# SENATE—*Thursday, March 20, 1997*

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

The PRESIDENT pro tempore. Our prayer this morning will be led by Commissioner Robert A. Watson, of the Salvation Army.

## PRAYER

The guest Chaplain, Commissioner Robert A. Watson, the Salvation Army, Alexandria, VA, offered the following prayer:

Sovereign Lord, we thank You for this day, the day You have made. We will be glad and rejoice in it. We acknowledge You as omnipotent, omniscient, and omnipresent God, the Creator, Preserver, and Governor of all things, and the only proper object of religious worship. How privileged we are, Father, to live in America. We thank You for those of earlier generations who sacrificed so much, making possible the freedoms we enjoy. Help us not to take for granted the benefits of our society, and to happily share our blessings with those around us. We thank You for the gifts of experience, intellect, and talent with which the Members of this legislative body are endowed. As they deal with the complex issues which are so important to the people of our Nation, please grant them wisdom, compassion, sound judgment, and the satisfaction of having served well. And now, as we enjoy again the beauty of a Washington springtime, help us to allow each sign of new life to remind us that You are the giver and sustainer of life, and to use Your gift wisely and well. In Your majestic name we pray. Amen.

## RECOGNITION OF THE ACTING MAJORITY LEADER

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

## SCHEDULE

Ms. COLLINS. Mr. President, on behalf of the majority leader, I announce that it is hoped that the Senate will shortly enter into a consent agreement, which would allow for consideration of the resolution relating to the decertification of Mexico. If that agreement is reached, the Senate would be expected to begin consideration of the resolution this morning, possibly as early as 10 o'clock. Rollcall votes are expected on the Mexico resolution, and all Members will be notified as to when those votes can be anticipated once we reach this agreement. It is also possible that the Senate will begin consideration of the nuclear waste legislation prior to the Easter adjournment. And, again, all Senators will be notified accordingly. I thank my colleagues for their attention.

(Mr. HAGEL assumed the chair.)

Ms. COLLINS. Mr. President, I yield myself the time allotted to the majority leader under the standing order.

The PRESIDING OFFICER. The Senator from Maine is recognized.

(The remarks of Ms. COLLINS pertaining to the introduction of S. 482 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Ms. COLLINS. Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GRAMS. Mr. President, I ask unanimous consent to be allowed to speak for up to 15 minutes as in morning business.

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

Mr. GRAMS. Thank you very much, Mr. President.

## WHATEVER BECAME OF THE TAXPAYERS' AGENDA?

Mr. GRAMS. Mr. President, in November 1994, the American voters sent a clear message to Washington that resulted in a watershed election and the first Republican Congress in 40 years. That message was to enact a taxpayers' agenda of balancing the budget, limiting the size and scope of Government, and returning tax dollars and power to the taxpayers.

Two years ago today, the House of Representatives was marking day 76 of its unprecedented 100-day effort to carry out the taxpayers' agenda reflected in the Contract With America. They kept their promise to the American people by bringing all 10 provisions of the contract up for a vote and passing almost all of them.

In 1996, despite an unprecedented assault by the media, hostile special interest groups, and the big tax and spenders in Washington, the Republican majorities in Congress were preserved, indeed, even increased here in the Senate. The voters once again sent the message that they wanted the taxpayers' agenda enacted, but they wanted Congress and the President to come together in completing the work started in the 104th Congress.

Yet somehow this message has been misinterpreted by a number of my Republican colleagues, who seem to have come away from the 1996 elections with the mistaken notion that the effort to pass the taxpayers' agenda should be stalled or delayed. What concerns me most is that some of the loudest calls for retreating from that agenda are coming from within our own party leadership. This is not the same Republican majority that arrived in Washington in January 1995, ready to create fundamental change in a government that had enslaved so many working families for so many years. It is like the ancient Vikings who sometimes burned their boats after arriving in a new land. We stepped onto the shore and claimed there was no turning back to the era of big Government and higher taxes. We were determined that Washington would never be the same once we passed the taxpayers' agenda into law.

Today, it appears some of my colleagues are wishing they had their boats back.

Mr. President, I have tremendous respect and admiration for my friend and colleague from Georgia, the Speaker of the House. As a freshman Member of the House in the 103d Congress, I worked with NEWT GINGRICH, TIM HUTCHINSON, and others in making the $500-per-child tax credit the centerpiece of the Republican budget alternative in 1994. I was honored that Mr. GINGRICH included our tax cut in the Contract With America, creating a platform on which I ran and won election to the Senate.

That said, you can imagine how disappointed, and even a little saddened, I was to read his comments in the newspapers this week, when he was quoted as endorsing the suggestion that plans for a major tax cut be temporarily shelved.

With all due respect to the Speaker, such a retreat would be a horrible mistake.

Mr. President, it was 2 years ago this week that the Speaker wrote a commentary for the Wall Street Journal he titled "The Contract's Crown Jewel." The crown jewel in this case was our package of tax cuts around which our balanced budget legislation was crafted, and the Speaker was its most vocal supporter.

"The bill proposes fundamental change in the relationship between the American government and the American citizenry," wrote the Speaker,

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

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"and is the plainest assertion we have yet made of the key principle underlying the Contract With America.

"Simply put," he went on to say, "the bill says this: 'The American government's money does not belong to the American government. That money belongs to Americans, and it's time to give Americans some of their own money back.'¿¿"

Mr. President, I realize those words were written before the Government shutdowns, before the thrashing the Republicans took in the press, before the special interests waged a guerilla war of lies and distortions against us. Even so, those words were true in March 1995 and are no less true in March 1997. The only thing that has changed during these past 2 years is that courage has been supplanted by timidity and lions have turned into lambs.

It was disheartening to read in the Washington Times on Tuesday that popular radio host Michael Reagan, son of the former President, was denouncing his ties to the Republican Party. The Times quoted him as saying:

> The Republican Party has forgotten grassroots America. they are not talking to grassroots America. not paying attention to grassroots America. Until the Republican Party remembers it won the election and acts like a winner and not a loser, I find myself as an independent.

I wonder how many other Americans are feeling equally abandoned?

The Washington Post this week carried the comments of a senior Republican aide in the House who suggested we were, quote, "¿¿'just drifting' on budget and tax issues because many Republican leaders were unwilling to stick their necks out." Well, that is how it feels here some days. Imagine how it must feel to the millions of American taxpayers who are outside the insulation of the Washington Beltway.

Two years ago, we promised them tax relief. Congress delivered, but our hard work fell victim to a Presidential veto. So the American people were denied the tax relief that we promised in 1995—enacted and passed in our legislation; vetoed by the President. They were again denied tax relief in 1996. And now, the leaders of our party—our majority party, the party of the taxpayers, of families, the working class—are suggesting that the American people will not get tax cuts this year, either. And I say to them, you ought to be ashamed.

Believe it or not, Mr. President, when I am back home in Minnesota, people do not stop me on the street to tell me how grateful they are we failed to enact the $500-per-child tax credit, or how grateful they are we cut the capital gains tax, or that we were unable to enact estate tax relief. No, the Minnesotans who stop me are angry and they are disappointed, because when they ask, "Where are the tax cuts you promised?" They are really asking "when are you going to do what you were elected to do?"

The folks here in Washington seem to have forgotten there are two parts to every promise: the making, and the keeping. The politicians have never had a problem with the making, but they have a great deal to learn about the keeping. And Mr. President, this is one issue that all comes down to keeping promises.

To go back on our promises now would deprive average American taxpayers of the leadership they voted for in 1994 and 1996, and say we were wrong in staking our claim on the side of the taxpayers and against big government. More importantly, it will deprive us of our biggest and most important constituency—and that is the hard-working, middle-class voters who cannot pay for the high-priced lobbyists, who cannot afford to take time off from work or take a break from caring for their kids to fly out to Washington to lobby us on a moment's notice for more money from taxpayers.

Let us not forget the people we represent. Our constituents are not the Washington talking heads who chant and babble as if they can read the minds of the family farmers in Winona, MN, or the senior citizen working the counter at the Brainerd hardware store. And our constituents are certainly not the big spenders who have used and abused the people's tax dollars for decades.

No, our constituents are the American taxpayers who sent us here to Washington to fight for them, because if we do not, who else will? If we do not stand beside them today, what reason do the taxpayers have to stand beside us, if all they will get in return are empty promises without any action or leadership to back them up?

If we retreat from the taxpayers' agenda now, then who really won the 1996 elections, despite our majority in Congress? If we do not carry out the taxpayers' agenda, we may as well pack up our bags and go home, because we will have failed. And the price of that failure will fall on the backs of those we were elected to represent.

We should make a good-faith effort to work with the President, present him with our plan to balance the budget and cut taxes this year, and if he cannot accept it, let the voters decide who is right and who is wrong. Bipartisan action should not translate into inaction, and trying to cooperate should not involve being coopted.

If Congress and the President find the courage to move forward, the rewards can be immense. Let me tell you what has happened in my home State of Minnesota, where the headlines focus on a budget surplus, not a deficit, and our taxpayers finally have something to smile about on the State level in Minnesota. It is an example of what can be achieved when leaders make a promise and stick to it, even when it is not the politically easy thing to do.

When Minnesota Gov. Arne Carlson was elected to office in 1990, he inherited a deficit greater than $1.8 billion and a government that was spending 15 percent faster than the rate of inflation. The Governor and the State legislature cut spending by making the tough choices elected officials are supposed to make, decisions that met the needs of our residents and left no one behind. Thanks to that dedication, Minnesota today finds itself with a stronger economy, more jobs, an unemployment rate of just 3.5 percent, well below the national average, and a $2.3 billion budget surplus.

So now the Governor has now presented a plan of tax relief that will cut income taxes in the State by an amazing 22 percent, offer $900 million in property tax relief, $150 million in education tax credits, and eliminate the sales tax on all capital equipment replacement. It has been an amazing turnaround for Minnesotans.

Tax relief and fiscal discipline have worked in Minnesota. It is a combination that can work for the rest of the country as well. We need to remember, however, that Rome was not built in 1 day and neither was big government. The problem will not be fixed in 1 day, one year, or even 2 years. But every journey begins with one step—it is our job to ensure it is one step forward, not backward.

In less than a month, Tax Day will arrive, and in preparation, the American taxpayers will once again gather around their kitchen tables to take stock of their finances. One can almost hear the collective groan. Unfortunately, it is too late for Congress to make any changes to lighten the tax load this year. It is not too late to enact the tax relief that will fundamentally transform the next.

Mr. President, I did not come to the floor today to draw a line in the sand—at least not at this time. I must admit that I will be hard pressed to support any budget, any budget, that does not call for significant tax relief for the working families of Minnesota and each of the other 50 States. If we, as the majority, cannot deliver on this one, fundamental promise we made to the voters, we will have abandoned the taxpayers. And in doing so, we, the Republican majority, and this Congress as a whole, will have raised significant questions about our desire, and ability, to lead this Nation. It will be hard for us or this generation to explain to our children and to our grandchildren how we failed to provide them with a future as bright as the future that our parents and 200 years of generations left to us.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. 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.

## MEXICO CERTIFICATION ISSUE

Mr. LOTT. Mr. President, I have a series of unanimous consent requests that may be necessary unless we get some agreement very quickly now from the minority leader.

I just came from a committee hearing, where I just finished testifying so I could come to the floor at 10:30 and call up the agreement entered into last night after monumental efforts by Senators on both sides of the aisle, working with the administration, with regard to the Mexico certification issue regarding drugs and how the drug war is being fought with the United States Government being involved and, of course, with the Mexican Government being involved, but in ways that are very troublesome.

