over 700 military personnel were forced to evacuate during this disaster. And 406 service members have suffered losses to personal property, including 95 families whose homes were extensively damaged.

This Defense appropriations bill ensures that these personnel will not be victims of unintended discrimination as well as flooding.

If these service members had lived on base, they would be eligible to file a claim with the Department of Defense for losses incident to service. The Air Force pays such claims pursuant to section 3721 of title 31 of the United States Code. But as the law now stands, military personnel living off base are not eligible to file such claims, even though they are stationed at Grand Forks Air Force Base as a result of their military service.

Section 8120 of the bill would simply permit the Air Force to reimburse

these service members for their losses despite the fact that they lived off base. The bill makes available up to \$4.5 million of the funds already available to the Department of Defense for paying claims.

Let me assure my colleagues that section 8120 supplements private insurance and benefits provided by the Federal Emergency Management Agency. Air Force practices and FEMA regulations prohibit duplication. Service members with private insurance will have to file claims against that insurance before the Air Force will pay claims under this provision.

#### LEADERSHIP AND HARD WORK

Mr. President, none of these aspects of the bill would have been approved by the Senate or would have survived conference with the House were it not for the support and leadership provided by the distinguished chairman of the subcommittee, Senator STEVENS, and the distinguished ranking member, Senator INOUE. I would like to acknowledge their willingness to help in these areas and to thank them for their assistance.

Let me also take this opportunity to put in a good word for the hard-working staff of the Defense Appropriations Subcommittee. My thanks and congratulations go in particular to Senator STEVENS's able lieutenant, staff director Steve Cortese, and to Charlie Huoy, who handles these issues for Senator INOUE. And I am also grateful for the skilled efforts of Susan Hogan, John Young, Mazie Mattson, and Emelie East.

I urge my colleagues to support this conference report. Thank you, Mr. President. I yield the floor.

#### BOSNIA POLICY

Mr. BYRD. Mr. President, the President's National Security Advisor, Mr. Sandy Berger, two days ago made an important statement on U.S. policy toward Bosnia, in particular the question of keeping United States' ground forces in the region beyond June of 1998, in order to keep the peace in an area where political reconciliation has lagged behind the actual military separation of the opposing forces. It is not surprising that political, economic and social reconciliation would proceed at a pace commensurate with the levels of extensive brutality and violence which characterized the Bosnia conflict prior

to the introduction of U.S.-led NATO forces two years ago. In what might be characterized as a trial balloon, Mr. Berger stated, according to the New York Times of yesterday, September 24, 1997, that the "international community" will be required to "stay engaged in Bosnia in some fashion for a good while to come."

The question is for how long should the United States remain while expending billions of defense dollars and risking the erosion of U.S. readiness by tying our forces down in Bosnia? The problem, as I see it, is that our European partners have said that they will not remain on the ground in Bosnia unless the United States does, and when we leave, they will. I find this to be a very unreasonable position, in that Bosnia is not paramount in the vital interests of the U.S., and at some point our European allies should consider taking the responsibility for acting as the military security force in that European country. This is not to say that the U.S. could not provide continued logistical, intelligence, and other supporting roles while the Europeans take their turn at bat in Bosnia.

I call the attention of my colleagues to the provision in the Department of Defense conference report, Section 8132 which requires the President to certify, by May 15, 1998, his intentions regarding keeping our forces in Bosnia on the ground beyond June 30, 1998. The certification must include the reasons for the deployment, the size and duration of the deployment, the missions of our military forces, the costs of the deployment, and the impact of it on the morale, retention, and effectiveness of U.S. forces. This is a very good, very complete provision, and it will trigger a debate, as it should, in this body, regarding the future policy of the United States in Bosnia.

Mr. DODD. Mr. President, I rise today in support of the Defense Appropriations conference report. First, I'd like to recognize Senator STEVENS and Senator INOUE for the fine work they did in working through the conference issues with their House counterparts. I think that after this vote, it will be clear that the vast majority of this body supports the balance this report strikes between the changing needs of our Armed Forces and the constraints imposed by necessary spending reductions.

I felt that the conferees made the right decision by endorsing the submarine teaming agreement. That endorsement ends the costly battle between our two submarine builders, saves the taxpayers money, and preserves competition in the research and development phase of submarine building. While some oppose this plan, no one argues the point that this agreement will save the Navy hundreds of millions of dollars over the building plan contained in last year's bill. Furthermore, this plan maintains competition for new ideas on how to improve

the new attack submarine. In sum, we have two fine shipyards working together overall to decrease the cost to taxpayers even while they compete on sub-systems to ensure continued technological advancement.

On a related matter, I'm heartened to see that this report provides funding to complete the *Seawolf* submarine program. This building program has clearly undergone radical changes as a result of the end of the cold war. At one point, this nation expected to build 30 *Seawolf*-class submarines and now that number has been reduced to just 3 in favor of the less-costly new attack submarine. So this Nation has already throttled back in terms of its submarine plans; now it's time to move forward with our new plan.

This conference report also increases the number of Blackhawk helicopters to 28, 10 more than the President requested. And it asks for two navy CH-60 helicopters as well as advance procurement money for that Navy version of the Blackhawk. These additional aircraft reveal once again that the Blackhawk is this Nation's most capable helicopter. Derivatives of this helicopter are at work for nearly every branch of the U.S. Armed Forces as well as 15 foreign countries. As capable and versatile as these helicopters are, however, National Guard adjutant generals throughout the country remind us year after year that they do not have enough. In fact, a conservative reading of the numbers reveals that the National Guard has a shortfall of over 400 Blackhawks. Meanwhile, the production line for these aircraft will shut down in a couple of years. The plan for coping with that shortfall is to rely on Vietnam-era UH-1 helicopters as we move into the next century. Frankly, as the National Guard stands at the front line of defense against devastating natural disasters, they deserve better. I hope the President's next budget request reflects their requirements.

On a brighter note, this committee made the tough decisions between modernizing military equipment and cutting costs. I was glad to see that the committee agreed with the Defense Department's requests for the C-17 cargo aircraft, the F-22 program, and the emerging Comanche helicopter program. These prudent decisions in support of cost-effective programs will provide vital support for our military forces well into the 21st century.

Finally, Mr. President, let me congratulate the conferees on completing this bill, the largest of the 13 appropriations bills, before the end of the fiscal year. There was a lot of hard work in negotiations that allowed this bill to move forward and I'm sure that this body and the Nation appreciates their efforts.

Mr. STEVENS. Mr. President, I have 8 minutes, roughly. I yield 4 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for up to 4 minutes.

Mrs. HUTCHISON. Mr. President, I thank the chairman, Senator STEVENS, and Senator INOUE, for producing a defense appropriations bill that will fund the defense needs of our country. It will create a quality of life improvement for those who are serving in our military, and it will give us, to the extent that we can, the equipment that we need for our young men and women to do this job.

I want to point out particularly one part of this bill that I think is a major step for this Senate and for our country. That is the part that provides for a cutoff of funds for the Bosnia deployment after June 30, 1998, unless the President comes to Congress 45 days before that time and shows us exactly why he would want to extend the forces, how much it would cost, what it is going to do—what the mission is, and what the exit strategy is. This is what we have been asking the President for, for 2 years.

When we started this deployment over the objections of many of us in this Congress, it was for 1 year, from November 1995 to November 1996. Then the continuation came with very little consultation from Congress, certainly no previous consultation, and we started in January 1997 until now; it was set for June 1998. But even today the New York Times editorialized, "Still No Exit Strategy on Bosnia."

Congress is saying to the President, we want to see an exit strategy. Many of us are concerned that we are drifting into a potential commitment that we do not understand, that the American people do not understand. They do not see a need for it because they don't see the strategy. It seems, if you are looking at Bosnia, that the military mission is to keep the parties apart. But the political mission is to bring them together, perhaps bring them together prematurely.

I have been to the Balkans six times. I was there in August. I walked on the streets of Brcko. I talked to the Serbs. I talked to the Muslim residents. I asked them if they were helping each other move into the neighborhoods to bring the refugees back. They acted like the others weren't there. They are not helping each other. They are not ready for this move. If we are going to try to continue to force this resettlement, is it an inherently peaceful move? Or are we disrupting the peace that we would like to put into Bosnia today?

Mr. President, I think what this bill does is say, once and for all, we are going to have consultation. We are not going to allow a mission creep, such as we have seen in Somalia. We are not going to allow a mission creep, such as we have seen in Vietnam. We are not going to allow our young men and women, who are serving in Bosnia, to give their lives before we have a policy in this country about what our mission is there. We are going to do it, I hope, in the light of day, taking into consideration what the U.S. security interest

is, what it is going to cost us, what our relationship is to our allies.

These are the questions we must address before we put our young men and women into a mission that has no end.

So, Mr. President, I commend the leaders of the armed services and Defense Appropriations Subcommittee. I am on that subcommittee. Under the leadership of Chairman STEVENS and cochairman, Senator INOUE, with Senator PAT ROBERTS, with Senator RUSS FEINGOLD, we are trying to fashion a policy that the American people will agree is the right policy for our country.

Mr. President, I ask unanimous consent that the New York Times editorial be printed in the RECORD.

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

#### STILL NO EXIT STRATEGY ON BOSNIA

Having already stretched America's troop commitment in Bosnia from 12 to 30 months, the Clinton Administration has begun an effort to prepare public opinion for the possibility of an even longer stay. That is the way to read Samuel Berger's speech at Georgetown University on Tuesday, when he linked the duration of American involvement to a notably ambitious set of policy goals. Mr. Berger, the President's national security adviser, is too hasty. Instead of managing the public relations of a longer stay, he should be using the time to try to produce a workable exit strategy by the June deadline.

Everyone wants to unified, democratic and prospering Bosnia. But Congressional Republicans are right to warn that American soldiers cannot remain deployed until that goal is fully achieved. What was regrettably absent from Mr. Berger's speech was any sense of driving toward departure. It is clear from the speech that Mr. Berger and Secretary of State Madeleine Albright plan to spend the time between now and June urging President Clinton once again to push back the withdrawal deadline.

Lack of an exit strategy has been a consistently troubling omission ever since Mr. Clinton first sent American troops into Bosnia at the end of 1995. On Tuesday, Administration officials spoke about the need to begin planning by February for the next phase of military involvement. By our calendar it is still September, and such a focus on the hypothetical future is premature. The Administration has nine months to clarify the specific military talks that need to be accomplished before Bosnia is secure enough to allow a full American withdrawal. Senator Kay Bailey Hutchison speaks for many Republicans and, no doubt, a number of Democrats when she warns the White House that without such an exit strategy, Congress will fight any extension requests.

Common sense argues against igniting a renewed war in Bosnia by precipitously withdrawing NATO troops. We readily concede that withdrawal deadlines cannot be set in cement without regard to protecting the progress that has already been made. Future events could even warrant an extended presence. But the Administration is tilting the wrong way, and the current mindset of Mr. Clinton's foreign-policy team suggests that it will not discover a way out in the absence of a Congressional revolt.

When Mr. Clinton first proposed sending American troops to Bosnia, skeptics argued that guaranteeing full respect for the Dayton peace agreements could take decades. The Administration countered that all it

meant to do was give the Bosnians a year to build the peace outlined at Dayton. As that one-year deadline approached, the White House gave the original mission a new name and extended it for 18 months. Now, as the Administration seems to be preparing for yet another extension, Congress may have to force it to show that fundamental American interests require a continued military presence in Bosnia.

The two strongest arguments for staying are the persistence of deadly hatreds that could spark renewed hostilities once outside troops withdraw and the statements by various European governments that once American troops depart, their troops will be withdrawn as well. But the irresponsibility of Bosnian fractional leaders and European allies should not push Washington into an expanded definition of America's own vital interests.

The United States has all along had a limited interest in Bosnia, consisting mainly of preventing the slaughter of civilians and preserving the unity and effectiveness of the NATO alliance. Beyond that there are some desirable goals, like bringing war crimes suspects to trial and allowing refugees to return to their homes. These warrant strong diplomatic exertions, supplemented, at least through June, by carefully planned military actions. There is a lot NATO troops can still do in this regard before their currently scheduled withdrawal date.

Building a united and peaceful Bosnia is ultimately up to the people of Bosnia. Policing Europe in the absence of acute threats like shooting wars is primarily the responsibility of European nations themselves. If the Bosnians will not work together and the Europeans will not shoulder greater security responsibilities on their own, the breach cannot be filled indefinitely with American troops.

Mr. FEINGOLD. Mr. President, I would like to join the Senator from Texas [Mrs. HUTCHISON] in highlighting the provisions in Department of Defense appropriations bill, as agreed to in conference, concerning the deployment of United States troops in Bosnia.

The conferees agreed to include—in legislative language—a provision that stipulates that no funds may be made available for the deployment of United States ground forces in Bosnia after June 30, 1998—a date the President himself has specified—unless the President submits to the Congress a certification that the continued presence of our troops is necessary to protect our national security interests. In this certification, the President will have to justify for the Congress and the American people the reasons for such determination and specify details concerning the deployment. These include: the number of military personnel to be deployed, the expected duration of the deployment, the mission and objectives of the deployment, and the exit strategy for the U.S. forces who have been deployed.

But most importantly, Mr. President, President Clinton will have to detail the costs associated with any deployment after June 30, 1998. This is perhaps the most troubling aspect of our involvement in Bosnia. After originally being told that the mission would cost the American people some \$2 billion, recent estimates indicate that we will

soon have spent well over \$7 billion to deploy U.S. troops. Mr. President, that is more than a threefold increase. With the language included in the bill before us today, the administration will now have to be much more clear about the potential costs of continuing deployment in the region. I think this is vitally important so that we, the Members of the U.S. Congress, and the American people we represent will have a better idea of the financial implications of a mission that I feel has already gone on much too long with too little to show for it.

Because of my concerns about this mission, concerns which I have detailed on the Senate floor many times before, I have joined with the Senator from Texas [Mrs. HUTCHISON] in developing a Senate Bosnia Working Group. She and I both feel that it is time to think about what policy alternatives we may have with respect to U.S. involvement in the Balkans.

The compromise language arrived at by the conferees, while perhaps not as strong as I would have liked, hopefully represents a first step toward the development of a policy that we can all be more comfortable with.

So Mr. President, I thank all the conferees for their efforts in this area.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, I yield the Senator from Virginia 4 minutes, but I might say, Mr. President, to the Senator from Arizona, we thought he might proceed first. If he doesn't use all his time, there will be more time for us.

Mr. MCCAIN. Mr. President, I thank Senator STEVENS and Senator INOUE.

I have the usual objections. One of them is particularly egregious: \$250,000 to transfer commercial cruise ship shipbuilding technology to U.S. Navy shipyards and to establish a monopoly for a single cruise line in the Hawaiian Islands, for which there is a competitor already who wants to compete there. The people who tour the Hawaiian Islands and who live there are going to pay for that. I find it regrettable.

Mr. MCCAIN. Mr. President, the effects of over 10 years of cuts in defense spending are being acutely felt by the men and women who serve in uniform. Enough has been said on this floor about issues like pilot retention, maintenance backlogs and modernization problems all caused by the confluence of declining resources and high operational tempos that I will not dwell on them here today. Suffice to say, I applaud the decision by Congress to add \$3.6 billion to the amount allocated for national defense reflected in the legislation before us today. The defense appropriations bill rightfully addresses some of these problems with funds added during congressional budget negotiations earlier this year.

The examples of waste, as usual, are many. I'm not sure whether I should be nervous about an imminent threat to our national security from another

solar system or galaxy. What or who is out there that warrants over \$3.5 million in unrequested funds being added to the defense budget for the Sacramento Peak Observatory and the Southern Observatory for Astronomical Research? I am cognizant of the very real risk that Earth may someday be threatened by a comet or asteroid, but this is a problem already receiving ample attention from the scientific community using other federal and private dollars. I question whether we should be using defense dollars to fund these observatories.

I have to confess to also being concerned about the increasing amount of defense dollars being earmarked for medical research programs despite the fact that the National Institutes for Health exists precisely to perform such research. Each area of research, whether diabetes, prostate cancer or HIV, carries with it an entirely sympathetic constituency for whom my heart goes out. That does not, however, justify the cynical use of defense dollars to conduct such research. To oppose this spending sets one up at as heartless. After all, who could oppose medical research. That, however, is precisely why Members of Congress like to use the defense budget: opponents of these earmarks risk antagonizing people suffering from serious illness or who have relatives with these afflictions. The point has to be made, however, that medical research not related to military service belongs with NIH—not DoD.

Mr. President, the tortuous process through which Members of Congress contort themselves to conjure up national security rationalizations for parochial projects is absurd. It degrades this institution and further undermines public confidence in their elected officials. The \$8 million in this bill for the Pacific Disaster Center is a case in point, as is the \$9 million for the Monterey Institute for Counter-Proliferation Analysis. The latter is illustrative of the growing trend toward establishing endless numbers of research institutes irrespective of the existence of other centers and government agencies already performing such work.

It is in this light that I find particularly disturbing the inclusion in this bill of \$3 million for the establishment of a "21st Century National Security Study Group." Neither House nor Senate bill included this item, but suddenly it finds itself in the Conference Report. Not only is this group wholly unnecessary—after all, how many more such studies do we really need, especially given the number produced without federal dollars—but it was never even brought before either chamber of Congress prior to now.

This is ridiculous. What possible practical utility can this study group have? Is Congress so enamored of insinuating itself into the process of formulating our National Security and Military Strategies that it needs to mandate that some smart people get

together and do what they're already doing in Department of Defense doctrinal and warfighting centers and research institutes all over America? Perhaps our counterparts in the House where I understand this program originated have lost sight of why they are here.

I do not know why the defense appropriations conference report includes \$5 million to expand the North Star Borough Landfill; \$20 million not requested by the Defense Department for an integrated family of test equipment; \$50 million—\$50 million—for an Industrial Modernization program to assist in the commercial reutilization of government industrial complexes no longer used by the government. Local government and chambers of commerce have been performing this task just fine throughout the base closure process. Similarly, why do the communities surrounding Fort Ord and San Diego get a combined \$15 million in defense conversion money earmarked in this bill? Was it necessary to double the amount requested for the Young Marines program? Should Congress really be in the business of legislating monopolies for individual cruise ship lines, as is done in this bill?

This body has important business to which it must attend. I believe I have made my point. I won't even dwell on the \$100,000 in the bill to preserve a Revolutionary War-era gunboat located at the bottom of Lake Champlain. There isn't time. Mr. President, the hemorrhaging of defense dollars for nondefense and highly questionable purposes is inexcusable during a period when we are struggling with vital questions of long-term military readiness. I hope to live to see the day Members of Congress see the light and cease this destructive practice of filling appropriations bills with garbage. It just has to stop.

I ask unanimous consent that a list of objectionable provisions in the bill be printed in the RECORD.

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

OBJECTIONABLE PROVISIONS IN H.R. 2266, CONFERENCE AGREEMENT ON FISCAL YEAR 1998 DEFENSE APPROPRIATIONS BILL

#### BILL LANGUAGE

\$35 million earmarked for the Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Fund.

Section 8009 mandates that funding be available for graduate medical education programs at Hawaii-based Army medical facilities.

Section 8030 prohibits the use of funds appropriated in the bill to reduce or disestablish the 53rd Weather Reconnaissance Squadron of the Air Force Reserve, based at Keesler Air Force Base, Mississippi.

Section 8056 sets aside \$8 million (unauthorized) for mitigation of environmental impacts on Indian lands.

Section 8078 requires the Army to utilize the former George Air Force Base.

Section 8097 directs a \$13 million grant to the Intrepid Sea-Air-Space Foundation to refurbish the U.S.S. Intrepid.

Section 8099 compels the Air Force to send its officers through Air Force Institute of

Technology irrespective of cost relative to civilian institutions.

Section 8109 earmarks \$250,000 to transfer commercial cruise ship shipbuilding technology to U.S. Navy shipyards and establishes a monopoly for a single cruise line in the Hawaiian islands.

Section 8130 earmarks \$3 million for establishment of a "21st Century National Security Study Group" [NOT IN EITHER BILL.]

Section 8131 establishes another panel to review the requirement for B-2 bombers, with an appropriation of unlimited funds as requested by the panel members.

#### REPORT LANGUAGE

\$5 million is earmarked for the expansion of the North Star Borough Landfill.

The Department of the Air Force is "urged" to work closely with the William Lehman Aviation Center at Florida Memorial College.

\$50 million is earmarked for projects and programs to convert former government facilities and complexes to commercial use.

\$72 million is earmarked for the Youth Challenge, Innovative Reading Training, and Starbase Youth Programs.

\$100,000 is earmarked for the preservation of a Revolutionary War gunboat discovered on the bottom of lake Champlain.

The Department of the Army is directed to re-award the Joint Tactical Terminal contract.

The Army is "urged" to allocate \$750,000 to connect four historically-black colleges to the Army High Performance Computing Center in Minneapolis and provides an additional \$500,000 for work stations at the colleges.

A Diagnostic Imaging Technology Center of Excellence is required to be established at Walter Reed Army Hospital and \$4 million is earmarked for one particular program, all without benefit of competitive processes.

\$3 million is earmarked for the Terfenol-D program, under the proviso that the work be performed in partnership with the National Center for Excellence in Metal Working Technology.

#### Conference report budget tables

[Procurement in millions of dollars]

Army	
C-XX Medium-Range Aircraft .....	23.0
UH-60 Blackhawk Mods .....	3.0
EFOG-M .....	13.3
MELIOS .....	5.0
All Terrain Cranes .....	8.0
Navy/Marine Corps	
CH-60 Helicopters .....	30.4
KC-130J Aircraft .....	120.0
AN/AAQ-22 .....	2.0
Ground Proximity Warning System .....	4.0
Air Force	
B-2A Increase .....	156.9
WC-130J Aircraft .....	118.0
WC-130J Spares .....	14.8
GATM .....	17.5
F-16 OBOGS .....	1.1
U-2 Sensor Glass .....	24.0
U-2 SYERS .....	5.0
MEECN .....	8.5
Defense-Wide	
JSLIST Industrial Production .....	10.0
M17-LDS Water Sprayers .....	2.0
7 HMV Medical Shelters .....	3.0
Reserves and National Guard	
Including the following Aircraft:	
T-39 Replacement Aircraft .....	10.0
C-130J .....	226.0
KC-135 Re-Engining .....	52.0
F-16 Avionics Intermediate Shop .....	32.0

*Conference report budget tables—  
Continued*

[Procurement in millions of dollars]	
Total .....	320.0
<b>RESEARCH, DEVELOPMENT, TEST AND EVALUATION</b>	
<b>Army</b>	
Environmental Quality Technology:	
Gallo Center .....	4.0
Commercialization of Technologies to Lower Defense Cost Initiative .....	5.0
Bioremediation Education, Science, & Technology Center .....	4.0
Plasma Energy Pyrolysis System .....	6.0
Radford Environmental Development & Management Program .....	5.0
Environmental Projects at the WETO Facility .....	7.0
Small Business Development Program .....	5.4
Agriculturally based remediation in Pacific Island Ecosystems .....	4.0
Computer based land management .....	4.0
Military Engineering Technology:	
Molten carbonate fuel cells technology .....	6.0
<b>Medical Advanced Technology:</b>	
Army-managed peer-reviewed breast cancer research .....	135.0
Emergency telemedicine .....	2.5
Volume Angiocat (VAC) .....	4.0
Periscopic minimally-invasive surgery .....	3.0
Proton beam .....	4.0
<b>Munitions Standardization, Effectiveness &amp; Safety:</b>	
Blast Chamber—Anniston Army Depot .....	2.0
Explosive waste incinerator .....	1.1
<b>Navy</b>	
Industrial Preparedness .....	55.0
<b>Oceanographic and Atmospheric Technology:</b>	
Autonomous underwater vehicle/sensor development .....	10.0
Ocean partnerships .....	12.0
<b>Medical Development:</b>	
Bone marrow .....	34.0
National Biodynamics Lab .....	2.6
Biocide materials research .....	5.5
Freeze dried blood .....	1.5
Dental research .....	2.0
Mobile medical monitor .....	2.0
Rural health .....	3.0
Natural gas cooling/desiccant demonstration .....	2.5
<b>Manpower, Personnel and Training</b>	
<b>Advanced Technology Development:</b>	
Virtual reality environment/training research .....	3.69
Center for Integrated Manufacturing Studies .....	2.0
<b>Environmental Quality and Logistics Advanced Techn.:</b>	
250KW proton exchange membrane fuel cell .....	1.7
Visualization of technical information .....	2.0
Smart Base .....	6.3
Undersea Warfare Advanced Technology: COTS airgun as an acoustic source .....	3.0
<b>Air Force</b>	
HAARP .....	5.0
ALR-69 PLAID .....	5.0

*Conference report budget tables—  
Continued*

[Procurement in millions of dollars]	
Missile Technology Demonstration flight testing .....	4.8
Scorpius .....	5.0
Hypersonic wind tunnel design study .....	2.0
<b>Defense-Wide</b>	
Agile Port Demonstration .....	5.0
<b>University Research Initiatives:</b>	
DEPSCOR .....	10.0
Southern Observatory for Astronomical Research .....	3.0
<b>Tactical Technology:</b>	
Simulation based design (Gulf Coast Region Maritime Center) .....	3.0
Center of Excellence for Research in Ocean Sciences .....	7.0
Materials and Electronics Technology: Cryogenic electronics .....	6.0
<b>Defense Special Weapons Agency:</b>	
Bioenvironmental research .....	5.0
Nuclear weapons effects core competencies .....	12.0
<b>Counterproliferation Support:</b>	
HAARP .....	3.0
<b>Advanced Electronics Technologies:</b>	
Lithographic & Alternative Semiconductor Processing (LAST) .....	18.0
Laser plasma x-ray source technology .....	5.0
Defense Imagery and Mapping Program; USIGS Improv .....	5.0
<b>Other Department of Defense Programs</b>	
<b>Defense Health Program:</b>	
Hepatitis A Vaccine .....	17.0
Military Health Information Services .....	7.0
Pacific Island Health Care Program .....	5.0
Brown Tree Snakes .....	1.0
Cancer Control Program .....	8.9
Army Research Institute .....	5.4
Military Nursing Research .....	5.0
Disaster Management Training .....	5.0
Holloman Air Force Base .....	5.0
Restoration of Army O&M (VAC) .....	8.0
<b>Drug Interdiction and Counter-Drug Activities</b>	
Source Nation Support: Riverine Interdiction Initiative .....	9.0
<b>Law Enforcement Agency Support:</b>	
Southwest Border Information System .....	4.0
Southwest Border Fence .....	4.0
HIDTA Crack House Demolition .....	2.3
C-26 Aircraft Photo Reconnaissance Upgrade .....	4.5
Regional Police Information System .....	3.0
Total questionable adds to the Defense appropriation conference report .....	1,495.4

Mr. MCCAIN. Mr. President, I would like to continue on this very important issue. The 19th century Danish philosopher Kierkegaard wrote that "purity of heart is to will one thing." In Bosnia, the international community has willed many things, and the result has been a highly tenuous peace among the warring ethnic factions unlikely to long survive the departure of NATO military forces. As we all know, what

was originally a 1-year mission has involved in a multiyear engagement of indeterminate duration. It is time to assess where we are and where we are going, with an eye toward ending deployment of U.S. forces to that war-torn region.

When this body debated back in December 1995 the issue of whether to support the deployment of U.S. forces as part of the Implementation Force following the signing of the Dayton peace accords, I stated that, "I know that by supporting the deployment, but not the decision [to send the troops], I must accept the blame if something happens." Events of the past several weeks have shown disturbing signs of a trend that may entail actions being taken that will result in the death of American servicemen. Mr. President, I am a realist. I recognize that the military exists to support national policy and that wearing the uniform involves a very real risk of being killed in action. Our failure to "will one thing," however, is leading us down a perilous path on which such deaths will have been unnecessary.

Congress, the press, scholars, and others have all considered the perennial question of mission creep. We can stop debating it, and accept that it has happened. Comparisons have been made with the ill-fated mission in Somalia to capture the late warlord and tribal leader Mohammed Farah Aideed. Such comparisons are often inappropriate for a number of reasons, but in this case it is valid. The multinational force, including the 9,400-strong contingent of U.S. troops, has seen its mission grow from that which is very specifically set forth in the annex accompanying the Dayton accords to one of extraordinarily confusing incongruity. The recent capture by British special forces of a Bosnian Serb indicted by the International War Crimes Tribunal in The Hague and the killing of another certainly sent a signal to Radovan Karadzic, Ratko Mladic, and the others on the long list of war criminals that at long last that provision of Dayton would be enforced.

As with Farah Aideed in Somalia, however, the signal has raised the stakes greatly in terms of the cost we could pay to bring them to justice. Lest anyone think I exaggerate, remember the tragedy of watching an entire company of elite American soldiers killed or wounded while Farah Aideed continued to elude capture. The situation in Bosnia could be incomparably worse.

The United States has overtly positioned itself in the middle of a power struggle between two Bosnian Serb leaders, President Biljana Plavsic and Radovan Karadzic. It is not what I would consider a great set of options. In the world of Serbian politics, though, everything is relative. The Clinton Administration has thrown its weight behind President Plavsic, the properly elected leader despite her abysmal record during the years following the splintering of the former



Yugoslavia into ethnically derived divisions. Not a hard choice when the alternative is Karadzic, whose name should rightfully be placed alongside those of other 20th Century butchers. The point I am trying to raise, however, is that once we sided with one faction within the Bosnian-Serb community, we placed our military personnel in the kind of position that faced those in Lebanon in 1983 and Somalia 10 years later.

The phenomenon of mission creep was accepted by most when it entailed benign nation-building measures. Indeed, the absence of a viable alternative to NATO in terms of competence, discipline, willingness to think innovatively, and absence of the kind of civilian political oversight that characterized the disastrous and tragic decision making apparatus under former U.N. Secretary General Boutros Boutros-Ghali and his deputy Yasushi Akashi made it only logical that the military component of the operation to end the war and rebuild the country should fall on NATO's shoulders. Logical, but not necessarily right. That extension of the military's original mission of simply keeping the warring factions apart ensured that the deployment would last longer than originally intended.

When the President announced that he would keep our forces in Bosnia beyond the original withdrawal date, he was met with widespread skepticism. How many of us actually believed that the June 1998 target date would be met? We knew that the deployment would continue indefinitely; that the costs would never be properly budgeted; that the diplomatic framework upon which we are operating would never stand on its own. But we also knew that a decision by Congress to terminate funding for troops in the field, for men and women sent in harms way at the behest of their Commander-in-Chief, stands as perhaps the most morally and politically difficult we can ever be called upon to make.

The absence of an exit strategy has made it easier for the Administration to justify keeping troops there to execute an expanding list of missions with no logical completion date other than the fairly arbitrary one of June 1998. The appearance of conflict back in the late May-early June timeframe between the Secretaries of State and Defense and the more recent contradictory messages conveyed by the National Security Advisor and the Secretary of Defense regarding the June 1998 withdrawal date illuminates all too well the total lack on the part of the Administration of a clear concept of what we are doing in Bosnia and, consequently, how long we should be there.

Mr. President, I supported the decision to deploy troops to end the war because President Clinton, in his capacity as Chief Executive and with his constitutional prerogative of conducting this Nation's foreign policy, had

committed us to stop the fighting. And let no one doubt that the bitterness involved, the scale of atrocities inflicted, did not warrant some kind of forceful action.

It is certainly likely that a peace-keeping force will be needed beyond June 1998. The parties to the conflict in Bosnia have shown little sign that they are prepared to accept in full the terms of the Dayton Accord, and key provisions like the return of refugees to their pre-war homes will require the presence of such a force. There is a legitimate question, though, whether that contingent needs to include U.S. ground forces. We should not continue to accept the protestations of our allies, such as those that were voiced prior to our deployment of ground forces, that the United States is not sharing the risk. This country has seen too many of its fallen soldiers laid to rest in European cemeteries for us to accept that kind of rhetoric. A peace-keeping force without United States ground forces can and should assume responsibility for Bosnia after June 1998.

This does not imply an abandonment of our allies and friends in the effort at preventing a return of the fighting that forced the civilized world to once again reflect upon the fragility of global or regional peace. On the contrary, the conflagration that enveloped the former Yugoslavia earlier this decade was all the more shocking for its occurrence in Europe, where war was considered least likely to occur following the end of the East-West confrontation of the cold war era. The war in Bosnia and Herzegovina was a sad reminder that the so-called enlightened continent remains vulnerable to the kind of hatred and violence that culminated not long ago in the Holocaust.

What is important, to this country, is that we not become the permanent caretaker of the region. Our troops must be out by the end of June 1998. We should maintain a rapid reaction force in Hungary, and our heavier forces in Germany should remain available if needed. The rapid reaction force should include air and ground components capable of responding in a timely manner to a resurgence in fighting with sufficient strength to quell any such fighting at minimal risk to our personnel. But make no mistake: The peacekeeping force that remains inside Bosnia and Herzegovina must be European in content. The governments of Europe must accept responsibility for maintaining peace in their own backyard. Two world wars demonstrated that the United States cannot disengage from Europe, and our own economic well-being demands that we not do so. But the American public should not be expected to see its military personnel kept in harm's way in perpetuity in a situation where the parties refuse to take the necessary steps for lasting peace.

During the cold war, we prided ourselves on our role as leader of the free

world. Those of us who know the horror of war first hand, however, know the price such leadership entails. It is not a price that should be paid in Bosnia. We should not send the wrong message to our personnel in the field by cutting off their funding; but we should send a message to the President that the United States has done all it can for that sad country and withdraw our soldiers from Bosnia.

Mr. President, I appreciate the indulgence of my colleagues. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. STEVENS. I yield the Senator 4 minutes.

Mr. WARNER. Mr. President, I wish to associate myself with the distinguished Senator from Arizona and his remarks and, indeed, those of the distinguished Senator from Texas [Mrs. HUTCHISON]. I have worked with them on this very issue.

Mr. President, I commend the Appropriations Committee for the language which is contained in their bill, but I would like to urge that this whole analysis be taken a step further.

During the course of the confirmation hearings on General Shelton, I said that it is time for the United States to exercise the leadership to reconvene the principles, the very principles that laid down the Dayton accords, assess what has been done, what has to be done and, most significantly, the realistic chances of the balance being done.

Mr. President, I have in my hand, and I ask unanimous consent to have printed in the RECORD an op-ed piece by the distinguished former National Security Adviser, Dr. Kissinger, with whom I worked when he was in that position, and likewise excerpts from the statement by the current National Security Adviser, showing very clearly different viewpoints by distinguished Americans who understand this subject.

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

[From the Washington Post, Sept. 22, 1997]

LIMITS TO WHAT THE U.S. CAN DO IN BOSNIA

(By Henry Kissinger)

Every American foreign policy setback, from Indochina to Somalia, has resulted from the failure to define objectives, to choose means appropriate to these objectives and to create a public opinion prepared to pay the necessary price over the requisite period of time.