I had hoped we could get started at 10:30, get a time agreement that was reasonable, maybe 4 hours equally divided, so we could have a full discussion about what is happening with regard to law enforcement efforts and dealing with drugs coming from Mexico into the United States, so we could talk about the President's difficult decision to go forward with certification, but also to make sure that the American people understand that the Congress is not satisfied with the status quo. More must be done.

We have a right—in fact, we have an obligation—to get more from our Government's efforts in fighting the drug war and dealing with the flood of drugs that are killing America's children. They are flooding into this country from Mexico. We have a right to expect hardened drug criminals to be extradited into this country. Some of them have, some of them have not. We have a right to expect that our law enforcement people dealing with the drug barons, the drug lords, are able to defend themselves. We have a right to expect some thresholds to be met with regard to what Mexico must do and, frankly, what we must do in our Government. This is a very important issue, one that we cannot leave today or tomorrow without taking action on.

I want to say how much I appreciate the great effort by the Senators here on the floor now—Senator HUTCHISON from Texas, Senator COVERDELL from Georgia, Senator FEINSTEIN from California, and other Senators that have worked to try to do the responsible thing. I want to point out that these Senators, along with others, for a total of 40, wrote a letter to the President of the United States saying, "Mr. President, don't certify Mexico as doing what needs to be done in this drug battle that we are engaged in." The President did that.

Now, the House took an action that will allow them to put down some markers and, after 90 days, look and see if progress is being made and then, perhaps, act further. I believe that is the gist of their action. That resolution is pending here at the desk.

But, again, in a full, good-faith effort, the Senators have worked with the administration, which included a whole variety of people. I was stunned by all the people that got involved. The Secretary of State was involved; the head of our drug effort, General McCaffrey; the head of NSC, Sandy Berger; the Secretary of Treasury was there. It was a long list of people, and a lot of work was done. I think these Senators here gave a great deal. They wanted to say that these are some things that must be done and be certified by the President; when they are, we should have the right to have another vote on whether or not there should be decertification with waivers, or certification, or whatever. They agreed to not insist on that. But what they did do was reach an agreement that requires a report from the President, by September 1, on what is being done by our Government and by Mexico to do a better job.

Now, I finally decided last night that the administration really didn't want any action by the Senate. They want us to just leave and not do anything. We can't do that. The Senate should take action on something this important. So we will act on this. We will vote. We will do it today, or we will do it tonight or tomorrow; it's OK with me. We are going to vote on this issue before we leave here.

There is a process where the Democratic leader cannot stop that—it is a privileged resolution, with 10 hours of debate and then a vote. I don't want to do it that way. I want us to come to an agreement. The resolution that I thought we were going to call up at 10:30 requires specific reporting on steps taken by Mexico and the United States to combat illegal narcotics trafficking. It makes clear the Senate view that Mexico has not done enough—and they have not. We have seen that many times. We have seen it with the devastating story recently about the top drug enforcer in Mexico who, as a matter of fact, had to be removed from office because he was, in fact, being involved in what he is supposed to be trying to control. That is as gently as I can possibly put it. I fear there are going to be more devastating reports like that.

The revision allowing for a vote, as I indicated, was dropped last night, after direct involvement by the Secretary of State, head of the NSC, as well as Senators here, and Senator MCCAIN was involved in that. But it makes clear that the administration and the Government of Mexico should provide real demonstrable progress by September. If they don't, under this procedure, we would not have another vote, but we can have more votes. There will be authorization bills, and there will be appropriations bills, like the State, Justice, Commerce bill. If we don't get a response or action here, the Senate has a powerful weapon called the power of the purse. We can withhold funds. We can make our views known.

Based on that, the fact that we can act in other ways with other vehicles, I thought this was a good agreement. I thought that the Senators here on the floor bent over backward to reach an agreement. Now, we have—get this picture—the Secretary of State, who is now in Helsinki, and the head of NSC, now in Helsinki, both directly involved, saying, yes, we can go with this. General McCaffrey, head of the drug administration, who was there and said, yes, we can go with this. Democrat and Republican Senators said yes. The majority leader says this is not perfect, but this is a responsible thing to do. And then what happens? There is a Democratic Caucus this morning. They meet and decide that because they can't dictate the schedule on another issue, because they can't make the majority leader give them a date certain on another unrelated issue, they want the United States Senate not to act on the drug problem in Mexico.

Now, my friends, this is a big-time loser for those that are objecting to this procedure. It cannot stand. We have to find a way to move this forward.

So all these administration officials are for it, Senate Republicans and Democrats are for it, and now they are saying, "If you don't give us a guarantee on another issue, that we will do it by a date certain, we are not going to let you bring this up." Look, I know we like to play games just before we get to go home. But this is not the way to do serious business. We are not dealing with partisanship here. We are not dealing with some traditional authorization. We are dealing with drugs. How can we not express ourselves on this? We must, and we will.

I am going to ask unanimous consent, when the minority leader arrives, to bring up Calendar No. 29, House Joint Resolution 58, regarding the certification of the President with respect to Mexico, that there be 4 hours total for debate on that resolution, to be equally divided in the usual form, and that one amendment—and only one amendment—be in order to be offered by Senators COVERDELL, FEINSTEIN, HUTCHISON, and others.

I will ask that no other amendments or motions be in order, and following the conclusion or yielding back of the time, the Senate proceed to a vote.

We can take it up, and we can have a calm, cool, nonpartisan debate on a very, very important issue.

I have here the resolution that was the subject of the negotiations and the one that was agreed to last night at about 7:30 or 8 o'clock. I was around and in and out of those meetings. This was interesting, I thought, because I actually have the copy here, or a copy of what was agreed to. See that. These are circled paragraphs the administration had problems with, and the compromise language that was worked out. I don't like this compromise. But it was a responsible thing to do. The same thing on the next page. The work was so intense and so committed right up to the last minute. Here is a paragraph. It circles this, and it is out.

I am going to ask for that. I hope that Senators on both sides of the aisle will agree to that. If that effort fails—and I am going to make this request not later than 11 o'clock—I hope to hear from the minority leader quickly so we can get started.

If I don't get that consent, then I am going to ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of Senate Joint Resolution 21 regarding the decertification—this is the decertification process, not certification; this is decertification—with additional waiver language, that the Senate proceed to its immediate consideration, and that there be a limited period of time—presumably maybe 4 hours—for debate. After that, of course, we go to a vote.

If that is objected to, then I am going to go to the privileged resolution, which is not amendable, provides for 10 hours of debate, and a vote. I do not want to do this. It provides for 10 hours of debate in the law. This is a privileged resolution that sets out very tightly how we would vote on this privileged resolution issue. This is dangerous. It is not good for the administration. I don't think it is good for the country because the vote that is taken would be on decertifying Mexico as being seriously involved in this drug-fighting effort with us.

It might pass. And if we are going to have games played here on other unrelated issues, it puts me under extraordinary pressure.

I have indicated that I do not want to vote for decertification. But I might.

Also, even if it does not pass, what if the vote is 60 to 40? What does it say about the administration's effort? What does it say about the President's effort? What does it say to Mexico that 40 United States Senators voted to decertify Mexico? Then that would have to go—unless the House just accepts that—to conference. And then here is what will be pending in conference: decertification, or 90 days of delay and a vote. Neither one of those should look very tempting to those that want to do the right thing.

So I do not want to go on at length. I want us to get started. We need to get started. But I hope we can get an agreement to move forward on the agreement that was entered into last night. It is the right thing to do. It is the right thing for the Senate. It is the right thing for the administration. And, on a close call, I guess it is the right thing in our efforts to control drugs coming out of Mexico.

But, Mr. President, I am in good spirits today. I understand we have to do this positioning around here. I understand you have to try to drag the majority leader into doing something he might not want to do, or cannot do. But I think this is the wrong place and the wrong time to be playing this game.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I want to, first of all, thank the distinguished majority leader because last night he played a very key role in assisting us in making what I thought was an extremely difficult agreement.

I also want to thank the Democrat leader, Senator DASCHLE, who also was in agreement that he would move forward on this issue, get it resolved, and have it done. I was prepared to come over here shortly before the vote in praise of really what was an outstanding bipartisan effort. The administration, the Democrats, and the Republicans worked together to come up with something which required significant compromise on the part of all sides in order to come up with an agreement that we could move forward and get this issue behind us, which we know has extraordinary dimensions associated with it, given the emotion associated with the issue of drugs and the explosiveness of our relations with Mexico.

Now, I understand that one of the Members of this body wants to tie this hard-fought agreement, of which he was not a party, to the Chemical Weapons Convention. I hope that the individual who wants to block moving forward with this resolution understands that we are working on a Chemical Weapons Convention and an agreement to move forward on it. There are active discussions and negotiations that are going on. But to tie that to this, in my view—and I say this with careful consideration—is totally irresponsible.

The Senator from California, the Senator from Georgia, the Senator from Texas, the Senator from Connecticut, Senator DODD, and the Senator from Massachusetts, Senator KERRY, the President's National Security Adviser, the Secretary of State all joined together. I again applaud the Senator from California who had a very tough position on this, and a very principled one, I might say. And now we are being hung up on a Thursday before going into a recess, which a lot of us would like to go on, because one Member of this body who was not a part of the negotiations, nor, by the way, is a part of the Chemical Weapons Convention negotiations, of which I am a part, is going against the direct agreement of the majority leader, the Democratic leader, and all of us.

Mr. President, I urge my colleagues to get this thing done. And I hope that the majority leader will move this unanimous-consent agreement, and let whoever objects come to the floor and move forward in a parliamentary fashion with a live quorum call.

This is an important issue that we have to get done with today. The majority leader has described this scenario of what happens if we went to conference, and what happens if we go ahead on a direct vote for decertification. This flies directly in the face of a completely bipartisan agreement.

Mr. President, there is a lot of conversation about the rancor and partisanship. We just went through a very bitter situation on the point of the CIA Director. We proved that we can work together for the good of the country, and now it is about to be derailed. I strongly object to it.

I yield to the Senator from Texas for a question.

I apologize for taking time from the Senator from California. Again, I have the utmost praise for her, not only on agreement on the compromise last night, but for her constant attention and concern over this vitally important issue.

I don't know of anything right now that is more important than our relations with Mexico and the war on drugs, which is destroying young Americans as we speak.

I yield to her for a question.

Mrs. HUTCHISON. Mr. President, the Senator from Arizona just touched on an important point, and that is, all of us are trying to avoid a vote directly on decertification. No one wants that to happen. But, in fact, if the Senator from Arizona is correct—what all of us worked so hard to put together was a positive, productive statement that we could work from to make progress in the war on drugs between our countries—if what he is saying is true, then we are all going to be forced to make the worst of all votes because we just can't get our bill on the floor for debate.

Is that correct?

Mr. MCCAIN. That is correct.

I appreciate the efforts of the Senator from Texas. All of us understand the importance of the war on drugs. Those of us from border States perhaps—I emphasize perhaps—appreciate it a little bit more because of the direct involvement that we have.

I am not going to speak on this again in the Chamber and take time. I think

we are going to work this out. We have to. I want to especially express my appreciation to the Senator from California, the Senator from Texas, the Senator from Georgia, Mr. COVERDELL, and the Senator from Connecticut, Mr. DODD, Senator KERRY of Massachusetts, and others, and members of the administration who sat down with us and negotiated, I think, an important and positive agreement and a way around this issue.

Mr. President, I appreciate the courtesy of the Senator from California, and I yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I really rise to lament the situation we are in. I believe the people of this Nation sent us to the Senate to work across the aisle, to work in a bipartisan way and particularly on issues of major concern. Whether Mexico is certified or not is an issue of major concern. It is of major concern certainly to Mexico; it is to America; it is to the cities of America; it is to every Representative in the House and to every Member of this body as well.