We are now on the verge of sliding into a similar dilemma in Bosnia: Our goals are unrealistic, the means available do not fit the objectives and the public is unlikely to block the probable consequences of our actions. Policy drifts because three issues await resolution: What are our objectives in Bosnia? How long should our troops stay? What risks should we run for the capture of war criminals?

In 1991, when Yugoslavia broke up, the United States joined the other NATO countries in recognizing its various administrative subdivisions as independent states. With

respect to Croatia and Slovenia, inhabited by a dominant ethnic group, this decision made sense. But in Bosnia, populated by Croats, Serbs and Muslims whose reciprocal hatreds had broken up the much larger Yugoslavia, the attempt to bring about a multiethnic state evoked a murderous civil war.

The same flaw that attended the birth of the Bosnian state lies at the heart of the dilemmas of the Dayton accords mediated by the United States that brought about the current Bosnian cease fire. Its military provisions separate the parties substantially along the lines of the ethnic enclaves that emerged as hostilities ceased. But the political provisions do the opposite. They seek to unite these enclaves under the banner of a multiethnic state that caused the explosion in the first place.

The American tendency is to treat Bosnian tensions as a political problem to be overcome by constitutional provisions that reconcile the parties and establish procedures for settling conflicts. But for the Bosnians, the overwhelming reality is their historical memory, which has sustained their ineradicable hatreds and unquenchable aspirations for centuries.

Throughout their histories, the Serbs and Croats have considered themselves defenders of their religions, first against a Muslim tide, then against each other. The Serbs' identity derives from a series of bloody battles in defense of the Serbian faith and population against Islam. Once Islam was stopped, the Serbs fought to vindicate their independence from Catholic Austria, spearheaded by the Croats.

The Croats perception is precisely the reverse—as upholders of Catholicism against Serbian Orthodoxy and Islam. And the Muslims know that they are regarded by the two other ethnic groups as a historical instrument of the hated Turks and therefore—since ethnically they are at one with the Serbs and Croats—as turncoats.

The deep-seated hatred of each party for all the others exists because their conflict is more akin to the Thirty Years War over religion than it is to political conflict. And this should serve to caution the United States not to get in between these parties by trying to impose political solutions drawn from our own, largely secular, experience.

Once passions were unleashed by the civil war, each group committed unspeakable cruelties in the process of expelling the other groups from the regions that they controlled—the ethnic cleansing. The Serbs started the process, but as the war continued, the other parties also engaged in murderous acts—the Croats in Krajina, the Muslims around Sarajevo. Among the existing leaders, few, if any, innocents are to be found.

The NATO allies would have done well to stop the killings six years ago, in its incipient phase. They could have taken the position that they would not tolerate such outrages within reach of NATO forces and on the continent where the political concept of human dignity originated and is now institutionalized. As a result of their failure to do so, each of the ethnic regions of Bosnia has become largely homogeneous; the results of ethnic cleansing are now the dominant fact of life in Bosnia.

The political provisions of the Dayton agreement seek to reverse this state of affairs. They provide for free movement among the ethnic enclaves, for free repatriation of refugees and for elections leading to national reconciliation. This vision has turned out to be a mirage.

No free movement among the various ethnic enclaves takes place, and no mail or telephone services exist. Each ethnic group issues its own currency, license plates and

passports. Serbs with Cyrillic license plates are at particular risk in other areas, but so are the Muslims and Croats if they leave their enclaves. Not surprisingly, refugees tend to return home only with armed escorts and are frequently obliged to flee as soon as the escorts leave.

Nor will elections solve the problem. In Bosnia, elections are not about alternation in office but about dominance determining life, death and religion. They must either ratify the new ethnic composition, or, since refugees vote on the rolls of the towns from which they have been expelled, produce the bizarre situation that absentee voters are in a position to “win” and, in effect, gain the right to rule the group that expelled them. In the Krajina region, for example, now occupied by Croatia, the voting rolls of many towns show a majority of Serbs, all of whom have been expelled. Are NATO forces expected to enforce this outcome?

Refusing to recognize these realities has twisted American policies into contortions that will guarantee an ultimate breakdown. Exerting considerable economic and political pressure, we engineered the shotgun wedding between Croats and Muslims that goes under the label of the Bosnian Federation. In this technically multiethnic structure, within which no cease-fire line is necessary according to the official mythology, NATO patrols only the line between the so-called Federation and the Serb part of Bosnia.

Reality mocks this mythology. The dividing line between Croats and Muslims is as rigid as the one between them and the Serbs. No Croat officials enter Muslim territory, no Muslim official serves in the Croat part of the Federation. Few Croats are to be found in Sarajevo, the purported capital of the Federation that was ethnically cleansed when the Muslims took it over after the Dayton accords were signed. Nor is there free movement of Croat and Muslim groups within the Federation.

It is a conceit that this state of affairs is the fault of a few evil bigots who, once removed either to war crimes trials or to exile, will permit the natural preference of the ethnic groups for some sort of unity to assert itself. This misconception has tempted senior American officials to pretend that Croat attitudes are the aberrations of its president, Franjo Tudjman, and has led the American NATO commander to abandon the neutral position of mediator and involve himself in the internal struggles of the Serb part of Bosnia.

Neither judgment is correct. In Croatia, the opposition is even less flexible than the president. And while Serb strongman Radovan Karadzic well deserves to be placed before a war crimes tribunal, his adversary, Biljana Plavsic, will not survive politically unless she too advocates nationalist Serb policies without, of course, the war-crime element.

A multiethnic state in Bosnia is unlikely to emerge except after another round of fighting, and then only if one of the parties achieves an overwhelming victory. Should NATO military power be used to promote such an outcome? Should American casualties be incurred to force the various ethnic groups into a multiethnic state that the majority of them do not want? Why should we violate our own principle of self-determination in pursuit of such goals?

American pressure to implement the political provisions of the Dayton accords may well lead to precisely such an outcome. The cease-fire now holds because of NATO's military preponderance and because the Muslims, the only ethnic group seeking a multiethnic state, are arming for the purpose of imposing what we are urging. Since they are now already the better equipped, they will

probably achieve initial successes and thereupon implement another round of ethnic cleansing. At that point, the Croats would almost certainly enter the fray to keep the Muslims from achieving a dominant position. And Russia, the historical protector of the Serbs, is unlikely to remain passive—at least politically.

Some favor such risks to punish the evil men who are assumed to have undermined the traditional coexistence between the ethnic groups. But there has never been a Bosnian state on the present territory of Bosnia. Whenever the various ethnic groups have lived together in apparent harmony, it was due to the pressure of some outside force that overwhelmed their passions—the Turks, the Austrians or Tito's dictatorship. The Croats slaughtered the Serbs under Hitler, the Serbs slaughtered the Croats in the early years of Tito; both Croats and Serbs cling to a collective memory of Muslim atrocities under Turkish rule.

Another often-cited argument holds that to abandon the political part of the Dayton Agreement is to reward aggression on the model of Hitler's dismemberment of Czechoslovakia. The analogy is mistaken. Hitler violated a recognized sovereign state; Bosnia's civil war was triggered by the West's misconceived attempt to experiment with a multiethnic state among populations divided by religion and whose very reason for existence has been to prevent domination by the other ethnic groups.

America has no national interest for which to risk lives to produce a multiethnic state in Bosnia. The creation of a multiethnic state should be left to negotiations among the parties—welcomed by America if it happens but not pursued at the risk of American lives. America does have a political concern to preserve the cease-fire for a reasonable period. We have already extended the deadline for withdrawal which the president promised to Congress. A case can be made to extend it once again with gradually reduced forces for a limited period—but after next June with personnel who have specifically volunteered for this duty, backed up by air power and naval forces stationed nearby. Manning cease-fire lines in Bosnia cannot be a permanent American undertaking.

As for the war criminals, there is no doubt that they deserve to be judged before a tribunal constituted for that purpose at The Hague. In the current state of affairs, an American military move would be construed as an effort to break Serb resistance to a multiethnic state and therefore would be opposed bitterly by the Serb population. But if America confined its role in Bosnia to maintaining the cease-fire lines and left the political evolution to the parties, a situation might present itself in which the arrest of war criminals could be dealt with on its merits.

America must avoid drifting into a crisis with implications it may not be able to master. The administration deserves much credit for having brought about the end of hostilities. Ending communal hatred is a longer-term challenge. We can facilitate this but we cannot justify military action.

EXCERPTS FROM REMARKS ON BOSNIA AT GEORGETOWN UNIVERSITY, WASHINGTON, DC

(By Sandy Berger, National Security Adviser)

Some argue that we set our sights too high in Dayton, that only an ethnic partition will produce the stability we want and extricate us from Bosnia. I believe the partitionists are wrong. Because accepting partition means ratifying the worst ethnic cleansing in Europe in more than a half century. We should not give up on justice and reward aggression.

Partition also would be wrong because it would send the message to ethnic fanatics everywhere that the international community will allow redrawing of borders by force, by creating the kinds of ethnically pure states that often harbor a dangerous sense of grievance, entities that would be inherently unstable, ultimately not viable, and inclined to expansionist aggression, partition would lead not to peace, but to war.

In short, to advocate partition is to accept defeat.

Mr. WARNER. Mr. President, I think it is imperative we take the steps outlined in this amendment and add additional steps so that this country does not drift into a new policy along the very lines that the Senator from Arizona has so eloquently stated.

I was privileged, on behalf of the Armed Services Committee, to write the committee's report on Somalia, with the distinguished Senator from Michigan [Mr. LEVIN]. I well understood how we got into it, what the problems were. And, once again, we are in the business of nation building as we interpose ourself amongst the several political factions fighting in that country.

I voted consistently against putting ground troops in. Therefore, I can stand here with a clear conscience today and say, once they are in, we have to assess what is that exit strategy. We are going to have \$7.3 billion of American taxpayers' money expended if we go through June 1998. There is no way of assessing the price tag of the risks of our men and women of the Armed Forces of our Nation have taken during that period of time. Therefore, this policy has to be rethought, and I think no less a reconvening of the Dayton principles is a measure we need to do to get to the right result in this situation.

Mr. President, I thank the distinguished manager for my few minutes here.

Mr. STEVENS. If there is any time, I reserve it. Does the Senator from Hawaii have any final statements?

Mr. INOUE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUE. Mr. President, I regret very much that there are some who are disappointed with section 8109 of the appropriations bill that authorized the creation of the cruise ship industry.

So, if I may, Mr. President, I ask unanimous consent to have printed in the RECORD letters indicating support, first, from the Department of Defense, a letter from the Assistant Secretary of the Navy, John Douglass; the Governor of Hawaii, the Honorable Benjamin Cayetano; the National Security Caucus Foundation; and representatives of our maritime industry, for example, Seafarers International Union, the Transportation Institute, the American Shipbuilding Association, the American Maritime Officers, the American Classic Voyages Co.

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

THE ASSISTANT SECRETARY OF THE  
NAVY, RESEARCH DEVELOPMENT  
AND ACQUISITION,

Washington, DC, July 30, 1997.

Hon. TED STEVENS,  
Chairman, Subcommittee on Defense, Committee  
on Appropriations, U.S. Senate, Washing-  
ton, DC.

DEAR MR. CHAIRMAN: I am writing in strong support of the United States-flag Cruise Ship pilot project included in the Senate's Fiscal Year 1998 Department of Defense Appropriations Bill, S1005, as passed on July 15, 1997. The construction of large, ocean-going cruise ships in United States' shipyards under this project is vital to transitioning U.S. shipyards back into the construction of cruise ships and to sustain this country's shipbuilding industrial base.

Military preparedness depends on the maintenance of a robust industrial base for U.S. Navy shipbuilding. With the decline in the number of new construction Navy ships, we have been actively encouraging the producers of our large warships and support ships to explore commercial opportunities. The sophistication involved in cruise ship design and construction makes this commercial project ideal for sustaining critical shipbuilding skills.

The MARITECH program authorized by Congress in Fiscal Year 1994 has served as an innovative research and development initiative to improve the international competitiveness of our U.S. shipyards, particularly in the construction of large, ocean-going vessels of all types. The technology transfer that accompanies any large ship construction program is essential to the continued viability of the shipyard industrial base in the U.S. The Cruise Ship pilot project contained in Section 8097 of S1005 would provide the means for just such technology transfers. I support the use of \$250,000 in Fiscal Year 1998 for the Cruise Ship pilot project.

However, I have some concern with the language that prohibits the future use of federal funds under this section. There may be a future need to utilize federal research and development funds for shared ship design applications and this requirement should be left to the determination of the Secretary of Defense. Specifically, the Navy is interested in exploring the potential use of the hull design used for these cruise ships as the hull for future Joint Command and Control ships. Accordingly, the Navy needs the flexibility to spend research and development funds on a common hull design for this mission.

Your support for this important project is appreciated. A similar letter has been sent to the other Chairmen of the Congressional Defense Committees.

Sincerely,

JOHN W. DOUGLASS.

EXECUTIVE CHAMBERS,  
Honolulu, HI, August 29, 1997.

Hon. DANIEL K. INOUE,  
U.S. Senate, Hart Senate Office Building,  
Washington, DC.

DEAR SENATOR INOUE: I recently received a briefing on your U.S.-flag Cruise Ship Pilot Project (S. 1005, Sec. 8097) contained in the FY 1998 Department of Defense Appropriations Bill.

Hawaii's domestic cruise ship operation remains a vital component of our state's visitor industry. I am excited about the prospect of revitalizing that business with new passenger cruise ships dedicated solely to inter-island cruises.

I support your leadership in initiating an innovative program aimed at facilitating a dedicated cruise ship within 18 months and the construction of two new cruise ships, the first to be built in U.S. shipyards in over 40 years.

Please know that you can count on the full support of the State of Hawaii in your efforts.

With warmest personal regards,  
Aloha,

BENJAMIN J. CAYETANO.

NATIONAL SECURITY  
CAUCUS FOUNDATION,

Washington, DC, September 8, 1997.

Hon. C.W. (BILL) YOUNG,  
Chairman, Subcommittee on National Security,  
Rayburn House Office Building, Washing-  
ton, DC.

DEAR MR. CHAIRMAN: This is a follow-up to the letter you received from Assistant Secretary of the Navy John Douglass regarding the United States-flag Cruise Ship Pilot Project. We are in complete agreement with Secretary Douglass, the U.S. Navy, the Department of Defense, and many prominent national security experts regarding the importance of this initiative.

During the August recess Secretary Douglass and Deputy Assistant Secretary Hammes participated in a Congressional Delegation (CODEL) to Asia which was sponsored by the NSC Foundation. This project was a focal point of their meetings with your fellow members of the Appropriations Committee and the Senate Intelligence Committee.

They also joined your colleague Duke Cunningham in meetings with the President, Defense Minister and Chairman of the Joint Chiefs of Staff in the Philippines. They all emphasized the importance of American shipbuilding to the national security interests of both of our nations.

Furthermore, many of your colleagues participated in a recent National Security Caucus dinner with Navy Secretary John Dalton and Marine Corps Commandant Charles Krulak who both said this program is vital to sustain our nation's shipbuilding industrial base.

The bottom line is that the senior leadership of the national security community is supporting this initiative because it is an ideal project to sustain critical shipbuilding skills. Furthermore, as the Assistant Secretary indicated, the Navy is very interested in exploring the potential use of hull designs used for these cruise ships as the hull for future Joint Command and Control Ships.

Finally, several flag officers have already testified before your Subcommittee regarding the need for builders of large warships and support ships to explore commercial opportunities. The United States-Flag Cruise Ship Project is a perfect example of an appropriate commercial initiative, and we hope you will join your Senate colleagues in supporting this endeavor.

We are enclosing an analysis which describes this project in further detail. If your staff has any questions about this please have them contact Gregg Hilton, the Executive Director of the NSC Foundation, at 479-4580. Many thanks.

Admiral Thomas H. Moorer, USN (Ret.),  
Former Chairman, Joint Chiefs of  
Staff; Rear Admiral Robert H. Spiro,  
Jr., USNR (Ret.), Former Under Sec-  
retary of the Army, Carter Administra-  
tion.

NATIONAL SECURITY  
CAUCUS FOUNDATION,  
Washington, DC, September 4, 1997.

THE UNITED STATES-FLAG CRUISE SHIP  
PROJECT

The United-States-flag Cruise Ship Project was included in the Fiscal Year 1998 Department of Defense Appropriations Bill (S. 1005) when it was passed by the Senate on July 15. Many prominent national security experts

believe that the construction of large, ocean-going cruise ships in United States' shipyards under that project is vital to transitioning U.S. shipyards. This will allow them to move from strictly military to commercial vessel construction and the initiative is important for the preservation and modernization of the American shipyard industrial base.

Military preparedness depends on the maintenance of a robust industrial base for U.S. navy shipbuilding and repair. In this country, we have six shipyards capable of building large warships and support ships critical to our national defense.

The U.S. Navy believes it is essential for these shipyards to remain active, with a skilled and trained work force. The declining number of active U.S. Navy ships and new construction and repair opportunities requires America to look to commercial ship building as the best means by which to maintain that shipbuilding capability. The burgeoning worldwide demand for cruise ships, coupled with their sophisticated construction demands, make cruise ships an ideal commercial project for American shipyards to maintain their heightened state of readiness.

The MARITECH program was authorized by Congress in 1994 and according to senior Defense Department officials it has served as an innovative research and development initiative to improve the international competitiveness of U.S. shipyards, particularly in the construction of large, oceangoing vessels of all types. The technology transfer that accompanies any large ship construction program is essential to the modernization of the shipyard industrial base in the United States. The cruise ship pilot project contained in Section 8097 of S. 1005, as amended, would provide the means for just such technology transfers, without requiring obligation of scarce federal shipbuilding funds for either shipyard tooling or the construction of the vessels themselves.

This provision, as passed by the Senate will jump start cruise ship construction in the U.S., develop the American flag cruise industry and help reduce U.S. shipyard dependence on Department of Defense construction—all without the use of federal funds. It would result in the construction in the U.S. of two state of the art large oceangoing commercial cruise ships. These ships cost hundreds of millions of dollars each and will be built with private capital. The pilot project will create thousands of jobs in U.S. shipyards during construction and on board the vessels after completion.

The provision would be supervised under the Department of Defense's MARITECH program. Under MARITECH auspices two cruise ship design projects have been completed, the pilot project would result in actual construction.

An existing operator of U.S.-flag cruise ships in Hawaii and on the inland waterways is ready and willing to build new cruise ships. However, U.S. shipyards have not built a large ocean-going cruise ship in over 40 years and the first operator to do so faces a cost disadvantage.

The pilot project would assist U.S. yards by facilitating series construction of the two new cruise ships and the operator would be required to sign a binding contract for delivery of the first vessel by 2005, the second by 2008.

The pilot project would also help Hawaii operations by permitting the temporary reflagging of an existing foreign-flag cruise ship for operation under the U.S.-flag with U.S. crews while the new ships are constructed in order to develop market demand and would give preference in the trade for the life expectancy of the vessels built under

this program in order to allow an adequate return on the significant investment required to enter and develop this market.

U.S. shipyards build the best naval vessels in the world, but without the infusion of commercial shipbuilding technology, as will be made possible under the proposed pilot project, our shipyards will find it increasingly difficult to make the transition to building large commercial vessels that is vital to the future of our shipyard industrial base.

JULY 17, 1997.

DEAR CONGRESSMAN: We are writing to request your support for the U.S.-flag Cruise Ship Pilot Project contained in Section 8097 of S. 1005 of the FY '98 DOD Appropriations bill as passed by the Senate under the leadership of Chairman Stevens and Senator Inouye. This provision is critically important to our U.S. flag cruise ship industry and for our U.S. shipbuilding base.

Section 8097 would direct the MARITECH program to supervise a pilot project to enhance the shipbuilding industrial base and to develop the U.S.-flag cruise industry. The MARITECH program (authorized by the FY '94 defense authorization bill) has served as an innovative research and development initiative that has produced substantive results in improving the international competitiveness of the shipbuilding industry in the United States.

The U.S.-flag Cruise Ship Pilot Project would result in the construction of two new cruise ships in U.S. yards and allow the temporary reflagging of one foreign cruise ship. The project would be privately funded and constructed (without the use of federal funds) and provide preference in the trade in order to allow for an adequate return on the significant capital investment required to develop this new shipbuilding capability and a broader market for U.S. cruise ships. The U.S.-flag Cruise Ship Pilot Project means thousands of shipyard jobs over several years and more than two thousand permanent jobs on board the vessels when completed—approximately seven hundred within the first year alone. We urge your support of this important provision.

Very truly yours,

American Classic Voyages Co., Philip Calian, President; American Shipbuilding Association, Cynthia Brown, President; Transportation Institute, James Henry, President; American Maritime Officers, Michael K. McKay, President; Seafarers International Union, Michael Sacco, President; American Maritime Officers Service, Gordon Spencer, Legis. Director.

MR. INOUE. Mr. President, I believe the RECORD should note that up until the latter part of 1967, America controlled the seas. Most of the cruise vessels were American owned, American built. Today, the situation is slightly changed. Last year, over 6.2 million passengers worldwide—and 75 percent were Americans. The Caribbean and the Bahamas regions, which is the largest North American market, does not have a single American cruise vessel.

Cruises are the fastest growing segment of the tourism industry. They bring in over \$7.5 billion in revenues. And 113 vessels currently operate in the North American market—1 American. Of the 30 companies operating in the North American market, 3 companies—foreign companies, Mr. President—command over 70 percent of the market. These foreign ships are obvi-

ously built in foreign shipyards. They employ very cheap foreign labor and operate outside our regulations. They pay no U.S. taxes and are not available for U.S. emergencies.

Shipbuilding subsidies in foreign countries in recent years ranged from 9 percent to 33 percent of the cost of the vessel's construction. At a 9-percent construction subsidy, an operator today could build a new \$500 million, 130,000-ton cruise vessel in a foreign yard and reduce its cost of capital by an astounding \$45 million. The United States, since the early 1980's, has not subsidized the commercial construction of ships.

These foreign companies also take advantage of the lower cost of foreign labor. In fact, the Wall Street Journal recently ran an article reporting these foreign cruise companies pay workers on board their ships a paltry \$1.50 per day—that's right, \$1.50 per day before tips—for 16 to 18 hours of work. We here in the United States have undertaken an aggressive campaign to stop the use of sweatshop labor, and we should hold these foreign-flag ships operating in the American market to those same high standards.

But perhaps the main reason these vessels fly a foreign flag is to avoid U.S. tax laws. Although most of these foreign-flag cruise operations are located in the United States—and most of their passengers are Americans—they are protected by reciprocal international tax treaties. These reciprocal agreements allow the foreign-flag cruise ship companies to avoid the tax laws of the United States. For example, one large foreign-flag cruise operator recently reported earnings of approximately \$1.8 billion in revenues for its cruise operations. While most of these revenues came from American passengers, this cruise line, under existing U.S. law, considers this foreign source income which is exempt from U.S. tax law. Because of this loophole, this one company did not pay any income tax on its cruise ship operations. Based on the companies' net income from cruise operations, this can be equated to a \$158 million corporate income tax loss to the Federal Treasury.

An existing operator of U.S.-flag cruise ships in Hawaii and on the inland waterways, however, is ready and willing to build new U.S. cruise ships and employ American workers. But since U.S. shipyards have not built a large oceangoing cruise ship in over 40 years, the first operator to do so faces a significant cost disadvantage. That is why the U.S.-flag cruise ship pilot project is so important.

The pilot project will facilitate a series construction for two new cruise ships by requiring the operator to sign a binding shipyard contract with delivery of the first new vessel no later than 2005; the second by 2008. In order to replace a retired ship and develop market demand that operator will temporarily document an existing foreign-flag cruise ship for operation under U.S.-

flag with U.S. crews while the new ships are constructed.

This project is a milestone for our U.S.-flag cruise ship industry. After decades of dormancy in the oceangoing U.S. cruise ship arena, we now have a U.S. company that is willing to make a very substantial investment to try to rebuild our once proud U.S.-flag passenger fleet. Because this existing operator will make a very large investment in the development of new U.S.-flag cruise ships, which otherwise would not exist absent this significant investment, section 8109 includes a preference to ensure that other operators do not take advantage of this company incurring such "first mover" development costs and unfairly compete against the existing operator. I would note that Congress has provided similar incentives and preferences in other areas. The patent system is perhaps the most prominent example of such a restriction that protects, and thus encourages, investment in the development of new products and services that otherwise would not exist—even in highly competitive markets, such as the computer industry.

The patent-like preference contained in section 8109 is for a very narrow segment of the highly competitive Hawaiian tourism market—domestic inter-island cruises. These cruises account for less than 1 percent of overall Hawaiian tourism and an even smaller percentage of the North American cruise market. Moreover, Hawaii vacationers will have many competitively priced vacation alternatives to these new cruise ships. In addition, foreign-flag cruise ships, with their significant cost advantages in terms of low capital costs, low foreign labor costs, and freedom from U.S. income tax, will still be free to call in Hawaii, just as they always have. In fact, in 1995 alone 12 competing foreign-flag cruise ships operated in the Hawaiian market. Nothing in this provision will change that.

I recognize that there is a vibrant small U.S. passenger vessel fleet. I want to assure you that they are not affected by this provision. These U.S. operators will be able to enter and compete freely in the Hawaii cruise trade, including inter-island cruises. Mindful of this segment of the fleet, we were careful to draft section 8109 to exclude vessels measuring less than 10,000 gross tons and having berth or stateroom accommodation of fewer than 275 passengers, these thresholds accommodate not only the entire U.S. small passenger fleet, but also any new vessels planned. Nothing in section 8109 will bar this vessel from entering the inter-island cruise market in Hawaii or in anyway inhibits its operation, once the plans are finished and construction of the vessel is completed.

Mr. President, this pilot project will help reverse the dreadful decline of the U.S.-flag cruise industry. It will jump start cruise ship construction in the United States, develop the U.S.-flag cruise industry, and help reduce U.S.

shipyard dependence on DOD construction—all without Federal funds.

The cruise industry is projecting that \$7.5 billion will be invested in the construction of new vessels over the next 5 years—and not one cent of this investment will be spent in U.S. shipyards. This pilot project, however, will result in the construction in the United States of two state-of-the-art large oceangoing commercial cruise ships, representing a private capital investment in U.S. shipbuilding of approximately \$1 billion.

The pilot project will create thousands of American jobs in U.S. shipyards during construction and onboard the vessels upon completion and approximately 750 shipboard jobs on board the temporary vessel within 18 months. It will create some 2,500 shipyard and subcontractor jobs throughout the construction project. And upon completion of the new ships, over 2,000 permanent onboard and shoreside support jobs will be created.

The pilot project will be supervised under DOD's MARITECH Program which Congress authorized in 1993 and has funded annually to facilitate advanced commercial shipbuilding in U.S. yards and the transition from depending on military construction to the competitive commercial market. Under MARITECH auspices two cruise ship design projects have been completed, led by the Ingalls and NASSCO shipyards. The pilot project would result in the actual construction of new cruise vessels in U.S. shipyards for the first time in 40 years.

In addition to the commercial benefits of the pilot project, it is also of significant value to the Department of Defense. It will reduce the U.S. shipyards dependence on Defense funds needed to maintain an adequate industrial base. In fact, a recent letter from the Assistant Secretary of the Navy for Research Development and Acquisition, John Douglass called

\*\*\* the construction of large, oceangoing cruise ships vital to transitioning U.S. shipyards back into the construction of cruise ships and to sustain this country's shipbuilding industrial base.

The Navy is also interested in exploring the potential use of the hull design for these cruise ships as the hull design for future Joint Command and Control ships.

Mr. President, the Governor from my State of Hawaii has also expressed his support for the provision and the bipartisan National Security Caucus Foundation called the project "a perfect example of an appropriate commercial initiative." Support for the pilot project can also be found within the maritime industry—the American Shipbuilding Association, Seafarers International Union, American Maritime Officers, American Classic Voyages Company, Transportation Institute, and American Maritime Officers Service.

This project will provide the incentive for U.S. expansion in the cruise

market, so that once again we can take pride in new U.S.-built oceangoing, U.S.-flag cruise ships. It will help to employ thousands of American workers, put the best shipbuilding technology in the world into commercial use, and help the Nation sustain a viable shipbuilding industrial base—all at no cost to the American taxpayers. It deserves our support.

The program that we have set forth, supported by DOD and supported by the whole industry, will once again reestablish our cruise industry.

So, Mr. President, I hope that my colleagues will adopt this amendment.

Mr. President, I ask unanimous consent that a paper, prepared by several members of my staff, to alert lawyers on the question of monopoly be printed in the RECORD.

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

SECTION 8097 OF THE DOD APPROPRIATIONS BILL CREATES NO "MONOPOLY" OR "UNPRECEDENTED RESTRICTION ON COMMERCE"

Section 8097 of S. 1005, the FY '98 DoD appropriations bill as passed by the Senate, contains a provision critically important to the U.S.-flag cruise ship industry and the U.S. shipbuilding base. It directs the MARITECH program to supervise a pilot project to develop and construct two new cruise ships in U.S. yards, and to allow, until they are built, temporary reflagging to the U.S.-flag of a foreign vessel. The result would be the first new cruise ships built in U.S. yards in over 40 years.

To allow for an adequate return on the significant capital investment required for this innovative initiative, the new ships would receive a preference in the trade. An objection has been raised that this would create a "monopoly" and a "legislative restriction on commerce [that] is unprecedented." The objection is unfounded.

SECTION 8097 CREATES NO "MONOPOLY"

The cruise ship business is quite competitive. Operators compete with each other for the patronage of vacationers who wish to spend their holidays aboard ship. Operators also compete with other providers of vacation and leisure activities. Passengers considering a cruise in the Hawaiian Islands thus can, and do, consider competing cruise trips in the Caribbean, the South Pacific, Alaska, and even the Mediterranean. They also can, and do, consider alternative vacations in the Hawaiian Islands, or other resort and vacation destinations.

There is thus absolutely no basis for the suggestion that a cruise ship operator would enjoy any sort of "monopoly" even as the only U.S.-flag company operating in the Hawaiian Islands. Antitrust case law recognizes this fact. In *American Ass'n of Cruise Passengers v. Carnival Cruise Lines, Inc.*, 911 F.2d 786, 788 (D.C. Cir. 1990), an antitrust action involving alleged discrimination against certain travel agents, the court defined vacation cruises as including, but not limited to, "any travel by a person as a passenger on a cruise ship for vacation purposes." The court also noted that the cruise business differs from carriage of cargo because the actual ports of destination are often of only secondary importance to cruise passengers:

"The purpose of taking a cruise, after all, is to enjoy a relaxing holiday aboard ship, generally while still visiting an unfamiliar place ashore. The cruise ship assumes responsibility for that transportation, and can substantially discharge its responsibility

even if circumstances require it to skip, or substitute, a port of call. Getting there, in other words, is half the fun."—911 F.2d at 790.

Thus, analysis of competition on the basis of "port-to-port" or "city-pair" markets, which might be appropriate in analyzing competition for in the carriage of cargo, or for the carriage of passengers on other modes of transportation such as airlines, is not meaningful in assessing cruise ship competition. Someone shipping a container, or flying on an airplane for business, usually has very specific origin and destination points in mind for the transportation involved. The same is not true, however, for cruise passengers, or even vacation travelers in general, for when one leisure destination often substitutes perfectly well for another.

One court has in fact specifically described the competitive situation facing cruise operators and others in Hawaii:

"The pattern of competition within the tourist industry is varied and intense. Hawaii competes for tourists from the mainland United States and foreign countries. In offering a relaxed tropical vacation spot, Hawaii competes with South Pacific and other offshore destinations. It thus operates in a national and international market."—*Waikiki Small Business Ass'n v. Anderson*, Civ. No. 83-0806 (D. Hawaii May 14, 1984).

Consumers of Hawaii cruises can, and do, face a host of substitute choices: (1) cruises to other U.S. and overseas locations; (2) other types of Hawaiian vacations, with shoreside accommodations and other forms of travel between the islands. Well over 95% of all visitors to Hawaii are not cruise passengers at all. Cruises on small seacraft and yachts are available as well as inter-island voyages on larger cruise ships. Over 22,000 passengers a day fly between the islands, and the Honolulu—Kahului, Maui city pair is the 3rd busiest in the United States. *Aviation Daily*, June 5, 1997, at 403; and (3) other "relaxed, tropical vacation spots" around the world.

In sum, there is no basis to the allegation that restricting the number of cruise ship operators between or among the Hawaiian Islands through the preference created by Section 8097 would create any "monopoly," as that term may properly be understood. See *Coastal Fuels of Puerto Rico, Inc. v. Caribbean Petroleum Corp.*, 79 F. 3d 182, 197-98 (1st Cir. 1996) (seller with 90% share of sales of bunker fuel to ocean going vessels in Puerto Rico has no monopoly power because it competes with sellers throughout the Caribbean and the Southeastern United States).

#### CONGRESS OFTEN "RESTRICTS COMMERCE" IN ORDER TO ACHIEVE IMPORTANT OBJECTIVES

There is also no basis to the suggestion that Section 8097 creates some sort of "unprecedented restriction on commerce." There are numerous precedents for the kind of preference created in Section 8097, particularly given its purpose of protecting the substantial investment that will be necessary to develop and construct the first new U.S.-flag cruise ships in almost 40 years.

The patent system, established by Congress pursuant to Constitutional direction, provides perhaps the most prominent example of a "restriction" of competition to protect, and thus encourage, investment in the development of new products and services that otherwise would not exist. The grant of a patent allows its holder to "restrict" competition by those who would seek to sell competing projects that infringe on its claims. Significantly, however, despite this restriction, holders of patents generally compete in highly competitive markets; the grant of the patent does not create itself any "monopoly." See *Atari Games Corp. v. Nintendo of America, Inc.*, 897 F.2d 1572, 1576

(Fed. Cir. 1990) ("When the patented product is merely one of many products that actively compete on the market, few problems arise between the property rights of a patent owner and the antitrust laws. . . . [Even] when the patented product is so successful that creates its own economic market . . . the two bodies of law are actually complementary, as both are aimed at encouraging innovation, industry, and competition.").

Federal procurement law also recognizes a number of circumstances in which competition may be restricted to serve important objectives. Procurements may be conducted without competitive procedures, for example, where necessary "keep vital facilities or suppliers in business or make them available in the event of a national emergency," 48 C.F.R. § 6.302-3(b)(1)(i), to "train a selected supplier in the furnishing of critical supplies or services," *id.* at (b)(1)(ii), or to "create or maintain the required domestic capability for production of critical supplies." *Id.* at (b)(1)(v). See generally 10 U.S.C. § 2304(c). Such procurements necessarily give the supplier a leg up on its competitions in the development and sale of the product being supplied, but they do not in any sense grant the seller a "monopoly."

Finally, Congress has often specifically restricted competition by statute to serve specific policy objectives. See 10 U.S.C. § 2304(c)(5). Examples include small business set-asides, 15 U.S.C. 637, and preferences for local suppliers in disaster relief situations, 42 U.S.C. § 5150. Last year's Defense Authorization bill included a statutory direction to enter sole source contracts with certain designated health care providers. Pub. L. 104-201 § 722(b)(2), 110 Stat. 2593. The suggestion that the provisions of Section 8097 are "unprecedented" is without any basis, and would be so even if Section 8097 did, in fact, create a "monopoly," which it does not.

#### CONCLUSION

While the operator of newly-built U.S.-flag cruise vessels in the Hawaii trade will receive some protection of its investment through the preference created by Section 8097, no monopoly will be created, and the operator will still face vigorous competition in the markets in which it operates.

#### NEW ATTACK SUBMARINE PROGRAM

Mr. STEVENS. Mr. President, the conferees have included a general provision, sec. 8129, within this conference report containing language to permit the Navy to enter into a contract for the procurement of four submarines under the New Attack Submarine Program. I would like to point out that this section does not provide new budget authority, but rather is an earmark of the amounts appropriated under the heading "Shipbuilding and Conversion, Navy" for the New Attack Submarine Program. The intent of the conferees was not to create new budget authority over and above amounts set forth elsewhere in the bill, but rather to clarify the terms and conditions under which the New Attack Submarine contract may be entered into between the Navy and the contractor team.

#### C-17

Mr. President, the conferees on the Defense spending bill understand that the manufacturer of the C-17 is building two additional aircraft in fiscal year 1998 for potential commercial sale. However, the Air Force has an agreement with the contractor which may permit DOD to accept early deliv-

ery of these aircraft within the Defense Department's C-17 multiyear contract. This agreement, combined with positive cost and schedule performance under the C-17 contract, may permit DOD to purchase up to 11 aircraft within the fiscal year 1998 appropriation. Thus, I believe the Senate's objective of delivering additional C-17 aircraft in fiscal year 1998 may actually be achieved without the appropriation of additional funds at this time.

#### HOLLOMAN AIR FORCE BASE/GERALD CHAMPION MEMORIAL HOSPITAL SHARED FACILITY

Mr. President, during the final session of the conference on Defense appropriations an error was made on the amount appropriated for the Holloman Air Force Base/Gerald Champion Memorial Hospital Shared Facility. It was the intent of the conferees to appropriate \$7 million for the shared facility, but the filed report reflects only \$5 million. This project was strongly supported by the Secretary of the Air Force and the Chief of Staff of the Air Force during hearings conducted by the subcommittee. Senator DOMENICI worked very hard on this issue and I believe that it is a great idea.

Mr. President, I have contacted the Department of Defense about this matter and they have assured me that they will fully fund the shared facility project at its intended level of \$7 million. I will continue to work with Senator DOMENICI to ensure full funding for this important project. I commend Senator DOMENICI for his efforts in this regard and look forward to seeing his vision of better quality service for our troops at a lower cost become a reality.

Mr. DOMENICI. Mr. President, I thank the chairman for his support and for his efforts to correct this mistake. I am very pleased that the chairman has received the commitment from the Department of Defense to fully fund the shared facility. I believe that in the end we will look back on this program and say that it was one of the very best things that we did.

#### PATRIOT MODIFICATION PROGRAM

Mr. STEVENS. Mr. President, in review of the printed copy of the "Statement of the Managers" that accompanies H.R. 105-265, the fiscal year 1998 Department of Defense conference report, we have found a typographical error in the Patriot modification line of the "Missile Procurement, Army" account. The President's budget request included \$20,825,000 for the continued modification of the Patriot missile system. It was the decision of the conference committee to provide a total \$28,825,000, an increase of \$8 million above the budget request for this program in fiscal year 1998. The additional funds provided by the conferees are for the procurement of additional GEM +/- upgrades for the Patriot system. I would note that the tables on page 90 of House Report 105-265, do not reflect the intent of the conferees.

It would be my hope that the Army would execute this program to reflect the intent of the conferees and further,



that the Army use its reprogramming authority to provide the recommended funding level of the conference committee. I intend to work with my ranking member, Senator INOUE and Representatives YOUNG and MURTHA to insure this program is not inappropriately reduced because of an administrative error.

#### PRINTING ERRORS

Mr. President, I would like to bring to the attention of Members three typographical errors that appear in the statement of the managers to accompany H.R. 2266. On page 76, under "Operation and Maintenance, Air Force", the REMIS program should read as an increase of \$8.9 million and not a decrease. On page 119, "Research, Development, Test and Evaluation, Navy", under the heading "Undersea Warfare Weaponry Technology", the 6.25-inch torpedo project should read as an increase of \$3 million and not zero. On page 125, "Research, Development, Test and Evaluation, Air Force", under the heading "Space and Missile Rocket Propulsion", the total amount should read \$18,147 and not \$18,847. All of these programs were listed correctly in the official conference papers. The typographical errors appear in the project level adjustment tables and do not affect the funding levels in the bill.

Mr. President, I ask for the yeas and nays on our conference report.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, in order to notify the leader—it is time for him to make a statement concerning the proceedings—I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LOTT. Mr. President, I ask unanimous consent to proceed under my leader time.

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

#### SENATE SCHEDULE

Mr. LOTT. I apologize for the delay in starting the votes that we have scheduled, but we were having some very important discussions that will affect the schedule for the next several days that I wanted to discuss with the minority leader and with the interested Senators.

For the information of all Senators, these next two votes will be the last votes for the week. The next vote will occur at 11 a.m. on Tuesday, September 30, on a motion to invoke cloture on the Coats amendment to the D.C. appropriations bill regarding scholarships.

Following these votes, I encourage the managers to remain on the floor for any additional amendments Members may want to offer to the pending D.C. appropriations bill. I believe perhaps there is a Senator that is waiting that will have an amendment that he could offer tonight, and have debated, if it is not worked out in the interim.

On Friday, tomorrow, beginning at 10 o'clock a.m., the Senate will begin consideration of the campaign finance reform legislation. I expect a full day of debate on that issue. However, no votes will occur during Friday's session of the Senate.

On Monday, the Senate will resume consideration of the campaign finance reform bill. Again, however, no votes will occur at that time.

On Tuesday, September 30, I expect that following the 11 a.m. cloture vote the Senate might be in a position to complete action on the last remaining appropriation bill, the D.C. appropriations bill. It will depend on what happens, of course, with the vote on the Coats amendment, and there are a couple of other key amendments that are still pending. Also, since Tuesday is the end of fiscal year, the Senate will consider the continuing resolution. We believe we have a continuing resolution agreed to that will be clean, and with a date that I discussed with the Democratic leader and with our leadership on the other side of the Capitol. Therefore, votes will occur throughout the day on Tuesday, and of course the pending business at that time will still be campaign finance reform.

Wednesday, October 1, is the start of the Jewish holiday. Therefore, votes will not occur past 1 p.m. However, the Senate will be considering the campaign finance reform bill for debate as long as Members want to remain into the evening. On Thursday, October 2, there will be no rollcall votes in observance of the Jewish holiday.

I expect the Senate to resume consideration of the campaign finance reform bill on Friday, October 3. However, no votes will occur. Again, with regard to the 3d, we want to talk with all the interested Senators to see whether we want to have debate or not. Then we will continue on campaign finance reform the next week but we would like to reserve further commitments on time or identification of when votes might occur until we have had time to get started with the debate and see how things go.

I thank my colleagues for their cooperation and remind Senators following these two back-to-back votes there will be no further votes today, and the next vote will occur 11 a.m. on Tuesday, September 30.

Mr. DASCHLE. Mr. President, I appreciate the opportunity to have some discussion with the majority leader about this schedule. I have not had the opportunity to discuss this matter at any great length with our colleagues, but I want to thank the majority leader. I think this is a schedule that af-

fords a good opportunity to debate campaign finance reform. It takes into account the Jewish holiday and the need for our Jewish colleagues to be away. It does afford the opportunity, as well, to take up other issues later on in October. I think it is a very good schedule and I look forward to getting into the debate tomorrow and working with the majority leader to schedule the other matters as they come available to us.

I hope our colleagues would avail themselves of the opportunity to begin the debate tomorrow. I know I will be on the floor, and I am sure many of my colleagues will, and we will have a good debate. I am sure we will have a number of opportunities to debate amendments and have votes over the course of that time.

Mr. LOTT. I might say, Mr. President, continuing with my leader time, I met with the committee leaders and discussed legislation on both sides of the aisle—for instance, the ISTEA, or the highway infrastructure bill—as to when they would be ready with that legislation to go to the floor and how much time that might take. We also have been looking at fast-track trade legislation, when that might be available.

It was obvious to me that we had a window here in the next few days that we could take up the debate on campaign finance reform, but as we got on into October we would need to have time for the highway bill and the fast-track legislation.

I do think it is important that we continue our effort to get a 6-year transportation bill that is within the budget. I have been discussing this with the chairman of the committee and the ranking member. They agree. So we intend to go forward somewhere around the 7th or 8th on the highway infrastructure bill.

I just wanted to give that explanation as to why this decision was made.

Mr. DASCHLE. If I could ask the majority leader a question, I made an assumption about the schedule. It just occurred to me that I had not clarified this, but I assume that the majority leader would anticipate votes on campaign finance reform on Tuesday the 30th and Wednesday the 1st of October; is that correct?

Mr. LOTT. I had not anticipated votes at that time. I assume those days, most of the votes will be on the appropriation conference reports and the continuing resolution.

I had thought we would need more time for debate before we started voting on that. I didn't specify it, but I assumed the votes would not come until the 6th or 7th of October.

Mr. MCCAIN. Will the Senator yield?

Mr. LOTT. I yield the floor.

Mr. MCCAIN. First of all, I thank the majority leader. It is an affirmation of the word he gave last week which all of us here in this body knew was going to happen, and did not need a letter from



the President of the United States. I do thank the majority leader for the timely consideration of this issue.

Let me also just point out I understand that there has to be vigorous debate on this issue. There also has to be votes. It is our intention to have votes on various amendments throughout this debate, and we need to have every one on record on this issue. Also, I know I can count on the majority leader and the distinguished Democratic leader in trying to bring closure to this debate, to this issue, after reasonable debate, in one fashion or another.

Again, I want to thank the majority leader. It shows again the majority leader of this Senate, as was the case when the other side was the majority, when the leader gives his word, when the majority leader gives his word, it is good. And if it were otherwise, this body does not function.

I thank the majority leader and I thank the Democratic leader for all of his cooperation.

Mr. STEVENS. Will the Senator yield?

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

Mr. STEVENS. Mr. President, I note that there is an understanding between us that conference reports coming out of the Appropriations Committee will receive prompt attention, but I wanted to make sure everyone understands that means putting aside anything that is here, to try and get these bills to the President before the end of the fiscal year.

Mr. LOTT. Mr. President, they are privileged, and would be brought up as soon as they are available. That is our highest priority as we reach the end of the fiscal year, and we want to move to immediate consideration of a continuing resolution also when it is available, if it is necessary, which I presume it will be.

Mr. STEVENS. Mr. President, the pending unanimous-consent agreement would provide 8 hours on that. I hope that, too, would be subject to taking up the conference reports as they become available.

Mr. LOTT. It would be. I hope we would not take 8 hours on the CR. I hope we have an understanding what is in it. It would be clean, I believe. There are only two amendments in order, one on each side. I hope maybe that would not be necessary and we would have short debate and go straight to vote.

Mr. STEVENS. I am sure Senator BYRD and I appreciate that very much.

Mr. LOTT. I yield the floor.

#### DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1998—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the yeas and nays have been ordered on the defense appropriations conference report. The question is on agreeing to the conference report.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN] and the Senator from Maryland [Ms. MIKULSKI] are necessarily absent.

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

The result was announced—yeas 93, nays 5, as follows:

[Rollcall Vote No. 258 Leg.]

#### YEAS—93

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

#### NAYS—5

Bumpers	Harkin	Wellstone
Feingold	Kohl	

#### NOT VOTING—2

Biden	Mikulski
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The conference report was agreed to. Mr. INOUE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agreed to.

#### EXECUTIVE SESSION

#### NOMINATION OF KATHARINE SWEENEY HAYDEN, OF NEW JERSEY, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY

The PRESIDING OFFICER (Mr. DEWINE). Under the previous order, the Senate will go into executive session to consider the nomination of Katharine Sweeney Hayden, of New Jersey, to be U.S. district judge for the District of New Jersey, which the clerk will report.

The legislative clerk read the nomination of Katharine Sweeney Hayden, of New Jersey, to be U.S. district judge for the District of New Jersey.

Mr. NICKLES. Mr. President, I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Katharine Sweeney Hayden, of New Jersey, to be U.S. district judge for the District of New Jersey? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. Mr. President, I announce that the Senator from Vermont, [Mr. JEFFORDS] is necessarily absent.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN] and the Senator from Maryland [Ms. MIKULSKI] are necessarily absent.

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 259 Ex.]

#### YEAS—97

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

#### NOT VOTING—3

Biden	Jeffords	Mikulski
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The nomination was confirmed.

STATEMENT ON NOMINATION OF JUDGE KATHARINE SWEENEY HAYDEN

Mr. LEAHY. Mr. President, today is the 40th anniversary of the beginning of the end of racial segregation in the public schools in Little Rock, AR. As we turn to reflect on Little Rock and the aftermath of the Supreme Court's landmark decision on public school segregation, we should consider the important lessons those times still hold for us today. Little Rock was a testing point in our history when the rule of law and respect for our courts and Constitution prevailed.

Three years earlier, the Supreme Court's unanimous Brown versus Board of Education decision prompted a concerted assault on the judiciary. On March 12, 1956, 81 Members of Congress signed a resolution condemning that ruling as a "clear abuse of judicial power" and part of a "trend in the Federal judiciary to legislate, in derogation of the authority of Congress, and

to encroach upon the reserved rights of the people." Billboards sprouted around the country demanding the impeachment of Chief Justice Earl Warren. Justice Clarence Thomas recalls that as a young man his "most vivid childhood memory of the Supreme Court was the 'Impeach Earl Warren' signs that lined Highway 17 near Savannah. I didn't understand who this Earl Warren fellow was, but I knew he was in some kind of trouble."

It should concern all of us that a pattern resembling that which followed the Supreme Court's decision in *Brown* is being repeated. It has once again become fashionable in some quarters to sloganeer about impeaching Federal judges. This year's continuing attack on the judicial branch, the slowdown in the processing of the scores of good women and men the President has nominated to fill vacancies on the Federal courts, and widespread threats of impeachment are all part of a partisan, ideological effort to intimidate the judiciary. Extremist elements have turned their fire on the branch of Government most protective of our freedoms but the least equipped to protect itself from political attacks.

We are hearing from some Members of Congress a clamor for impeachment when a judge renders a decision that irritates them. We are hearing demands that Congress destroy the orderly process of appellate court and Supreme Court review and, instead, assume the role of a supercourt that would legislatively review and veto individual decisions. We are seeing proposals to amend the Constitution, to eliminate the independence and lifetime tenure of judges. Extreme rhetoric and outlandish proposals have contributed to a poisonous atmosphere in which the Federal justice system is overloaded.

Last week on the 210th anniversary of the signing of the Constitution, a newspaper reported that the majority leader of the Senate applauded the idea of Republicans plotting to intimidate the Federal judiciary, commenting that "it sounds like a good idea to me." For the majority leader of the Senate to join an acknowledged attack on the independence and integrity of the Federal judiciary is a troubling and disappointing development that shows how easily political leaders can succumb to such political temptations, even at the expense of the checks and balances that are needed to protect our rights.

It is one thing to criticize the reasoning of an opinion, or the result in a case, or to introduce legislation to change the law. It is quite another matter to undercut the separation of powers and the independence that the Founders created to insulate the judiciary from politics. Independent judicial review has been a crucial check on two political branches of our Government that has served us so well for more than two centuries. This bedrock principle has helped preserve our freedoms and helped make this country the

model for emerging democracies around the world.

Something that sets our Nation—the world's oldest continuing democracy—apart from virtually all others is the independence of our Federal judiciary and the respect that the public and that political leaders give it. Every fledgling democracy sends observers to the United States to study and emulate our independent judiciary, the envy of the world. The independence of our third, coequal branch of Government gives it the ability to fairly and impartially arbitrate disputes, to prevent overreaching by the other two branches, and to defend our individual rights and freedoms that are so susceptible to the gusting political winds of the moment.

In the 23 years that I have been privileged to serve in the U.S. Senate I have never known a time when the Senate's leadership, Republican or Democratic, would tolerate partisan and ideological politics to so divert the institution from its constitutional responsibilities to the third, coequal branch of Government.

The Nation needs to move forward, as we did after President Eisenhower acted to restore the rule of law. The citizens of Little Rock and other cities throughout the country accepted the constitutional imperative to end segregated schools. A few years later Congress acted to pass the historic Civil Rights Act of 1964 and the Voting Rights Act of 1965. In 1997, can anyone say that we are not a better and stronger nation for having honored the Supreme Court's *Brown* decision by enforcing it in Little Rock?

The American people know that a fair and impartial judiciary is key to maintaining our democracy and our rights. The continuing partisan campaign against qualified and fair judicial nominees has to come to an end. If the judiciary is to retain its ability to protect our rights and freedoms as we move into a new century of American history, if it is to serve as a check on the political branches, it must have the judges and resources necessary to the task. Vacant courtrooms and empty benches cannot hear criminal trials, enforce our environmental protection laws, resolve legal claims or uphold the Constitution against encroachment.

I am delighted that the majority leader has decided to take up the nomination of Judge Katherine Sweeney Hayden to be a U.S. district judge for the District of New Jersey. Judge Sweeney Hayden is a well-qualified nominee.

Since 1991, the nominee has been a judge on the superior court in Newark, NJ. The ABA has unanimously found her to be well qualified, its top rating. She has the support of Senators LAUTENBERG and TORRICELLI. She had a confirmation hearing on June 25 and was reported by the Judiciary Committee on July 10 along with the nomination of Anthony Ishii to be a district judge in the Eastern District of California, whose nomination remains pend-

ing on the Senate Calendar. Her nomination has been held up for the last 2½ months without explanation and I am glad to see it finally being brought forward. I congratulate Judge Sweeney Hayden and her family and look forward to her service on the federal court.

I spoke on September 5 and 11 urging that this nomination and the others on the calendar be considered. There are now five other judicial nominations ready for Senate consideration. Unfortunately, they are not being taken up today and I know of no plan for them to be taken up any time soon.

With Senate confirmation of these district judges, the Senate will still be a confirmation short of the dismal total of last year. We still have more than 40 nominees among the 68 nominations sent to the Senate by the President who are pending before the Judiciary Committee and have yet to be accorded even a hearing during this Congress.

Many of these nominations have been pending since the very first day of this session, having been renominated by the President. Several of those pending before the committee had hearings or were reported favorably last Congress but have been passed over so far this year, while the vacancies for which they were nominated over 2 years ago persist. The committee has 10 nominees who have been pending for more than a year, including 5 who have been pending since 1995.

While I am encouraged that the Senate is today proceeding with the nomination of Judge Sweeney Hayden, there is no excuse for the committee's delay in considering the nominations of such outstanding individuals as Prof. William A. Fletcher; Judge James A. Beaty, Jr.; Judge Richard A. Paez; Ms. M. Margaret McKeown; Ms. Ann L. Aiken; and Ms. Susan Oki Mollway, to name just a few of the outstanding nominees who have all been pending all year without so much as a hearing. Professor Fletcher and Ms. Mollway had both been favorably reported last year. Judge Paez and Ms. Aiken had hearings last year but have been passed over so far this year. Nor is there any explanation or excuse for the Senate not immediately proceeding to consider the other five judicial nominations pending on the Senate Calendar.

The Senate continues to lag well behind the pace established by Majority Leader Dole and Chairman HATCH in the 104th Congress. By this time 2 years ago, the Senate had confirmed 36 Federal judges. With today's actions, the Senate will have confirmed less than one-half that number, only 16 judges. We still face almost 100 vacancies and have 50 pending nominees to consider with more arriving each week.

For purposes of perspective, let us also recall that by August 1992, during the last year of President Bush's term, a Democratic majority in the Senate had confirmed 53 of the 68 nominees sent to us by a Republican President.

By the end of August this year, this Senate had acted on only 9 out of 61 nominees. Indeed, by the end of September in President Bush's final year in office, the Senate confirmed 59 of his 72 nominees. This Senate is on pace to confirm only 16 out of a comparable number of nominations.

Those who delay or prevent the filling of these vacancies must understand that they are delaying or preventing the administration of justice. We can pass all the crime bills we want, but you cannot try the cases and incarcerate the guilty if you do not have judges. The mounting backlogs of civil and criminal cases in the dozens of emergency districts, in particular, are growing taller by the day. National Public Radio has been running a series of reports all this week on the judicial crises and quoted the chief judge and U.S. attorney from San Diego earlier this week to the effect that criminal matters are being affected.

I have spoken about the crisis being created by the vacancies that are being perpetuated on the Federal courts around the country. At the rate that we are going, we are not keeping up with attrition. When we adjourned last Congress there were 64 vacancies on the federal bench. After the confirmation of 16 judges in 9 months, there has been a net increase of 32 vacancies. The Chief Justice of the Supreme Court has called the rising number of vacancies "the most immediate problem we face in the Federal judiciary."

The Judiciary Committee has heard testimony from second circuit, ninth circuit and 11th circuit judges about the adverse impact of vacancies on the ability of the Federal courts to do justice. The effect is seen in extended delay in the hearing and determination of cases and the frustration that litigants are forced to endure. The crushing caseload will force Federal courts to rely more and more on senior judges, visiting judges and court staff. Judges from the Second Circuit Court of Appeals testified, for example, that over 80 percent of its appellate court panels over the next 12 months cannot be filled by members of that court but will have to be filled by visiting judges. This is wrong.

We ought to proceed without delay to consider the nomination of Judge Sonia Sotomayor to the second circuit and move promptly to fill vacancies that are plaguing the second and ninth circuits. We need to fill the 5-year-old vacancy in the Northern District of New York and move on nominations for over 30 judicial emergency districts.

In choosing to proceed on this nominee, the Republican leadership has chosen for at least the fourth time this month to skip over the nomination of Margaret Morrow. I, again, urge the Senate to consider the long-pending nomination of Margaret Morrow to be a district court judge for the Central District of California.

Ms. Morrow was first nominated on May 9, 1996—not this year, but May

1996. She had a confirmation hearing and was unanimously reported to the Senate by the Judiciary Committee in June 1996. Her nomination was, thus, first pending before the Senate more than 15 months ago. This was one of a number of nominations caught in the election year shutdown.

She was renominated on the first day of this session. She had her second confirmation hearing in March. She was then held off the Judiciary agenda while she underwent rounds of written questions. When she was finally considered on June 12, she was again favorably reported with the support of Chairman HATCH. She has been left pending on the Senate Executive Calendar for more three months and has been passed over, time and again, without justification or explanation.

What is this mystery hold all about? In spite of my repeated attempts to find out who is holding up consideration of this outstanding nominee, and why, I am at a loss.

Ms. Morrow is a qualified nominee to the district court. I have heard no one contend to the contrary. She has been put through the proverbial wringer—including at one point being asked her private views, how she voted, on 160 California initiatives over the last 10 years.

The committee insisted that she do a homework project on Robert Bork's writings and on the jurisprudence of original intent. Is that what is required to be confirmed to the district court in this Congress?

With respect to the issue of "judicial activism," we have the nominee's views. She told the committee:

The specific role of a trial judge is to apply the law as enacted by Congress and interpreted by the Supreme Court and courts of appeals. His or her role is not to make law.

She also noted:

Given the restrictions of the case and controversy requirement, and the limited nature of legal remedies available, the courts are ill equipped to resolve the broad problems facing our society, and should not undertake to do so. That is the job of the legislative and executive branches in our constitutional structure.

Margaret Morrow was the first woman President of the California Bar Association and also a past president of the Los Angeles County Bar Association. She is an exceptionally well-qualified nominee who is currently a partner at Arnold & Porter and has practiced for 23 years. She is supported by Los Angeles' Republican Mayor Richard Riordan and by Robert Bonner, the former head of DEA under a Republican Administration. Representative JAMES ROGAN attended her second confirmation hearing to endorse her.

Margaret Morrow has devoted her career to the law, to getting women involved in the practice of law and to making lawyers more responsive and responsible. Her good works should not be punished but commended. Her public service ought not be grounds for delay.

She does not deserve this treatment. This type of treatment will drive good people away.

The President of the Women Lawyers Association of Los Angeles, the President of the Women's Legal Defense Fund, the President of the Los Angeles County Bar Association, the President of the National Conference of Women's Bar Association and other distinguished attorneys from the Los Angeles area have all written the Senate in support of the nomination of Margaret Morrow. They write that: "Margaret Morrow is widely respected by attorneys, judges and community leaders of both parties" and she "is exactly the kind of person who should be appointed to such a position and held up as an example to young women across the country." I could not agree more.

Mr. President, the Senate should move expeditiously to consider and confirm Margaret Morrow, along with Anthony Ishii, Richard Lazzara, Christina Snyder and Marjorie Rendell.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

#### EXPLANATION OF ABSENCE

● Mr. BIDEN. Mr. President, this evening, the Senate conducted two rollcall votes—on the conference report to the Defense Department Appropriations bill and on the nomination of Katharine Sweeney Hayden to be U.S. District Judge for the District of New Jersey. Unfortunately, I was not present for those votes.

Tonight, at my daughter's school in Wilmington is what is called mini roster night. That is what most people know as open house or parents' night—where the parents go around and meet all of the teachers. Because of the Senate voting schedule, I will either have to miss votes or miss mini roster night at my daughter's school.

On both matters voted on tonight, my position is already on the record, and my vote is not expected to change the outcome.

With regard to the defense bill, I voted for the bill on July 15 when it passed the Senate by the overwhelming margin of 94-4. There have been no substantial changes in the legislation, and I continue to support it.

On July 10, the Senate Judiciary Committee reported out the nomination of Katharine Sweeney Hayden to be a New Jersey district judge. I supported her nomination, and I continue to do so.

Again, Mr. President, on both matters, my vote is not expected to change the outcome, and therefore, I have decided to attend parents' night at my daughter's school. I appreciate the understanding of my colleagues and my constituents.●

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate returns to legislative session.

DISTRICT OF COLUMBIA  
APPROPRIATIONS ACT, 1998

The Senate continued with the consideration of the bill.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I send an amendment to the desk—

Mr. COATS. Mr. President, parliamentary inquiry. What is the regular order?

The PRESIDING OFFICER. Does the Senator from Florida yield for a parliamentary inquiry?

Mr. GRAHAM. I yield for a parliamentary inquiry but retaining the floor.

Mr. COATS. Mr. President, it was my understanding that we would immediately return, after these votes, under the previous unanimous-consent request, to consideration of the pending amendment and that there was a little bit of time remaining. I only say that, not because I want to use the time—I know Members want to speak on a number of subjects—but because Senator BROWNBACK had been on the list to speak. He was precluded by the clock when we shifted over under the order. I am just inquiring as to whether or not that is the case.

The PRESIDING OFFICER. The Senator is correct. There is a pending amendment, and the Senator controls 29 minutes. It would take unanimous consent to set it aside.

The Senator from Florida was the first Senator to seek recognition when we returned to the amendment.

Mr. COATS. Mr. President, I want to, first of all, inform my colleagues that I have no intention of using the 29 minutes.

I do, also, though, want to say that I had promised the Senator from Kansas he would be first up. He has commitments. I have commitments. He was in line, and the clock precluded him from getting his statement in. I would be willing to forgo all but about 1 minute of my remarks if we could go forward with this, and we will get to the other Senators as quickly as possible. A lot of people have been waiting all afternoon to speak, but they were not allowed to speak because of the unanimous consent agreement. We had promised them, if they were here right after the votes, they would be first up.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida has the floor, having been recognized. The Senator from Florida, having heard the explanation, is in position to control the time.

Has unanimous consent been requested?

Mr. COATS. Mr. President, parliamentary inquiry. I do not mean to drag this out here. I don't understand the procedure. I thought anything other than the pending amendment was out of order without unanimous consent, that recognition had nothing to do with it.

The PRESIDING OFFICER. The Senator from Florida achieved recogni-

tion. If he wishes to set aside the pending amendment and proceed with an amendment of his own, it would require unanimous consent.

Mr. COATS. On the part of the Senator from Florida.

The PRESIDING OFFICER. On the part of the Senator from Florida.

The Senator from Florida.

Mr. GRAHAM. Mr. President, my purpose, with my colleague, is solely to introduce an amendment which we will then ask to be set aside for consideration on Tuesday. We will be, I think, less than 90 seconds in completing this task. So I ask unanimous consent to set aside the pending amendment for the purpose of offering this amendment in hopes that we complete this task, and then we will relinquish the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Florida.

AMENDMENT NO. 1252

(Purpose: To provide relief to certain aliens who would otherwise be subject to removal from the United States)

Mr. GRAHAM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM], for himself, Mr. MACK, and Mr. KENNEDY, proposes an amendment numbered 1252.

Mr. GRAHAM. 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:

At the appropriate place, insert the following new section:

**"SEC.—IMMIGRATION REFORM TRANSITION ACT OF 1997.**

(a) IN GENERAL.—Section 240A, subsection (e), of the Immigration and Nationality Act is amended—

(1) in the first sentence, by striking "this section" and inserting in lieu thereof "section 240A(b)(1)";

(2) by striking ", nor suspend the deportation and adjust the status under section 244(a) (as in effect before the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996)."; and

(3) by striking the last sentence in the subsection and inserting in lieu thereof: "The previous sentence shall apply only to removal cases commenced on or after April 1, 1997, including cases where the Attorney General exercises authority pursuant to paragraphs (2) or (3) of section 309(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104-208, Division C, 110 Stat. 3009)."

(b) REPEALERS.—Section 309, subsection (c), of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104-208, Division C, 110 Stat. 3009) is amended by striking paragraphs (5) and (7).

(c) SPECIAL RULE.—Section 240A of the Immigration and Nationality Act is amended—

(1) In subsection (b), paragraph (3), by striking "(1) or (2)" in the first and third sentences of that paragraph and inserting in lieu thereof "(1), (2), or (3)", and by striking the second sentence of that paragraph;

(2) In subsection (b), by redesignating paragraph (3) as paragraph (4);

(3) In subsection (d), paragraph (1), by striking "this section." and inserting in lieu thereof "subsections (a), (b)(1), and (b)(2).";

(4) in subsection (b), by adding after paragraph (2) the following new paragraph—

"(3) SPECIAL RULE FOR CERTAIN ALIENS COVERED BY THE SETTLEMENT AGREEMENT IN *American Baptist Churches et al. v. Thornburgh* (ABC), 760 F. Supp. 796 (N.D. Cal. 1991)—

"(A) The Attorney General may, in his or her discretion, cancel removal and adjust the status from such cancellation in the case of an alien who is removable from the United States if the alien demonstrates that—

(i) the alien has not been convicted at any time of an aggravated felony and

"(I) was not apprehended after December 19, 1990, at the time of entry, and is either

"(aa) a Salvadoran national who first entered the United States on or before September 19, 1990, and who registered for benefits pursuant to the ABC settlement agreement on or before October 31, 1991, or applied for Temporary Protected Status on or before October 31, 1991; or

"(bb) a Guatemalan national who first entered the United States on or before October 1, 1990, and who registered for benefits pursuant to the ABC settlement agreement by December 31, 1991; or

"(cc) the spouse or unmarried son or daughter of an alien described in (aa) of this subclause, provided that the spouse, son or daughter entered the United States on or before September 19, 1990, or the spouse or unmarried son or daughter of an alien described in (bb) of this subclause, provided that the spouse, son or daughter entered the United States on or before October 1, 1990; or

"(II) is an alien who

(aa) is a Nicaraguan, Guatemalan, or Salvadoran who filed an application for asylum with the Immigration and Naturalization Service before April 1, 1990, and the Immigration and Naturalization Service had not granted, denied, or referred that application as of April 1, 1997; or

(bb) is the spouse or unmarried son or daughter of an alien described in (aa) of this subclause, provided that the spouse, son or daughter entered the United States on or before April 1, 1990; and

"(ii) the alien is not described in paragraph (4) of section 237(a) or paragraph (3) of section 212(a) of the Act; and

"(iii) the alien

"(I) is removable under any law of the United States except the provisions specified in subclause (II) of this clause, has been physically present in the United States for a continuous period of not less than seven years immediately preceding the date of such application, and proves that during all of such period he was and is a person of good moral character, and is a person whose removal would, in the opinion of the Attorney General, result in extreme hardship to the alien or to his spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence; or

"(II) is removable under paragraph (2) (other than section 237(a)(2)(A)(iii)) of section 237(a), paragraph (3) of section 237(a), or paragraph (2) of section 212(a), has been physically present in the United States for a continuous period of not less than 10 years immediately following the commission of an act, or the assumption of a status, constituting a ground for deportation, and proves that during all of such period he has been and is a person of good moral character, and is a person whose removal would, in the opinion of the Attorney General, result in exceptional and extremely unusual hardship to the alien or to his spouse, parent or child, who is a citizen of the United States, or an alien lawfully admitted for permanent residence.

"(B) Subsection (d) of this section shall not apply to determinations under this paragraph, and an alien shall not be considered

to have failed to maintain continuous physical presence in the United States under clause (A)(iii) of this paragraph if the alien demonstrates that the absence from the United States was brief, casual, and innocent, and did not meaningfully interrupt the continuous physical presence.

“(C) The determination by the Attorney General whether an alien meets the requirements of subparagraph (A) or (B) of this paragraph is final and shall not be subject to review by any court. Nothing in the preceding sentence shall be construed as limiting the application of subparagraph (B) of section 242(a)(2) to other eligibility determinations pertaining to discretionary relief under this Act.”

(d) EFFECTIVE DATE OF SUBTITLE (C).—The amendments made by subtitle (c) shall be effective as if included in Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104-208, Division C, 110 Stat. 3009).

(e) APPEAL PROCESS.—Any alien who has become eligible for suspension of deportation or cancellation of removal as a result of the amendments made by subsection (b) and (c) may, notwithstanding any other limitations on motions to reopen imposed by the Immigration and Nationality Act or by regulation file one motion to reopen to apply for suspension of deportation or cancellation of removal. The Attorney General shall designate a specific time period in which all such motions to reopen must be filed. The period must begin no later than 120 days after the date of enactment of this Act and shall extend for a period of 180 days.

Mr. GRAHAM. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 1253 TO AMENDMENT NO. 1252

(Purpose: To provide relief to certain aliens who would otherwise be subject to removal from the United States)

Mr. MACK. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. MACK] for himself, Mr. GRAHAM, and Mr. KENNEDY proposes an amendment numbered 1253 to amendment No. 1252.

Mr. MACK. 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:

Strike all after the word “SEC.” and insert the following:

**IMMIGRATION REFORM TRANSITION ACT OF 1997.**

(A) IN GENERAL.—Section 240A, subsection (e), of the Immigration and Nationality Act is amended—

(1) in the first sentence, by striking “this section” and inserting in lieu thereof “section 240A(b)(1)”;

(2) by striking “, nor suspend the deportation and adjust the status under section 244(a) (as in effect before the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996),”; and

(3) by striking the last sentence in the subsection and inserting in lieu thereof: “The

previous sentence shall apply only to removal cases commenced on or after April 1, 1997, including cases where the Attorney General exercises authority pursuant to paragraphs (2) or (3) of section 309(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104-208, Division C, 110 Stat. 3009).”