I wish to pay tribute to the senior Senator from Georgia, with whom I have worked, with the junior Senator from Texas, with whom I have worked, Senator KERRY of Massachusetts, to the administration team, and to many others. I believe we have demonstrated we can, in fact, work across party lines.

We have developed a resolution which I think is a major achievement; it is law—it is not a sense-of-the-Senate resolution; it is a law—in which we state our concerns; we make findings; we ask the administration to move forward; we ask the President to move forward in his trips to Mexico and other Latin American nations to work in a multilateral way to bring back a new agreement; we indicate 10 areas where we would like to see progress; and we ask the administration to report to this Congress on September 1 on the progress made.

We did not start here. Senator D'AMATO and I began this a year ago. Not many people listened. We said we do not really believe that Mexico has fulfilled the test of a friend and neighbor and an ally who has been fully cooperative as the law calls for to be certified. At that point he and I put forward certain tests that we felt had to be met prior to certification.

A year went by, and we saw very little progress, if any. And then the President made the decision to certify Mexico. In his mind, he had many good reasons to do so. It was a decision that was spiritedly debated within the White House. It was debated within the Department of State. And that was the ultimate decision of the President.

There were those of us in this body, myself included, who had a profound difference of opinion with this decision. We thought that the Colombian model was the appropriate model and that Mexico should be decertified but with a national interest waiver as was the procedure with Colombia 2 years ago because we felt certification was not the appropriate vehicle. But it is the vehicle that we have, and therefore Mexico should be treated in the same way Colombia was if the findings were as we believe them to be.

We have had meeting after meeting after meeting. The senior Senator from Georgia and I find ourselves in real agreement. The Senator from Texas and the two of us have worked together. Democrats came in; Republicans came in; the administration came in; and we forged an agreement which I believe, based on a conversation at least on my side with the Democratic leader of the House of Representatives last night, can be acceptable to the House and can be a clear statement which gives the President certain—not directives—but I think certain clear requests from this body to follow on his trip to Mexico which is upcoming and from which I believe our Nation, our big cities, our streets can derive significant benefit.

I am profoundly disappointed to find ourselves in this situation and really urge colleagues on my side who are rightly concerned with the Chemical Weapons Convention treaty, rightly concerned, to please let this resolution go, let us have the debate, because absent that debate and given no opportunity in law to express ourselves, you leave us with no choice but to move for decertification because that is the only direct resolution that can come to the floor on an expedited procedure, as the majority leader has just said.

I cannot tell you how strongly I feel about the cooperation I and others have had from the Republican side of the aisle. I have had an opportunity to work very closely with the senior Senator from Georgia, with his excellent staff, certainly with my excellent staff, with the Senator from Texas, Senators MCCAIN, KERRY, DODD, DOMENICI, all of whom came at a very critical time last night into these discussions and played a very helpful role. The administration has agreed in the areas of consensus. I think some things they did not want to be forced to put forward in law they have agreed to. We have agreed to take out something that the administration did not want, which was a September 1 expedited procedure giving us the opportunity to comment again in law on progress made between March 1 and September 1. We removed that. We have consensus. The administration has said the President would sign this; we believe the House will pass it; and we have a strong policy document with which to move forward.

It would just be tragic if we fragment, if we have to use the only thing we have, which is a decertification, a straight and outright decertification, as the means to express ourselves. So I am very hopeful we would have an opportunity today, now, to bring this resolution to the floor. If we cannot achieve unanimous consent, as the majority leader has just said, it leaves him with no alternative but to call up the decertification resolution, and once that debate begins it would take unanimous consent to stop it, and unanimous consent to bring this resolution up during that 10-hour period, which I see really fraught with great difficulties.

Once again, I cannot tell you how many hours the Senator from Georgia, the Senator from Texas, I and a number of other people have been involved in this effort. We have consulted the Democratic leader as we moved along. I believe he is pleased with this outcome.

So I plead with colleagues on my side not to hold this resolution hostage to an agreement on the Chemical Weapons Convention. It is too important. Please, do not do it.

I thank the Chair.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER (Ms. SNOWE). The Chair recognizes the distinguished minority leader.

Mr. DASCHLE. Madam President, let me begin by associating myself with the remarks of the distinguished Senator from California. She speaks for many on our side as well, who want very much to bring this issue to closure today. It is because of her efforts and the efforts, as she has indicated, of the Senator from Texas and the Senator from Georgia and others who have dedicated an extraordinary amount of time in the last couple of weeks to working with the administration and others to bring us to a point where, on one of the most contentious issues we have had to confront in this Congress, we have actually come to a point where Republicans and Democrats can reach agreement. That does not happen very often in this Congress, and especially in this session of this Congress so far. I hope we can avail ourselves of the opportunity it presents and come to an agreement on procedure and allow this resolution to be taken up and voted upon sometime by early afternoon.

I did not hear a lot of what the majority leader has indicated is his position with regard to the chemical weapons treaty. He knows of the great concern on our side of the aisle about achieving a process that will allow us consideration of that treaty no later than the 19th of April so that, by the 29th of April, that treaty can be ratified and that we can be full-fledged members of the Chemical Weapons Convention. If we miss that small window, from April 7 to April 19, we will

have lost the opportunity, that 125 other countries have already taken, that we have sought for decades to have an international agreement on chemical weapons. Our failure to become part of the convention will put us in the company of Iraq, Iran, Libya, and countries that in every way, shape, and form and by any definition are rogue states today. Do we want to be in that position?

I would think there would be an unequivocal, unanimous verdict that, no, we do not want to be in the company of Libya, Iraq, and Iran. But we are in a position which, in a very short period of time, will force us into that company if we do nothing. That is why my Democratic colleagues feel so strongly about this issue and believe that there are very few other issues out there more important, and if we do not turn up the pressure and find ways in which to assert our determination to get this convention considered, we will have lost an opportunity, not only for the Senate, for the country, but perhaps for the convention itself. This is why it is so critical.

Having said all of that, and I could say a lot more but in the interests of time, let me say I believe the majority leader is doing as much as he can at this point to bring us to a set of circumstances that will allow us consideration in due time. I believe there is a great deal of difference within the Republican caucus on this issue. I understand that. There are many issues that divide the Democratic caucus. So it is not out of the ordinary to be divided on an issue of this importance and controversy. But I do believe that the majority leader has given me adequate reason to be confident that we will take this treaty up in a time that will accommodate ratification on the Senate floor prior to the 19th of April.

So, given all of his cooperation and his willingness to work with us, I think the most important thing for us to do today is to pass this compromise to allow us to work with Mexico to deal with the drug issue in a meaningful way without slapping them in the face. So I hope, as the Senator from California has so articulately pointed out just a moment ago, that we recognize how important this opportunity is for all of us, that we seize the moment, that we get an agreement, and we move forward.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

## UNANIMOUS CONSENT AGREEMENT—HOUSE JOINT RESOLUTION 58

Mr. LOTT. Madam President, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 29, House Joint Resolution 58, regarding the certification of the President with respect to Mexico, that there be no time restraints for debate on the resolution and an amendment. Further, I ask unanimous consent that there be only one amendment in order to be offered by Senators COVERDELL and FEINSTEIN.

The PRESIDING OFFICER. Is there objection?

Mr. BINGAMAN. Madam President, without objecting, I would like to ask a question of the majority leader before proceeding or determining whether to object.

As the majority leader and the Democratic leader both know, I have been very concerned that we get some agreements or understanding about how the Chemical Weapons Convention is to be handled in April. We have a deadline coming at us. I think the convention, as I understand it, goes into effect on the 29th of April. We have to, if the United States is to participate, if the judgment of the Senate is we should participate in that, we would have to make that judgment several days before that. At least that is what I have been informed.

I am just concerned that time is running out. We seem to be taking one legislative or executive matter up after another here without really having an understanding about how we are going to dispose of this Chemical Weapons Convention.

I wondered if the majority leader could assure me about how this is going to be brought to the Senate and dealt with in the coming month?

Mr. LOTT. Madam President, if the Senator from New Mexico will yield. First, I would like to just briefly clarify what we have in this consent request. It is to bring up this certification issue and to allow an amendment that would put in place the agreement that was entered into last night by a bipartisan group of Senators and the administration.

So this just basically sets up a process to begin the debate and get a vote on the agreement with regard to certification, with the understanding it does set out some markers as to what we think should be done, and it does require the President to report by September 1 as to the progress that is being made there. But it does not have a subsequent date where a vote could occur. This is going to be the vote on certification, or decertification, depending on your point of view. So I want to clarify what I was asking for there.

With regard to the inquiry of the Senator from New Mexico, first of all, let me assure him I understand there is concern about the April 29 date and the need for some action before that date by a number of Senators.

There is disagreement on how essential it is we act before the 29th. As a matter of fact, whenever the United States should ratify such a treaty, certainly we would be sort of the big kid on the block and we would be involved in the process. But there are arguments on the other side of it, and I certainly understand that.

I acknowledged to the Senator from Michigan, I believe it was yesterday or the day before, that I also understand that in order to get a treaty completed and the subsequent actions that go along with it, enacting or enabling legislation——

Mr. DASCHLE. Reform.

Mr. LOTT. Reform legislation—it takes some time after the actual vote.

So it is my intent for this issue to come up when we come back after the Easter recess.

There is a statute or bill that has been introduced that we hope to get up and get a vote on. Very serious. I think good efforts are underway to deal with the parallel issues of U.N. reform. The administration is working with a bipartisan group of House and Senate Members. I think everybody is beginning to understand, themselves, and we may be able to get some reforms and some process on how we deal with what is the number we may be indebted to the United Nations for and how that ever would be addressed.

We are also working with the chairman of the committee, Senator HELMS, and Senator BIDEN, the ranking member, on this reorganization of the State Department issue. The new Secretary of State has indicated some encouraging things there, and I believe there is going to be good faith by all to try to address this issue.

There are some legitimate concerns about the treaty—the verification question, search and seizure questions, how it affects different things in America. On some of those, the administration this year came back and said, "You're right. We have some concerns about this issue."

So a number of them have been worked out. An equal number are within the range of being worked out. Again, Senator BIDEN has been working with Senator HELMS to address some of those concerns.

There are some we just will not be able to get worked out. I mean, we will have to have votes on amendments on the floor or there will probably be a substitute. But my intention is to continue to work with all involved, including the chairman and ranking member, to get this issue to the floor in April. That is why I had our list of items. It is not my intent to stonewall or delay this.

I understand that every time we go out or every time a bill comes up, the

Senator from New Mexico will be up here raising questions and maybe even objections. We have other things we need to do that are equally or more important. So it is not my intention at all to allow this thing to go on indefinitely.

But you do understand, as the majority leader, you work with the chairman, you help the chairman, and the chairman helps you, and you work with the ranking member. This is a place of great comity, and we want to keep that. I am trying to honor that as a majority leader who is, you know, sort of learning as I go along, making a few mistakes here and there, but getting some things done on the way, too. So I think you know from what we have been able to do over the last 8 months, I work steadily at these things, and at some point we are going to get to vote on this. I do not mean to say in the great wild blue wonder. We are working very aggressively, and I believe we are going to get a process to get it dealt with in April.

Mr. BINGAMAN. Madam President, let me just respond by saying I appreciate the statements by the majority leader. I have observed the majority leader here for several months, and I have great confidence that when he expects and intends for a particular matter to come to the Senate floor and be dealt with, that that will actually occur, and I am encouraged by his statements to that effect. On that basis, I will not object to this particular unanimous-consent request.

I will plan to renew my concern once we return from this recess if it is not clear at that time that we have all parties in agreement as to the timing to bring that convention to the floor. I think timing is essential.

I have no problem with amendments and changes. I am not trying to dictate the end result on what the Senate does, but I think it is very important that we vote on it in a timely fashion. I take the statement by the majority leader to be a statement that he intends and expects that we will work assiduously to bring that about. I thank the majority leader.

I do not object.

The PRESIDING OFFICER. Is there an objection to the request?

Without objection, it is so ordered.

Mr. LOTT. Madam President, I thank the Democratic leader and the Senators on both sides for the work that has been done on this. I believe now we will have a good discussion about what is or is not going on with regard to the drug battle that we are fighting, with the American Government and the Mexican Government being involved.

Madam President, I believe we are able now to get a time agreement, which I think would be very helpful to all Senators to know that we are going to proceed and there will be a time specified so we can have a vote by 4 o'clock, hopefully. I discussed this with the Democratic leader and other Senators. I believe we have a reasonable agreement here.

I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 29, House Joint Resolution 58, regarding the certification of the President with respect to Mexico and there be 4 hours 45 minutes total for debate on the resolution and an amendment, to be divided as follows: Senator COVERDELL in control of 1 hour, Senator FEINSTEIN in control of 1 hour, 1 hour under the control of the majority leader and 1 hour under the control of the Democratic leader, Senator GRASSLEY in control of 30 minutes, and Senator TORRICELLI in control of 15 minutes.

I further ask unanimous consent that there be one amendment in order to be offered by Senators COVERDELL and FEINSTEIN. I further ask unanimous consent that no other amendments or motions be in order, and following the conclusion or yielding back of time, the Senate proceed to a vote on the amendment, to be followed by third reading and final passage of House Joint Resolution 58 without further action or debate.

Mr. DASCHLE. Reserving the right to object, I ask unanimous consent that in addition to this request, which I fully support, that the request be amended to accommodate a need by the senior Senator from West Virginia, Senator BYRD, to speak for 30 minutes on another matter. I ask unanimous consent that following the vote, the Senator from West Virginia be recognized for 30 minutes.

Mr. LOTT. Madam President, I amend my unanimous-consent request to include that additional 30 minutes for the Senator from West Virginia after the vote.

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

Mr. LOTT. Again, Madam President, I thank Senator DASCHLE for his cooperation.

## PROVIDING FOR THE CONDITIONAL ADJOURNMENT OR RECESS OF THE TWO HOUSES

Mr. LOTT. Madam President, I send an adjournment resolution to the desk calling for adjournment of the Congress for the Easter holiday.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 14) providing for a conditional adjournment or recess of the Senate and the House of Representatives.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 14) was agreed to as follows:

S. CON. RES. 14

*Resolved by the Senate (the House of Representatives concurring),* That when the Senate recesses or adjourns at the close of business on Thursday, March 20, 1997, Friday, March 21, 1997, or Saturday, March 22, 1997, pursuant to a motion made by the Majority Leader or his designee in accordance with the resolution, it stand recessed or adjourned until noon on Monday, April 7, 1997, or until such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Thursday, March 20, 1997, Friday, March 21, 1997, or Saturday, March 22, 1997, it stand adjourned until 12:30 p.m. on Tuesday, April 8, 1997, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The majority leader of the Senate and the Speaker of the House, acting jointly after consultation with the minority leader of the Senate and the minority leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

## DISAPPROVAL OF THE CERTIFICATION OF THE PRESIDENT REGARDING MEXICO

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

The joint resolution (H.J. Res. 58) disapproving the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding foreign assistance for Mexico during fiscal year 1997.

The Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Madam President, first, let me thank the majority leader, the minority leader, and all of those Senators who have been engaged this morning in our efforts to move House Joint Resolution 58. Needless to say, I am very pleased that we have been able to come to this unanimous consent to consider this resolution of paramount importance as it relates to the drug cartels and the impact they are having on our country, on Mexico, and in all countries within our hemisphere.

Madam President, I will read from a statement by Thomas A. Constantine, Administrator of the Drug Enforcement Administration, which was given before the Senate Foreign Relations Committee on March 12, 1997. I am giving this statement as a prelude to my remarks to frame the scope of the issue to which this resolution confronts.

Many phrases have been used to describe the complex and sophisticated international drug trafficking groups operating out of Colombia and Mexico, and frankly, the somewhat respectable titles of "cartel" or "federation" mask the true identity of these vicious, destructive entities. The Cali organization, and the four largest drug trafficking

organizations in Mexico—operating out of Juarez, Tijuana, Sonora and the Gulf region—are simply organized crime groups whose leaders are not in Brooklyn or Queens, but are safely ensconced on foreign soil. They are not legitimate businessmen as the word "cartel" implies, nor are they "federated" into a legitimate conglomerate. These syndicate leaders—the Rodriguez Orejuela brothers in Colombia to Amado Carrillo-Fuentes, Juan Garcia-Abrego, Miguel Caro-Quintero, and the Arellano-Felix Brothers—are simply the 1990's version of the mob leaders U.S. law enforcement has fought since shortly after the turn of the century.

But these organized crime leaders are far more dangerous, far more influential, and have a great deal more impact on our day to day lives than their domestic predecessors. While organized crime in the United States during the 1950's through the 1970's affected certain aspects of American life, their influence pales in comparison to the violence, corruption and power that today's drug syndicates wield. . . . The drugs—and the attendant violence which accompanies the drug trade—have reached into every American community and have robbed many Americans of the dreams they once cherished.

And I add, even, in thousands of cases, their lives.

In the face of this massive drug problem and its effect on two friendly countries, the United States and Mexico, the administration decided to certify Mexico as being fully cooperative in our joint battle. The message that sent, Madam President, to the people of both of our countries was that things are going along pretty well. They are not. In fact, they are in crisis proportions.

We cannot accept a statement to the American people, a statement to the people of Mexico, and a statement to the people of this hemisphere that we are winning the struggle, because we are not. We are losing it in its current configuration.

That led, Madam President, a number of the Members of the Senate on both sides of the aisle, in every region of our country, and of every political and philosophical persuasion, to say no. That is a ratification of the status quo, and the status quo is unacceptable. It is unacceptable.

Now, some interpret that as an attack on Mexico. I do not see it that way. I see it as an honest appraisal of a situation that is debilitating to both Republics. The President of Mexico himself has said that the greatest threat to the Mexican Republic are the drug cartels. We cannot accept the status quo.

Madam President, House Joint Resolution 58 is a rejection of the status quo and a victory for the people of both countries who want to renew and reinvigorate this battle, to put it on a new course. Throughout the debate, I have argued that we need to find a new place to be other than just the debate over whether any country has met a criteria established by the United States as to whether they are adequately fighting the battle or not. The point is, the battle, as it has been fought, is being lost and we must find a new way to come to the struggle. I am pleased to say that in House Joint Resolution 58 there is language that is adopting my suggestion, along with that of Senator DODD of Connecticut, that we reconstruct in the hemisphere the way we come to the battle. And it calls on the President, when he goes to Mexico and Latin America later this year, and to the Caribbean, to bring this subject up and to begin talking about how we can come together as equal partners to confront this stealth adversary that cares for no human being nor any sovereign nation. If we fought the battle in the Persian Gulf, Madam President, like we are fighting this adversary—and I might add that it is virtually as dangerous—we would have lost that struggle, as we are losing this one. We need to reinvigorate the struggle, and this proposal, which is endorsed by such a wide array of people, does just that.

Madam President, I want to say a few words about this, because every time somebody stands up and says the status quo is unacceptable, you are immediately pushed into a category of being insensitive to those in Mexico, or other countries who were trying to help us, and, indeed, we know they are there. And no one who is an author of that resolution has it in their mind that they want to make their job more difficult. But if the only answer we get is, "Just keep this quiet, don't raise the issue," and every time it is raised you are categorized as somebody who is offending another nation, that is inappropriate and unacceptable.

The work that we have been doing here is absolutely on target. This country and Mexico, and all the other countries in the hemisphere, have to go public about the scope of the enemy we are struggling with. That is what this resolution does. It takes us to a new place and a new day and a more open and honest discussion in the hemisphere about this adversary.

Technically, Madam President, this resolution will cause the administration to come to the Congress and demonstrate to us that they have renewed this battle not only in the hemisphere, but in the United States. There is a mutuality about this resolution. It acknowledges that our country is a key element in the problem. Not only are we a consumer and the No. 1 consumer of these illicit drugs, but we are a producer of the drugs themselves, and a grower of them. We have to get this on the table. If you are going to eradicate marijuana in Mexico, let's get it eradicated here. The technologists tell us we can find any of these products where they are growing. Well, let's find them and get rid of them.

A contention that made this resolution such a struggle to come to was that the administration did not want us to come back and revisit this question later in the year. In the last hours, as the majority leader described, late last evening, that provision was removed. I think the administration needs to take note of the fact that this report will be due at just the time this Senate and this Congress will be dealing with appropriations. And the appropriators and the authorizers who have been following this for a long time are going to keep right on doing that, and they eagerly await the report. You will not be able to remove Congress from this issue, and everybody should take note of that. Every friend of the hemisphere should take note of it.

Madam President, I hope that this is interpreted throughout the hemisphere as an instrument of assistance, good will, rededication, compassion, and concern, because that is what was in the hearts and minds of all the Senators, and others, who worked to produce this document.

I want to particularly say thank you to Senator FEINSTEIN, who has been at this job a lot longer than I, and I admire her work; Senator D'AMATO of New York, who joined her last year; Senator GRASSLEY, who is the chairman of our drug task force, who has worked tirelessly to deal with these problems; Senator KERRY of Massachusetts, who is a member of the Foreign Relations Committee and worked in these final negotiations; Senator MCCAIN of Arizona; Senator DOMENICI of New Mexico, and, of course, our coauthor, the junior Senator from Texas, KAY BAILEY HUTCHISON, who was in every step of the negotiations from the beginning. The prints of her work are fashioned into this resolution as well. I know I will have left somebody out and, for that, I apologize because it has been such a wide array of people who brought this resolution to the floor.

There are many, many issues that are very important in the U.S. Congress, but I believe when you look at the hemisphere and all the opportunity in this hemisphere of democracies—40 percent of all United States exports occur in this hemisphere, which is much larger than Europe, and larger than the Pacific rim. We have a lot at stake, big time. But there is one cloud that hangs over us throughout the hemisphere, and it's the drug cartels. We have to restructure the battle. I hope this stands as a beginning to go to a new struggle and, ultimately, a victory.

Madam President, parliamentary inquiry. Do you have the resolution? Has it been submitted?

The PRESIDING OFFICER. The resolution is pending. The amendment has not been offered.

AMENDMENT NO. 25

(Purpose: To propose a substitute.)

Mr. COVERDELL. Madam President, under the previous consent agreement, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. COVERDELL], for himself, Mrs. FEINSTEIN, Mr. HELMS, Mrs. HUTCHISON, Mr. MCCAIN, Mr. DOMENICI, Mr. KERRY, Mr. DODD, Ms. MOSELEY-BRAUN, and Ms. LANDRIEU, proposes an amendment numbered 25.

Mr. COVERDELL. Madam 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 resolving clause and insert the following:

**SECTION 1. REPORT REQUIREMENT.**

(a) FINDINGS.—Congress makes the following findings:

(1) The abuse of illicit drugs in the United States results in 14,000 deaths per year, has inordinate social consequences for the United States, and exacts economic costs in excess of $67,000,000,000 per year to the American people.