(b) REPEALERS.—Section 309, subsection (c), of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104-208, Division C, 110 Stat. 3009) is amended by striking paragraphs (5) and (7).

(c) Special Rule.—Section 240A of the Immigration and Nationality Act is amended—

(1) In subsection (b), paragraph (3), by striking “(1) or (2)” in the first and third sentences of that paragraph and inserting in lieu thereof “(1), (2), or (3)”, and by striking the second sentence of that paragraph;

(2) In subsection (b), by redesignating paragraph (3) as paragraph (4);

(3) In subsection (d), paragraph (1), by striking “this section.” and inserting in lieu thereof “subsections (a), (b)(1), and (b)(2).”;

(4) in subsection (b), by adding after paragraph (2) the following new paragraph—

“(3) SPECIAL RULE FOR CERTAIN ALIENS COVERED BY THE SETTLEMENT AGREEMENT IN AMERICAN BAPTIST CHURCHES ET AL. V. THORNBURGH (ABC), 760 F. SUPP. 796 (N.D. CAL. 1991).—

“(A) The Attorney General may, in his or her discretion, cancel removal and adjust the status from such cancellation in the case of an alien who is removable from the United States if the alien demonstrates that—

“(i) the alien has not been convicted at any time of an aggravated felony and—

“(I) was not apprehended after December 19, 1990, at the time of entry, and is either—

“(aa) a Salvadoran national who first entered the United States on or before September 19, 1990, and who registered for benefits pursuant to the ABC settlement agreement on or before October 31, 1991, or applied for Temporary Protected Status on or before October 31, 1991; or

“(bb) a Guatemalan national who first entered the United States on or before October 1, 1990, and who registered for benefits pursuant to the ABC settlement agreement by December 31, 1991; or

“(cc) the spouse or unmarried son or daughter of an alien described in (aa) of this subclause, provided that the spouse, son or daughter entered the United States on or before September 19, 1990, or the spouse or unmarried son or daughter of an alien described in (bb) of this subclause, provided that the spouse, son or daughter entered the United States on or before October 1, 1990; or

“(II) is an alien who—

(aa) is a Nicaraguan, Guatemalan, or Salvadoran who filed an application for asylum with the Immigration and Naturalization Service before April 1, 1990, and the Immigration and Naturalization Service had not granted, denied, or referred that application as of April 1, 1997; or

(bb) is the spouse or unmarried son or daughter of an alien described in (aa) of this subclause, provided that the spouse, son or daughter entered the United States on or before April 1, 1990; and—

“(ii) the alien is not described in paragraph (4) of section 237(a) or paragraph (3) of section 212(a) of the Act; and—

“(iii) the alien—

“(I) is removable under any law of the United States except the provisions specified in subclause (II) of this clause, has been physically present in the United States for a continuous period of not less than seven years immediately preceding the date of such application, and proves that during all of such period he was and is a person of good moral character, and is a person whose re-

moval would, in the opinion of the Attorney General, result in extreme hardship to the alien or to his spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence; or—

“(II) is removable under paragraph (2) (other than section 237(a)(2)(A)(iii)) of section 237(a), paragraph (3) of section 237(a), or paragraph (2) of section 212(a), has been physically present in the United States for a continuous period of not less than 10 years immediately following the commission of an act, or the assumption of a status, constituting a ground for deportation, and proves that during all of such period he has been and is a person of good moral character, and is a person whose removal would, in the opinion of the Attorney General, result in exceptional and extremely unusual hardship to the alien or to his spouse, parent or child, who is a citizen of the United States, or an alien lawfully admitted for permanent residence.

“(B) Subsection (d) of this section shall not apply to determinations under this paragraph, and an alien shall not be considered to have failed to maintain continuous physical presence in the United States under clause (A)(iii) of this paragraph if the alien demonstrates that the absence from the United States was brief, casual, and innocent, and did not meaningfully interrupt the continuous physical presence.

“(C) The determination by the Attorney General whether an alien meets the requirements of subparagraph (A) or (B) of this paragraph is final and shall not be subject to review by any court. Nothing in the preceding sentence shall be construed as limiting the application of subparagraph (B) of section 242(a)(2) to other eligibility determinations pertaining to discretionary relief under this Act.”

(d) EFFECTIVE DATE OF SUBTITLE (C).—The amendments made by subtitle (c) shall be effective as if included in Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104-208, Division C, 110 Stat. 3009).

(e) APPEAL PROCESS.—Any alien who has become eligible for suspension of deportation or cancellation of removal as a result of the amendments made by subsection (b) and (c) may, notwithstanding any other limitations on motions to reopen imposed by the Immigration and Nationality Act or by regulation file one motion to reopen to apply for suspension of deportation or cancellation of removal. The Attorney General shall designate a specific time period in which all such motions to reopen must be filed. The period must begin no later than 120 days after the date of enactment of this Act and shall extend for a period of 180 days.

(f) EFFECTIVE DATE OF SECTION.—This section shall take effect one day after enactment of this Act.

Mr. MACK. Mr. President, I ask unanimous consent that both the first- and second-degree amendments be temporarily set aside.

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

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The underlying business is the amendment of the Senator from Indiana.

AMENDMENT NO. 1249

Mr. COATS. Mr. President, I thank the Chair. I again inform my colleagues that we will be brief. I am just trying to fill some commitments we made earlier. I will dispense with my ringing, articulate, persuasive rebuttals to the opponents of this

amendment that I have ready to go here, to Senator BOXER and Senator KENNEDY and others who spoke against the amendment, and save those until Tuesday. Even though I have the attention of my colleagues who are in the Chamber that I might not have on Tuesday, I will have to trust that yielding the time is probably more persuasive in getting support for my amendment than giving those arguments at this particular point. So, I will defer that. However, I have made a commitment to the Senator from Kansas. I think he is going to be relatively brief. I yield to him such time as he may consume. Then, if no one else wants to speak on this particular amendment, I will be happy to yield back.

Mr. LAUTENBERG. Mr. President, I have a question to the Senator from Indiana. Is there currently a time agreement?

Mr. COATS. Yes.

The PRESIDING OFFICER (Mr. SESSIONS). There is.

Mr. LAUTENBERG. May I ask further how much time is left?

The PRESIDING OFFICER. There remain 25 minutes for the Senator from Indiana.

Mr. COATS. We have no intention, I tell the Senator, of using that much time. I think the Senator from Kansas has less than 10 minutes and I will defer my time until tomorrow.

Mr. LAUTENBERG. I can hardly wait, and I thank the Senator.

The PRESIDING OFFICER. The Senator from Kansas. Mr. BROWNBACK. Mr. President, I thank my colleague from Indiana for yielding this time and bringing forward this amendment. I think it is a very important, excellent amendment and I rise in support of it. I chair the Senate subcommittee that has oversight over the District of Columbia. I, and Senator LIEBERMAN who is the ranking Democrat on that committee, are both cosponsors of the Coats amendment.

I would just like to inform the Members of this body and others that we have had extensive hearings on the D.C. Public School System. We have been out and looked at the schools. We have been in the public schools. We have been in the charter schools. We have looked at the D.C. Public School System. My conclusion of the D.C. School System is the same as the D.C. Control Board's conclusion, that is that this system has failed the students.

The D.C. Control Board, in their own statements regarding the D.C. Public School System, said this: They said that the longer students stay in the District of Columbia public schools, the worse they do. That is the Control Board's own assessment of what has happened to the D.C. public schools. I think that is a crime to the students, to the children of the District of Columbia who are in these schools. We should not be putting them in a situation where the school system has failed

them. That is wrong. That is wrong of us to allow it to take place.

We have also had hearings with General Becton, who has been put in charge of the District of Columbia public schools. He is an admirable man. He is a good man who believes he is on the toughest assignment he has ever had. He has been a general in the military and he's a quality individual. The general says to us: Give me 3 years to fix this system up. Give me 3 years to be able to get the system back correct. I know it is a failed system. I know it's not working for the children in the District. I know we have failures in it, that the test scores are not what they should be, that the schools have not performed, that they are not as safe as they should be, that we are having repair problems to the point that we can't get students in for 3 weeks—but give me 3 years to be able to fix this system up.

I sit out, as a parent who has three children, and ask myself, does my child get a second shot at the first grade during those 3 years? Or the second? Or the third grade? Those are formative, key years for students, for pupils. They don't get 3 years to wait.

I am saying, and I said this to the general, in hearings, I said: General, is it right for us to condemn that student to this system that you admit and state has failed these students? Is that fair to the student? You are saying give us 3 years to improve the school system, and I know he is going to try to do everything he can. But is it fair to this poor child? You have to stare in the face of that child and say, "I am sorry, you are not going to be able to get the quality of education that you need to have because it is going to take us some time to fix these schools or this school system." I don't think that is fair to these students. It is not fair to these pupils.

I think, frankly, if most of us in this body had children and we were living in the District of Columbia, we would not think it would be fair to our kids either to put them into the public school system in this particular situation where we have—and listen to these statistics. They are really frightful.

Let me say as well, this is about improving public education. We have to have better education in this country. We have to have better education for our children. That is what we are after. What I am after, chairing this subcommittee, is to make the District of Columbia a shining example around the world for everything, and in particular, as well, in education. But we are not there now.

Look at some of these statistics. We have fourth graders in the D.C. public school system—78 percent of fourth graders are not at basic reading levels, 78 percent. We have violence problems in the D.C. public schools. We have 26 percent of the teachers surveyed in 1995 say that they were threatened, injured, or attacked in the past year—26 percent. The national average is too high,

it's at 14 percent; but 26 percent, 1 of 4 of the teachers. Of the students, 11 percent of the students were threatened or injured with a weapon during the past year—11 percent of the students. And 11 percent were avoiding school for safety reasons during the past 30 days.

Then you have the horrendous incidents that happen when you had students having sexual activity in grade school during the school day. That happened in the District of Columbia. That just touched all of us, saying this cannot be allowed to continue to take place.

This amendment is a simple amendment to try to provide a choice, an opportunity to some students who do not have it and are not able, financially. Their parents are not in a position to be able to do what most Members of Congress do. I say that on a basis of surveys that have been done of Members of Congress. Of those Members of Congress who have responded to a survey, 77 percent of Senators responded and 50 percent had sent or are sending their children to a private school. They had that option because financially we are in a position to be able to do it. And unfortunately, too many of our D.C. children are not in a financial position to be able to do this.

We need to look in their eyes and provide them a choice and provide them this option. This amendment is a simple one, to try to do that. I think it also will help us make better public schools in the District of Columbia by providing some incentive and some competition into the school system in the District of Columbia.

Mr. President, I have other points I may be making next week on this. But I simply say we cannot wait and imprison a student in a system that is a failed system. The people looking over it have already stated this is a failed system. It is not fair to the kids.

Let's say who we are protecting here. We ought to be looking exactly in that child's eye when we vote on this amendment, and say let's give this child a choice and give this child a chance and not put him in a system which, according to its own people, is a failed system.

There are some good public schools in the District of Columbia but overall this system has failed. That is why I plead with my colleagues to look at this amendment and give these kids a chance. With that, I yield the floor.

Mr. STEVENS addressed the Chair.

THE PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. I thank the Chair.

(The remarks of Mr. STEVENS and Mr. MURKOWSKI pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

THE PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPER. Mr. President, I ask unanimous consent the pending amendment be temporarily laid aside in order for me to proceed for 1 minute.

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

#### DEPARTMENT OF DEFENSE APPROPRIATIONS CONFERENCE REPORT

Mr. BUMPERS. Mr. President, there were five votes against the conference report on Defense appropriations. I was one of those five. I do not presume to speak for any of the others. I speak only for myself, and I will speak at length on my reasons next week.

But I just want to say tonight that by adopting that conference report we are embarking on the building of a fighter plane called the F-22, which is going to be twice as expensive as any fighter plane ever built. My guess is that it will cost somewhere between \$70 and \$100 billion when it is finished, for \$39 billion. We are embarking on a \$4 billion cost of retrofitting the Pacific fleet with D-5 missiles on ships which are already equipped with C-4's, and the C-4's will outlive the ships they are on. And for a lesser reason, of course, the \$331 million in the bill on the B-2 bomber.

Mr. President, if you want to spend this for new bombers, be my guest. If you don't, put it in spare parts. If they need spare parts for B-2's, let's appropriate the money to do it. But let's not use that kind of shenanigan to get \$331 million in here and hope we can crank up the B-2 program again. We are talking about ringing up new expenditures of close to \$100 billion in this. I will elaborate more extensively next week.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent the pending amendment be set aside so I can make some brief remarks about the judge that we just confirmed here in the Senate.

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

#### CONGRATULATIONS TO KATHARINE SWEENEY HAYDEN

Mr. LAUTENBERG. Mr. President, I am very pleased that the Senate has so promptly taken up the nomination of Katharine Sweeney Hayden to serve as a Federal district court judge for the District of New Jersey.

I had the high honor and privilege of recommending Judge Hayden to President Clinton this past February. After review, the President nominated her for this position on June 5, 1997. Judge Hayden's nomination was approved by the Senate Judiciary Committee just weeks later, on July 10, and now we have her nomination before the full Senate. Judge Hayden's nomination has moved this quickly, I believe, because she is a superb candidate who will make an outstanding judge.

Mr. President, recommending candidates to the President for the Federal judiciary is one of the most important aspects of my job as a U.S. Senator. In

making these recommendations, I know that I am helping to place someone on the Federal bench who will hold the law and the lives of thousands of Americans in her hands. This is an awesome responsibility and the bedrock on which our Government is founded—a system of justice based on the law. It is incumbent upon us in confirming a judge to know that she has a deep love, respect, and knowledge of the law, an intellect equal to the task, the temperament to preside fairly in the courtroom and treat all with the respect they deserve, and the skill to manage her cases and dispense justice with deliberation but also expedition. Judge Hayden meets all these tests and more.

Mr. President, the respect and admiration for Judge Hayden among those who know her in New Jersey is unanimous. She possesses all of the skills and attributes needed to successfully shoulder the responsibilities of a Federal judge. Her experience in the U.S. attorney's office in New Jersey, in private legal practice, and as a State court judge provide a solid foundation for her upcoming Federal service.

Mr. President, I can also tell the Senate that Judge Hayden possesses a sharp intellect and a keen analytic ability, exceptional courtroom demeanor, and a strong work ethic. She is held in high regard by all segments of the New Jersey legal community, and is strongly supported by her peers on the State and Federal bench. This high evaluation is shared by the litigants and lawyers whom she has represented, worked with, or have appeared before her.

Katharine Sweeney Hayden will bring a breadth of experience—from the courtroom and elsewhere—to the Federal bench. She is currently a judge of the Superior Court of New Jersey—Criminal Division, sitting in Essex County.

Judge Hayden received her undergraduate degree from Marymount College in 1963, and attended graduate school at Bowling Green State University and Seton Hall University, where she earned a master's degree in English literature in 1972 and served as adjunct professor of English.

She received her law degree from Seton Hall University School of Law cum laude in 1975. Upon graduation, she clerked for the Justice Robert Clifford of the New Jersey Supreme Court.

Upon completing her clerkship, Judge Hayden worked in the U.S. attorney's office in New Jersey, before establishing a private practice, which she pursued for 13 years. In recognition of her contribution to the legal profession and the esteem in which she is held by her colleagues, Katharine was elected as the first woman president of the Morris County Bar Association. She was appointed to the New Jersey bench in 1991.

Mr. President, I am pleased to report that Judge Hayden has received a "well

qualified" rating from the American Bar Association. This is the highest rating for a judicial nominee.

In recognition of her talent, organizational skills, and knowledge of the law, Judge Hayden has been selected to undertake special assignments by the judiciary and State Bar Association of New Jersey. These assignments include service on professional committees on ethics as well as judicial committees on administrative, professional, and substantive matters. Most recently, she was chosen to develop and preside as the first judge of a drug court soon to be established in Essex County, NJ.

Mr. President, I would also like to report to the Senate that Judge Hayden has stressed to me her view that a judge has a responsibility to be fair, to cherish the law and our Constitution, and to treat every lawyer and litigant before her with respect. She has also expressed to me her honor at being nominated for this appointment, and her deep commitment to serving the public and to administering justice fairly for all who appear before her.

Mr. President, Katharine Sweeney Hayden has all of the personal attributes and professional qualifications one could wish for in a judge. And then some.

So, Mr. President, I commend Katharine Hayden to the Senate and, anticipating her confirmation, congratulate her on her appointment, and wish her all the best in her new position. I am very proud to have recommended her to President Clinton. I hope she will serve on our district court for many years. I know she will serve with distinction, dispensing justice to each person who appears before her with compassion, fairness, and wisdom.

Mr. President, I close by saying the country will be well served by the services of Katherine Sweeney Hayden on the bench. We look forward to having her on the court in New Jersey, and I am sure we will continue to hear only the finest about the work she has done and the character that she has brought to her decisions as part of the court.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that I might be permitted to speak as in morning business.

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

#### THE IMPORTATION OF SEMIAUTOMATIC ASSAULT RIFLES

Mrs. FEINSTEIN. Mr. President, about 2 weeks ago it came to my attention that several countries may be exporting semiautomatic assault weapons into this country despite the 1968 Gun Control Act, which limits the importation of these weapons.

When I asked the ATF to explain why these weapons were granted import permits, I learned that ATF, in the last few years, has not applied—or at least



has not been consistent in applying—a standard of review for importation of weapons set by Congress under the 1968 Gun Control Act, a standard which has been specifically applied to semiautomatic rifles and shotguns since 1984.

The Gun Control Act of 1968 allows importation of only those types of firearms “generally recognized as particularly suitable for, or readily adaptable to, sporting purposes.”

#### DEFINITION OF SPORTING PURPOSES

In 1984, ATF conducted a comprehensive analysis of the sporting purposes of rifles and shotguns. They looked at the legislative history, studied the available literature, made a technical evaluation of the weapons, and conducted a wide-ranging comprehensive survey and determined that there were clear differences between semiautomatic assault rifles and semiautomatic rifles used in traditional sports.

The term “sporting purposes” refers to traditional sports such as target shooting, skeet and trap shooting, and hunting.

In 1989, with the support of President Bush, ATF announced the import ban of more than 40 semiautomatic assault weapons. ATF subsequently ruled most of the weapons not legal for importation, stating that “There is nothing in the law to indicate the term ‘sporting purposes’ was intended to recognize every conceivable type of activity or competition which might employ a firearm.”

A June 30 ruling by the Eleventh Circuit Court of Appeal heard that: “The Secretary of the Treasury had implied authority under the Gun Control Act to order temporary suspension.”

Further, the Court’s decision stated that arguments against the suspension of these weapons “places too much emphasis on the rifle’s structure for determining whether a firearm falls within the sporting purpose exception. While the Bureau must consider the rifle’s physical structure, the Act requires the Bureau to equally consider the rifle’s use.”

I do not believe that ATF is currently applying the sporting purposes test based on their own analysis in approving import permits for semiautomatic assault rifles.

As a result of this inconsistency in the standards of review, tens of thousands of military-style assault weapons may, in fact, be coming in to the country from all over the world.

I have spoken directly to President Clinton about this—and I am joined so far by 30 of my colleagues in this request—and that is that he temporarily suspend importation of specific semiautomatic weapons until a determination can be made as to the suitability of these weapons for sporting purposes as required by this Federal statute.

Let me point out that the 1994 assault weapons legislation was not intended, nor do I believe it does, supersede or conflict with the 1968 law.

I have requested from ATF a list of all semiautomatic weapons granted im-

port permits in the last 2 years and the specifications for those weapons, where they are going and to whom, and whether the manufacturer is state or privately owned. They indicate it will take 4 more weeks to provide it.

As of this moment, though, one particular case stands out. It involves a munitions manufacturer owned by our friend and ally, the Government of Israel. The reason we know this is because Israel was up front and indicated to the ATF what weapons they were planning to export. The Los Angeles Times reported the pending export as a part of a recent investigation. That is how I found out, and I now believe and am concerned that a flood of weapons may be taking place into this Nation.

Israel Military Industries, a Government-owned munitions manufacturer, has been granted permission to export to the United States for commercial sale tens of thousands of semiautomatic assault weapons. The weapons, the Uzi American and the Galil Sporter are modeled after weapons used and created for the Israeli military.

The Uzi, because of its reliability and accuracy, has been used by the armed forces of over 20 nations, including the U.S. Secret Service. It features a large pistol grip that extends beneath the center of the body of the weapon. The Uzi is touted as “lethality in a tiny package” by a reference book called “The World’s Greatest Small Arms.” The author of that manual explains that the Uzi grip “is positioned roughly at the point of balance of the gun which makes the weapon much easier to control when firing bursts.”

The text goes on to explain that the ammunition feed is through the butt and magazines are inserted from below the grip, “a system that helps the firer replace magazines quickly, especially in the darkness.”

The Uzi American planned for export, according to ATF, is based on the Uzi minicarbine. Except for the shorter length and changes to the stock, again according to the reference book, “is virtually, in all other respects, identical to the Uzi carbine” which was barred from importation in 1989 by the ATF under President Bush’s order.

The Galil was created in Israel subsequent to the Six Day War in 1967. The Israeli military, looking for a lighter, more convenient weapon, enlisted a design team to combine the best features of the AK-47 and the M-16 rifle. The weapon was finished in 1972 and was used in the 1973 Yom Kippur war.

The modified version of the Galil now planned for export, as it has been described to me, in addition to being designed for semiautomatic fire, is modified as follows:

The bayonet mount was removed. The threaded muzzle for attaching a flash suppressor was removed. And the folding stock, designed for concealability, is replaced by a fixed wooden stock.

The protruding pistol grip, which enables the weapon to be held at the hip

to spray fire, was modified by essentially attaching a wood bridge that connects the pistol grip and the stock, called a thumbhole grip. A key point that the ATF ruled is that the grip, as redesigned, protrudes conspicuously and, therefore, still constitutes a pistol grip, an assault weapon characteristic under the 1994 Federal law.

Both the Uzi and Galil, as modified, would be exported with a standard 10-round ammunition clip as required by U.S. law.

However, these weapons are capable of accepting 30-, 50-, and 100-round magazines, millions of which are available and still legally sold in this country and still imported, although they are banned from importation.

Now, even as modified, the Uzi and Galil are capable of firing bullets as fast as the operator can pull the trigger. They each possess a grip that allows the weapon to be fired from the hip, and ATF indicates that with a few alterations, they are able to be made fully automatic.

In short, these are the same type of weapons that many Americans are trying to keep off our streets and out of the hands of criminals. I believe that the permitted importation of tens of thousands of these weapons is a terrible mistake on the part of the ATF. Assault weapons, like the Uzi and the AK-47, which is similar to the Galil, are weapons often used against police, often with deadly results. Let me give you some examples.

A case with which I am very familiar—and I have talked to the commanding officer of this officer who hails from my city, and the incident took place a few blocks from my home—a San Francisco police officer by the name of James Guelff was on duty one November night in 1994. A young father, he was usually the first to arrive on the scene of a crime.

That night, a call came in about a sniper firing at civilians at Pine and California Streets. The perpetrator was armed with several assault rifles and pistols, including a 9-millimeter Uzi semiautomatic pistol, 30- and 50-round clips and more than a thousand rounds of ammunition. He had more firepower than the entire complement of 104 police officers responding to the scene combined.

Officer Guelff, a highly decorated 10-year police veteran, was the first to arrive on the scene. He was immediately pinned down by assault rifle fire. He was struck while attempting to reload his police-issue revolver. He bled to death while his fellow officers and rescue team tried in vain to reach him. Because the suspect was wearing body armor and a Kevlar helmet, officers had to try to angle their shots under the helmet to bring him down. Several other people were shot and injured before the suspect was killed.

Following that incident, I authored legislation which increases criminal sentences for using body armor in the commission of a crime. Thanks to you,

Mr. President, as you know, that legislation, called the James Guelff Body Armor Act, is currently included in S. 10, the juvenile crime bill now before the Senate, and I should say thanks to the chairman of the committee, Senator HATCH.

Less than 1 month ago, police in Tacoma, WA, faced a man with an SKS assault rifle. The man fired on police and struck Officer William Lowry twice, killing him. The rifle, police say, was modified to carry a high-capacity magazine and to fire automatically.

Last February, in Los Angeles, two would-be bank robbers took on approximately 350 police officers from 5 agencies in a major shootout in Hollywood, Los Angeles. The criminals were armed with three fully automatic Norinco assault weapons, modeled after the AK-47, an import from China, a fully automatic HK-9 imported from Germany, a fully automatic Bushmaster assault weapon modeled after the banned AR-15, and a semiautomatic Berreta 9-millimeter pistol. These weapons had all been altered to be made fully automatic.

The perpetrators wore body armor from their neck to their ankles, even going so far as to duct tape body armor to any part of their body that could possibly be exposed. They fired 1,100 rounds of ammunition from high-capacity magazines that could hold as many as 50 bullets, taping them together in a unique way so that they can be replaced quickly in a style used by soldiers in combat. They wounded 11 police officers and 7 civilians before being shot and killed.

This has been shown on many television shows. There is footage of it from beginning to end. I can tell you, the streets resemble a war zone. Police on the scene were so outgunned that they had to go to a nearby gun store and "borrow" assault-type weapons in order to match the gunmen's firepower. Governor Wilson has now provided weapons to police departments which are fully automatic, again escalating the battle on our streets.

In addition to Officers Guelff and Lowry, Officer William Christian of Washington, DC, was killed with a MAC-11 in 1995;

Officer John Novabilski of Prince Georges County, MD, killed with a MAC-11 in May 1995;

Officer John Norcross of Haddon Heights, NJ, killed with an AK-47 in April of 1995;

Officer Timothy Howe of Oakland, killed with an AK-47, April 1995;

Officer Daniel Doffyn of Chicago, killed with a TEC-9, March 1995;

Officer Henry Daly, Washington, DC, killed with a TEC-9, November 1994;

Officer Michael Miller of Washington, DC, killed with a TEC-9 in November 1994.

Officer Martha Dixon-Martinez of Washington, DC, killed with a TEC-9 in November 1994.

Officer Julio Andino-Rivera, of Puerto Rico, killed with an AR-15 in September 1994;

Officer Dan Calabrese of Winslow Township, NJ, killed with an Uzi in June of 1994;

And a case I often use, a rookie police officer in Los Angeles on her first call, the top rookie of her class, Christy Hamilton, killed with an AR-15 responding to a domestic violence call.

These weapons are not designed for sporting purposes. They are not designed for hunting. They are the weapons of choice for grievance killers, for gangs, and for those who go up against the police.

They are designed to kill large numbers of people in combat, just as the Uzi and the Galil were designed for the Israeli military to do just that. They have no place on the streets of a civilized society.

Israel has been a friend and an ally to the United States, a friendship I and other Members of this body have strongly supported. It is my personal hope—and I have written to Prime Minister Netanyahu and expressed this—that a nation that understands, perhaps better than most, the paramount importance of any government's responsibility to ensure the safety and security of its people will understand that there is a moral issue at stake here that far outweighs any commercial value the sale of these weapons holds for their country.

There is a munitions manufacturer owned by the State of Israel. And by advancing this export, the Israeli Government is putting the official imprimatur of its people on the commercial sale of weapons designed, not for hunting but for combat, not to protect but to kill.

It is my earnest hope that the Israeli Government will respond to these importunings and will lead the way in and set an example for others to follow.

More than 4,000 people were killed by gang violence in Los Angeles alone in one 5-year period—1991 to 1995—gangs that all too often use these kinds of weapons to terrorize and control neighborhoods.

We do not need more of these weapons on our streets.

As I said, I have asked Prime Minister Netanyahu to personally intervene to stop the export of these weapons to the United States.

I have personally had the opportunity to discuss this with the Israeli Ambassador to the United States. Once again, I appeal to the Prime Minister's sense of what is right and, in the best interest of our continued friendship and the mutual security of our two people, to please prevent this sale.

It is important also to understand that we are not singling out only those weapons being exported by Israel. I have requested information on semiautomatic rifles that have been approved for importation from more than 17 other countries that may have similar military features which distinguish them from the traditional definition of a sporting rifle.

To the extent that any other such weapons are discovered, and if such

weapons are manufactured by Government-owned entities as is the case with these weapons, I will be making the same request of those government leaders as well.

In the meantime, 30 of us now urge President Clinton to use his executive authority to temporarily suspend this importation of weapons and to direct the ATF to use the traditional sporting purposes standard in determining whether any semiautomatic assault weapons should be approved for importation to the United States.

I thank the Chair, and I yield the floor.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

#### MORNING BUSINESS

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

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

#### CASTRO'S CUBA IS A CRUEL AND FULL-BLOWN PURGATORY

Mr. HELMS. Mr. President, I have at hand an impressive article detailing the oppression that the people of Cuba have long suffered, and still suffer to this day. It was written by Carrol Fisher of Salisbury, NC, and I decided that it should be made available to all Senators—and to others who are concerned about the dictatorship 90 miles off our shores.

Carrol Fisher is a World War II Navy veteran whose first visit to Cuba was in 1944. He fell in love with the island and its people, including the young lady who became his wife 40 years ago. He and Mrs. Fisher [Sonia] returned to Cuba recently to visit his seriously ill sister-in-law. During that visit, he observed the degrading state of affairs in Cuba, the results of Castro's oppressive military government.

When he returned to Salisbury, Mr. Fisher wrote a detailed account of what he had witnessed in Cuba. The article, published in the Salisbury (NC) Post, counsels that the United States under no circumstances should yield in its opposition to Fidel Castro's brutal regime.

Mr. President, I ask unanimous consent that Mr. Fisher's article be printed in the RECORD and the conclusion of my remarks.

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

[From the Salisbury (NC) Post, Aug. 12, 1997]  
CASTRO'S CUBA IS A CRUEL AND FULL-BLOWN PURGATORY

(By Carrol J.W. Fisher)

[EDITOR'S NOTE: Carrol J.W. Fisher and his wife, Sonia, who had not seen her native Cuba for 38 years, were recently granted special permission to visit Sonia's seriously ill

sister. Two of their four children, Luke and Mimi, went with them.]

Knowing that conditions in Havana are hard—at least by American standards—is one thing.

Seeing the sad and pitiful conditions and the obvious presence of a military state is another.

We were immediately shocked, revolted and angry to find a manned military station almost every two blocks on Quinta Avenida (5th Avenue), the main travel artery in Havana, where our hotel, the Comodoro, was on the ocean.

Security personnel, wearing blue trousers, white shirts and ties, were armed with handheld radios and/or side arms and monitored every activity of hotel life.

No matter what their dress, they were military men—and I believe our every move was watched and charted. We were the only Americans in the hotel and, the waiters told us, most likely the only Americans who will visit the hotel this year, even though it was for tourists with American dollars.

Local Cubans were not welcome. They could not drive their ragged automobiles to the hotel entrance. They could not park in the parking lot. They were not permitted to go into the guest's rooms. A very small number was tolerated in the lobby.

Sonia was injured while we were there, and I insisted the guard permit some of her relatives into our room. Just as soon as I left for the hospital, they were required to leave and return to the lobby.

Apparently, this military dictatorship is highly organized and so closely administered that every phase of life in Cuba today is controlled by Castro. A medical doctor is paid between 400 and 600 hundred pesos—or, at 22 pesos to a dollar—between \$18 and \$27 a month. More than one of the drivers of state-controlled taxis told us he is paid 140 pesos—or \$6.32—a month.

At our hotel, graduate engineers were washing windows. An electronics engineer was training to be a waiter. A University of Havana graduate in language, a young man who spoke good English, was also training to be a waiter rather than teach English at the university.

I met a friend I knew in the '50s who had studied in an American university. At great personal risk, he supported Castro's revolution, carried ammunition, food, radios, medicines, etc., from the Guantanamo Naval base to the Rebels in the Oriente Mountains, labored for Castro's regime almost 40 years and alienated most of his blood family.

Today he works in a sensitive job 12 and 14-hour-days and is paid 325 pesos or \$14.77 a month.

I visited a number of other Cuban friends I knew in the 1950s. Their households were much alike. There were no recent photographs because they cannot afford a camera or the film that sells in Castro's stores for American dollars. They have no adequate radio, no working television, no transportation except maybe one Chinese bicycle. They have no wrist watches except some pitiful Soviet watches that lose 5 minutes each day. They are allowed one 100-pound tank of LP gas from Mexico for cooking and hot water at a cost of 11 pesos. If and when this tank is empty, a replacement costs \$26 (572 pesos) which is more than a month's wages.

So much walking is necessary, but no one seemed to have adequate walking shoes. Most of my friends' family members have very few clothes, and what they do have is worn and mostly in tatters.

#### POOR LIVING CONDITIONS

Kitchens and baths are old and tired. Faucets leak and drip. So do the drains under

the sinks and lavatories. Very few houses showed any signs of having been repaired or painted.

People are required to attend block meetings where they gossip and report the activities of their neighbors. I took my Timex watch off and gave it to one of my friends. He was happy and pleased but afraid to wear it for fear of the neighbors. They are morose and have little optimism or hope.

Since the Soviets fell and their aid ceased, Castro calls this "A Special Time." The adjective they use to describe this special time is "siempre," English for "always."

Quinta Avenida, the main avenue in all Havana, is deteriorating badly, the paving is cracked and very rough, as are the sidewalks and curbs. I saw holes 3 feet deep washed out behind storm gratings that were dangerous to the many pedestrians. Most of the lampposts had wires pulled out and taped together.

Generally the infrastructure of Havana streets—bridges, walks, parks—is in very poor condition. But the military manned their innumerable posts.

I was introduced to Cuba in 1945 while flying off the carrier Roosevelt. I returned to Guantanamo Naval Base while flying with an anti-submarine squadron. I loved the people. They worked hard building their houses and families. They were fun to be with, happy and lighthearted, had many parties, and danced to wonderful music.

I have lived and visited many countries in the world but never found one like Cuba, where the weather enfolds you in a pleasant comfort zone and the eye rests on pure beauty.

While I was there, I met a school teacher, Sonia, and fell desperately in love, courting her for three years before we married. We have lived in the USA together since October 1957. We have three wonderful sons and a beautiful daughter, all university educated, married successfully, and they have given us six lovely grand children.

#### BEAUTY HAS DISAPPEARED

But the beautiful Cuba I knew is no more.

I am not qualified to evaluate or judge Fidel Castro's motives for turning a beautiful country into a lower level Third World country. If he is altruistic and wants what is best for the Cuban people, then as an economist, he is an idiot, and his understanding of human psychology is on the level of a moron.

I do not believe he is either of the two. He was raised in a cultured family, is a graduate of the University of Havana and an experienced attorney. He is a battle-tested military leader who defeated his enemies.

His motivation must come from a super ego that demands that he wield total control over the Cuban society and over the life of each individual Cuban. The terrible injustice, and imbalance he has thrust into the lives of the Cuban people has engendered mistrust, suspicion and jealousy of neighbor for neighbor. His system is destroying the incentive to work and achieve, to make free and independent decisions for their own lives, to hope for something better for their children, and maybe enjoy some measure of peace and happiness for their senior years.