(2) An estimated 12,800,000 Americans, representing all ethnic and socioeconomic groups, use illegal drugs, including 1,500,000 users of cocaine. Further, 10.9 percent of Americans between 12 and 17 years of age use illegal drugs, and one in four American children claim to have been offered illegal drugs in the past year. Americans spend approximately $49,000,000,000 per year on illegal drugs.

(3) There is a need to continue and intensify anti-drug education efforts in the United States, particularly education directed at the young.

(4) Significant quantities of heroin, methamphetamines, and marijuana used in the United States are produced in Mexico, and a major portion of the cocaine used in the United States is imported into the United States through Mexico.

(5) These drugs are moved illegally across the border between Mexico and the United States by major criminal organizations, which operate on both sides of that border and maintain the illegal flow of drugs into Mexico and the United States.

(6) There is evidence of significant corruption affecting institutions of the Government of Mexico (including the police and military), including the arrest in February 1997 of General Jesus Gutierrez Rebollo, the head of the drug law enforcement agency of Mexico, for accepting bribes from senior leaders of the Mexican drug cartels. In 1996, the Attorney General of Mexico dismissed more than 1,200 Mexico federal law enforcement officers in an effort to eliminate corruption, although some were rehired and none has been successfully prosecuted for corruption. In the United States, some law enforcement officials may also be affected by corruption.

(7) The success of efforts to control illicit drug trafficking depends on improved coordination and cooperation between Mexico and United States drug law enforcement agencies and other institutions responsible for activities against illicit production, traffic and abuse of drugs, particularly in the common border region.

(8) The Government of Mexico recognizes that it must further develop the institutional financial regulatory and enforcement capabilities necessary to prevent money laundering in the banking and financial sectors of Mexico and has sought United States assistance in these areas.

(9) The Government of Mexico has recently approved, but has yet to implement fully, new and more effective legislation against organized crime and money laundering.

(10) The Government of the United States and the Government of Mexico are engaged in bilateral consideration of the problems of illicit drug production, trafficking, and abuse through the High Level Contact Group on Drug Control established in 1996.

(11) The President of Mexico has declared that drug trafficking is the number one threat to the national security of Mexico.

(12) In December 1996, the Government of the United States and the Government of Mexico joined with the governments of other countries in the Western Hemisphere to seek to eliminate all production, trafficking, and abuse of drugs and to prevent money laundering.

(13) Section 101 of division C of the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104-208) requires the Attorney General to increase the number of positions for full-time, active-duty patrol agents within the Immigration and Naturalization Service by 1,000 per year through the year 2001.

(14) The proposed budget of the President for fiscal year 1998 includes a request for 500 such agents.

(15) Drug cartels continue to operate with impunity in Mexico, and effective action needs to be taken against Mexican drug trafficking organizations, particularly the Juarez and Tijuana cartels.

(16) While Mexico has begun to extradite its citizens for the first time and has cooperated by expelling or deporting major international drug criminals, United States requests for extradition of Mexican nationals indicted in United States courts on drug-related charges have not been granted by the Government of Mexico.

(17) Cocaine seizures and arrests of drug traffickers in Mexico have dropped since 1992.

(18) United States law enforcement agents operating in Mexico along the United States border with Mexico must be allowed adequate protection.

(b) SENSE OF CONGRESS ON COOPERATION ON DRUGS BY COUNTRIES IN THE WESTERN HEMISPHERE.—It is the sense of Congress to urge the President, in his official visits in the Western Hemisphere, to examine with leaders of governments of other countries in the Western Hemisphere the effectiveness of efforts to improve counterdrug activities in order to curtail the production, traffic, and abuse of illicit drugs, and to define plans for specific actions to improve cooperation on such activities, including consideration of a coordinated multilateral alliance.

(c) SENSE OF CONGRESS OF PROGRESS IN HALTING PRODUCTION AND TRAFFIC OF DRUGS IN MEXICO.—It is the sense of Congress that there has been ineffective and insufficient progress in halting the production in and transit through Mexico of illegal drugs.

(d) REPORT TO CONGRESS.—Not later than September 1, 1997, the President shall submit to Congress a report describing the following:

(1) The extent of any significant and demonstrable progress made by the Government of the United States and the Government of Mexico, respectively, during the period beginning on March 1, 1997, and ending on the date of the report in achieving the following objectives relating to counterdrug cooperation:

(A) The investigation and dismantlement of the principal organizations responsible for drug trafficking and related crimes in both Mexico and the United States, including the prevention and elimination of their activities, the prosecution or extradition and incarceration of their leaders, and the seizure of their assets.

(B) The development and strengthening of permanent working relationships between the United States and Mexico law enforcement agencies, with particular reference to law enforcement directed against drug trafficking and related crimes, including full funding and deployment of the Binational Border Task Forces as agreed upon by both governments.

(C) The strengthening of bilateral border enforcement, including more effective screening for and seizure of contraband.

(D) The denial of safe havens to persons and organizations responsible for drug trafficking and related crimes and the improvement of cooperation on extradition matters between both countries.

(E) The simplification of evidentiary requirements for narcotics crimes and related crimes and for violence against law enforcement officers.

(F) The full implementation of effective laws and regulations for banks and other financial institutions to combat money laundering, including the enforcement of penalties for noncompliance by such institutions, and the prosecution of money launderers and seizure of their assets.

(G) The eradication of crops destined for illicit drug use in Mexico and in the United States in order to minimize and eventually eliminate the production of such crops.

(H) The establishment and implementation of a comprehensive screening process to assess the suitability and financial and criminal background of all law enforcement and other officials involved in the fight against organized crime, including narcotics trafficking.

(I) The rendering of support to Mexico in its efforts to identify, remove, and prosecute corrupt officials at all levels of government, including law enforcement and military officials.

(J) The augmentation and strengthening of bilateral cooperation.

(2) The extent of any significant and demonstrable progress made by the Government of the United States during the period beginning on March 1, 1997, and ending on the date of the report in—

(A) implementing a comprehensive anti-drug education effort in the United States targeted at reversing the rise in drug use by America's youth;

(B) implementing a comprehensive international drug interdiction and enforcement strategy; and

(C) deploying 1,000 additional active-duty, full-time patrol agents within the Immigration and Naturalization Service in fiscal year 1997 as required by section 101 of division C of the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104-208).

Mr. COVERDELL. Madam President, I ask unanimous consent to add the name of Senator LANDRIEU of Louisiana as a cosponsor.

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

Mr. COVERDELL. Madam President, I yield the floor at this time.

Mr. HELMS. Mr. President, I am genuinely grateful to the distinguished Senator from Georgia [Mr. COVERDELL] and the distinguished Senator from California [Mrs. FEINSTEIN] for their excellent work on this issue. They deserve credit for keeping the Senate focused on the question of Mexico's counterdrug cooperation with the United States.

Through this resolution, Senators COVERDELL and FEINSTEIN, in a very fair and very essential way, have made clear the Senate's dissatisfaction with the status quo.

Mr. President, I know of no Senator who was pleased with the President's decision to certify Mexico as cooperating fully with the United States; the evidence clearly supports a different conclusion. This resolution gives both the President of Mexico and President Clinton an opportunity for redemption.

Mexico's President Zedillo has made numerous declarations against drug trafficking—which we applaud. Moreover, we recognize that President Zedillo is no Ernesto Samper. But, as for the two countries, Colombia and Mexico, the only difference between the two is that, in Colombia, the Presidency was bought and paid for by drug lords, while, in Mexico, the Presidency may be the only level of government not bought and paid for by the drug lords.

Mr. President, U.S. law requires more than well-meaning statements for a nation to be certified as cooperating fully. Our law requires performance. In the case of Mexico, performance has fallen far short of the rhetoric.

While the creation of bilateral commissions perhaps satisfies the bureaucratic need for meetings, meetings are meaningless unless they produce tangible results—arrests, convictions, and seizures.

The same can be said of laws: The passage of new laws does not stop drug trafficking; enforcement of laws does. We are still waiting for any implementation whatsoever of the laws against organized crime and money laundering. Indeed, the latter's effect may have already been negated when Mexico expanded legalized gambling, a time-honored way for criminals to launder money.

Corruption with impunity remains the modus operandi for the Federal Judicial Police, which more often resembles a criminal enterprise than a law enforcement agency. At the January wedding of drug kingpin Amado Carrillo Fuentes' sister, for example, policemen were guarding Carrillo's family and friends. This is further evidence that Mexican police are more likely to protect than arrest drug traffickers and their interests. Impunity is also the unwritten law for drug traffickers and their allies in official positions, such as Gen. Jesus Gutierrez Rebollo, Zedillo's drug czar.

Here was a case in which the senior Mexican counternaroctics official was protecting the biggest Mexican drug kingpin, Amado Carrillo. The administration argues that the arrest of General Gutierrez Rebollo is evidence of the Mexican Government's commitment to fight corruption. My questions are: Why was he ever hired in the first place as Mexico's senior counternarcotics official? Was this an intelligence failure? What damage has Gutierrez Rebollo done to compromise law enforcement and intelligence operations against the drug cartels? And are U.S. law enforcement agents now at greater risk because of this fiasco?

Mr. President, this is not an isolated incident. Just this past Monday, on March 17, another Mexican Army general was arrested for drug corruption. It seems that on the day the administration certified the Mexican Government's cooperation with United States counterdrug efforts, this general was offering a Mexican official $1 million in exchange for allowing cocaine shipments to pass through Tijuana.

In Mexico, corruption is not confined to the federal government. It is equally pervasive at the state and local levels. Just last week, a judge in Guadalajara dropped charges against a major drug trafficker. Also, according to credible reports, a number of state governors, who are also prominent within the ruling PRI party, have been on the drug traffickers' payroll. As long ago as 1989, I cited one of these governors, Manuel Bartlett, as one senior official compromised by drug traffickers.

Mr. President, I won't cite all the statistics that show that, over the past 6 years, arrests of drug traffickers and cocaine seizures have decreased significantly in Mexico, while the volume of cocaine, heroin and methamphetamine going through or coming from Mexico increases. Despite this record, the United States has continuously pretended that the Mexican Government has been a faithful partner in the fight against illegal drugs. The vast majority of the Mexican people are our allies; but I have grave reservations about most of the Mexican Government.

The President and Barry McCaffrey, amongst others, have spoken eloquently about the horrors of drug use on our streets, recognizing that this scourge is destroying lives throughout this hemisphere. The American and Mexican people deserve better. Silence is tacit consent to this corruption which allows the drug trade to flourish. Only by exposing the corruption can we begin to make a genuine difference in attacking this evil.

In this light, Mr. President, the refusal to recognize the marriage between Mexican Government officials and drug traffickers is all the more troubling. Congress must make known its disagreement with the conclusion that the Mexican Government is cooperating fully.

Mrs. FEINSTEIN. Mr. President, I ask to be recognized for such time as I might consume within the hour allocated to me.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator is recognized.

Mrs. FEINSTEIN. Thank you, very much.

Mr. President, this country has always had a great debate about drugs. Do you fight drugs on the supply side, or do you fight drugs on the demand side? There is no question but that we have a demand problem. But there is also no question that we have a supply problem. My answer to that is that this country has never really done both really well. We have never really engaged in an all-out fight against drugs on both the supply side and the demand side.

What is before us today is somewhat limited in scope because it has to do with the certification action involving Mexico and whether that action should, in fact, take place; whether Mexico should be certified, as the President said.

The resolution now before this body, known as the Coverdell-Feinstein amendment, I think is significant. Let me tell you the two ways that I look at this.

This resolution is either the first step to a new and forceful partnership to fight drugs all out on both the supply side and the demand side, and to join with Mexico in so doing, to accept President Zedillo's statement that drugs are the No. 1 security problem of Mexico, and to add to that the United States statement that drugs are, in fact, the No. 1 security problem for the United States of America, which I believe them to be, or this is the first step in a major battle next year, if this resolution is ignored, to decertify Mexico as being noncooperative in the supply side of the cooperation that goes into the retardation of drug flow into this country.

Mr. President, I want to begin by once again paying my respects to the Senator from Georgia, the chairman of the Western Hemisphere Subcommittee, Senator COVERDELL. He and I share a dedication to the idea that the status quo on United States-Mexican counterdrug cooperation is simply not acceptable, and his leadership on this issue has helped us reach this point. It has been an honor and a privilege to be his partner in this effort. And I look forward to continuing to work with him and his outstanding staff in the fight against international drug trafficking.

I also want to acknowledge the Senator from Texas, Senator HUTCHISON, whose contribution to this effort was invaluable. Her State, like mine,

shares a long border with Mexico. So this issue hits home to us in a direct and a meaningful way. Other Senators too numerous to list, with names like DODD, KERRY, MCCAIN, DOMENICI, as well as others, the majority leader, the Democratic leader, have all weighed in to bring this effort to fruition. And I have appreciated working with each and every one of my colleagues to get to this outcome.

Just over a year ago, as has been said, Senator D'AMATO and I started talking about whether Mexico merited certification as a fully cooperative partner in the war against drugs. Our view was that Mexico had simply not made enough progress in the war on drug trafficking to justify certification. At that time, despite the fact that we laid down 10 specific criteria, no one paid us much attention.

Well, people have paid attention this year. On February 28 of this year, the President made the decision to certify Mexico as fully cooperating with the United States in the fight against drug trafficking. But it just didn't wash in the Congress. The evidence simply does not support the claim that Mexico met the standard of full cooperation in 1996.

As all of my colleagues are well aware, Senate procedures made it impossible for us to get a vote on what many of us believed was the best option—to decertify Mexico but allow the President to waive the sanctions based on what is termed a "national interest waiver." If decertification with a waiver had come up for a vote I believe it would have passed the Senate by a large and even possibly veto-proof margin. I do not say that lightly. In the House, it would have passed overwhelmingly. Instead, the House passed with over 250 votes a resolution that decertifies Mexico in 90 days unless specific conditions are met.

So this resolution, which we will pass today, expresses Congress' deep concern over the lack of progress in key areas of Mexico's counterdrug effort.

Let me quote from subsection (c) of the amendment. "It is the sense of the Congress that there has been ineffective and insufficient progress in halting the production in, and transit through, Mexico of illegal drugs."

This statement has never before been made by this body and the other body in concert. And I believe it will be, and no one should underestimate what that means.

In short, while we could not decertify Mexico, the Congress rejects the administration's claim that Mexico has fully cooperated with the United States. The evidence I believe is overwhelming. Last week, I tried to lay this case out with some specificity, the case that Mexico has not earned decertification. I will not repeat here all of the facts to prove that Mexico has not met the test of full cooperation. But let me just remind my colleagues of a few of those facts.

No. 1, cocaine seizures by Mexican authorities in 1996, 23.6 metric tons, were barely half of what they were in 1993 when there were 46.2 metric tons. You see how they have dropped and how they have barely picked up this past year.

Drug related arrests in 1996 were 11,038, less than half of what they were in 1992. In 1992, what I am saying is that the cooperative effort on arrests was double what it has been this past year. And these are specific measurements that can't be challenged. They are there. You have to look at them.

Another way of measuring this, for those of us that are familiar with how drugs reverberate on streets, is whether street prices are dropping or rising. If the street prices for cocaine and for heroin drop on the streets, you know there is more supply.

If they rise on the streetcorners of New York and Los Angeles and Chicago and Dallas and other cities in this Nation, then you know there is less supply. Let us for a moment take a major city, a huge city, over 6 million people in Los Angeles, and let us look at street prices. The street prices of cocaine today, in Los Angeles, are 22 percent lower than they were in 1993. This is for a kilogram, $21,000 in 1993, dropping to $16,000 today.

Let us take a look at the street value of black tar heroin, almost entirely transferred to the United States from Mexico. Here is the street value of this black tar heroin in California.

In 1993, per ounce, it was $1,200. Look at it go straight down. Today, it is $400. Part of that is the fact that it is in competition with the pure white cocaine that comes from other places, but still the black tar heroin is heavily used by addicts, and you can see the drop in the street price, which clearly means more supply.

Then you take the major traffickers. What has happened is that as the Cali cartels of Colombia become less potent in this area, the Mexican cartels have become more potent. Specifically, Senator COVERDELL enumerated four of them—the Juarez, Tijuana, Sonora, and Gulf cartels. And our DEA has clearly stated to us in testimony, written and verbal, that the Mexican major drug cartels today are operating with impunity, and even the State Department admits that "the strongest groups such as the Juarez and Tijuana cartels have yet to be effectively confronted."

Mexican cartels have assassinated 12 high-level prosecutors and senior law enforcement officers in just the last year. Here is the clincher. None of these murders has been solved. Twelve major Federal and statewide prosecutors, sometimes the head prosecutor, people who want to do a good job, have been assassinated for doing that good job. It has often been said that those they cannot buy, the cartels will kill.

Corruption is endemic in Mexico's Government, police, and military. The Mexican drug czar was arrested for corruption as was another senior army general just 2 days ago. DEA Administrator Constantine has said "there is not one single law enforcement institution in Mexico with whom DEA has an entirely trusting relationship."

Mexico has enacted money laundering legislation last year. So far the legislation has not been implemented. Banking regulations were finally issued last week, 2 months late, but they do not take effect until May, and their effectiveness has not yet been evaluated.

Mexico has failed to adequately fund the Binational Border Task Forces agreed to by the two sides in a much touted bilateral meeting, and as we all know, to this day Mexico has forbidden our DEA agents taking part in these border task forces, if they cross the border from our country to Mexico, to carry sidearms to protect themselves on that side of the border.

Mexico has refused to allow United States Navy ships patrolling for drug smugglers to put into Mexican ports to refuel without 30 days' notice.

The reason this is so important is that if you are trailing a ship, whether it is a fishing vessel or another maritime vessel, you may need to pursue it into Mexican waters. More drugs are now coming into our country via maritime channels. Fishing boats, commercial boats, ships, and other maritime transportation devices are today carrying increased tonnage of drugs. If we have a Coast Guard ship tracking one of these vessels, it may have to put into port—and the Mexican traffickers have become very sophisticated about moving out, taking the time so that they know the ship following them needs to refuel. If our vessels have to put in, they cannot because our ships have to give 30-day notice before they refuel.

Well, of course, one of the biggest tonnages of cocaine transferred through maritime channels actually was a ship leaving Peru which our Navy was able to get to, but the cartels are very smart. They learn how to prevent this from happening. So this is an important area.

And then finally a battle that we have had back and forth—and I still hold fast to this statement—Mexico has never extradited a single Mexican national to the United States on drug charges despite 52 extradition requests, for at least 13 of which the paperwork has been completed. Now they have made advances, they have begun to extradite Mexican nationals on other charges, and I think they should be commended for that. But that is not yet full cooperation.

So I think the record is clear. It is not credible to make claim that Mexico has fully cooperated with the

United States in combating drug trafficking, and that is the standard required by section 490 of the Foreign Assistance Act.

Despite these facts, the claim has been made by the administration that progress has been made, and I respect that. The administration has said that they believe some of the things I have just alluded to are in the process of being corrected. That is why originally we felt it was so important to have this body be able to monitor progress, comment on progress on September 1 in an expedited way, and make a finding if we found the progress inadequate.

That has been removed from this resolution, but the administration will still report on progress. You can be sure that I and others in this body will come to the floor and make our comments on September 2 or 3 or 4 or 5 on whether we regard this progress as being adequate.

So as we engaged in negotiations with the administration over the past week on this resolution, it was extremely important to put into place a mechanism by which we could hold the administration accountable. We have compromised here. But we also have 10 specifics. Subsection (d) requires the President to support on progress in 10 specific areas—and I urge Members to begin to look at this. It begins on page 6 of the resolution following this historic statement that "it is the sense of Congress that there has been ineffective and insufficient progress in halting the production and transit through Mexico of illegal drugs." We say that not later than September 1 the President shall submit to the Congress a report and then we list 10 areas of concern to be addressed in the report. Let me outline those 10 areas.

The first is effective action to dismantle the major drug cartels and arrest and extradite their leaders. This goes specifically to the two most powerful groups, the Juarez and Tijuana cartels, as well as others like the Sonora and the Gulf cartels.

Second, better cooperation between the United States and Mexican law enforcement including the funding and deployment of the Binational Border Task Forces and allowing United States agents in these forces to arm themselves for self-defense. That is the implication. By September 1 we will know whether it has been achieved or not. The answer then will be yes or no.

Third, better enforcement at the border. This means increased screening for and seizures of contraband. It also means, and Senator HUTCHISON was very effective in incorporating this into our resolution, that we call for the funding and the assignment of an additional 1,000 agents on the border this next year. The administration's budget has funding for 500. Let me say to the administration, from this side of the aisle, that is not adequate. We are asking for 1,000, by official action, incorporated in this legislation.

Improved cooperation on extraditions—that is the fourth. This goes specifically to the need for Mexico to extradite Mexican nationals who are wanted in the United States on drug charges. A good start would be the 13 such requests pending. There are several dozen more on the way. On September 1, we will see how many extraditions there have been.

Fifth states easier rules of prosecution of drug traffickers. At the present time, the evidentiary rules in Mexico—and Mexico is aware of this—are such that, in their country it is very difficult to come by a conviction.

Sixth, full and ongoing implementation of effective money laundering legislation and enforced regulations—for banks and other financial institutions—these are the money-changing houses outside of banks—with penalties and sanctions for those who do not comply and immunity for those who help, so people who turn in money launderers will not be assassinated. We are hopeful—and I commend Mexico for taking action in this regard—we are hopeful that last week's progress in issuing these regulations will lead, now, to effective enforcement. We all know it is one thing to have something on the books, it is another thing to see that something is carried out and enforced. On September 1, Senator COVERDELL and I and others will both be looking at these. Are they in place? Have they been effected? Have they been enforced?

Seventh, increased eradication of drug crops, including marijuana and opium—this is the seventh. We hope and expect that eradication figures will increase this year. I believe our Nation is prepared to play a role in any binational cooperation that the Mexican Government would wish in that regard.

Eighth, implementation of a comprehensive screening program to identify, weed out, and prosecute corrupt officials at all levels of the Mexican Government, police, and military. This means vigorous screening of candidates before they are hired, not rehiring corrupt policemen after their dismissal, and prosecution of those found to be corrupt. We commend Mexico for firing 1,250 law enforcement officers. The problem is, none were prosecuted. That is the problem. And we are asking for cooperation.

I think it is worth noting that the Los Angeles Times reported yesterday that 3 percent of the Mexican police tested positive for drug use in a recent survey. This was 3 percent of Federal personnel screened. I think it added up to some 424 Federal law enforcement officers who failed drug tests. We have that same problem in our Nation. So we admit it and we try and screen. We are asking our partner in Mexico to do the same thing.