The depth of sadness that pervades the Cuban society today is only exceeded by the pervasive evil of a communist system that is destroying the higher human qualities of millions of people.

Castro made the deliberate choice to embrace Marxism-Leninism at a time that most world leaders had already decided that it was a total failure.

#### WHERE IS CASTRO?

I saw no sign of Fidel Castro on any billboard or building as we drove around Havana. It is as if he does not exist. One does

see signs of Che Guevara, but not Castro. I heard not one single word of condemnation or support for Fidel Castro, but I did hear a lot of criticism of the system.

As we arrived back in the United States, my daughter, Mimi, said, "What disturbs me most is that Castro has succeeded in making the Cuban people equally poor—from the doctor who makes \$18 to \$26 a month and must drive a cab at night just to make ends meet, to the waiter in training who is not paid anything. They are all victims of Castro."

"The trip was a pilgrimage," Sonia said. "I went, I prayed, I visited what is left of my family there. But, this Cuba is not my home." And there were tears.

I am joining Senator Helms, the Miami Cuban community, even Mas Canosa, and the conservatives who unflinchingly resist any softening of the Cuban embargo.

The Cuban people are suffering badly and should be relieved. But any plan of relief advanced so far will strengthen Castro and his ever-tightening control of every facet of the lives of every single Cuban living in that unhappy island. This is a very difficult decision, but I believe it must be made.

While we were in Cuba, two hotels were bombed, a school was totally destroyed by fire, and I was told by a man who left Santiago, Monday, July 14, that the downed aircraft out of that city that killed all 40 aboard was the work of a terrorist bomb.

He also told me that life in Oriente Province—the one that gave Castro his start—is so desperate that they were leaving in droves to go to Havana.

#### WHAT OF FUTURE?

Buy today they are being forced to return. Now they are referred to as Palestinians, for they have no home. Just before I left Cuba, I tried to quietly warn my Cuban friends that the Miami Cubans were very wealthy, that they are very powerful, and that they hate Fidel Castro with a deep and pervasive hate, and there is no sign that they will ever relax this hate. I told my friend to be aware of this fact and that they should take what ever precautions they can take.

Do I believe that Fidel Castro is a threat to this country? At this time the answer is no. There are groups of academicians going from university to university in the U.S. conducting seminars designed to promote Castro.

But we must keep in mind that Castro, who is desperate, can and might at any time turn over a chunk of the Cuban island to any number of countries hostile to the U.S. They would be just 90 miles from our shore. Do I have any trust in Castro? Absolutely none.

While we were waiting in the Jose Marti airport, we talked to a Cuban lady from the U.S. who was visiting relatives for the first time in 30 years. With her was her daughter and her daughter's friend. Both the young ladies were attorneys with the N.Y. Justice Department and appeared to be in their mid-30s. We asked the friend of the daughter if she would ever make a return visit to Cuba.

"Yes," she said quietly, "in a thousand years," and then she added, "when I get back to New York City, I will break out my American flag. I will wave that flag. I will play the 'Star Spangled Banner.' And I will behave like the most patriotic American you have ever seen."

#### U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING SEPTEMBER 19

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending September 19, the United States imported 8,526,000

barrels of oil each day, 1,230,000 barrels more than the 7,296,000 imported each day during the same week a year ago.

Americans relied on foreign oil for 57.3 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 1970's, 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 United States—now 8,526,000 barrels a day.

#### THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, September 24, 1997, the Federal debt stood at \$5,384,224,726,974.01. (Five trillion, three hundred eighty-four billion, two hundred twenty-four million, seven hundred twenty-six thousand, nine hundred seventy-four dollars and one cent)

One year ago, September 24, 1996, the Federal debt stood at \$5,195,855,000,000. (Five trillion, one hundred ninety-five billion, eight hundred fifty-five million)

Five years ago, September 24, 1992, the Federal debt stood at \$4,043,587,000,000. (Four trillion, forty-three billion, five hundred eighty-seven million)

Ten years ago, September 24, 1987, the Federal debt stood at \$2,336,418,000,000. (Two trillion, three hundred thirty-six billion, four hundred eighteen million)

Fifteen years ago, September 24, 1982, the Federal debt stood at \$1,110,360,000,000 (One trillion, one hundred ten billion, three hundred sixty million) which reflects a debt increase of more than \$4 trillion—\$4,273,864,726,974.01 (Four trillion, two hundred seventy-three billion, eight hundred sixty-four million, seven hundred twenty-six thousand, nine hundred seventy-four dollars and one cent) during the past 15 years.

#### 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 sundry nominations which were referred to the appropriate committees.

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

#### REPORT CONCERNING THE NATIONAL EMERGENCY WITH RESPECT TO ANGOLA—MESSAGE FROM THE PRESIDENT—PM 69

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Banking, Housing, and Urban Affairs.

##### To the Congress of the United States:

I hereby report to the Congress on the developments since my last report on April 4, 1997, concerning the national emergency with respect to Angola that was declared in Executive Order 12865 of September 26, 1993. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c).

On September 26, 1993, I declared a national emergency with respect to the National Union for the Total Independence of Angola ("UNITA"), invoking the authority, *inter alia*, of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) and the United Nations Participation Act of 1945 (22 U.S.C. 287c). Consistent with United Nations Security Council Resolution 864, dated September 15, 1993, the order prohibited the sale or supply by United States persons or from the United States, or using U.S.-registered vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles, equipment and spare parts, and petroleum and petroleum products to the territory of Angola other than through designated points of entry. The order also prohibited such sale or supply to UNITA. United States persons are prohibited from activities that promote or are calculated to promote such sales or supplies, or from attempted violations, or from evasion or avoidance or transactions that have the purpose of evasion or avoidance of the stated prohibitions. The order authorized the Secretary of the Treasury, in consultation with the Secretary of State, to take such actions, including the promulgation of rules and regulations, as might be necessary to carry out the purposes of the order.

1. On December 10, 1993, the Treasury Department's Office of Foreign Assets Control (OFAC) issued the UNITA (Angola) Sanctions Regulations (the "Regulations") (58 *Fed. Reg.* 64904) to implement my declaration of a national emergency and imposition of sanctions against UNITA. The Regulations prohibit the sale or supply by United States persons or from the United States, or using U.S.-registered vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles, equipment and spare parts, and petroleum and petroleum products to UNITA or to the territory of Angola other than through designated points of entry.

United States persons are also prohibited from activities that promote or are calculated to promote such sales or supplies to UNITA or Angola, or from any transaction by any United States persons that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in the Executive order. Also prohibited are transactions by United States persons, or involving the use of U.S.-registered vessels or aircraft, relating to transportation to Angola or UNITA of goods the exportation of which is prohibited.

The Government of Angola has designated the following points of entry as points in Angola to which the articles otherwise prohibited by the Regulations may be shipped: *Airports:* Luanda and Katumbela, Benguela Province; *Ports:* Luanda and Lobito, Benuela Province; and *Namibe, Namibe Province;* and *Entry Points:* Malongo, Cabinda Province. Although no specific license is required by the Department of the Treasury for shipments to these designated points of entry (unless the item is destined for UNITA), any such exports remain subject to the licensing requirements of the Departments of State and/or Commerce.

There has been one amendment to the Regulations since my report of April 3, 1997. The UNITA (Angola) Sanctions Regulations, 31 CFR Part 590, were amended on August 25, 1997. General reporting, recordkeeping, licensing, and other procedural regulations were moved from the Regulations to a separate part (31 CFR Part 501) dealing solely with such procedural matters. (62 *Fed. Reg.* 45098, August 25, 1997). A copy of the amendment is attached.

2. The OFAC has worked closely with the U.S. financial community to assure a heightened awareness of the sanctions against UNITA—through the dissemination of publications, seminars, and notices to electronic bulletin boards. This educational effort has resulted in frequent calls from banks to assure that they are not routing funds in violation of these prohibitions. United States exporters have also been notified of the sanctions through a variety of media, including via the Internet, Fax-on-Demand, special fliers, and computer bulletin board information initiated by OFAC and posted through the U.S. Department of Commerce and the U.S. Government Printing Office. There have been no license applications under the program since my last report.

3. The expenses incurred by the Federal Government in the 6-month period from March 26, 1997, through September 25, 1997, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to UNITA are approximately \$50,000, most of which represent wage and salary costs for Federal personnel. Personnel costs were largely centered in

the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Under Secretary for Enforcement, and the Office of the General Counsel) and the Department of State (particularly the Office of Southern African Affairs).

I will continue to report periodically to the Congress on significant developments, pursuant to 50 U.S.C. 1703(c).

WILLIAM J. CLINTON.

THE WHITE HOUSE, September 24, 1997.

#### MESSAGES FROM THE HOUSE

At 1:37 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2266) making appropriations for the Department of Defense for the fiscal year ending September 30, 1998, and for other purposes.

#### ENROLLED BILLS SIGNED

At 6:08 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 2209. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 1998, and for other purposes.

H.R. 2248. An act to authorize the President to award a gold medal on behalf of the Congress to Ecumenical Patriarch Bartholomew in recognition of his outstanding and enduring contributions toward religious understanding and peace, and for other purposes.

H.R. 2443. An act to designate the Federal Building located at 601 Fourth Street, N.W., in the District of Columbia, as the "Federal Bureau of Investigation, Washington Field Office Memorial Building," in honor of William H. Christian, Jr., Martha Dixon Martinez, Michael J. Miller, Anthony Palmisiano, and Edwin R. Woodruffe.

The enrolled bills were signed subsequently by the President pro tempore [Mr. THURMOND].

#### MEASURE PLACED ON THE CALENDAR

The following measure was discharged from committee and ordered placed on the calendar:

S. 25. A bill to reform the financing of Federal elections.

#### EXECUTIVE AND OTHER COMMUNICATIONS

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

EC-3040. A communication from the Acting Assistant Secretary of the Interior for Fish and Wildlife and Parks, transmitting, pursuant to law, a rule entitled "Migratory Bird Hunting" (RIN1018-AE14) received on September 23, 1997; to the Committee on Environment and Public Works.

EC-3041. A communication from the General Counsel of the Federal Retirement Thrift Investment Board, transmitting, pursuant to law, three rules including a rule entitled "Correction of Administrative Errors" received on September 18, 1997; to the Committee on Governmental Affairs.

EC-3042. A communication from the Chairman of the U.S. Merit Systems Protection Board, transmitting, pursuant to law, a report entitled "Adherence to the Merit Principles in the Workplace: Federal Employees' Views"; to the Committee on Governmental Affairs.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPECTER, from the Committee on Veterans' Affairs, without amendment:

S. Res. 126: An original resolution authorizing supplemental expenditures by the Committee on Veterans' Affairs (Rept. No. 105-87).

By Mr. STEVENS, from the Committee on Appropriations:

Special Report entitled "Further Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1998" (Rept. No. 105-88).

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

S. 363: A bill to amend the Communications Act of 1934 to require that violent video programming is limited to broadcast after the hours when children are reasonably likely to comprise a substantial portion of the audience, unless it is specifically rated on the basis of its violent content so that it is blockable by electronic means specifically on the basis of that content (Rept. No. 105-89).

#### EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

The following United States Army Reserve officer for promotion in the Reserve of the Army to the grade indicated under title 10, United States Code, sections 14101, 14315 and 12203(a):

#### To be brigadier general

Col. James W. Comstock, 5456

The following-named officer for appointment in the Regular Army to the grade indicated under title 10, United States Code, section 624:

#### To be brigadier general

Col. Antonio M. Taguba, 8375

The following-named officers for appointment in the U.S. Army to the grade indicated under title 10, United States Code, section 624:

#### To be major general

Brig. Gen. John G. Meyer, Jr., 2481

Brig. Gen. Robert L. Nabors, 5042

The following-named officer for appointment in the U.S. Army to the grade indicated under the provisions of title 10, United States Code, section 624:

#### To be major general

Maj. Gen. Robert G. Claypool, 3837

The following Army National Guard of the United States officers for appointment in the Reserve of the Army to the grade indicated under title 10, United States Code, section 12203:

#### To be major general

Brig. Gen. Earl L. Adams, 7836

Brig. Gen. John E. Blair, 7500

Brig. Gen. James G. Blaney, 3984

Brig. Gen. Don C. Morrow, 3878

Brig. Gen. Thomas E. Whitecotton III, 8348

Brig. Gen. Jackie D. Wood, 3739

#### To be brigadier general

Col. Stephen E. Arey, 3536

Col. George A. Buskirk, Jr., 3156

Col. William A. Cugno, 3772

Col. Joseph A. Goode, Jr., 0823

Col. Stanley J. Gordon, 4035

Col. Larry W. Haltom, 3555

Col. Daniel E. Long, Jr., 1267

Col. Gerald P. Minetti, 5388

Col. Ronald G. Young, 6486

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

#### To be lieutenant general

Lt. Gen. George A. Fisher, 4034

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

#### To be lieutenant general

Maj. Gen. William J. Bolt, 0705

The following-named officer for appointment in the U.S. Army to the grade indicated under title 10, United States Code, section 624:

#### To be brigadier general

Col. Henry W. Stratman, 1226

The following-named officer for appointment in the U.S. Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

#### To be lieutenant general

Lt. Gen. Peter Pace, 7426

The following-named officer for appointment in the U.S. Navy to the grade indicated under title 10, United States Code, section 624:

#### To be rear admiral

Rear Adm. (1h) Louis M. Smith, 3412

The following-named officers for appointment in the Naval Reserve to the grade indicated under title 10, United States Code, section 12203:

#### To be rear admiral (lower half)

Capt. Kenneth C. Belisle, 8016

Capt. John G. Cotton, 6982

Capt. Stephen S. Israel, 3464

Capt. Gerald J. Scott, Jr., 4136

Capt. Joe S. Thompson, 2971

The following-named officers for appointment in the Reserve of the Navy to the grade indicated under title 10, United States Code, section 12203:

#### To be rear admiral (lower half)

Capt. Howard W. Dawson, Jr., 6320

Capt. William J. Lynch, 1963

Capt. Robert R. Percy III, 4869

The following-named officer for appointment as Deputy Judge Advocate General of the U.S. Navy to the grade indicated under title 10, United States Code, section 5149:

#### To be rear admiral

Capt. Donald J. Guter, 0275

The following-named officer for appointment in the U.S. Navy to the grade indicated under title 10, United States Code, section 624:

#### To be rear admiral (lower half)

Capt. William W. Cobb, Jr., 9725

(The above nominations were reported with the recommendation that they be confirmed.)

Mr. THURMOND. Mr. President, for the Committee on Armed Services, I report favorably 36 nomination lists in the Air Force, Army, Marine Corps, and Navy which were printed in full in the CONGRESSIONAL RECORD of July 29, 31, September 3, and 15, 1997, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators:

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of July 29, 31, September 3, and 15, 1997, at the end of the Senate proceedings.)

\*\*In the Marine Corps there is 1 appointment to the grade of lieutenant colonel (Franklin D. McKinney, Jr.) (Reference No. 479)

\*\*In the Air Force there are 85 appointments to the grade of lieutenant colonel and below (list begins with Richard W. Aldrich) (Reference No. 480)

\*\*In the Air Force there are 36 appointments to the grade of colonel and below (list begins with Luis C. Arroyo) (Reference No. 492)

\*\*In the Air Force there are 4 appointments to the grade of lieutenant colonel and below (list begins with James M. Bartlett) (Reference No. 493)

\*\*In the Army there is 1 appointment to the grade of colonel (Frank G. Whitehead) (Reference No. 494)

\*\*In the Army Reserve there are 18 appointments to the grade of colonel (list begins with Mary A. Allred) (Reference No. 495)

\*\*In the Army Reserve there are 11 appointments to the grade of colonel (list begins with Robert C. Baker) (Reference No. 496)

\*\*In the Army there are 74 appointments to the grade of major (list begins with Edwin E. Ahl) (Reference No. 497)

\*\*In the Army there are 155 appointments to the grade of lieutenant colonel (list begins with Christian F. Achleithner) (Reference No. 498)

\*\*In the Air Force Reserve there is 1 appointment to the grade of colonel (Robert J. Spermo) (Reference No. 573)

\*\*In the Air Force Reserve there are 4 appointments to the grade of colonel (list begins with Carl M. Gough) (Reference No. 574)

\*\*In the Army Reserve there is 1 appointment to the grade of colonel (Shri Kant Mishra) (Reference No. 576)

\*\*In the Army Reserve there is 1 appointment to the grade of colonel (David S. Feigin) (Reference No. 577)

\*\*In the Army there is 1 appointment to the grade of major (Clyde A. Moore) (Reference No. 578)

\*\*In the Army there are 3 appointments to the grade of colonel and below (list begins with Terry A. Wikstrom) (Reference No. 579)

\*\*In the Army Reserve there is 1 appointment to the grade of colonel (James H. Wilson) (Reference No. 580)

\*\*In the Army Reserve there are 10 appointments to the grade of colonel (list begins with Ellis E. Brambaugh, Jr.) (Reference No. 581)

\*\*In the Army Reserve there are 19 appointments to the grade of colonel (list begins with Graten D. Beavers) (Reference No. 582)

\*\*In the Marine Corps there is 1 appointment to the grade of colonel (William C. Johnson) (Reference No. 583)

\*\*In the Marine Corps there is 1 appointment to the grade of major (Tony Weckerling) (Reference No. 584)

\*\*In the Marine Corps there is 1 appointment to the grade of major (Jeffrey E. Lister) (Reference No. 585)

\*\*In the Marine Corps there is 1 appointment to the grade of major (Harry Davis Jr.) (Reference No. 586)

\*\*In the Marine Corps there is 1 appointment to the grade of major (Michael D. Dahl) (Reference No. 587)

\*\*In the Marine Corps there is 1 appointment to the grade of major (James C. Clark) (Reference No. 588)

\*\*In the Air Force there are 66 appointments to the grade of colonel and below (list begins with Joseph Argyle) (Reference No. 589)

\*\*In the Army there are 187 appointments to the grade of colonel and below (list begins with James L. Atkins) (Reference No. 590)

\*\*In the Army there are 1,125 appointments to the grade of lieutenant colonel (list begins with Frank J. Abbott) (Reference No. 591)

\*\*In the Army there are 1,795 appointments to the grade of major (list begins with Madelfia A. Abb) (Reference No. 592)

\*\*In the Naval Reserve there are 225 appointments to the grade of captain (list begins with Lawrence E. Adler) (Reference No. 593)

\*\*In the Air Force there are 2,576 appointments to the grade of major (list begins with Arnold K. Abangan) (Reference No. 595)

\*\*In the Army there is 1 appointment to the grade of lieutenant colonel (Rafael Lara, Jr.) (Reference No. 635)

\*\*In the Army National Guard there are 15 appointments to the grade of colonel (list begins with Morris F. Adams, Jr.) (Reference No. 636)

\*\*In the Marine Corps there is 1 appointment to the grade of major (John C. Kotruch) (Reference No. 637)

\*\*In the Navy there are 13 appointments to the grade of captain (list begins with David M. Belt, Jr.) (Reference No. 638)

\*\*In the Army there are 57 appointments to the grade of colonel (list begins with Cynthia A. Abbott) (Reference No. 639)

\*\*In the Navy there are 872 appointments to the grade of commander (list begins with Eugene M. Abler) (Reference No. 640)

#### 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. FAIRCLOTH (for himself, Ms. MIKULSKI, Mr. SARBANES, Mr. WARNER, and Mr. ROBB):

S. 1219. A bill to require the establishment of a research and grant program for the eradication or control of *Pfiesteria piscicida* and other aquatic toxins; to the Committee on Environment and Public Works.

By Mr. DODD (for himself, Mr. BINGAMAN, Mr. BUMPERS, and Mrs. MURRAY):

S. 1220. A bill to provide a process for declassifying on an expedited basis certain documents relating to human rights abuses in Guatemala and Honduras; to the Committee on Governmental Affairs.

By Mr. STEVENS (for himself, Mr. BREAUX, Mr. MURKOWSKI, and Mr. HOLLINGS):

S. 1221. A bill to amend title 46 of the United States Code to prevent foreign ownership and control of United States flag vessels employed in the fisheries in the navigable waters and exclusive economic zone of the United States, to prevent the issuance of fishery endorsements to certain vessels, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CHAFEE (for himself, Mr. BREAUX, Mr. LIEBERMAN, Mr. FAIRCLOTH, Mr. ROBB, Mr. SARBANES, Mr. D'AMATO, Mrs. MURRAY, Mr. MURKOWSKI, Mr. WARNER, Mr. REED, Ms. LANDRIEU, Mr. GRAHAM, Ms. MIKULSKI, Mr. DODD, Mr. MOYNIHAN, and Mr. MACK):

S. 1222. A bill to catalyze restoration of estuary habitat through more efficient financing of projects and enhanced coordination of Federal and non-Federal restoration programs, and for other purposes; to the Committee on Environment and Public Works.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. SPECTER:

S. Res. 126. An original resolution authorizing supplemental expenditures by the Committee on Veterans' Affairs; from the Committee on Veterans Affairs; placed on the calendar.

By Mr. FEINGOLD (for himself, Mr. ABRAHAM, Mr. HELMS, and Mr. WELLSTONE):

S. Res. 127. A resolution expressing the sense of the Senate regarding the planned state visit to the United States by the President of the People's Republic of China; to the Committee on Foreign Relations.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FAIRCLOTH (for himself, Ms. MIKULSKI, Mr. SARBANES, Mr. WARNER, and Mr. ROBB):

S. 1219. A bill to require the establishment of a research and grant program for the eradication or control of *Pfiesteria piscicida* and other aquatic toxins.

##### THE PFIESTERIA RESEARCH ACT OF 1997

Mr. FAIRCLOTH. Mr. President, I rise to talk about a bill I am introducing today, the *Pfiesteria* Research Act of 1997. I thank my colleagues who have joined me as original cosponsors of this bill: Senator BARBARA MIKULSKI, Senator PAUL SARBANES and Senator JOHN WARNER.

This bill is the first Federal legislative response to this mysterious microbe which has been linked to fish kills and also to human health problems all along the east coast, but particularly in the Chesapeake Bay area and along the coast of North Carolina.

*Pfiesteria* has become more than a problem affecting one State and, as such, a Federal, broader response is necessary. The No. 1 need is research into this mystery, what causes it, why it occurs, and how it can be stopped.

We need to involve the best research laboratories in the country, at Government agencies, at universities, and at State agencies, to study the problem and to find a solution.

Specifically, this bill does two things. First, it authorizes the EPA, the National Marine Fisheries Service,

the National Institute of Environmental Health Services, the Centers for Disease Control, and the Department of Agriculture to establish a research program for the eradication or control of *Pfiesteria* and other aquatic toxins.

Second, the bill directs these agencies to make grants to universities and other such entities in affected States for the eradication or control of *Pfiesteria* and other aquatic toxins.

Given the potentially serious health and environmental effects—and they have clearly been demonstrated by the number of people who have gotten sick in the Maryland-Virginia area because of it, and it has been deadly to hundreds of thousands of fish—significant Federal action needs to be taken to eradicate it and make sure this regional threat does not become a national threat.

I hope this bill will be passed in the very near future and funds will then be appropriated to fully fund it. I look forward to working with my colleagues on this matter, and I particularly thank my colleague from Maryland, BARBARA MIKULSKI, for her assistance with the bill.

I send the bill to the desk and ask for its appropriate referral.

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. 1219

*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 “*Pfiesteria Research Act of 1997*”.

#### SEC. 2. PFIESTERIA AND OTHER AQUATIC TOXINS RESEARCH AND GRANT PROGRAM.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency, the Secretary of Commerce (acting through the Director of the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration), the Secretary of Health and Human Services (acting through the Director of the National Institute of Environmental Health Sciences and the Director of the Centers for Disease Control and Prevention), and the Secretary of Agriculture shall—

(1) establish a research program for the eradication or control of *Pfiesteria piscicida* and other aquatic toxins; and

(2) make grants to colleges, universities, and other entities in affected States for the eradication or control of *Pfiesteria piscicida* and other aquatic toxins.

(b) GRANTS.—In carrying out subsection (a)(2), the heads of the agencies referred to in subsection (a) shall make grants to—

(1) North Carolina State University in Raleigh, North Carolina, for the establishment of an Applied Aquatic Ecology Center and for research conducted by the Center relating to aquatic toxins;

(2) the University System of Maryland and the Agricultural Research Center in Beltsville, Maryland, for the establishment of a cooperative Agro-Ecosystem Center for research and demonstration projects related to aquatic toxins, such as *Pfiesteria piscicida*, including projects that relate to dietary, waste management, and other alternative-

use related strategies that reduce the undesirable nutrient and other chemical content from waste into waterways; and

(3) the Virginia Institute of Marine Science of the College of William and Mary in Gloucester Point, Virginia, for the establishment of a Marine Pathology and Applied Ecology Center and for research conducted by the Center relating to the effect of algal toxins on marine fish and shellfish and to understanding human influences on estuarine planktonic communities with an emphasis on harmful algal species, except that a portion of the grants made under this paragraph shall be allocated to Old Dominion University in Norfolk, Virginia, for research support.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as are necessary to carry out this section, of which not less than—

(1) \$1,883,619 for fiscal year 1998, and \$655,890 for fiscal year 1999, shall be used to carry out subsection (b)(1);

(2) \$1,000,000 for each of fiscal years 1998 and 1999 shall be used to carry out subsection (b)(2); and

(3) \$1,750,000 for fiscal year 1998, and \$545,000 for fiscal year 1999, shall be used to carry out subsection (b)(3).

Mr. SARBANES. Mr. President, today I am delighted to join my colleagues Senator FAIRCLOTH, Senator MIKULSKI and Senator WARNER as a principal cosponsor of this proposal providing additional Federal assistance to efforts combating *Pfiesteria* outbreaks in the Chesapeake Bay and other Atlantic coast waterways.

The micro-organism *Pfiesteria piscicida*, linked to fish kills and human health problems this summer in the Pocomoke River on Maryland's Eastern Shore, is a matter about which we are all deeply concerned. The Governor has recently closed down two Eastern Shore waterways in Maryland, and fish with lesions characteristic of *Pfiesteria* have also been discovered in Delaware, Virginia, and other Atlantic coast waterways.

Since the *Pfiesteria* outbreaks began, we, in Congress, have worked individually and collectively on a variety of initiatives to assist the States in battling this toxic micro-organism. The Federal agency response team, led by the U.S. Environmental Protection Agency and the National Oceanic and Atmospheric Administration, is providing valuable funding and technical assistance to the States.

The Federal assistance thus far includes habitat and water quality monitoring and fish lesion assessment. At my and Senator MIKULSKI's request, the Centers for Disease Control and Prevention and the National Institute of Environmental Health Sciences are providing scientific teams and technical assistance for human health risk-assessment efforts. In Maryland, the Cooperative Laboratory at Oxford is playing an especially key role by coordinating ongoing fisheries-related investigations.

The *Pfiesteria* Research Act of 1997 would add a critical dimension to the Federal response, one that would assist farmers with agricultural-related research and demonstrations related to

outbreaks of *Pfiesteria* and other aquatic toxins. This measure would provide this assistance by establishing a cooperative Agro-Ecosystem Center between the University System of Maryland and the Beltsville Agricultural Research Center, and authorizing not less than \$2 million in grants to the center. The University System of Maryland and the Beltsville Center are world leaders in conducting agricultural research and demonstration projects. I am confident that both have the substantial scientific and technical expertise necessary to lead the dietary, waste management, and other nutrient-reduction efforts authorized in this measure to combat *Pfiesteria*.

Mr. President, the Federal Government has worked closely with affected States as they respond to *Pfiesteria* outbreaks. I urge my colleagues to support this measure and to provide much-needed assistance to farmers to battle *Pfiesteria* in the Chesapeake Bay and along other Atlantic coast waterways.

By Mr. DODD (for himself, Mr. BINGAMAN, Mr. BUMPERS, and Mrs. MURRAY):

S. 1220. A bill to provide a process for declassifying on an expedited basis certain documents relating to human rights abuses in Guatemala and Honduras; to the Committee on Governmental Affairs.

#### THE HUMAN RIGHTS INFORMATION ACT

Mr. DODD. Mr. President, today, I am introducing the Human Rights Information Act—legislation designed to facilitate the declassification of certain United States documents that relate to past human rights abuses in Guatemala and Honduras. This act would ensure the prompt declassification of information by all relevant U.S. Government agencies concerning human rights abuses, while providing adequate protection to safeguard U.S. national security interests. Timely declassification of relevant materials would be of enormous assistance to the Guatemalan and Honduran people who are at this moment confronting past human rights violations as part of ongoing efforts to strengthen democratic institutions in those countries, particularly their judiciaries.

This bill would ensure prompt and complete declassification within the necessary bounds of protection of national security. It would require Government agencies to review for declassification within 120 days all human rights records relevant to inquiries by the Honduran human rights commissioner and the Guatemalan Clarification Commission. An interagency appeals panel would review agencies decisions to withhold information. The bill follows declassification standards already enacted by Congress in the JFK Assassination Records Act but is much simpler and less expensive than that law.

Honduran Human Rights Commissioner Leo Valladares has already made a request of the United States



Government for any relevant documents concerning Honduran human rights violations and particularly those alleged to have been perpetrated by Honduran military Battalion 3-16 that resulted in more than 184 killings or disappearances in the early 1980's.

The Guatemalan Clarification Commission, which was set up by the December 1996 peace accords to establish a historical record of the massive human rights violations that occurred during more than three decades of civil war, is expected shortly to make a similar request for relevant United States documents concerning this period. The U.S. Government is, properly, offering financial assistance to the clarification commission. The United States should also support the commission's important work to end impunity by providing relevant declassified documents.

While it is true that the Clinton administration has already declassified some documents related to Honduras and Guatemala, by Executive order, such declassifications have been very narrowly focused. And, despite a number of letters from Congress requesting prompt action, the administration's response to the longstanding request by Honduran Human Rights Commissioner Valladares, which was first submitted in 1993, has been slow and partial.

Moreover, although the administration officially agreed to honor the Honduran request, many of the documents released to date have been heavily excised, yielding little substantive information. The State Department has turned over 3,000 pages, but other agencies have been much less forthcoming. For example, the CIA has released 36 documents concerning Father Carney, a United States priest killed in Honduras, and 97 documents pertaining to 5 other key human rights cases. Most are heavily excised. The Department of Defense has released 34 heavily excised documents, but almost nothing that relates to the activities of Battalion 3-16.

The administration has also declassified numerous documents on Guatemala in response to public demands. These focus, however, on approximately 30 cases of human rights abuses directed against Americans in Guatemala. The cases of Guatemalan anthropologist Myrna Mack and guerrilla leader Efraim Bamaca, husband of American lawyer Jennifer Harbury, were exceptions. In May of this year, the CIA also released an important batch of documents concerning its 1954 covert operation in Guatemala. However, thousands of documents on human rights violations that could be of interest to the clarification commission remain classified. Many of the documents already declassified were heavily excised, and, as in the Honduran case, the intelligence and defense agencies were less forthcoming than the State Department.

Mr. President, I would hope that my colleagues can join me in voting for the Human Rights Information Act.

This will send a very powerful signal of support for efforts to strengthen democracy and the rule of law throughout the hemisphere. It will also greatly assist Latin Americans who are currently bravely working to shed light upon a dark period of their recent pasts so that they can prevent such heinous abuses from occurring in the future.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1220

*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 "Human Rights Information Act".

#### SEC. 2. FINDINGS.

Congress finds the following:

(1) Agencies of the Government of the United States have information on human rights violations in Guatemala and Honduras.

(2) Members of both Houses of Congress have repeatedly asked the Administration for information on Guatemalan and Honduran human rights cases.

(3) The Guatemalan peace accords, which the Government of the United States firmly supports, has as an important and vital component the establishment of the Commission for the Historical Clarification of Human Rights Violations and Acts of Violence which have Caused Suffering to the Guatemalan People (referred to in this Act as the "Clarification Commission"). The Clarification Commission will investigate cases of human rights violations and abuses by both parties to the civil conflict in Guatemala and will need all available information to fulfill its mandate.

(4) The National Commissioner for the Protection of Human Rights in the Republic of Honduras has been requesting United States Government documentation on human rights violations in Honduras since November 15, 1993. The Commissioner's request has been partly fulfilled, but is still pending. The request has been supported by national and international human rights nongovernmental organizations as well as members of both Houses of Congress.

(5) Victims and survivors of human rights violations, including United States citizens and their relatives, have also been requesting the information referred to in paragraphs (3) and (4). Survivors and the relatives of victims have a right to know what happened. The requests have been supported by national and international human rights nongovernmental organizations as well as members of both Houses of Congress.

(6) The United States should make the information it has on human rights abuses available to the public as part of the United States commitment to democracy in Central America.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) HUMAN RIGHTS RECORD.—The term "human rights record" means a record in the possession, custody, or control of the United States Government containing information about gross human rights violations committed after 1944.

(2) AGENCY.—The term "agency" means any agency of the United States Government charged with the conduct of foreign policy or foreign intelligence, including the Department of State, the Agency for International

Development, the Department of Defense (and all of its components), the Central Intelligence Agency, the National Reconnaissance Office, the Department of Justice (and all of its components), the National Security Council, and the Executive Office of the President.

#### SEC. 4. IDENTIFICATION, REVIEW, AND PUBLIC DISCLOSURE OF HUMAN RIGHTS RECORDS REGARDING GUATEMALA AND HONDURAS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the provision of this Act shall govern the declassification and public disclosure of human rights records by agencies.

(b) IDENTIFICATION OF RECORDS.—Not later than 120 days after the date of enactment of this Act, each agency shall identify, review, and organize all human rights records regarding activities occurring in Guatemala and Honduras after 1944 for the purpose of declassifying and disclosing the records to the public. Except as provided in section 5, all records described in the preceding sentence shall be made available to the public not later than 30 days after a review under this section is completed.

(c) REPORT TO CONGRESS.—Not later than 150 days after the date of enactment of this Act, the President shall report to Congress regarding each agency's compliance with the provisions of this Act.

#### SEC. 5. GROUNDS FOR POSTPONEMENT OF PUBLIC DISCLOSURE OF RECORDS.

(a) IN GENERAL.—An agency may postpone public disclosure of a human rights record or particular information in a human rights record only if the agency determines that there is clear and convincing evidence that—

(1) the threat to the military defense, intelligence operations, or conduct of foreign relations of the United States raised by public disclosure of the human rights record is of such gravity that it outweighs the public interest, and such public disclosure would reveal—

(A) an intelligence agent whose identity currently requires protection;

(B) an intelligence source or method—

(i) which is being utilized, or reasonably expected to be utilized, by the United States Government;

(ii) which has not been officially disclosed; and

(iii) the disclosure of which would interfere with the conduct of intelligence activities; or

(C) any other matter currently relating to the military defense, intelligence operations, or conduct of foreign relations of the United States, the disclosure of which would demonstrably impair the national security of the United States;

(2) the public disclosure of the human rights record would reveal the name or identity of a living individual who provided confidential information to the United States and would pose a substantial risk of harm to that individual;

(3) the public disclosure of the human rights record could reasonably be expected to constitute an unwarranted invasion of personal privacy, and that invasion of privacy is so substantial that it outweighs the public interest; or

(4) the public disclosure of the human rights record would compromise the existence of an understanding of confidentiality currently requiring protection between a Government agent and a cooperating individual or a foreign government, and public disclosure would be so harmful that it outweighs the public interest.

(b) SPECIAL TREATMENT OF CERTAIN INFORMATION.—It shall not be grounds for postponement of disclosure of a human rights record that an individual named in the

human rights record was an intelligence asset of the United States Government, although the existence of such relationship may be withheld if the criteria set forth in subsection (a) are met. For purposes of the preceding sentence, the term an "intelligence asset" means a covert agent as defined in section 606(4) of the National Security Act of 1947 (50 U.S.C. 426(4)).

**SEC. 6. REQUEST FOR HUMAN RIGHTS RECORDS FROM OFFICIAL ENTITIES IN OTHER LATIN AMERICAN CARIBBEAN COUNTRIES.**

In the event that an agency of the United States receives a request for human rights records from an entity created by the United Nations or the Organization of American States similar to the Guatemalan Clarification Commission, or from the principal justice or human rights official of a Latin American or Caribbean country who is investigating a pattern of gross human rights violations, the agency shall conduct a review of records as described in section 4 and shall declassify and publicly disclose such records in accordance with the standards and procedures set forth in this Act.

**SEC. 7. REVIEW OF DECISIONS TO WITHHOLD RECORDS.**

(a) **DUTIES OF THE APPEALS PANEL.**—The Interagency Security Classification Appeals Panel (referred to in this Act as the "Appeals Panel"), established under Executive Order No. 12958, shall review determinations by an agency to postpone public disclosure of any human rights record.

(b) **DETERMINATIONS OF THE APPEALS PANEL.**—

(1) **IN GENERAL.**—The Appeals Panel shall direct that all human rights records be disclosed to the public, unless the Appeals Panel determines that there is clear and convincing evidence that—

(A) the record is not a human rights record; or

(B) the human rights record or particular information in the human rights record qualifies for postponement of disclosure pursuant to section 5.

(2) **TREATMENT IN CASES OF NONDISCLOSURE.**—If the Appeals Panel concurs with an agency decision to postpone disclosure of a human rights record, the Appeals Panel shall determine, in consultation with the originating agency and consistent with the standards set forth in this Act, which, if any, of the alternative forms of disclosure described in paragraph (3) shall be made by the agency.

(3) **ALTERNATIVE FORMS OF DISCLOSURE.**—The forms of disclosure described in this paragraph are as follows:

(A) Disclosure of any reasonably segregable portion of the human rights record after deletion of the portions described in paragraph (1).

(B) Disclosure of a record that is a substitute for information which is not disclosed.

(C) Disclosure of a summary of the information contained in the human rights record.

(4) **NOTIFICATION OF DETERMINATION.**—

(A) **IN GENERAL.**—Upon completion of its review, the Appeals Panel shall notify the head of the agency in control or possession of the human rights record that was the subject of the review of its determination and shall, not later than 14 days after the determination, publish the determination in the Federal Register.

(B) **NOTICE TO PRESIDENT.**—The Appeals Panel shall notify the President of its determination. The notice shall contain a written unclassified justification for its determination, including an explanation of the application of the standards contained in section 5.

(5) **GENERAL PROCEDURES.**—The Appeals Panel shall publish in the Federal Register

guidelines regarding its policy and procedures for adjudicating appeals.

(c) **PRESIDENTIAL AUTHORITY OVER APPEALS PANEL DETERMINATION.**—

(1) **PUBLIC DISCLOSURE OR POSTPONEMENT OF DISCLOSURE.**—The President shall have the sole and nondelegable authority to review any determination of the Appeals Board under this Act, and such review shall be based on the standards set forth in section 5. Not later than 30 days after the Appeals Panel's determination and notification to the agency pursuant to subsection (b)(4), the President shall provide the Appeals Panel with an unclassified written certification specifying the President's decision and stating the reasons for the decision, including in the case of a determination to postpone disclosure, the standards set forth in section 5 which are the basis for the President's determination.

(2) **RECORD OF PRESIDENTIAL POSTPONEMENT.**—The Appeals Panel shall, upon receipt of the President's determination, publish in the Federal Register a copy of any unclassified written certification, statement, and other materials transmitted by or on behalf of the President with regard to the postponement of disclosure of a human rights record.

**SEC. 8. REPORT REGARDING OTHER HUMAN RIGHTS RECORDS.**

Upon completion of the review and disclosure of the human rights records relating to Guatemala and Honduras, the Information Security Policy Advisory Council, established pursuant to Executive Order No. 12958, shall report to Congress on the desirability and feasibility of declassification of human rights records relating to other countries in Latin America and the Caribbean. The report shall be available to the public.

**SEC. 9. RULES OF CONSTRUCTION.**

(a) **FREEDOM OF INFORMATION ACT.**—Nothing in this Act shall be construed to limit any right to file a request with any executive agency or seek judicial review of a decision pursuant to section 552 of title 5, United States Code.

(b) **JUDICIAL REVIEW.**—Nothing in this Act shall be construed to preclude judicial review, under chapter 7 of title 5, United States Code, of final actions taken or required to be taken under this Act.

**SEC. 10. CREATION OF POSITIONS.**

For purposes of carrying out the provisions of this Act, there shall be 2 additional positions in the Appeals Panel. The positions shall be filled by the President, based on the recommendations of the American Historical Association, the Latin American Studies Association, Human Rights Watch, and Amnesty International, USA.

By Mr. STEVENS (for himself,  
Mr. BREAUX, Mr. MURKOWSKI,  
and Mr. HOLLINGS):

S. 1221. A bill to amend title 46 of the United States Code to prevent foreign ownership and control of United States flag vessels employed in the fisheries in the navigable waters and exclusive economic zone of the United States, to prevent the issuance of fishery endorsements to certain vessels, and for other purposes; to the Committee on Commerce, Science, and Transportation.

**THE AMERICAN FISHERIES ACT**

Mr. STEVENS. Mr. President, I am going to send to the desk a bill that is called the American Fisheries Act to raise the U.S. ownership standard for U.S.-flag fishing vessels operating in U.S. waters, to eliminate the exemp-

tions and loopholes interpreted into the existing ownership and control standard, and to phase out large fishing vessels that are destructive to U.S. fishery resources because of their size and power.

As I said, this bill is called the American Fisheries Act.

Let me point out, these factory trawlers we are talking about make trucks look like tiny bugs. They certainly waste a tremendous amount of fish. According to the Alaska Department of Fish and Game statistics for 1995—that is the most recent year for which we have statistics—the 55 factory trawlers in the Bering Sea off my State threw overboard 483 million pounds of groundfish, wasted and unused.

That is more fish than the targeted fisheries of New England lobster, Atlantic mackerel, Gulf of Mexico shrimp, and Pacific Northwest salmon combined. It is the most horrendous waste of fishery resources in the history of man. And this bill is designed to stop that.

Mr. President, as I said, the bill I am introducing today would:

First, raise U.S. ownership standard for U.S.-flag fishing vessels operating in U.S. waters; second, eliminate the exemptions and loopholes interpreted into the existing ownership and control standard; and third, phase out large fishing vessels that are destructive to U.S. fishery resources because of their size and power.

The bill is called the American Fisheries Act. Senators KERRY, MURKOWSKI, BREAUX, and HOLLINGS join me as original cosponsors.

Last year, we enacted major revisions to the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of the fishery resources. The other primary goal of the original Fishery Conservation and Management Act in 1975 was to Americanize the fisheries. We tried to complete that process through the Commercial Fishing Industry Anti-Reflagging Act—Public Law 100-239—in 1987. Due to exemptions in the act and to misinterpretations by the Coast Guard, this act has not been effective.

The bill we introduce today would correct the basic controlling interest and foreign rebuilding requirements for U.S.-flag vessels that participate in our fisheries.

**CLOSING THE LOOPHOLES**

The bill would require at least 75 percent of the controlling interest of all vessels that fly the U.S. flag and engage in the fisheries in the navigable waters and exclusive economic zone to be owned by citizens of the United States.

The Commercial Fishing Industry Anti-Reflagging Act—Public Law 100-239—imposed a 50 percent controlling interest standard, which has become meaningless because of exceptions in the bill and misinterpretations by the Coast Guard. The Coast Guard's misinterpretation of one provision of that

act allowed at least 14 massive factory trawlers to enter the fisheries off Alaska.

As many here know, the House of Representatives recently passed a bill to keep one factory trawler out of the Atlantic herring and mackerel fisheries. Similar bills have been introduced in the Senate.

In Alaska, we got stuck with at least 14 factory trawlers that should never have been allowed into our fisheries. Talk about loopholes you can drive a truck through—these factory trawlers make trucks look like tiny little bugs. And they waste fish.

According to Alaska Department of Fish and Game statistics for 1995, the most recent year for which data is available, the 55 factory trawlers in the Bering Sea threw overboard 483 million pounds of groundfish wasted, and unused. That is more fish than the target fisheries for New England lobster, Atlantic mackerel, Gulf of Mexico shrimp, and Pacific Northwest salmon combined.

The bill we introduce today draws heavily from the controlling interest standard in the Jones Act for vessels operating in the coastwide trade. Under our bill, vessel owners would have 18 months from the date of enactment to comply with the new 75 percent controlling interest standard.

For vessels above 100 gross registered tons—which are more likely to have multiple owners or layers of ownership—the bill would require the Maritime Administration to closely scrutinize who actually controls the vessel before the vessel receives or can renew a fishery endorsement.

The Maritime Administration already reviews the controlling interest of entities applying for title XI loan guarantees and maritime security program payments. MarAd has the best expertise among Federal agencies to do the thorough job we intend.

The Secretary of Transportation would be required to revoke the fishery endorsement of any vessel above 100 gross tons that MarAd determines does not meet the new standard for controlling interest.

The bill gives the Secretary of Transportation flexibility in establishing the requirements for the owners of vessels equal to or less than 100 gross registered tons to show compliance with the new standard. Vessels of this size generally do not exceed 75 feet in length, are usually owner-operated, and are less likely to have multiple layers of ownership that must be scrutinized.

If the Secretary decides that compliance with the new 75 percent standard can be demonstrated by vessels 100 tons or less using the existing process through the Coast Guard, the Secretary could continue to use this process for those vessels.

As the findings point out, international law—including Article 62 of the U.N. Convention on the Law of the Sea—gives coastal nations the clear

sovereign right to harvest and process the entire allowable catch of fishery resources in their exclusive economic zone [EEZ] if their citizens have the harvesting capacity to do so. International law requires that other nations be given access if the coastal nation cannot harvest and process the entire allowable catch in its EEZ.

In the United States, we have established a framework that fulfills these two basic principles. Through the Magnuson-Stevens Act, we gave U.S. fishermen first priority in the harvesting and processing of our fishery resources. Foreign fishing is allowed under that act, however, if U.S. vessels cannot harvest the entire allowable catch.

For obvious reasons, the priority works only if U.S.-owned vessels can be distinguished from foreign-owned vessels in the fisheries. I am sad to report that our current law—the way it has been misinterpreted—fails to allow for this differentiation. In the Nation's largest fishery by volume (Bering Sea pollock) Norwegian and Japanese companies control the vessels that take over half the allowable catch.

There is not enough fish to support the existing harvesting capacity in this and other fisheries, yet the line to differentiate true U.S.-controlled vessels from foreign-controlled vessels is not adequate to protect the first priority for U.S. citizens. The American Fisheries Act will clear up this blurred line and give U.S. fishermen the top priority to harvest fishery resources, consistent with the historical intent of our laws.

#### PHASE OUT OF LARGE VESSELS

When the Senate passed my bill last year to strengthen the conservation measures of the Magnuson-Stevens Act, I said on the Senate floor that I would seek a ban on factory trawlers if those measures did not work. It is too early to tell whether those measures will be sufficient.

We propose today a phase out—not a ban—of factory trawlers and other fishing vessels that are longer than 165 feet, greater than 750 tons, or that have greater than 3,000 shaft horsepower.

By fishing vessel, we mean factory trawlers and other vessels that harvest fish. Existing fishing vessels above these thresholds are grandfathered—and can stay in the fisheries for their useful lives, provided the 75 percent controlling interest standard is met, and the vessel does not surrender its fishery endorsement at any time.

Gradually, the useful lives of these large fishing vessels will end, however, and a smaller fleet—more able to avoid bycatch and waste and more likely to be owner-operated—will replace them.

I reserve the option to accelerate this process through an immediate ban on factory trawlers if the management and conservation measures enacted last year in the Sustainable Fisheries Act are not effective.

The phase out of large fishing vessels does not apply to vessels that fish exclusively for highly migratory fish spe-

cies primarily outside U.S. navigable waters and the exclusive economic zone.

Earlier this year—we enacted comprehensive legislation to achieve conservation under the International Dolphin Conservation Program—in part with the hope that some of the eastern tropical tuna fishing vessels would reflag to the United States.

These vessels are subject to stringent international conservation measures, and are able to harvest tuna in a way safer for the overall ecosystem than smaller vessels. These vessels were dealt with differently under the Anti-Reflagging Act as well.

#### FOREIGN REBUILDS

The bill specifically addresses the foreign rebuilding provision of the Anti-Reflagging Act that was misinterpreted by the Coast Guard and abused by speculators who did exactly what Congress tried to avoid with this act. This misinterpretation and abuse resulted in at least 14 factory trawlers entering the fisheries off Alaska that should have been prohibited by the Anti-Reflagging Act.

Section 4(a)(4)(A) of the Act was meant to protect a specific group of owners who relied on pre-existing law in planning to convert U.S.-built fishing vessels abroad for use in the U.S. fisheries.

This provision was not intended to protect speculators who entered contingent contracts to purchase vessels with the intent to profit by the coming change in the law. To avoid this, Congress specifically required under section 4(a)(4)(A) and section 4(b) that the owner had to:

First, have purchased or contracted to purchase a vessel by July 28, 1997; second, have demonstrated his/her/its specific intent to enter the U.S. fisheries through the purchase of the contract itself or a Coast Guard letter ruling; and third, have accepted delivery of the vessel by July 28, 1990 and entered it into service.

Under the Act, all three conditions had to be met by the same owner before a fishery license could be issued to the vessel.

The Coast Guard erroneously allowed the vessel to be redelivered to any owner by July 28, 1990, and created freely transferable and valuable rights to enter the fishery that Congress specifically intended to avoid.

The American Fisheries Act would correct this problem by putting the burden on those who benefited from the loophole to help with the reduction in the overcapacity that resulted. Specifically, from the date of the introduction of this act—September 25, 1997—if the controlling interest a vessel that used this loophole materially changes, another active vessel of equal or greater length, tonnage, and horsepower in the same region will have to permanently surrender its fishery endorsement.

The capacity in the Bering Sea would be reduced on the backs of those who caused the problem and who argued for

and benefited from an interpretation clearly contrary to congressional intent.

#### FEDERAL LOAN GUARANTEES

The bill would permanently prohibit Federal loan guarantees for any vessel that is intended for use as a fishing vessel, and that will be greater than 165 registered feet, 750 gross registered tons, or 3,000 shaft horsepower when the construction or rebuilding is completed.

We mean to prevent the Federal Government from subsidizing or assisting in any way in the: No. 1, construction of vessels above these thresholds; No. 2 extension of the useful life of vessels above these thresholds; or No. 3 expansion of vessels so that they exceed these thresholds—where the vessel will be used as a fishing vessel.

For the purposes of this measure, fishing vessel has the same definition as under section 2101 of title 46, United States Code, meaning a vessel that engages in the catching, taking, or harvesting of fish or any activity that can reasonably be expected to result in the catching, taking, or harvesting of fish. This obviously includes factory trawlers and other fishing vessels above the thresholds listed above.

#### SUMMARY

With the American Fisheries Act, we will clean up the mess caused by the exceptions and misinterpretation of the Anti-Reflagging Act. We will also serve notice that entities that do not meet the 75 controlling interest standard will not likely receive individual fishing quota's [IFQ's] or other limited access permits under the Magnuson-Stevens Act.

The Sustainable Fisheries Act—Public Law 104-297—requires the National Academy of Sciences to study how to prohibit entities that don't meet the standard from owning IFQ's. We will analyze the Academy's report during the reauthorization of the Magnuson-Stevens Act in 1999. I do not want any foreign-controlled entities to be surprised when that process begins.

Non-U.S. citizens simply should not be given what, for all practical purposes, are permanent access privileges to U.S. marine resource when there are U.S. citizens that can harvest these fish. The Magnuson-Stevens Act allows these foreign-controlled entities to harvest the portion of the allowable catch that U.S. citizens cannot.

In Alaska, some of the foreign participants are doing what they can to patch up their relationship with Alaska and Alaskans—but I question their long-term commitment.

The North Pacific Council is reviewing the inshore/offshore pollock allocation right now—which will substantially impact them. They have been good partners this year in anticipation of this council debate—but where were they last year? They were here in Washington, DC, lobbying against our bill to protect fishing communities, reduce bycatch, and prevent foreign entities from receiving a windfall giveaway through IFQ's.

If Congress or the North Pacific Council gives away permanent access to our fisheries, I believe these entities will go back to their tactics of the last 10 years.

Flannery O'Connor explained this well in her short story "A Good Man Is Hard to Find." In that story, the "Misfit" says of another character that "She would of been a good woman, if [there] had been somebody there to shoot her every minute of her life."

The foreign-controlled factory trawlers have the inshore/offshore gun to their head right now, and are being good. But their track record without this gun has been poor, both with respect to the conservation and to protecting fishing communities.

In the Bering Sea pollock, specifically, I am concerned that a single Norwegian entity controls an excessive share of the harvest in violation of National Standard Four of the Magnuson-Stevens Act. I am also concerned about the expansion of the ownership of catcher vessels and factory trawlers by Japanese entities.

Will we have the strength in the Congress or at the council level to prevent a giveaway of IFQ's to foreign-controlled entities in 2000 or beyond if they are the only ones left in the fishery?

The time has come to put Americanization back on the track as we first envisioned when we extended U.S. jurisdiction over the fisheries out to 200 miles.

Mr. MURKOWSKI. Mr. President, I am very pleased to join Senator STEVENS in sponsoring this important legislation.

This is a necessary follow-on to legislation I first introduced in 1986, the Commercial Fishing Vessel Anti-Reflagging Act, which was enacted in 1987. That act attempted to control an anticipated influx of foreign-owned fishing vessels by prohibiting them from reflagging as U.S. vessels except in certain circumstances. At the time, I backed a move to impose, for the first time, an American ownership provision that would ensure U.S. control of corporations owning such vessels.

Had that legislation been implemented the way it was intended, today's bill would probably not be necessary. Our intention was to gradually eliminate foreign control by requiring new owners to be U.S.-controlled. Unfortunately, in making a decision on implementation, the Coast Guard decided to rely primarily on its past practice, and permitted all vessels with U.S. documentation to continue fishing regardless of existing or new ownership.

That, as much as any one factor, led to today's crisis, in which there are far too many large vessels operating. Something has to give, and the laws of nature and economics say that it has to be one of two things: either the resource itself or the number of vessels.

This bill will help insure that the resource will be held harmless; if change

occurs, it will come to the number of large vessels allowed to operate in U.S. fisheries.

The bill we are introducing today will increase the American ownership requirement for vessels to 75 percent from the 51-percent level required by current law. This new level is consistent with other laws affecting ownership of vessels involved in the coastwise trade, which are also required to meet the 75-percent test.

It will also correct the mistake made by the Coast Guard a decade ago by requiring fishery endorsements to be removed from vessels which do not qualify for the ownership criterion within a reasonable period of time—18 months under this bill.

Under this bill, the Coast Guard will no longer be responsible for reviewing the ownership of fishing vessels. This authority will rest more appropriately with the Maritime Administration, which currently has the same responsibility for vessels seeking title XI loan guarantees and Maritime Security Program assistance, among other things.

The bill will also begin the process of restoring the number of large fishing vessels operating off our shores to a reasonable and manageable level, by eliminating the entry of new vessels, regardless of ownership, and by allowing attrition to take its toll on the existing fleet. Large vessels are those over 165 registered feet in length, greater than 750 gross registered tons, or with engines totaling more than 3,000 horsepower. The bill also eliminates Federal loan guarantees that have been used to subsidize and accelerate the unrestrained growth of this fleet.

Further, currently operating vessels which were rebuilt for fishing in foreign shipyards using the loophole created by the Coast Guard's interpretation of the earlier act, and which are sold to new owners in the future, will not be eligible to fish under the new owners unless a similarly sized vessel is also removed from the fishery.

Taken together, these provisions will help to move us away from a fleet that is only nominally U.S.-controlled to one which is truly U.S.-controlled.

Moreover, in reducing the total number of these large vessels over time, this measure will also provide tremendous benefits to the many small communities which depend not on these large vessels, but on the far greater numbers of small fishing vessels and shore-based processing plants that hire locally, deliver locally, process locally, and support their communities through local taxes.

Mr. President, I enthusiastically support this legislation, and urge my colleagues to do the same.

By Mr. CHAFEE (for himself, Mr. BREAUX, Mr. LIEBERMAN, Mr. FAIRCLOTH, Mr. ROBB, Mr. SARBANES, Mr. D'AMATO, Mrs. MURRAY, Mr. MURKOWSKI, Mr. WARNER, Mr. REED, Ms. LANDRIEU,

Mr. GRAHAM, Ms. MIKULSKI, Mr. DODD, Mr. MOYNIHAN, and Mr. MACK):

S. 1222. A bill to catalyze restoration of estuary habitat through more efficient financing of projects and enhanced coordination of Federal and non-Federal restoration programs, and for other purposes; to the Committee on Environment and Public Works.

THE ESTUARY HABITAT RESTORATION  
PARTNERSHIP ACT OF 1997

Mr. CHAFEE. Mr. President, I rise today with Senator BREAU and Senators LIEBERMAN, FAIRCLOTH, ROBB, SARBANES, MURRAY, D'AMATO, MURKOWSKI, WARNER, REED, LANDRIEU, GRAHAM, MIKULSKI, DODD, MOYNIHAN, and MACK to introduce the Estuary Habitat Restoration Partnership Act of 1997. Estuaries, those bays, gulfs, sounds, and inlets where fresh water meets and mixes with salt water from the ocean, provide some of the most ecologically and economically productive habitat in the world. They benefit our economy, they benefit our health, in short, they are good for the soul.

More than 75 percent of the commercial fish and shellfish harvested in the United States depend on estuaries at some stage in their lifecycle. Estuaries are also home to a large percentage of the Nation's endangered and threatened species and half of its neotropical migratory birds. Moreover, the livelihood of 28 million Americans depends on estuaries and coastal regions.

Regrettably, estuaries are in danger. Within the last 30 years, coastal regions have become home to more than half of the Nation's population. This population explosion has taken its toll. Fish catches are at their lowest, shellfish beds have been closed, and the economic livelihood and quality of life of our coastal communities is threatened.

The increase in nonpoint source pollution, such as agricultural runoff, also has made its mark. And in the Chesapeake Bay, the recent *piesteria* outbreak that has killed hundreds of fish and even harmed human health is an unfortunate example of what can happen when the balance between harmful nutrients that pollute the waters take over.

The habitats estuaries provide for an extraordinary diversity of fish and wildlife are shrinking fast, jeopardizing jobs in fishing and tourism. The many values that estuaries bring to our lives could one day be gone.

The future of estuary habitat need not be a gloomy one. Estuaries can be restored. A variety of efforts, ranging from school classrooms planting eel grass in a coastal inlet to the restoration of freshwater flows into an entire bay area, have brought estuaries back to life. The demands on Federal funding for estuary restoration activities exceed available resources. We therefore must make the most of limited public resources by enlisting the support of our States, communities, and the private sector.

The Estuary Habitat Restoration Partnership Act of 1997 will help re-

build these national treasures by focusing these limited resources on the restoration of vital estuary habitat. This bill is unique, in that it builds a renewed commitment to community-driven restoration. It is not a regulatory measure. Rather than provide mandates, it provides incentives and gives concerned citizens more of an opportunity to get involved in the effort.

Also, it is flexible. Every community's approach to restoring estuaries will vary depending upon the unique needs of the particular area. What works well in Rhode Island's waters may not work in a more temperate areas like coastal California and Louisiana.

The bill also creates strong and lasting partnerships between the public and private sectors, and among all levels of government. It brings together existing Federal, State, and local restoration plans, programs, and studies. To ensure that restoration efforts build on past successes and current scientific understanding, the bill encourages the development of monitoring and maintenance capabilities.

Above all, this bill will benefit the environment, the economy, and the quality of life of the Nation. Estuaries are ecologically unique. The complex variety of habitats—river deltas, sea grass meadows, forested wetlands, shellfish beds, marshes, and beaches—supports a flourishing range of wildlife and plants. Because fish and birds migrate, the health of these habitats is intertwined with the health of other ecosystems thousands of miles away. Estuaries also are perhaps the most prolific places on Earth.

Economically, this bill will benefit those Americans whose livelihoods depend on coastal areas. The commercial fishing industry, which depends heavily on these areas, contributes \$111 billion per year to the national economy. Tourism and recreation also stand to benefit.

Finally, estuaries are essential to our quality of life. Listen to this figure: In 1993, 180 million Americans, approximately 70 percent of the population, visited estuaries to fish, swim, hunt, dive, view wildlife, hike, and learn.

I urge my colleagues to support this important effort to restore the marshes, wetland and aquatic life that nourish our fish and wildlife, enhance water quality, control floods, and provide so many lasting benefits for the Nation. Before I conclude, I want to thank my colleague from Louisiana, Senator BREAU, for all of his help on this issue. I also want to give a special thanks to Restore America's Estuaries and to Rhode Island Save the Bay for all of their hard work, without which this effort would not have been possible.

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

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

SECTION-BY-SECTION ANALYSIS

ESTUARY HABITAT RESTORATION PARTNERSHIP  
ACT OF 1997

SEC. 1.—SHORT TITLE

This section designates the title of the bill as the "Estuary Habitat Restoration Partnership Act of 1997".

SEC. 2.—FINDINGS

This section cites Congress' findings on the ecological and economic value of estuaries.

SEC. 3.—PURPOSES

The purposes of this Act are to: provide a voluntary, community-driven, incentive-based program to catalyze the restoration of one million acres of estuary habitat by the year 2010; assure the coordination and leveraging of existing Federal, State and local restoration programs, plans and studies; create effective restoration partnerships among public agencies at all levels of government, and between the public and private sectors; promote the efficient financing of estuary habitat restoration activities to help leverage limited federal funding; and develop monitoring and maintenance capabilities to assure that restoration efforts build on the successes of past, current efforts, and sound science.

SEC. 4.—DEFINITIONS

This section defines several terms used throughout the Act. Among the most important definitions:

"Estuary" is defined as a body of water and its associated physical, biological and chemical elements, in which fresh water from a river or stream meets and mixes with salt water from the ocean.

"Habitat" is defined as the complex of physical and hydrologic features and living organisms within estuaries and their associated ecosystems, including salt and fresh water coastal marshes, coastal forested wetlands and other coastal wetlands, tidal flats, natural shoreline areas, shellfish beds, sea grass meadows, kelp beds, river deltas, and river and stream banks under tidal influence.

"Restoration" is defined as an activity that results in improving an estuary's habitat, including both physical and functional restoration, with a goal towards a self-sustaining, ecologically based system that is integrated with its surrounding landscape.

SEC. 5.—ESTABLISHMENT OF A COLLABORATIVE  
COUNCIL

This section establishes a Collaborative Council chaired by the Secretary of the Army; with the participation of the Under Secretary for Oceans and Atmosphere, Department of Commerce; the Secretary of the Interior, through the U.S. Fish and Wildlife Service; the Administrator of the Environmental Protection Agency; and the Secretaries of Agriculture and Transportation. It sets forth the decision making procedures to be followed by the Council in its two principal functions, which are: (1) the development of a habitat restoration strategy and (2) the selection of habitat restoration projects.

SEC. 6.—FUNCTIONS OF THE COLLABORATIVE  
COUNCIL

This section creates a process to coordinate, streamline and leverage existing Federal, State and local resources and activities directed toward estuary habitat restoration.

*Habitat Restoration Strategy.*—The Council is required to draft a strategy to provide a national framework for estuary habitat restoration by identifying existing restoration plans, integrating overlapping restoration plans, and identifying appropriate processes for the development of restoration plans, where needed. In developing the strategy, the Council shall consider: the contribution of estuary habitat to wildlife, fish and shellfish, surface and ground water quantity and

quality, flood control, outdoor recreation, and other areas of concern; estimated historic, current, and future losses of estuary habitat; the most appropriate method for selecting estuary restoration projects; and procedures to minimize duplicative application requirements for landowners seeking assistance for habitat restoration activities.

**Selection of Projects.**—The Council is required to establish application criteria for restoration projects based on a number of criteria, including: the level of support from non-Federal persons for the development and long-term maintenance and monitoring of the project; whether the project criteria fall within the habitat restoration strategy developed by the Council and are set forth in existing estuary habitat restoration plans; whether the State has a dedicated fund for estuary restoration; the level of private funding for the restoration project; and the technical merit and feasibility of the proposal.

**Priority Projects.**—Among the projects that meet the criteria listed above, the Council shall give priority for funding to those projects that: are part of an approved Federal estuary management or habitat restoration plan; address a restoration goal outlined in the habitat restoration strategy; have a non-Federal share that exceeds 50 percent; and are subject to a nonpoint source program that addresses upstream sources that would otherwise re-impair the restored habitat.

The Council may not select a project under this section until each non-Federal interest participating in the project has entered into a written cooperation agreement to provide for the maintenance and monitoring of the proposed project. This section authorizes \$4,000,000 for the operating expenses of the Council.

#### SEC. 7.—HABITAT RESTORATION PROJECT COST-SHARING

This section strengthens local and private-sector participation in estuary restoration efforts by building public-private restoration partnerships. It establishes a non-Federal share match requirement of no less than 35 percent but no more than 75 percent of the cost of a project. A project applicant may waive the 35 percent minimum requirement; however, if the applicant demonstrates a need for a reduced non-Federal share in accordance with the requirements of the Water Resources Development Act of 1986. Land easements, services, or other in-kind contributions may be used to meet the Act's non-Federal match requirements.

#### SEC. 8.—MONITORING AND MAINTENANCE OF HABITAT RESTORATION PROJECTS

This section assures that available information will be used to improve the methods for assuring successful long-term habitat restoration. To that end, it requires the Under Secretary for Oceans and Atmosphere (NOAA) to maintain a database of restoration projects carried out under this Act, including information on project techniques, project completion, monitoring data, and other relevant information.

This section also requires the Collaborative Council to publish a biennial report to Congress that includes program activities, including the number of acres restored; the percent of restored habitat monitored under a plan; the types of restoration methods employed; the activities of governmental and non-governmental entities with respect to habitat restoration; and the effectiveness of the restoration.

#### SEC. 9.—MEMORANDA OF UNDERSTANDING

This section authorizes the Council to enter into cooperative agreements and execute memoranda of understanding with Fed-

eral and State agencies, private institutions, and Indian tribes, as necessary to carry out the requirements of this Act.

#### SEC. 10.—DISTRIBUTION OF APPROPRIATIONS FOR HABITAT RESTORATION PROJECTS

This section authorizes the Secretary to disburse funds to the other agencies responsible for carrying out the requirements of this Act.

#### SEC. 11.—AUTHORIZATIONS

This section provides that funds currently authorized to be appropriated for the Corps of Engineers for land acquisition, environmental improvements and aquatic ecosystem restoration may be used to implement habitat restoration projects selected by the Council. This section also authorizes appropriations of \$40,000,000 for fiscal year 1999; \$50,000,000 for fiscal year 2000; and \$75,000,000 for each of fiscal years 2001 through 2003 to carry out this Act.

#### SEC. 12.—GENERAL PROVISIONS

This section provides the Secretary with the authority to carry out responsibilities under this Act, and it clarifies that habitat restoration is one of the Corps' primary missions. It further clarifies that nothing in this Act supersedes existing Federal or State laws, and that agencies are required to carry out activities in a manner consistent with the provisions of this Act and other existing laws.

Mr. BREAUX. Mr. President, I am pleased and honored to join with my friend and colleague, Senator JOHN CHAFEE, chairman of the Senate Committee on Environment and Public Works, to introduce legislation to restore America's estuaries. Our bill is entitled the "Estuary Habitat Restoration Partnership Act of 1997".

Estuaries are a national resource and treasure. As a nation, therefore, we should work together at all levels and in all sectors to help restore them.

I am also pleased that 15 other Senators have joined with Senator CHAFEE and me as original cosponsors of the bill. Together, we want to draw attention to the significant value of the Nation's estuaries and the need to restore them.

It is also my distinct pleasure today to say with pride that Louisianians have been in the forefront of this movement to recognize the importance of estuaries and to propose legislation to restore them. The Coalition to Restore Coastal Louisiana, an organization which is well known for its proactive work on behalf of the Louisiana coast, has been from the inception an integral part of the national coalition, Restore America's Estuaries, which has proposed and supports the restoration legislation.

The Coalition to Restore Coastal Louisiana and Restore America's Estuaries are to be commended for their leadership and initiative in bringing this issue to the Nation's attention.

In essence, the bill introduced today proposes a single goal and has one emphasis and focus. It seeks to create a voluntary, community-driven, incentive-based program which builds partnerships between the Federal Government, State, and local governments and the private sector to restore estuaries, including sharing in the cost of restoration projects.

In Louisiana, we have very valuable estuaries, including the Ponchartrain, Barataria-Terrebonne, and Vermilion Bay systems. Louisiana's estuaries are vital because they have helped and will continue to help sustain local communities, their cultures and their economies.

I encourage Senators from coastal and noncoastal States alike to evaluate the bill and to join in its support with Senator CHAFEE, me and the 15 other Senators who are original bill cosponsors.

I look forward to working with Senator CHAFEE and other Senators on behalf of the bill and with the Coalition to Restore Coastal Louisiana and Restore America's Estuaries.

By working together at all levels of government and in the private and public sectors, we can help to restore estuaries. As important, we can, together, help to educate the public about the important roles which estuaries play in our daily lives through their many contributions to public safety and well-being, to the environment, and to recreation and commerce.

#### ADDITIONAL COSPONSORS

S. 9

At the request of Mr. GRAMM, his name was added as a cosponsor of S. 9, a bill to protect individuals from having their money involuntarily collected and used for politics by a corporation or labor organization.

S. 61

At the request of Mr. LOTT, the names of the Senator from New Jersey [Mr. LAUTENBERG] and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of S. 61, a bill to amend title 46, United States Code, to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 114

At the request of Mr. INOUE, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 114, a bill to repeal the reduction in the deductible portion of expenses for business meals and entertainment.