Ninth, we have a clause in there regarding support by the United States of Mexico's efforts to combat corruption. I cannot conclude without saying that Mexico has made efforts. I believe Mexico has made efforts. I simply question the adequacy of those efforts. But, for those efforts that have been made, we should provide support, and I believe every Member of this Congress, and certainly this Senate, wants to do so. So, this clause reads, "the rendering of support to Mexico in its efforts to identify, remove and prosecute corrupt officials"—they would ask us for that support, but we would certainly say that support would be forthcoming.

The 10th and final provision calls for "the augmentation and strengthening of bilateral cooperation." This is not specific in the law we are writing. It is nonspecific. At the administration's request, we removed a direct reference to air and maritime cooperation. But I think the record should show that Congress does expect this report to discuss progress made in areas such as aircraft overflight and refueling rights, aircraft radar coverage, and maritime refueling rights.

I look forward to receiving this report on September 1. The record will reflect that, and Senator COVERDELL and I and Senator HUTCHISON and others, come September 1, as sure as the sun will come up, we will make an inquiry to see what the progress has been. And if the Congress finds the progress cited by the administration to be inadequate, it will no doubt find ways to respond.

This report, in essence, in addition to the findings carried up front in this resolution and the two senses of the Senate, urging the President on his visit to put forward this new, multilateral cooperative, hemispheric drive, if you will, reflect a new strategy, a new plan, new bilateral cooperation, and the specific sense of the Senate, and our conclusions as to why we would have to say there has not been full cooperation up to this point.

I very much hope, in summary, that there will be a very strong vote in this Chamber for this resolution. If it passes, I have been assured by John Hilley of the White House Office of Legislative Affairs and General McCaffrey, Director of the Office of National Drug Control Policy, that the administration will work hard to get this resolution passed by the House. If they do, I believe it will pass the House. John Hilley and General McCaffrey also assured me that the President will sign this resolution as passed by the Senate.

We, for the first time in history, will have passed a law, not a sense of the Senate resolution, but a law which states a purpose, which states a new effort, which states specifics, and which asks that on both the supply side and the demand side there be a new effort

by both the United States of America and the sovereign, independent country of Mexico, to address the drug problem together, both on the demand side here with us and the supply side there with Mexico.

It is a very important, significant piece of legislation. I believe, I sincerely believe, it can have major, long-term impact. If it does not, the alternative is very clear next year. It is very clear. And it will not be just Senator D'AMATO and I next year, or Senator COVERDELL and I, and Senator HUTCHISON and others, and hopefully a majority this year. It will be a full-blown effort to see that this progress is carefully evaluated. And whatever action we must take, we will, in fact, take.

Mr. President, let me express my thanks to the distinguished Senator from New Mexico, Senator BINGAMAN, for lifting his objection. I know he has very deep and heartfelt feelings about the Chemical Weapons Convention. I have said to him informally, and I will say here, I will certainly do everything I possibly can to provide him with any help I can give, to see that it comes to the floor. But I am very pleased he has withdrawn his objection and we will be able to bring this debate to a conclusion with a vote on this resolution.

Mr. President, I ask how much time remains on my hour?

The PRESIDING OFFICER. The Senator from California has 31 minutes of time remaining.

Mrs. FEINSTEIN. I thank the Chair. Mr. President, I yield the floor and reserve the remainder of my time.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, before the Senator from California leaves, I want to express my gratitude for her tireless work. I do want to mention, while she is here, a debt I believe we both owe to the chairman of the Foreign Relations Committee. Senator HELMS of North Carolina hovered over these efforts throughout, and as late as minutes before an accord was struck, personally heard out all the suggestions that had been made, compromises, and I believe was a major contributor to the conclusion by his attention, concurrence and coauthorship of this provision. I know the Senator from California would acknowledge that as well.

Mrs. FEINSTEIN. Will the Senator yield for a moment?

Mr. COVERDELL. I yield.

Mrs. FEINSTEIN. Thank you very much. I would like to acknowledge that. The chairman of the Foreign Relations Committee is, in fact, a cosponsor of this legislation. Like me, he had very strong feelings, and I know when you have very strong feelings, compromise is difficult. He did do that. I am very thankful, because I think we have a very strong piece of legislation as a result, and his support was certainly vital and, I think, crucial to getting this resolution on the floor and getting the vote that, hopefully, we will get. So I thank the Senator from Georgia.

Mr. COVERDELL. I thank Senator FEINSTEIN. Mr. President, also thank Dan Fisk and Elizabeth DeMoss from Senator HELMS' Foreign Relation Committee staff, Dan Shapiro with Senator FEINSTEIN, Randy Scheunemann on the majority leader's staff, and especially Terri Delgadillo and Steve Schrage of my staff.

I yield up to 10 minutes of my time to the distinguished Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. HUTCHINSON. Thank you, Mr. President. I commend Senator COVERDELL, in particular, for his leadership on this issue, his hard work and, along with him, Senator FEINSTEIN, Senator HELMS, the chairman, Senator MCCAIN, Senator DODD, Senator HUTCHISON, and the leaders for the hard work they put in. Certainly they put in many, many hours working to resolve a very thorny and very difficult issue.

Having said that, it is with regret and some reservation that I say I believe the resolution before us today is totally insufficient. We have now taken a very substantive and meaningful action against a poor decision by the Clinton administration and turned it into a political football and, Mr. President, I believe we have fumbled the football on the goal line.

While I realize the outcome of this vote is evident, it is clear I cannot, in good conscience, stay silent and not speak to the deficiencies of the resolution on which we will be casting our votes.

As best I can tell, while the resolution says many good things, while it says some very meaningful things, when you boil it all down and when you look at it, the essence of what we get from this resolution is a report that we are asking the administration, we are telling the administration to give us in a few months, and that, after all is said and done, is all there is to it.

I hold in my hand several newspaper accounts, recent newspaper articles which raise serious questions as to the efficacy of the Mexican Government's counternarcotics efforts. Let me just give you some of the headlines:

"Another Mexican General is Arrested and Charged with Links to Drug Cartel."

"2nd Mexican General Faces Drug Charges."

"424 Fail Drug Exams in Mexican Law Enforcement."

The list goes on and on. I ask unanimous consent that these articles be printed in the RECORD.

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

[The New York Times, Mar. 18, 1997]

ANOTHER MEXICAN GENERAL IS ARRESTED AND CHARGED WITH LINKS TO DRUG CARTEL

(New proof that traffickers have corrupted high levels of Mexico's military)

(By Julia Preston)

MEXICO CITY, March 17.—A Mexican Army brigadier general was arrested today on charges that he offered a multimillion-dollar bribe to a top Mexican law enforcement official on behalf of a notorious cocaine cartel.

Brig. Gen. Alfredo Navarro Lara is the second high-ranking military officer to be jailed on drug-related charges in a month. His arrest is new proof that traffickers have succeeded in corrupting the highest levels of the Mexican armed forces.

Jesús Gutiérrez Rebollo, a division general who was the head of the federal drug agency, was arrested on Feb. 18 and accused of protecting and receiving benefits from Mexico's most powerful drug lord, Amado Carrillo Fuentes.

Today's arrest also indicates that competing drug gangs have divided the officer corps in their campaign to buy protection. General Navarro Lara is accused of trying to buy off the authorities in the border state of Baja California in the service of the Arellano Félix brothers, a criminal cartel that has waged a bloody war across northern Mexico against the rival band of Mr. Carrillo Fuentes.

The only announcement of General Navarro Lara's arrest came in a terse press release tonight by the office of Attorney General Jorge Madrazo Cuéllar. Neither Mr. Madrazo nor any Defense Ministry official was available for further comment.

According to the release, General Navarro Lara invited the top federal justice official in Baja California to a private meeting in a "luxurious suite" in a Tijuana hotel early this month. The general is said to have offered the official, José Luis Chávez García, who is also an army brigadier general, payments amounting to $1 million a month in return for cooperation in allowing cocaine and other narcotics to pass through the state en route across the border into the United States.

General Navarro Lara is said to have conveyed a threat from the Arellano Félix brothers that they would kill General Chávez García and his family if he refused to agree to the plan.

A justice official who formerly held the top post in Baja California, Ernesto Ibarra Santés, was shot dead in Mexico City in September 1996. Several gunmen arrested in that killing were known to be hired members of the Arellano Félix gang.

General Navarro Lara was formally charged today with drug trafficking and racketeering and was confined to a maximum security penitentiary on the outskirts of Mexico City. He was described in news reports here as a commander in a military region with headquarters in the central city of Guadalajara, where General Gutiérrez Rebollo also served.

In his first sworn statements taken at the prison, General Navarro Lara admitted making the bribe offer but said he had not taken any payments from the Arellano Félix brothers and only cooperated with them after they threatened to kill one of his children.

The arrest comes as President Ernesto Zedillo is struggling to rebuild Mexico's anti-narcotics program after the devastating

arrest of General Gutiérrez Rebollo, under pressure from the United States Congress, which is moving to reverse President Clinton's recent decision to certify Mexico as a fully cooperating ally in the drug war.

Mr. Zedillo has said he is determined to detect and arrest officials implicated in the drug trade no matter how high their rank.

Last week Mr. Zedillo chose a civilian official with no narcotics investigating experience, Mariano F. Herrán, to replace General Gutiérrez Rebollo as head of the drug agency.

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[L.A. Times/News/Nation & World, Mar. 18, 1997]

SECOND MEXICAN GENERAL FACES DRUG CHARGES

(By Mark Fineman)

MEXICO CITY.—For the second time in a month, federal authorities here Monday announced the arrest of an army general on drug charges. The senior officer was accused of offering $1 million a month to Mexico's top counter-narcotics official in Tijuana to protect one of the country's largest drug cartels—and of threatening to kill him and his family if he refused.

The attorney general's office announced late Monday that Brig. Gen. Alfredo Navarro Lara had been charged with drug corruption, bribery and criminal association and jailed earlier in the day outside Mexico City in the Almoloya de Juarez high-security federal prison.

On Feb. 18, Gen. Jose de Jesus Gutierrez Rebollo, then Mexico's anti-drug czar, was sent to Almoloya after he was charged with taking bribes to protect the nation's most powerful drug-trafficking cartel, allegedly headed by Amado Carrillo Fuentes.

Gutierrez's arrest last month stunned a nation unaccustomed to drug corruption within its army and sent shock waves as far as Washington just two weeks before the Clinton administration recertified Mexico as a U.S. ally in the drug war. President Clinton cited the arrest as evidence that Mexican President Ernesto Zedillo is committed to rooting out drug corruption—even in the nation's powerful army.

But U.S. congressional concerns that widespread official drug corruption here had compromised U.S. intelligence and drug enforcement efforts helped drive the House to pass a resolution decertifying Mexico last week.

As the Senate begins debate this week on that decertification resolution—which Clinton has vowed to veto—Navarro's arrest Monday further demonstrated both the depth of drug corruption in Mexico and Zedillo's resolve to punish it.

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MEXICO LET SUSPECTED DRUG TRAFFICKER MOVE $168 MILLION OUT OF SEVERAL BANKS

(By Wall Street Journal staff reporters Laurie Hays and Michael Allen in New York and Craig Torres in Mexico City)

Mexican officials failed to stop a major suspected drug trafficker from spiriting away $168 million despite a joint U.S.-Mexican effort to freeze his bank accounts, U.S. officials allege.

The money transfers, which effectively crippled an ambitious bilateral investigation into Mexican money laundering, came just weeks before President Clinton certified that Mexico was cooperating fully in the international drug fight, U.S. officials say. The episode is likely to fuel congressional criticism of the decision.

Clinton administration officials themselves have sharply criticized Mexico's handling of the affair. Testifying before a Senate panel earlier this month, Deputy Treasury Secretary Lawrence Summers said he had registered "our strong protest" at the failure to freeze the money.