S. 364

At the request of Mr. LIEBERMAN, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 364, a bill to provide legal standards and procedures for suppliers of raw materials and component parts for medical devices.

S. 845

At the request of Mr. LUGAR, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 845, a bill to transfer to the Secretary of Agriculture the authority to conduct the census of agriculture, and for other purposes.

S. 852

At the request of Mr. LOTT, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 852,



a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 1008

At the request of Mr. DURBIN, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 1008, a bill to amend the Internal Revenue Code of 1986 to provide that the tax incentives for alcohol used as a fuel shall be extended as part of any extension of fuel tax rates.

S. 1096

At the request of Mr. GRASSLEY, the names of the Senator from Oklahoma [Mr. NICKLES] and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 1096, a bill to restructure the Internal Revenue Service, and for other purposes.

S. 1105

At the request of Mr. COCHRAN, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 1105, a bill to amend the Internal Revenue Code of 1986 to provide a sound budgetary mechanism for financing health and death benefits of retired coal miners while ensuring the long-term fiscal health and solvency of such benefits, and for other purposes.

S. 1178

At the request of Mr. ABRAHAM, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1178, a bill to amend the Immigration and Nationality Act to extend the visa waiver pilot program, and for other purposes.

S. 1194

At the request of Mr. KYL, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Mississippi [Mr. COCHRAN], the Senator from New Hampshire [Mr. SMITH], and the Senator from Colorado [Mr. ALLARD] were added as cosponsors of S. 1194, a bill to amend title XVIII of the Social Security Act to clarify the right of Medicare beneficiaries to enter into private contracts with physicians and other health care professionals for the provision of health services for which no payment is sought under the Medicare program.

#### SENATE CONCURRENT RESOLUTION 48

At the request of Mr. KYL, the names of the Senator from California [Mrs. BOXER], the Senator from Nevada [Mr. BRYAN], the Senator from Georgia [Mr. CLELAND], the Senator from Maine [Ms. COLLINS], the Senator from Idaho [Mr. CRAIG], the Senator from Ohio [Mr. DEWINE], the Senator from Connecticut [Mr. DODD], the Senator from Wyoming [Mr. ENZI], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Florida [Mr. GRAHAM], the Senator from Minnesota [Mr. GRAMS], the Senator from Iowa [Mr. GRASSLEY], the Senator from Arkansas [Mr. HUTCHINSON], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Florida [Mr. MACK], the Senator from Kansas [Mr. ROBERTS],

the Senator from Pennsylvania [Mr. SANTORUM], the Senator from New Hampshire [Mr. SMITH], the Senator from Oregon [Mr. SMITH], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Concurrent Resolution 48, a concurrent resolution expressing the sense of the Congress regarding proliferation of missile technology from Russia to Iran.

#### SENATE RESOLUTION 126—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON VETERANS' AFFAIRS

Mr. SPECTER, from the Committee on Veterans' Affairs, reported the following original resolution; which was placed on the calendar:

S. RES. 126

*Resolved*, That section 18(b) of Senate Resolution 54, 105th Congress, agreed to February 3, 1997, is amended by striking out "\$1,123,430" and inserting in lieu thereof "\$1,698,430".

#### SENATE RESOLUTION 127—REGARDING A PLANNED STATE VISIT

Mr. FEINGOLD (for himself, Mr. ABRAHAM, Mr. HELMS, and Mr. WELLSTONE) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 127

Whereas the President of the People's Republic of China is tentatively scheduled to begin a state visit in Washington, D.C., on October 29, 1997;

Whereas a state visit, unlike a working-level visit, involve the highest-level protocol that can be afforded a foreign head of state;

Whereas on December 13, 1995, a Beijing court sentenced Wei Jingsheng to 14 years in prison for peacefully advocating democracy and political reforms in China.

Whereas the Government of the People's Republic of China had previously imprisoned Wei Jingsheng from 1979 to 1993, also for peacefully promoting human rights and democracy in China;

Whereas Wei Jingsheng is just one of hundreds, if not thousands, of other political, religious, and labor dissidents who are imprisoned in China and Tibet for peacefully expressing their beliefs and exercising their internationally recognized rights of free association and expression.

Whereas like other prisoners, Wei Jingsheng is in poor health and Chinese authorities refuse to provide him with proper medical care; and

Whereas the Department of State 1996 Human Rights Report states: "[t]he Government [of the People's Republic of China] continued to commit widespread and well-documented human rights abuses, in violation of international accepted norms, stemming from the authorities' intolerance of dissent, fear of unrest, and the absence or inadequacy of laws protecting basic freedoms." Now, therefore, be it

*Resolved*, That it is the sense of the Senate that the President should not host a state visit by the President of the People's Republic of China until—

(1) the Government of the People's Republic of China immediately and unconditionally releases Wei Jingsheng, Wang Dan, and

a significant number of other prisoners of conscience held in prison in China and Tibet;

(2) the Government of the People's Republic of China takes immediate steps toward improving the conditions under which political, religious, and labor dissidents are imprisoned in China and Tibet, including providing prisoners with adequate medical care and allowing international humanitarian agencies access to detention facilities; and

(3) the Government of the People's Republic of China makes significant progress toward improving overall human rights conditions in China and Tibet, including taking concrete steps to grant freedom of speech, freedom of religion, and freedom of association in compliance with international human rights standards.

Mr. FEINGOLD. Mr. President, I rise today to submit a resolution regarding the upcoming State visit by the President of the People's Republic of China, Mr. Jiang Zemin.

As we all know, President Clinton plans to host Mr. Jiang on a State visit to Washington at the end of October. The resolution I am offering today is a sense of the Senate resolution that states that President Jiang should not be given a red carpet welcome in our Nation's Capital until we see some progress on human rights in China. Specifically, the resolution calls for China to release Wei Jingsheng and other prisoners of conscience from jail as a precondition for a State visit.

By agreeing to this State visit without receiving any concession on human rights, the administration may be squandering perhaps its strongest source of leverage with Beijing. The Chinese Government has been pressing for such a visit in Washington for several years. The Chinese want to be treated like a great power. An invitation to the White House not only bestows legitimacy on the Communist regime, it will boost the prestige of President Jiang and help him to solidify his position as Deng Xiaoping's successor. In short, China needs this State visit more than the United States does.

Agreeing to invite the President of China to the White House before any improvement is made on human rights will send a terrible message. It will confirm what many Chinese leaders already believe—that the United States offers lots of rhetoric on human rights, but no action, and that the United States ultimately cares more about trade than political prisoners.

Judging by the administration's China policy, it is easy to see why the leadership in Beijing would come to such a conclusion. In 1994, the President delinked most-favored-nation trade status from human rights. This was a serious mistake. What we have seen since the delinkage is the reincarceration of political dissidents and increased repression in Tibet.

Just this past April, at the meeting of the U.N. Human Rights Commission, the United States mounted what I view as a half-hearted attempt to win passage of a resolution critical of China's human rights record. As we all know, that resolution failed to pass, and some of our close allies—including France,



Germany, and Canada—refused to co-sponsor it. Finally, just this past June, the President once again unconditionally extended MFN to China for one more year.

Now, the administration is preparing to give Jiang Zemin a red carpet welcome in Washington despite the deplorable human rights conditions in China. Why wouldn't Chinese leaders conclude that, in the final analysis, the United States is unwilling to back up its human rights concerns with concrete action?

What we have then is not a policy of constructive engagement but one of unconditional engagement.

An invitation to the White House is meant to symbolize a relationship of close cooperation. But the United States simply does not have such a relationship with China. On security issues, China has sold sensitive nuclear and missile technologies to countries like Pakistan and Iran. The People's Republic of China last year fired missiles toward Taiwan in an attempt to disrupt the island's first democratic Presidential election. China has blatantly violated agreements on copyrights and intellectual property. And, as I have stated, China has made little, if any, attempt to improve its human rights conditions.

Now the administration is rewarding this lack of cooperation by hosting high-level visits by Chinese officials. Last December, the administration welcomed China's Defense Minister, Gen. Chi Haotian, to Washington. Mr. Chi, also known as the butcher of Beijing, was one of the People's Liberation Army officers who led the military assault against the citizens of the Chinese capital on June 4, 1989. Now, the administration wants to invite the President of China for a State visit, even though the Government of China—in the spirit of the Tiananmen Square massacre—continues to persecute anyone who dares criticize the Communist regime. Just this week, China's Justice Minister ruled out granting medical parole to pro-democracy dissident Wang Dan despite pleas from Wang's family, who say he is seriously ill.

When Jiang Zemin is given a 21-gun salute at the White House, the United States will lose what little credibility we have left on the issue of human rights.

Mr. President, this resolution simply calls on the administration to hold off on a State visit until China releases Wei Jingsheng and other political prisoners. This resolution focuses on Wei Jingsheng, but only as a symbol of the thousands of people who are rotting in Chinese jail cells or toiling in labor camps because they dared to peacefully express their political or religious beliefs.

Wei Jingsheng may be the most famous Chinese dissident, but we should never forget that there are many more like him, people whose names we may not know, but who nevertheless show

the same type of courage. This resolution calls for the release of a significant number of political and religious prisoners in addition to Wei. China must know that the release of one or two high-profile dissidents is not enough.

In addition to demanding the release of political prisoners, the resolution also calls on China to give prisoners access to medical care, and to take concrete steps towards improving overall human rights conditions in China and Tibet.

These are realistic demands. This resolution does not say China must change its political system or withdraw from Tibet, events that are unlikely to take place before next month. This resolution only states that, in order to create the right atmosphere for a State visit, China must make a good-faith effort to improve human rights.

I should also point out that this resolution only applies to a State-level visit. The State Department's protocol office tells me there are several levels of visits including private visits, working visits, official visits, and finally, at the highest level, State visits. My goal in introducing this resolution is not to cut off all dialog between the United States and China. I would not necessarily object to having Mr. Jiang come to Washington for a working-level visit. But I feel the pomp and symbolism of a State-level visit is inappropriate given the present situation in China.

Obviously, China will object to this resolution, but it contains a message that Beijing must hear. China's leaders have unfortunately interpreted the inability of Congress to reach a consensus on China's most-favored-nation status as evidence that Members of Congress do not really care about human rights. But I assure you, Mr. President, that even though many of my colleagues have different views on the MFN issue, all share my concern for the plight of people like Wei Jingsheng.

China wants to be treated as a great power, but it does not want to accept the responsibilities that come with the role. It does not want to fulfill its treaty obligations nor abide by the international conventions—including those on human rights—that it has signed. This resolution sends a clear message that if the United States is to treat China like a great power, then China must comply with international human rights standards.

Mr. President, I think it is time for the United States to end its policy of unconditional engagement and put human rights and trade on an equal footing in our China policy.

I therefore urge my colleagues to support this resolution.

## AMENDMENTS SUBMITTED

### THE CELLULAR TELEPHONE PROTECTION ACT

#### HATCH AMENDMENT NO. 1251

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to the bill (S. 493) to amend section 1029 of title 18, United States Code, with respect to cellular telephone cloning paraphernalia; as follows:

On page 6, line 1, strike "The punishment" and insert the following:

"(1) IN GENERAL.—The punishment".

On page 6, line 2, strike "section".

On page 6, line 3, strike "(1)" and insert "(A)" and indent accordingly.

On page 6, line 7, strike "(A)" and insert "(i)" and indent accordingly.

On page 6, line 11, strike "(B)" and insert "(ii)" and indent accordingly.

On page 6, line 14, strike "and".

On page 6, line 15, strike "(2)" and insert "(B)" and indent accordingly.

On page 6, line 19, strike the punctuation at the end and insert "; and".

On page 6, between lines 19 and 20, insert the following:

"(C) in any case, in addition to any other punishment imposed or any other forfeiture required by law, forfeiture to the United States of any personal property used or intended to be used to commit, facilitate, or promote the commission of the offense.

"(2) APPLICABLE PROCEDURE.—The criminal forfeiture of personal property subject to forfeiture under paragraph (1)(C), any seizure and disposition thereof, and any administrative or judicial proceeding in relation thereto, shall be governed by subsections (c) and (e) through (p) of section 413 of the Controlled Substances Act (21 U.S.C. 853)."

### THE DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1998

#### GRAHAM (AND OTHERS) AMENDMENT NO. 1252

Mr. GRAHAM (for himself, Mr. MACK, and Mr. KENNEDY) proposed an amendment to the bill (S. 1156) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes; as follows:

At the appropriate place, insert the following new section:

#### "SEC. . IMMIGRATION REFORM TRANSITION ACT OF 1997.

(a) IN GENERAL. —Section 240A, subsection (e), of the Immigration and Nationality Act is amended—

(1) in the first sentence, by striking "this section" and inserting in lieu thereof "section 240A(b)(1)";

(2) by striking "nor suspend the deportation and adjust the status under section 244(a) (as in effect before the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996)"; and

(3) by striking the last sentence in the subsection and inserting in lieu thereof: "The previous sentence shall apply only to removal cases commenced on or after April 1, 1997, including cases where the Attorney

General exercises authority pursuant to paragraphs (2) or (3) of section 309(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104-208, Division C, 110 Stat. 3009)."

(b) REPEALERS.—Section 309, subsection (c), of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104-208, Division C, 110 Stat. 3009) is amended by striking paragraphs (5) and (7).

(c) SPECIAL RULE.—Section 240A of the Immigration and Nationality Act is amended—

(1) In subsection (b), paragraph (3), by striking "(1) or (2)" in the first and third sentences of that paragraph and inserting in lieu thereof "(1), (2), or (3)", and by striking the second sentence of that paragraph;

(2) In subsection (b), by redesignating paragraph (3) as paragraph (4);

(3) In subsection (d), paragraph (1), by striking "this section." and inserting in lieu thereof "subsections (a), (b)(1), and (b)(2).";

(4) In subsection (b), by adding after paragraph (2) the following new paragraph—

"(3) SPECIAL RULE FOR CERTAIN ALIENS COVERED BY THE SETTLEMENT AGREEMENT IN *AMERICAN BAPTIST CHURCHES ET AL. V. THORNBURGH* (ABC), 760 F. SUPP. 796 (N.D. CAL. 1991)—

"(A) The Attorney General may, in his or her discretion, cancel removal and adjust the status from such cancellation in the case of an alien who is removable from the United States if the alien demonstrates that—

"(i) the alien has not been convicted at any time of an aggravated felony and

"(I) was not apprehended after December 19, 1990, at the time of entry, and is either

"(aa) a Salvadoran national who first entered the United States on or before September 19, 1990, and who registered for benefits pursuant to the ABC settlement agreement on or before October 31, 1991, or applied for Temporary Protected Status on or before October 31, 1991; or

"(bb) a Guatemalan national who first entered the United States on or before October 1, 1990, and who registered for benefits pursuant to the ABC settlement agreement by December 31, 1991; or

"(cc) the spouse or unmarried son or daughter of an alien described in (aa) of this subclause, provided that the spouse, son or daughter entered the United States on or before September 19, 1990, or the spouse or unmarried son or daughter of an alien described in (bb) of this subclause, provided that the spouse, son or daughter enter the United States on or before October 1, 1990; or

"(II) is an alien who

(aa) is a Nicaraguan, Guatemalan, or Salvadoran who filed an application for asylum with the Immigration and Naturalization Service before April 1, 1990, and the Immigration and Naturalization Service had not granted, denied, or referred that application as of April 1, 1997; or

(bb) is the spouse or unmarried son or daughter of an alien described in (aa) of this subclause, provided that the spouse, son or daughter entered the United States on or before April 1, 1990; and

"(ii) the alien is not described in paragraph (4) of section 237(a) or paragraph (3) of section 212(a) of the Act; and

"(iii) the alien

"(I) is removable under any law of the United States except the provisions specified in subclause (II) of this clause, has been physically present in the United States for a continuous period of not less than seven years immediately preceding the date of such application, and proves that during all of such period he was and is a person of good moral character, and is a person whose removal would, in the opinion of the Attorney General, result in extreme hardship to the alien or to his spouse, parent, or child, who

is a citizen of the United States or an alien lawfully admitted for permanent residence; or

"(II) is removable under paragraph (2) (other than section 237(a)(2)(A)(iii)) of section 237(a), paragraph (3) of section 237(a), or paragraph (2) of section 212(a), has been physically present in the United States for a continuous period of not less than 10 years immediately following the commission of an act, or the assumption of a status, constituting a ground for deportation, and proves that during all of such period he has been and is a person of good moral character, and is a person whose removal would, in the opinion of the Attorney General, result in exceptional and extremely unusual hardship to the alien or to his spouse, parent or child, who is a citizen of the United States, or an alien lawfully admitted for permanent residence.

"(B) Subsection (d) of this section shall not apply to determinations under this paragraph, and an alien shall not be considered to have failed to maintain continuous physical presence in the United States under clause (A)(iii) of this paragraph if the alien demonstrates that the absence from the United States was brief, casual, and innocent, and did not meaningfully interrupt the continuous physical presence.

"(C) The determination by the Attorney General whether an alien meets the requirements of subparagraph (A) or (B) of this paragraph is final and shall not be subject to review by any court. Nothing in the preceding sentence shall be construed as limiting the application of subparagraph (B) of section 242(a)(2) to other eligibility determinations pertaining to discretionary relief under this Act."

(d) EFFECTIVE DATE OF SUBTITLE (C).—The amendments made by subtitle (c) shall be effective as if included in Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104-208, Division C, 110 Stat. 3009).

(e) APPEAL PROCESS.—Any alien who has become eligible for suspension of deportation or cancellation of removal as a result of the amendments made by subsection (b) and (c) may, notwithstanding any other limitations on motions to reopen imposed by the Immigration and Nationality Act or by regulation file one motion to reopen to apply for suspension of deportation or cancellation of removal. The Attorney General shall designate a specific time period in which all such motions to reopen must be filed. The period must begin no later than 120 days after the date of enactment of this Act and shall extend for a period of 180 days.

#### MACK (AND OTHERS) AMENDMENT NO. 1253

Mr. MACK (for himself, Mr. GRAHAM, and Mr. KENNEDY) proposed an amendment to amendment No. 1252 proposed by Mr. GRAHAM to the bill, S. 1156, supra; as follows:

Strike all after the word "SEC. ." and insert the following:

#### IMMIGRATION REFORM TRANSITION ACT OF 1997.

(a) IN GENERAL.—Section 240A, subsection (e), of the Immigration and Nationality Act is amended—

(1) in the first sentence, by striking "this section" and inserting in lieu thereof "section 240A(b)(1)";

(2) by striking "nor suspend the deportation and adjust the status under section 244(a) (as in effect before the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996)."; and

(3) by striking the last sentence in the subsection and inserting in lieu thereof: "The

previous sentence shall apply only to removal cases commenced on or after April 1, 1997, including cases where the Attorney General exercises authority pursuant to paragraphs (2) or (3) of section 309(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104-208, Division C, 110 Stat. 3009)."

(b) REPEALERS.—Section 309, subsection (c), of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104-208, Division C, 110 Stat. 3009) is amended by striking paragraphs (5) and (7).

(c) SPECIAL RULE.—Section 240A of the Immigration and Nationality Act is amended—

(1) In subsection (b), paragraph (3), by striking "(1) or (2)" in the first and third sentences of that paragraph and inserting in lieu thereof "(1), (2), or (3)", and by striking the second sentence of that paragraph;

(2) In subsection (b), by redesignating paragraph (3) as paragraph (4);

(3) In subsection (d), paragraph (1), by striking "this section." and inserting in lieu thereof "subsections (a), (b)(1), and (b)(2).";

(4) in subsection (b), by adding after paragraph (2) the following new paragraph—

"(3) SPECIAL RULE FOR CERTAIN ALIENS COVERED BY THE SETTLEMENT AGREEMENT IN *AMERICAN BAPTIST CHURCHES ET AL. V. THORNBURGH* (ABC), 760 F. SUP. 796 (N.D. CAL. 1991)—

"(A) The Attorney General may, in his or her discretion, cancel removal and adjust the status from such cancellation in the case of an alien who is removable from the United States if the alien demonstrates that—

"(i) the alien has not been convicted at any time of an aggravated felony and—

"(I) was not apprehended after December 19, 1990, at the time of entry, and is either—

"(aa) a Salvadoran national who first entered the United States on or before September 19, 1990, and who registered for benefits pursuant to the ABC settlement agreement on or before October 31, 1991, or applied for Temporary Protected Status on or before October 31, 1991; or

"(bb) a Guatemalan national who first entered the United States on or before October 1, 1990, and who registered for benefits pursuant to the ABC settlement agreement by December 31, 1991; or

"(cc) the spouse or unmarried son or daughter of an alien described in (aa) of this subclause, provided that the spouse, son or daughter entered the United States on or before September 19, 1990, or the spouse or unmarried son or daughter of an alien described in (bb) of this subclause, provided that the spouse, son or daughter entered the United States on or before October 1, 1990; or

"(II) is an alien who—

(aa) is a Nicaraguan, Guatemalan, or Salvadoran who filed an application for asylum with the Immigration and Naturalization Service before April 1, 1990, and the Immigration and Naturalization Service had not granted, denied, or referred that application as of April 1, 1997; or

(bb) is the spouse or unmarried son or daughter of an alien described in (aa) of this subclause, provided that the spouse, son or daughter entered the United States on or before April 1, 1990; and—

"(ii) the alien is not described in paragraph (4) of section 237(a) or paragraph (3) of section 212(a) of the Act; and—

"(iii) the alien—

"(I) is removable under any law of the United States except the provisions specified in subclause (II) of this clause, has been physically present in the United States for a continuous period of not less than seven years immediately preceding the date of such application, and proves that during all of such period he was and is a person of good moral character, and is a person whose removal would, in the opinion of the Attorney

General, result in extreme hardship to the alien or to his spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence; or—

“(II) is removable under paragraph (2) (other than section 237(a)(2)(A)(iii)) of section 237(a), paragraph (3) of section 237(a), or paragraph (2) of section 212(a), has been physically present in the United States for a continuous period of not less than 10 years immediately following the commission of an act, or the assumption of a status, constituting a ground for deportation, and proves that during all of such period he has been and is a person of good moral character, and is a person whose removal would, in the opinion of the Attorney General, result in exceptional and extremely unusual hardship to the alien or to his spouse, parent or child, who is a citizen of the United States, or an alien lawfully admitted for permanent residence.

“(B) Subsection (d) of this section shall not apply to determinations under this paragraph, and an alien shall not be considered to have failed to maintain continuous physical presence in the United States under clause (A)(iii) of this paragraph if the alien demonstrates that the absence from the United States was brief, casual, and innocent, and did not meaningfully interrupt the continuous physical presence.

“(C) The determination by the Attorney General whether an alien meets the requirements of subparagraph (A) or (B) of this paragraph is final and shall not be subject to review by any court. Nothing in the preceding sentence shall be construed as limiting the application of subparagraph (B) of section 242(a)(2) to other eligibility determinations pertaining to discretionary relief under this Act.”.

(d) EFFECTIVE DATE OF SUBTITLE (C).—The amendments made by subtitle (c) shall be effective as if included in Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104-208, Division C, 110 Stat. 3009).

(e) APPEAL PROCESS.—Any alien who has become eligible for suspension of deportation or cancellation of removal as a result of the amendments made by subsection (b) and (c) may, notwithstanding any other limitations on motions to reopen imposed by the Immigration and Nationality Act or by regulation file one motion to reopen to apply for suspension of deportation or cancellation of removal. The Attorney General shall designate a specific time period in which all such motions to reopen must be filed. The period must begin no later than 120 days after the date of enactment of this Act and shall extend for a period of 180 days.

(f) EFFECTIVE DATE OF SECTION.—This section shall take effect one day after enactment of this Act.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. COATS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, September 25, 1997, to conduct a markup of the committee print to reauthorize the transit provisions of ISTEAA.

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

##### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. COATS. Mr. President, I ask unanimous consent that the Commit-

tee on Commerce, Science, and Transportation be authorized to meet on Thursday, September 25, 1997, at 10 a.m. on S. 852—motor vehicle titling reform.

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

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. COATS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, September 25, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to receive testimony on the Federal agency energy management provisions of the Energy Policy Act of 1992.

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

##### COMMITTEE ON FINANCE

Mr. COATS. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Thursday, September 25, 1997 beginning at 9 a.m. in room 106 Dirksen.

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

##### COMMITTEE ON FOREIGN RELATIONS

Mr. COATS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 25, 1997, at 2 p.m. to hold a hearing.

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

##### COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. COATS. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee Special Investigation to meet on Thursday, September 25, at 10 a.m. for a hearing on campaign financing issues.

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

##### COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. COATS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on tobacco settlement during the session of the Senate on Thursday, September 25, 1997, at 10 a.m.

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

##### COMMITTEE ON RULES AND ADMINISTRATION

Mr. COATS. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, September 25, 1997, at 9:30 a.m. until business is completed, to conduct a hearing on Capitol security issues.

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

##### COMMITTEE ON AFRICAN AFFAIRS

Mr. COATS. Mr. President, I ask unanimous consent that the Subcommittee on African Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 25, 1997, at 10 a.m. to hold a hearing.

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

##### COMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. COATS. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, September 25, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2 p.m. The purpose of this hearing is to receive testimony on S. 799, a bill to direct the Secretary of the Interior to transfer to the personal representative of the estate of Fred Steffans of Big Horn County, WY, certain land compromising the Steffans family property; S. 814, a bill to direct the Secretary of the Interior to transfer to John R. and Margaret J. Lowe of Big Horn County, WY, certain land so as to correct an error in the patent issued to their predecessors in interest; and H.R. 960, a bill to validate certain conveyances in the city of Tulare, Tulare County, CA, and for other purposes.

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

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO GEORGE MURPHY

• Mr. KENNEDY. Mr. President, it is a privilege to take this opportunity to pay tribute to an outstanding leader in the American labor movement. All of us who know and admire George Murphy are proud of his lifetime of commitment to improving the lives of working communities across America, and are saddened by his retirement as general counsel of the United Food and Commercial Workers International Union.

In a very real sense, George has lived the American dream. He was born and raised in Washington, DC. His father, William, served as a police officer here. His mother, Rose, was a dedicated school teacher. George's parents instilled in him the commitment to excellence and service that have made him one of the finest and most respected labor attorneys in the country.

Throughout his 31 years of service, he has demonstrated extraordinary dedication to the ideals and principles of the labor movement that have led to so many achievements for union members and for millions of other workers across the country whose lives are better today because of George Murphy.

George's impressive leadership for the benefit of all working men and women and their families will be long remembered. I extend my warmest wishes and congratulations to George on his retirement. His outstanding service is an inspiration to us all. •

##### TRIBUTE TO DON GORDON

• Mr. McCONNELL. Mr. President, I rise today to recognize the career of

Don Gordon, an outstanding newspaperman, who has retired after a distinguished career in journalism. Don served the western Kentucky area for 8 years as editorial editor for the Paducah Sun.

Don was born in Overland, MO, and upon graduating high school, served his country in the navy during the Korean war. In 1959, he graduated from the University of Missouri with a degree in journalism and has worked for newspapers ever since. Don has been a reporter, city editor, copy editor, and managing editor and has worked for newspapers in Missouri, Illinois, Oklahoma, and South Carolina, before coming to Kentucky. He and his wife, Zona, moved to Paducah in 1989, to return to a part of the country they love.

Don's interest in writing began at a very early age, and during his school days he was involved in printing neighborhood news and sports sheets. In the years when Don first became a professional journalist, it was very rare for a reporter to be credited with a byline. However, a series of articles Don wrote covering a murder trial so impressed one of his first editors, that he was given a byline for his good work. This was only to be the first of many instances in which Don's work was to be recognized by his peers. While reluctant to mention such things, he has won awards for best editorial from the Kentucky Press Association and was nominated for a Pulitzer Prize for journalism.

"Excellence" is the word that best describes Don's work. Day after day, he consistently brought public issues into perspective by combining a mastery of the written language and knowledge of a variety of subjects, both local and national. He was a newspaperman's newspaperman.

Retirement in Don's case does not mean that he will be inactive. After 41 years of marriage, he and Zona will now have the opportunity to travel. The West and Alaska beckon. The couple also looks forward to serving as volunteer missionaries. They are active in Trinity Baptist Church, and have been involved in the Gideon Bible Society, and served in jail and prison ministries.

Mr. President, I commend Don Gordon for his outstanding service to western Kentucky. He will be missed by friends and coworkers, and just as importantly, by his many devoted readers. I ask that you and my fellow colleagues join me in recognizing the career of this outstanding Kentuckian, and wishing him well in all future pursuits.●

THE GARTNER GROUP, THE NEW YORK FEDERAL RESERVE BANK, AND DEUTSCHE MORGAN GRENFELL AGREE: POTENTIAL FOR A "MILD GLOBAL RECESSION"

● Mr. MOYNIHAN. Mr. President, we learn today in the New York Times

that an alarming number of companies and governments are failing to cope with the impending year 2000 computer crisis.

A study by the respected Gartner Group, which specializes on information technology, indicates that fully "30 percent of companies worldwide had not started addressing the year 2000 problem," and that of those "88 percent were smaller companies." This is most troubling news. Failure to comply could lead, in the opinion of William J. McDonough, the president of the New York Federal Reserve Bank, to a global recession.

Analysts are also predicting that many companies will go out of business when their computer systems fail at the turn of the century. Again I quote the Times article: "Edward Yardeni, the chief economist at Deutsche Morgan Grenfell, issued a report last week saying that there is a 35-percent chance that the millennium bug will cause 'at least a mild global recession' in 2000."

My first day bill, S. 22, would establish an independent commission, more like a task force, to ensure that the Federal Government will be compliant, and to ensure that awareness and compliance will be raised in the private sector.

I ask that the article from today's Times, "Many Reported Unready To Face Year 2000 Bug," be printed in the RECORD.

The article follows:

[From the New York Times, Sept. 25, 1997]  
MANY REPORTED UNREADY TO FACE YEAR 2000 BUG

(By Laurence Zuckerman)

A new study shows that a large proportion of businesses and government agencies around the world are not properly preparing for the effect that the year 2000 will have on their computer systems, increasing the possibility of potentially serious disruptions as the end of the century approaches.

The study by the Gartner Group, an adviser on information technology, found that 30 percent of companies worldwide had not started addressing the year 2000 problem, or the millennium bug, as it is often called. Of these, 88 percent were smaller companies with fewer than 2,000 employees.

"We are going to see a very large number of small companies in very serious trouble," said Matthew Hotle, an analyst at Gartner, which is based in Stamford, Conn. "They are not going to finish in time."

The research also showed that large institutions, like universities and hospitals, and Government agencies, were far behind in their efforts. "We were expecting that some agencies would have at least made up some ground over the last six to nine months," Mr. Hotle added, "but they are way behind."

The study, which is scheduled to be issued next month at an annual Gartner Group symposium, comes at a time when concern is rising about the potential impact of the millennium bug. Last week, Representative Steve Horn of California, the Republican chairman of the House subcommittee that oversees information technology issues, graded the preparation efforts of 24 Government agencies. Eleven received either D's or F's, including the National Aeronautics and Space Administration, the Department of Energy, the Nuclear Regulatory Commission and the Department of Transportation.

In addition, some prominent economists and William J. McDonough, the president of the New York Federal Reserve Bank, have warned that failure to cope with the 2000 problem properly could cause a global recession.

The millennium bug dates back to the dawn of the computer age, when computer memory was so scarce that programmers abbreviated the year as two digits. A computer that read "97" as a date assumed it meant 1997. After the turn of the century, those same programs, unless corrected, will read "00" as 1900, disrupting everything from the calculation of interest rates to the shelf life of breakfast cereal. Because the two-digit dates appear in different forms in different software, finding and correcting each program is extremely time consuming and labor intensive.

The Gartner Group has said in the past that fixing existing computer software will cost between \$300 billion and \$600 billion, an estimate that has not been increased as a result of the study. Mr. Hotle said that other estimates, including the costs of new hardware, business interruptions and potential litigation, could push the figure over \$1 trillion.

The study surveyed 2,300 companies, institutions and government agencies in 17 countries. Each was given a rating based on their progress. The results show that most large companies are already well along in their efforts to cope with the millennium bug, led by the financial services industry. Though only 52 percent of companies with more than 20,000 employees were considered well positioned, the figure was nearly 80 percent in the United States.

The problem is that many large companies are becoming increasingly dependent on smaller suppliers that may not be as well prepared. For example, if a crucial parts supplier cannot deliver to a big auto maker, it will not matter that the auto company is year-2000 compliant.

"You are going to see some major slow-downs because of these small companies," said Lou Marcoccio, research director of Gartner's year 2000 practice.

Some analysts have also predicted that a number of companies, already teetering on the edge, will go out of business when their computer systems fail as a result of the bug. Edward Yardeni, the chief economist at Deutsche Morgan Grenfell, issued a report last week saying that there is a 35 percent chance that the millennium bug will cause "at least a mild global recession" in 2000.

While the Federal Government has come under criticism in Congress, the Gartner study found that the United States is far ahead of other countries. Last week, the Office of Management and Budget sent a report to Congress predicting that the cost of fixing the Government's computers would be \$3.8 billion.●

MAJ. GEN. RAY E. MCCOY, USA

● Mr. INHOFE. Mr. President, I rise today to commend Maj. Gen. Ray E. McCoy, USA, upon his retirement from the United States Army after more than 32 years of distinguished and dedicated service to our Nation.

Major General McCoy, a native son of the Oklahoma farmland, graduated in 1965 from Oklahoma State University, where he received the prestigious Drummond Saber Award as the year's outstanding ROTC graduate. That honor was the harbinger of an extraordinary military career.

After completing Infantry School and Ranger training, Ray McCoy served in a variety of combat and command assignments stateside and overseas, including two tours in Vietnam and one in Korea. In the operations theater, his abiding concern for his charges, his roll-up-your-sleeves approach to getting the mission done, and his tempered-steel military bearing earned him the respect of all who soldiered with and for him.

As his career progressed, he served in a number of high-level staff positions at the Department of the Army, Joint Chiefs of Staff, the Army Material Command, and the Defense Logistics Agency [DLA] America's combat support agency. For the past 2 years, Major General McCoy has served as DLA's Principal Deputy Director. His vision and leadership were vital to the agency's business-process reengineering, which incorporated the best public and private sector practices. These initiatives elevated material readiness and strengthened the management and oversight of Defense contracts—and at markedly reduced cost to the taxpayers and the warfighters. Blending combat experience with business acumen, Ray McCoy was instrumental in the agency's successful efforts to accelerate logistics response and improve weapons-systems readiness. With Major General McCoy having led the charge, DLA is now a front line partner with combat and contingency operations forces in Bosnia and around the world.

Whether it was on the rough terrain of the combat theater or behind a desk, Ray McCoy served his country with valor, loyalty, and integrity. With the physical stature of a sturdy oak and the energy of a southwestern tornado, Ray McCoy demonstrates time and time again that he truly deserves to be called a soldier's soldier. On the occasion of his retirement from the U.S. Army, I offer my congratulations and thanks to this esteemed son of the Sooner State, and wish him well in his future pursuits.●

#### NATIONAL CENTER FOR RURAL LAW ENFORCEMENT

● Mr. LEAHY. Mr. President, I ask to have printed in the RECORD a copy of a resolution passed on May 29, 1997, by the Vermont Association of Chiefs of Police supporting H.R. 1524 which creates a National Center for Rural Law Enforcement.