A spokesman for the Justice Department said agency officials, along with those from the State and Treasury departments, had a "face-to-face confrontation" with Mexican officials over the incident. He declined to elaborate.

Mexican officials involved in the matter disputed the U.S. version of events.

The case centers on the Gaxiola Medina family, a prominent clan that runs a local lumber-distribution business in the northern Mexican state of Sonora.

INDICTMENT IN UNITED STATES

In May 1994, a federal grand jury in Detroit indicted Rigoberto Gaxiola Medina on charges that he ran a trafficking organization that distributed more than 2,200 pounds of marijuana in the U.S. beginning in 1992. The indictment lists 25 other defendants.

According to the indictment, the operation loaded marijuana on trucks in Tucson, Ariz., and delivered it throughout the U.S. Sales proceeds were allegedly collected in Michigan and wired to Mexican banks.

BANCO MEXICANO AND BANCA SERFIN

Mr. Gaxiola Medina didn't enter a plea in the case and couldn't immediately be located for comment.

The U.S. Customs Service began a money-laundering investigation into the money transfers in April 1996, according to people familiar with the matter. U.S. agents contacted Mexican Finance Ministry officials, who in turn traced almost $184 million in deposits to 15 Mexican bank accounts. The Finance Ministry put in an official request to the Mexican attorney general's office on Jan. 8 to freeze the accounts, these people add, but when the money was frozen on Jan. 20, only $16 million remained.

Customs officials were notified by the Mexicans on Feb. 27 that the money was gone, these people add—one day before the White House's decision to certify Mexico was announced.

"Let's just say we gave them the information and they weren't as successful as everyone would have hoped in seizing it," said Allan Doody, director of financial investigations for U.S. Customs. "I would say the Mexican government is looking into exactly what happened. Right now nobody knows where the money went."

Three Mexican officials involved in the case said it isn't clear when the money left the accounts. They say roughly $183 million arrived from U.S. and Mexican banks into accounts controlled by the Gaxiola Medina family. But the officials deny that most of this money was transferred out of those accounts in 1997. "The most logical hypothesis is that the money left over a period of time," said one official. "These are high turnover accounts."

ROLE OF FINANCE MINISTRY

U.S. officials said they believe the Mexican Finance Ministry, which has authority over certain Mexican money-laundering regulations, acted honorably. Suspicion of wrongdoing centers on the Mexican attorney general's office, which Mexican officials themselves acknowledge is rife with corruption. The Mexican general running the attorney general's antiarcotics program at the time of the incident was later arrested on charges that he took bribes from a powerful drug lord.

Reports of the money disappearance first appeared in the Mexican newspaper El Universal.

Members of the Gaxiola Medina family couldn't be reached for comment. Regoberto Gaxiola Medina is listed in corporate records as the divisional administrator of the family wood business, known as Grupo Industrial Gaxiola Hermanos SA, but it wasn't immediately clear whether he was the same person indicted in Detroit.

Pedro Garcia Palzzuelos, an attorney for the Gaxiola Medinas, said the family businesses naturally deal in large sums of money and foreign exchange. Mexican law-enforcement officials "didn't encounter any crime related to drug trafficking and they aren't going to find one," said Mr. Garcia Palazuelos, adding that there isn't "proof of money laundering."

U.S. officials have long worried about Mexico's role in laundering drug profits. "Given the primary methods used to move narcotics proceeds in the mid-90s, Mexico's financial system has become the indispensable money-laundering center for criminal organizations throughout the Americas," the State Department wrote in its latest overview of narcotics trends.

Mr. HUTCHINSON. Mr. President, the importance of Mexico's full cooperation with the United States antinarcotics efforts cannot, I believe, be overstated. Drug use among American teenagers has nearly doubled in the last 5 years. More importantly, more than 70 percent of illegal narcotics coming into the United States flow through Mexico. I know that many of those drugs originate in Colombia, incidentally, which we decertified, but 70 percent of those coming into the United States now flow through the nation of Mexico.

Mr. President, as we all know, on February 28, the Clinton administration certified that Mexico cooperated fully with United States efforts to combat international narcotics trafficking during 1996. However, on February 27, the day before, the administration received a bipartisan letter from 39 Senators—I signed it, Senator FEINSTEIN signed it, and many of my colleagues signed it—urging our Government to deny certification to Mexico. The facts unequivocally show us that Mexico has not—I say, has not—fully cooperated with us.

Not one Mexican national out of the 100 or more that the United States wants for trial here on serious drug charges has been extradited to the United States, despite our Government's numerous requests. Not one has been extradited.

Our own DEA Administrator, Tom Constantine, has recently said:

> There has been little or no effective action taken against the major Mexico-based cartels . . .

Then he said:

> The Mexicans are now the single most powerful trafficking group—worse than the Colombian cartels.

So while we are willing to decertify Colombia, our own DEA Administrator says Mexico is now worse, and we are

going to certify them. You explain to me the logic in that, explain to me the consistency in that, explain to me how we, in good conscience, can do that.

Mexico's counternarcotics effort is plagued by corruption in the government and the national police. Among the evidence are the eight prosecutors and law enforcement officials who have been murdered in Tijuana in recent months. Furthermore, the revelation that General Rebollo, Mexican's top narcotics official and a 42-year veteran of the armed forces, had accepted bribes from the Carrillo-Fuentes cartels casts grave doubts on Mexico's ability to curb corruption at the highest level of its government. Corruption is now, in fact, pervasive in the Mexican Government.

Mr. President, we in this body must all be well aware that Mexico continues to be a major transit point for cocaine illegally entering the United States from South America, as well as a major source country for heroin and marijuana.

The 1997 International Narcotics Control Strategy Report, issued by the United States State Department, explicitly notes that Mexico is the transshipment point for 50 to 60 percent—50 to 60 percent—of the United States-bound cocaine shipments and up to 80 percent of the meth precursors. This report notes that in 1996, Mexico supplied 20 to 30 percent of the heroin and up to 80 percent of the foreign-grown marijuana entering the United States of America.

The fact is that four Mexican drug trafficking organizations dominate the narcotics trade between the United States and Mexico. The DEA calls these groups the "Mexican federation" and estimates that they gross $10 billion to $30 annually in drug sales. Mr. President, those drug sales are to our children, to our Nation and to our culture, and they threaten the very future of our Nation.

On February 28, 7 hours after the President announced his certification of Mexico, again with the full knowledge of congressional disapproval, Mexico's Attorney General's office issued a statement that its own senior officials had released Humberto Garcia Abrego, a reputed money launderer and brother of convicted drug kingpin, Juan Garcia Abrego. We do not know whether he was released earlier—whether it occurred on the 28th or earlier—with the announcement being held until after the President's certification decision was made public. But, again, we see how this country has been treated over a decade of this certification process.

Mr. President, I ask you, can we not do better? Tom Constantine said, in short, there is not one single law enforcement institution in Mexico with whom DEA has an entirely trusting relationship. Can we not do better than that, certifying a country that cannot fully cooperate with our counterdrug efforts? What message does this send to our children about the seriousness of the drug war? Our children are the real victims of this policy.

I have heard the repeated argument that if the narcotics market in the United States was not so bloated, then there would be no reason for a continual supply of drugs coming across our borders. Supply and demand. Quite frankly, I agree with that assertion. However, let's tackle that issue in the crime bill, not on the certification of a foreign country not being cooperative with our efforts.

I am committed to winning the war on drugs, and we can only do that by championing the causes to reduce the amount of drugs in this country, appropriating funds for antinarcotics efforts, and assisting the DEA in the fight. But Mexico has not been helpful, and that is the fact and that is the truth.

It is ironic, I think, that while we stand aside and certify Mexico's full cooperation, we pass a resolution that asserts that in fact that has not been the case.

I have the joint resolution before me. It says this:

> There is evidence of significant corruption affecting institutions of the Government of Mexico (including the police and military). . . .

It says this:

> In 1996, the Attorney General of Mexico dismissed more than 1,200 Mexico federal law enforcement officers . . . although some were rehired and none [none] has been successfully prosecuted for corruption.

We are going to say, through the certification of Mexico, that they have been fully cooperative when that is not the reality of the resolution that we are passing.

We say in the resolution:

> The Government of Mexico has recently approved, but has yet to implement fully, new and more effective legislation against organized crime and money laundering.

That is what we say in the resolution we are going to vote for, which flies absolutely in the face of the certification of Mexico.

The resolution says:

> Drug cartels continue to operate with impunity in Mexico, and effective action needs to be taken. . . .

And yet we are going to certify Mexico as being fully cooperative and making progress.

We have a resolution that we are going to vote on that says:

> Cocaine seizures and arrests of drug traffickers in Mexico have dropped since 1992.

So while we say that arrests and seizures are down, we are going to say that we are going to certify them as making progress and being fully cooperative.

Then on page 6 of the resolution, the sense-of-Congress portion of the resolution, we say:

> It is the sense of Congress that there has been ineffective and insufficient progress in halting the production in and transit through Mexico of illegal drugs.

While we say that, we stand aside and allow certification to take place.

I ask Mr. COVERDELL, who controls this time, for 5 additional minutes.

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

Mr. HUTCHINSON. I thank the Senator.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. So while we say in the resolution it is our sense they have been ineffective and there has been insufficient progress, we allow certification to go forward, which says in fact they have been making progress and that they have been fully cooperative.

To my colleagues I simply say, I think that is inconsistent, I think that is intellectually dishonest, and it is unfortunate, and it does a disservice to the citizens and our constituents whom we serve.

We pass a resolution asserting that they have failed, that they have not made progress, and then we allow certification to go forward.

How can we reconcile our treatment of the nation of Colombia a year ago and decertify and with a straight face now certify Mexico through which 70 percent of the illegal drugs flow into this country? You do it. I cannot.

I believe that this certification process has become a sham. It is intellectually dishonest to move forward with that. The entire resolution upon which we will be voting contradicts that certification—two standards—that they have been fully cooperative and they have been making progress. We pass a resolution that says they have not been fully cooperative and they have not been making adequate progress. You reconcile that. I cannot. I yield the floor.

Thank you, Mr. President.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. I yield up to 10 minutes of my time to the distinguished Senator from New Mexico.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I ask the Senator, how much time do you have?

Mr. COVERDELL. Let me ask the Chair. I assume about 20 minutes.

The PRESIDING OFFICER. The Senator from Georgia has 29 minutes remaining.

Mr. DOMENICI. Mr. President, under those conditions, I ask that you notify me when I have used 7 minutes. I do not think I should use 10.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 7 minutes.

Mr. DOMENICI. Mr. President, about 4 years ago I came to the floor of the U.S. Senate—I did not check for the exact date, but I came to the floor to congratulate and praise Mexico. In particular, I was praiseworthy of their then-President Carlos Salinas.

I even said on the floor of this Senate that, man for man, I thought he had the best Cabinet in the free world. In fact, I chose some of his Cabinet members because of their tremendous intellectual capacity and great training and compared them with our then-Cabinet members and said, I am pleased to tell the Senate that for the first time in history they probably have a better Cabinet than the United States of America.

For those people in Mexico who wonder how Senators like Senator DOMENICI have become more and more concerned about what is going on in Mexico, let me suggest that it was a very serious letdown to this Senator. It was a serious letdown having made statements like that, to find out what they were doing and what that pinnacle of free enterprise and privatization, a graduate of our best schools of economics, Carlos Salinas, was all about.

So it was that just a few weeks ago, as one Senator, I joined in saying to the President that he should not certify Mexico as being in compliance and cooperating fully.

But I would remind my good friend, the new Senator from Arkansas, that we in the Congress do not certify