I would like to thank them for sharing these resolutions with me. I also look forward to working with Senators HATCH, BIDEN, and others in introducing legislation in the Senate in support of a National Center for Rural Law Enforcement.

The resolution follows:

Whereas, the Vermont Association of Chiefs of Police support the National Center for Rural Law Enforcement as several chiefs have attended regional conferences to discuss and identify the training and technical assistance needs of rural law enforcement agencies nationwide; and

Whereas, more than two hundred law enforcement officials, from rural areas, have attended these regional meetings and validated the need for federal assistance in areas of technical assistance, management training, and the formation of an information clearinghouse for rural law enforcement agencies; and

Whereas, the majority of existing local, state, and federal programs are too costly for small rural enforcement agencies and are generally designed to serve the larger law enforcement agencies of the country; and

Whereas, approximately one-third of all Americans live in rural areas, ninety percent of all law enforcement agencies serve populations of less than 25,000 residents, seventy-five percent of all law enforcement agencies serve a population of fewer than 10,000 residents, while rural violent crime has increased over thirty-five per cent in the last ten years; and

Whereas, rural law enforcement agencies have staffing limitations and financial limitations which make it difficult to properly train on and/or address the specific crime-related issues facing all rural law enforcement administrators in our country; and

Whereas, we believe that the creation of a national center for rural law enforcement would enhance and complement present state standards and training and does not duplicate any existing program; now, therefore, be it

*Resolved*, That the Vermont Association of Chiefs of Police strongly support the creation of the National Center for Rural Law Enforcement that would be funded through federal legislation;

*Be it further resolved*, That the operational control and oversight of the National Center for Rural Law Enforcement would rest upon an advisory board made up primarily of Sheriffs and Chiefs of Police from rural law enforcement agencies from each region of the county.●

#### COL. RYSZARD KUKLINSKI

● Mr. ROTH. Mr. President, I rise today to acknowledge the work of an unsung hero, a man whose unparalleled sense of duty to a free and democratic Poland contributed immeasurably not only to that country's freedom from Soviet domination but also to the security of the United States. I refer to Col. Ryszard Kuklinski.

You see, during the height of the cold war, when NATO and Soviet-led Warsaw Pact forces confronted each other in a divided Europe, Colonel Kuklinski risked his life to help free Poland from foreign oppression.

This risk came in the form of over 35,000 pages of secret military documents he turned over to the United States Government, documents that detailed Soviet operational plans for surprise attacks on Western Europe, scenarios for a nuclear launch, specifications for more than 200 advanced Soviet weapons systems, and details of Soviet plans to impose Marshal law on Poland. His information was an invaluable asset to the West, and contributed immensely to the alliance's success in deterring Soviet aggression in Europe.

Colonel Kuklinski asked for nothing in return for his information. Instead, he was forced to flee his country with his family when his actions were discovered by Soviet authorities sometime in 1981.

After the Warsaw Pact realized what had happened after his departure from Poland, Colonel Kuklinski was issued in absentia a death sentence by a military tribunal.

On Monday, the Polish Government—the government of a free and democratic Poland—took the step of dropping espionage charges against this hero and formally recognized that his actions served the highest interests of Poland. I commend the Polish Government and its military for taking this much needed step.

I decided to raise the heroic story of Colonel Kuklinski for two reasons. First, to thank him and to express my admiration for the sacrifices he made for a free and democratic Poland. Second, as the Senate will soon be considering Poland's application for NATO membership, it is important to remember that Poland is not a former foe, but was once a captive nation whose people were ready to risk anything in order for their country to be free and to be full member of the transatlantic community of democracies.●

#### COMPREHENSIVE TEST BAN TREATY

● MR. FEINGOLD. Mr. President, I rise today to commend President Clinton for submitting the Comprehensive Test Ban Treaty to the Senate for its advice and consent.

This treaty represents decades of work by eight administrations.

Now it is time for the Senate to do its job and ratify the CTBT at the earliest possible date.

Just as the United States was a leader in the development of nuclear weapons, the U.S. has also led the drive to limit nuclear testing. On June 10, 1963, President John F. Kennedy made an historic address at American University during which he announced that the U.S. and the Soviet Union would begin negotiations on a comprehensive test ban treaty.

President Kennedy said, "The conclusion of such a treaty, so near and yet so far, would check the spiraling arms race in one of its most dangerous areas. It would place the nuclear powers in a position to deal more effectively with one of the greatest hazards which man faces in 1963, the further spread of nuclear arms."

In the years since President Kennedy made those remarks, the world has witnessed the end of the Cold War, and the spiraling arms race he spoke of has come to an end.

But the spread of nuclear weapons is still as great a hazard in 1997 as it was in 1963. President Kennedy saw then that banning nuclear testing was an important step in curbing the proliferation of nuclear weapons.

Now, 34 years after President Kennedy's speech and 52 years after the first nuclear test, we are finally on the verge of ending all nuclear explosions, including those underground.

I fully agree with President Clinton, who—in announcing the action on this

treaty in front of the United Nations General Assembly earlier this week—proclaimed the CTBT as the “longest-sought, hardest-fought prize in the history of arms control.”

I think President Bush and President Clinton deserve a great deal of credit for making the final push to achieve a total test ban.

In 1992, President Bush decided to place a unilateral moratorium on nuclear tests. President Clinton then extended the moratorium until a comprehensive test ban could be negotiated with the other nuclear powers.

The leadership shown by President Bush and President Clinton created the momentum that led to the passage of the CTBT in the United Nations last year. Had the United States not taken the initiative to halt its nuclear testing first, I doubt that the Senate would have a test ban treaty to consider.

It is critical that the United States not shirk its leadership role now that the CTBT is so close to going into effect. Already, eight states have ratified the CTBT including Japan, which ratified the treaty this past July, and, most recently, the Czech Republic on the 8th of this month.

But obviously the CTBT will be meaningless unless the five major nuclear powers ratify it. Here is where the United States can once again be at the front of the line. The United States has, after all, conducted the lion's share of nuclear tests in the last 50 years—1,030 in all, compared to 715 by the Soviet Union; 45 by the United Kingdom; 210 by France and 45 by China.

But perhaps the greatest challenge to this treaty will be getting the undeclared nuclear powers on board. India and Pakistan have not signed the CTBT and their absence endangers the entire treaty. As two countries who have been in conflict with each other since becoming independent nations, India and Pakistan may have the most to gain from a ban on nuclear tests.

The United States, along with each of the 145 other nations who have signed the treaty, need to work together to convince India of the wisdom of the comprehensive test ban. India should realize that the CTBT is just another step towards complete nuclear disarmament. Islamabad [iz-LAHM-ah-BAHD] indicates that once India agrees to the CTBT, Pakistan would also sign. This is an historic opportunity to help facilitate peace in Asia—one that the United States should not miss.

North Korea is another holdout.

But, unlike Pakistan and India, the North Koreans have yet to show a true commitment to greater integration in the international system. Many intelligence analysts from both the United States and South Korea believe that North Korea may already possess a crude nuclear device.

Hopefully, one day, even North Korea will bend to international pressure and accept a test ban.

Despite what critics of the CTBT might say, the treaty is enforceable.

Nuclear explosions of any substantial size are very difficult to hide. This treaty will establish an international monitoring system that incorporates seismological, infrasound, and other technologies. State-of-the-art seismological sensors can detect blasts as small as one kiloton anywhere in the world.

But the treaty also includes provisions for on-site monitoring so inspectors can visit test sights quickly if there is any suspicion that a nuclear blast has occurred.

Events of the last month have illustrated how important it is to have a well-monitored CTBT. On August 16, seismologists detected evidence that Russia may have exploded a nuclear device at its test site in the Arctic. However, there is evidence to back Moscow's claim that the seismic activity was the result of an underwater earthquake, rather than a nuclear test.

The monitoring regime that the CTBT will establish will make it much easier to investigate such incidents and will reduce mutual suspicion between the nuclear powers.

The Comprehensive Test Ban Treaty is indeed something that will enhance the security of the United States. In addition to making the nuclear programs of China and Russia more transparent, the test ban will make it significantly more difficult for rogue states like Iran or Iraq to complete development of their own nuclear weapons.

As a complement to the CTBT, the United States and the other nuclear powers should do all they can to ensure that threshold countries do not have access to advanced technology—such as high-speed computer modeling—that would help them to develop reliable weapons without actually conducting nuclear tests.

Mr. President, the Comprehensive Test Ban Treaty is now in our hands and it is up to the Senate to act.

I hope the Chairman of the Senate Foreign Relations Committee [Mr. HELMS] will hold hearings on this treaty before the end of the First Session of the 105th Congress so that the full Senate can ratify the CTBT by early next year.

This treaty has won near unanimous support in the United Nations. Countries—both Communist and capitalist, developing and developed—have signed this treaty. The CTBT has overwhelming multilateral support and it deserves full bipartisan support in the Senate.

I urge all my colleagues to support the Comprehensive Test Ban Treaty.

Let me close with another quote from President Kennedy's speech at American University. “Genuine peace must be the product of many nations, the sum of many acts. It must be dynamic, not static, changing to meet the challenge of each new generation. For peace is a process—a way of solving problems.”

Mr. President, the CTBT is an important tool in meeting one of today's big-

gest challenges: ending the threat of nuclear war.

We must meet this challenge.

#### TRIBUTE TO RAFAEL GARCIA AND OCTAVIO VIVEROS, JR.

• Mr. BOND. Mr. President, I rise today to pay tribute to the Hispanic American population during National Hispanic Heritage Month. Every year, from September 15 through October 15, Hispanic Americans celebrate their Heritage and are honored for their many civic contributions and achievements throughout the Nation. In the spirit of Hispanic Heritage Month, I recognize two individuals, Rafael Garcia and Octavio Viveros, Jr., whom I nominated to represent my home State of Missouri on the United States Senate Task Force on Hispanic Affairs.

Rafael Garcia is president and owner of Rafael Architects, Inc. (RAI). Honored with many architectural awards, Rafael has also received numerous Community Service awards. In 1997, Rafael earned “Entrepreneur of the Year Finalist” to add to his Hispanic Leadership award, and his “Top 25 Hispanic Leaders in Kansas City” honor given by Dos Mundos Newspaper. He is a member of several Charity and Community Boards of Directors including Heart of America United Way, Starlight Theater and the Kansas City Art Institute. Rafael volunteers for FOCUS/Odyssey 2000 West as a facilitator and for Project HOPE (Hope, Opportunity, Performance, Education through Entrepreneurship) and has been written up in several prominent magazines for his many accomplishments and contributions. He personifies everything positive in the Kansas City Metropolitan area and I am excited to have him working on this important cause for Hispanic communities across the United States.

Octavio Viveros, Jr. is a Founder and Partner of Viveros & Barrera L.C. Law Firm and is Founder and President of LatAm Trading, Inc. Octavio has been appointed to the Board of Indigent's Defense a Gubernatorial Appointment for the State of Kansas and the Key Commission a Mayoral Appointment for the City of Kansas City, MO. He is the founder of the Hispanic Economic Development Corporation of Kansas City, a former President of the Board of Directors for the Hispanic Chamber of Commerce of Greater Kansas City and a member of the Kansas City Centurious Leadership Program, to name a few of his civic accomplishments. Octavio has earned many awards including recognition as one of the “25 Most Influential Hispanics in Kansas City” in 1993 by Dos Mundos Newspaper. Most recently he attended United States Senate Republican Conference as a member of the Task Force on Hispanic Affairs here in Washington, DC. His continuing commitment to not only the Kansas City Community, but also the entire Hispanic



American Community is a positive example for all and I am extremely pleased to have him on my team.

I believe that Rafael and Octavio will be able to help the Hispanic community by encouraging growth and opportunity. Each year exemplary leadership in the Hispanic Community is evidenced by achievement in the work force and community involvement. It is impressive to watch this expansion and I congratulate all Hispanic Americans, especially Rafael and Octavio, during this important month of Heritage. I commend them on their present success and hope for even more in the years to come.●

#### LANDMINES

● Mr. LEAHY. Mr. President, many have asked whether the Department of Defense has so involved itself in the landmine debate that they have even changed definition to win in their opposition to joining the majority of nations seeking a ban.

An article from September 24, 1997, the Washington Post answers the question and I ask that it be printed in the RECORD.

The article follows:

CLINTON DIRECTIVE ON MINES: NEW FORM,  
OLD FUNCTION  
(By Dana Priest)

When is an antipersonnel land mine—a fist-sized object designed to blow up a human being—no longer an antipersonnel land mine?

When the president of the United States says so.

In announcing last week that the United States would not sign an international treaty to ban antipersonnel land mines, President Clinton also said he had ordered the Pentagon to find technological alternatives to these mines. "This program," he said, "will eliminate all antipersonnel land mines from America's arsenal."

Technically speaking, the president's statement was not quite accurate.

His directive left untouched the millions of little devices the Army and Defense Department for years have been calling antipersonnel land mines. These mines are used to protect antitank mines, which are much larger devices meant to disable enemy tanks and other heavy vehicles.

The smaller "protectors" are shot out of tanks or dropped from jets and helicopters. When they land, they shoot out threads that attach themselves to the ground with tiny hooks, creating cobweb-like tripwires. Should an enemy soldier try to get close to the antitank mine, chances are he would trip a wire, and either fragments would explode at ground level or a handball-sized grenade would pop up from the antipersonnel mine to about belly height. In less than a second, the grenade would explode, throwing its tiny metal balls into the soldier's flesh and bones.

In the trade, these "mixed" systems have names such as Gator, Volcano, MOPMS and Area Denial Artillery Munition, or ADAM.

These mines, Clinton's senior policy director for defense policy and arms control, Robert Bell, explained later, "are not being banned under the president's directive because they are not antipersonnel land mines." They are, he said, "antihandling devices," "little kinds of explosive devices" or, simply, "munitions."

Not according to the Defense Department, which has used them for years.

When the Pentagon listed the antipersonnel land mines it was no longer allowed to export under a 1992 congressionally imposed ban, these types were on the list.

And when Clinton announced in January that he would cap the U.S. stockpile of antipersonnel land mines in the inventory, they were on that list too.

At the time, there were a total of 1 million Gators, Volcanos and MOPMS, as well as 9 million ADAMs. (Only some ADAMs are used in conjunction with antitank mines, and those particular devices are no longer considered antipersonnel land mines.)

The unclassified Joint Chiefs of Staff briefing charts used to explain the impact of legislation to Congress this year explicitly state that Gators, Volcanos, MOPMS and ADAMs are antipersonnel land mines.

So does a June 19 Army information paper titled "US Self-Destructing Anti-Personnel Landmine Use." So does a fact sheet issued in 1985 by the Army Armament, Munition and Chemical Command.

As does a recent Army "Information Tab," which explains that the Gator is "packed with a mix of 'smart' AP [antipersonnel] and 'smart' AT [antitank] mines."

And when Air Force Gen. Joseph W. Ralston, vice chairman of the Joint Chiefs of Staff, briefed reporters at the White House on May 16, 1996, he said: "Our analysis shows that the greatest benefit of antipersonnel land mines is when they are used in conjunction with antitank land mines. . . . If you don't cover the antitank mine field with antipersonnel mines, it's very easy for the enemy to go through the mine field."

A diplomatic dispute over the types of antipersonnel land mines Ralston was describing then and arms control adviser Bell sought to redefine last week was one of the main reasons the United States decided last week not to sign the international treaty being crafted in Oslo, Norway.

U.S. negotiators argued that because these mines are programmed to eventually self-destruct, they are not responsible for the humanitarian crisis—long-forgotten mines injuring and killing civilians—that treaty supporters hoped to cure with a ban, and therefore should be exempt from the ban.

Also, because other countries had gotten an exemption for the type of antihandling devices they use to prevent soldiers from picking up antitank mines—which are actually attached to the antitank mines—U.S. negotiators contended that the United States should get an exemption for the small mines it uses for the same purpose.

Negotiators in Oslo did not accept Washington's stance. They worried that other countries might seek to exempt the types of antipersonnel mines they wanted to use, too, and the whole treaty would soon become meaningless.

The administration was not trying to deceive the public, Bell said in an interview yesterday, bristling at the suggestion. Given the fact that the U.S. devices are used to protect antitank mines, "it seems entirely common-sensical to us" to call them antihandling devices.

Said Bell: "this was not a case of us trying to take mines and then define the problem away."●

#### HOW ONE 'ANTIHANDLING DEVICE' WORKS

When President Clinton spoke of eliminating antipersonnel land mines, he left out of his directive devices such as the Gator antipersonnel mine. The Gator mine prevents soldiers from disarming antitank mines. It works like this:

1. Gator mines grouped in a cluster bomb are dumped from planes onto the ground surrounding antitank mines.

2. When the mine lands, gas from a small squib forces spring-loaded tripwires to be released.

3. Tension on the tripwire sets off the fuse, sending low-flying fragments in all directions.

#### TRIBUTE TO ANGENETTE "ANGIE" MARTIN

● Mrs. FEINSTEIN. Mr. President, a woman who devoted most of her life to improving the lives of others lost her battle with cancer recently, and I would like to take a moment to acknowledge the accomplishments and the contributions of this extraordinary woman.

Angie Martin struggled with the dreaded disease of breast cancer for the past 5 years. She died on August 31 at her home in Sausalito, CA, and a memorial service will be held here in Washington, DC on Monday, September 29. The many people who knew Angie know that this memorial will not be in mourning for her death, but in celebration of a life of service to others.

The world is filled with passionate idealists. Angie was of the rarer breed of people who also had the ability to inspire passion in others. Rarer still was her talent for turning those passionate ideas into action. Her efforts were always aimed at improving the lives of others, the most rare gift of all.

Angie Martin pioneered grassroots organizing techniques, establishing a vital link between citizen action and social change, and created a model for grassroots and political campaigns nationwide. Working with consumer advocate Ralph Nader in Connecticut in the early 1970's, Angie helped to create the first ever citizens lobby devoted to environmental and consumer issues. She worked to improve conditions for migrant workers in New York state, and organized the highly acclaimed 1986 Hands Across America event to build awareness for the cause of hunger and homelessness in the United States.

Together with her friend and partner, Gina Glantz, Angie took on some of our Nation's toughest issues: homelessness, hunger, migrant workers, gun violence, teen pregnancy. Her counsel was valued by many of our Nation's most prominent leaders, including Senator TED KENNEDY and Vice President Walter Mondale.

Angie battled her disease with the same conviction and courage she brought to fighting for causes she believed in. Her legacy will live on in the lives of those she worked with, and in the lives of those she helped through her passionate efforts over the last three decades.

My thoughts and prayers are with her husband, Gene Eidenberg, and daughters, Danielle and Elizabeth. I know many of my colleagues will join me in paying tribute to this remarkable woman, by continuing the fight to find a cure for breast cancer and for all cancers, and by continuing to address the important issues for which she dedicated her life's work.●



# INTERMODAL TRANSPORTATION ACT OF 1997

• Mr. ABRAHAM. Mr. President, I rise to comment on the Senate Environment and Public Works Committee's report on S. 1173, the Intermodal Transportation Act of 1997. The sponsors of this legislation argue that it will provide an adequate level of federal highway funds, distributed equitably among the states, so as to meet our surface transportation needs over the next six years. I wish I could be as optimistic, but I have concerns that this bill will simply perpetuate the intolerable situation under which donor states, like Michigan, have been forced to suffer.

There are two basic fundamental flaws with our current surface transportation funding process that must be addressed in order to provide every state the ability to meet its highway needs. First, the vast disconnect between how much an individual state contributes to the Highway Trust Fund and how much it receives in Federal highway aid must be bridged. Second, the vast disconnect between how much the Federal government takes into the Highway Trust Fund from gas taxes, and the total amount it distributes to the states in Federal highway aid must also be bridged. Until these two problems are properly addressed, donor states such as Michigan shall be forced to suffer under a inequitable system that is neither justified nor effective.

The bill to be reported out of the Environment and Public Works Committee, S. 1173, the Intermodal Transportation Act attempts to rectify the problem of this unequal distribution among the states by allegedly guaranteeing each state a 90-percent return on the gas taxes it contributes to the Highway Trust Fund. Unfortunately, this will not be the case. In FY 98, Michigan is expected to contribute over \$795 million in gas taxes to the Highway Account of the Highway Trust Fund. Nonetheless, according to data provided by the sponsors of S. 1173, this new distribution formula will provide only \$686 million in federal highway aid to Michigan, an 86-percent rate of return. And it only gets worse, for by FY 2003, when Michigan is projected to contribute \$1.07 billion in gas taxes, it will receive only \$726 million in federal highway aid, down to a 68-percent rate of return. Even these funding levels are just \$5.7 billion per year more than the average ISTEA levels for Michigan. This formula, Mr. President, is far away from what I would call a fair means of distributing this country's limited highway dollars. I will stand firmly against any measure that perpetuates this inequality.

As for the issue of overall funding levels, S. 1173 does not address the Federal government's unfair practice of collecting gas taxes from American motorists, while refusing to expend them. We know this process to be a sleight of hand scheme by which the Federal government shirks the full

burden of responsibility for the true size of the budget deficit. Years ago, American motorists were told that a gas tax would be collected as a "user fee" to provide a "pay-as-you-go" funding source for the Interstate Freeway System. They should expect the taxes they pay at the pump to be necessary to maintain the roads upon which they drive, and to be spent on those roads. In my opinion, when those taxes are not used for transportation purposes, the American motorist can rightfully conclude either those taxes are not necessary, or more likely, are being unjustly withheld from their proper use.

The Taxpayer Relief Act of 1997 took an important step towards correcting this unjustified withholding by transferring gas tax revenues which previously were being directed to the general revenue back to the Highway Trust Fund. These 4.3 cents of gas tax represent almost \$5 billion in additional revenue for the Trust Fund, an account that will grow to over \$30 billion in annual revenue by 2003. Yet the Intermodal Transportation Act only authorizes funding levels of approximately \$24 billion per year, continuing to withhold nearly \$6 billion per year in highway gas taxes to mask the deficit's true size, while allowing the continuation of wasteful government programs. Even under the unfair distribution formulas found in ISTEA, these \$6 billion additional dollars would represent over \$150 million in extra federal aid per year for Michigan, an increase of about 25 percent.

Mr. President, it is clear what we must now do. Any successor legislation to ISTEA must guarantee each and every state at least 95 cents in federal highway aid for every dollar it sends to Washington in gas taxes. The entire justification for this historically unfair distribution, a distribution scheme that forces states like Michigan to suffer as donor states, is rendered moot with the completion of the Interstate System, a declaration made six years ago in the very opening paragraph of ISTEA, to recognize America entering an era in which new construction transportation projects are started to fulfill regional, not national, demands.

Furthermore, Mr. President, we must stop withholding highway funds from the states. The successor legislation to ISTEA must guarantee that all the states are provided the opportunity to use all the revenues raised by gas taxes. Therefore, we must ensure that legislation is in place that will force the Federal government to spend on our highways an amount at least equal to that amount raised in gas taxes. Absent that, we must provide an opportunity for the States to raise their own gas tax revenues by repealing that portion of the gas tax not needed to fund the federal aid highway program, thereby allowing the states to raise, and keep for their roads, the gas tax revenues that would otherwise be siphoned off to unscrupulously mask the true size of the federal deficit and

unjustifiably continue unnecessary federal spending.

Many of my colleagues are raising very similar concerns, Mr. President, and the next few weeks will likely see an intense debate on this issue. For my constituents in Michigan, no issue is more important than the federal road funding process, and I commit to them all my resources and efforts to rectify this inequitable situation. I will be joining many of my colleagues in proposing alternative methods of distributing our federal road funds so as to not only make it fairer for individual states, but also to ensure that the entire National Highway System, and our States' road system, are adequately maintained. And when Members of this Senate are able to score quick increases in their State's share of the federal dollar by threatening a filibuster, it makes the rest of us wonder what might be the most effective way for us to improve our States' situation. I plan to offer a series of amendments to address the fundamental issues I have discussed today, as well as proposals that will streamline. Only time will tell, Mr. President, but I trust we will be able to work together and derive an equitable and mutually beneficial funding solution. •

## THE NOMINATION OF PETER SCHER TO BE SPECIAL TRADE AMBASSADOR FOR AGRICULTURE

• Mr. FEINGOLD. Mr. President, I want to make a few brief comments regarding the nomination of Mr. Peter Scher to be the Special Trade Ambassador for Agriculture which this Senate is considering today. I am pleased to report that the Senate Foreign Relations Committee, on which I serve, considered the nomination of Mr. Scher and favorably reported his nomination yesterday.

I met with Mr. Scher following his confirmation hearing before the Senate Foreign Relations Committee to discuss with him the problems Wisconsin's agricultural sector has had with our existing trade agreements such as the Uruguay Round of GATT and the North American Free Trade Agreement. I urged Mr. Scher, in his new position, to work diligently to ensure that our trading partners are complying with their agricultural trade obligations established by these agreements.

Specifically, I asked Mr. Scher and the USTR to accept a section 301 petition filed by the dairy industry asking USTR to challenge the Canadian export pricing scheme before the World Trade Organization. Canada's dairy export subsidies violate the export subsidy reduction commitments under the Uruguay Round. These subsidies disadvantage the United States dairy industry in its efforts to compete in world markets. I also pointed out that Canada also has effectively prohibited our dairy industry from exporting

products to lucrative Canadian markets. Not only must USTR aggressively pursue WTO dispute settlement proceedings against Canadian export subsidies, but it must also seek greater access for United States dairy products to Canadian markets, among others, in any upcoming trade negotiations.

I also raised with Mr. Scher the problems the United States potato industry has had with respect to access to both Canadian and Mexican markets. I urged him to pursue negotiations with the Canadians to allow greater access of United States potatoes to their domestic markets and to aggressively seek accelerated reduction in Mexican tariffs for United States potatoes, a commitment made to potato growers when NAFTA was approved. Mr. Scher assured me that potatoes would be among the commodities to be considered in upcoming negotiations with Mexico.

I believe Mr. Scher has a fundamental understanding of both the importance of trade to agriculture generally and of the complex trade problems the U.S. dairy industry faces regarding compliance with existing trade agreements. For that reason, I support the approval of his nomination. But I expect USTR, with Mr. Scher acting as Ambassador, to aggressively pursue the resolution of the critical issues facing our domestic dairy and potato sectors. I will continue to work with USTR to resolve these issues and will hold Mr. Scher to his commitment that USTR will use all existing tools to ensure compliance with existing trade agreements and to pursue greater access for agriculture to international markets.

I continue to have serious reservations about United States efforts to begin new trade negotiations until the problems with our current bilateral and multilateral agreements are successfully resolved. Wisconsin is home to 24,000 dairy farmers, 140 cheese processing plants and many other businesses associated with milk production and processing. Dairy contributes some \$4 billion in income to Wisconsin's economy and provides 130,000 jobs. Wisconsin is also the fifth largest potato producing State with a large chip and french fry processing sector. Overall, Wisconsin ranks 10th in the Nation in farm numbers and 9th nationally with respect to market value of agricultural products sold.

Wisconsin's farmers and food processing industry could greatly benefit by gaining a greater share of international markets. However, for that to happen, our trade agreements must not only be fair, they must be enforceable. To date, our trade agreements have not only failed to provide significant benefits for many agricultural sectors, including dairy, they have placed some sectors at a distinct disadvantage. I will look at all future trade agreement proposals with an eye to these issues and make decisions on those proposals based, in part, on how they treat Wisconsin farmers.●

#### MEASURE PLACED ON CALENDAR—S. 25

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that the Rules Committee be discharged from further consideration of S. 25, and the bill be placed on the calendar.

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

#### EXPRESSING THE SENSE OF THE SENATE THAT INDIVIDUALS AF- FECTED BY BREAST CANCER SHOULD NOT BE ALONE IN THEIR FIGHT AGAINST THE DIS- EASE

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that the Labor Committee be discharged from further consideration of Senate resolution 85 and the Senate proceed to its consideration.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 85) expressing the sense of the Senate that individuals affected by breast cancer should not be alone in their fight against the disease.

The Senate proceeded to consider the resolution.

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

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

The resolution (S. Res. 85) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

#### S. RES. 85

Whereas individuals with breast cancer need a support system in their time of need;

Whereas breast cancer is a disease of epidemic proportions, with 43,900 individuals in the United States expected to die from breast cancer in 1997, and 1 out of every 8 women in the United States expected to develop breast cancer in her lifetime;

Whereas the millions of family members, including spouses, children, parents, siblings, and other loved ones of persons with breast cancer can offer strong emotional support to each other in addition to the support they offer to patients and survivors dealing with their challenges;

Whereas it is important that the United States as a whole support the family members and other loved ones of individuals with breast cancer in addition to supporting the individual with breast cancer; and

Whereas 1997 brings the 25th anniversary of the National Cancer Program providing research, training, health information dissemination, and other programs with respect to the cause, diagnosis, prevention and treatment of cancer, rehabilitation from cancer, and the continuing care of cancer patients and their families: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that an environment be encouraged where—

(1) the family members and loved ones of individuals with breast cancer can support each other in addition to the individual with breast cancer; and

(2) everything possible should be done to support both the individuals with breast cancer as well as the family and loved ones of individuals with breast cancer through public awareness and education.

#### THE 25TH ANNIVERSARY OF THE ESTABLISHMENT OF THE FIRST NUTRITION PROGRAM FOR THE ELDERLY UNDER THE OLDER AMERICANS ACT OF 1965

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that the Labor Committee be discharged from further consideration of Senate Concurrent Resolution 11, and that the Senate proceed to its immediate consideration.

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

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 11) recognizing the 25th anniversary of the establishment of the first nutrition program for the elderly under the Older Americans Act of 1965.

The Senate proceeded to consider the concurrent resolution.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and further ask unanimous consent that the motion to reconsider be laid upon the table, and any statements relating to this resolution be printed at the appropriate place in the RECORD.

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

The concurrent resolution (S. Con. Res. 11) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

#### S. CON. RES. 11

Whereas older individuals who receive proper nutrition tend to live longer, healthier lives;

Whereas older individuals who receive meals through the nutrition programs carried out under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) have better nutrition than older individuals who do not participate in the programs;

Whereas through the programs 123,000,000 meals were served to approximately 2,500,000 older individuals in congregate settings, and 119,000,000 meals were served to approximately 989,000 homebound older individuals, in 1995;

Whereas older individuals who participate in congregate nutrition programs carried out under the Act benefit not only from meals, but also from social interaction with their peers, which has a positive influence on their mental health;

Whereas every dollar provided for nutrition services under the Older Americans Act of 1965 is supplemented by \$1.70 from State, local, tribal, and other Federal funds;

Whereas home-delivered meals provided under the Act are an important part of every community's home and community based long-term care program to assist older individuals to remain independent in their homes;

Whereas the home-delivered meals represent a lifeline to many vulnerable older individuals who are not able to shop and prepare meals for themselves;

Whereas the nutrition programs carried out under the Act successfully target the older individuals who are in greatest need and most vulnerable in the community; and

Whereas the nutrition programs have assisted millions of older individuals beginning with the enactment of Public Law 92-258, which established the first Federal nutrition program for older individuals, and continuing throughout the 25-year history of the programs: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That the Senate—*

(1) celebrates the 25th anniversary of the first amendment to the Older Americans Act of 1965 to establish a nutrition program for older individuals, and

(2) recognizes that nutrition programs carried out under the Older Americans Act of 1965 continuously have made an invaluable contribution to the well-being of older individuals.

#### PROVIDING PERMANENT AUTHORITY FOR THE ADMINISTRATION OF AU PAIR PROGRAMS

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar number 171, S. 1211.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1211) to provide permanent authority for the administration of au pair programs.

Is there objection to the immediate consideration of the bill?

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

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

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

The bill (S. 1211), was read the third time and passed, as follows:

S. 1211

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

#### SECTION 1. PERMANENT AUTHORITY FOR AU PAIR PROGRAMS.

Section 1(b) of the Act entitled "An Act to extend au pair programs", approved Decem-

ber 23, 1995 (Public Law 104-72; 109 Stat. 776) is amended by striking "through fiscal year 1997".

#### ORDERS FOR FRIDAY, SEPTEMBER 26, 1997

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9 a.m., on Friday, September 26. I further ask unanimous consent that on Friday, immediately following the prayer, the routine requests through the morning hour be granted, and that the Senate immediately begin a period of morning business until 10 a.m., with Senators permitted to speak for up to 5 minutes, with the following exceptions: Senator DASCHLE or his designee, 30 minutes, from 9 until 9:30; Senator COVERDELL or his designee, 30 minutes, from 9:30 until 10. I further ask unanimous consent that at the hour of 10 o'clock the Senate proceed to the consideration of S. 25, the campaign finance reform bill for debate only.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, reserving the right to object, and I will not object, I just inquire of the Chair if the previous agreement regarding the bill's immediate modification and the majority leader's immediate offering of his amendment will be executed when the Senate resumes consideration of S. 25 on Monday.

The PRESIDING OFFICER. The Senator is correct.

Mr. FORD. All right. I will accept then the unanimous-consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from North Carolina's request is agreed to.

#### PROGRAM

Mr. FAIRCLOTH. Mr. President, tomorrow, the Senate will be in a period for morning business from 9 a.m. to 10 a.m., as earlier ordered. Following morning business, at 10 a.m. the Senate will begin consideration of S. 25 regarding campaign finance reform for debate only.

Also, as announced, there will be no votes during Friday's or Monday's ses-

sion of the Senate. Therefore, the next rollcall vote will be the cloture vote on the Coats amendment No. 1249 to the District of Columbia appropriations bill occurring Tuesday, September 30, at 11 a.m.

#### ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. FAIRCLOTH. Mr. President, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:24 p.m., adjourned until Friday, September 26, 1997, at 9 a.m.

#### NOMINATIONS

Executive nominations received by the Senate September 25, 1997:

##### DEPARTMENT OF THE TREASURY

DAVID W. WILCOX, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

##### THE JUDICIARY

STANLEY MARCUS, OF FLORIDA, TO BE U.S. CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT, VICE PETER T. FAY, RETIRED.

##### DEPARTMENT OF STATE

STANLEY TUEMLER ESCUDERO, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF AZERBAIJAN.

DANIEL FRIED, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF POLAND.

JAMES CAREW ROSAPEPE, OF MARYLAND, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ROMANIA.

PETER FRANCIS TUFO, OF NEW YORK, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF HUNGARY.

B. LYNN PASCOE, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS SPECIAL NEGOTIATOR FOR NAGORNO-KARABAKH.

DAVID TIMOTHY JOHNSON, OF GEORGIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS HEAD OF THE UNITED STATES DELEGATION TO THE ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE [OSCE].

#### CONFIRMATION

Executive nomination confirmed by the Senate September 25, 1997:

##### THE JUDICIARY

KATHARINE SWEENEY HAYDEN, OF NEW JERSEY, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY.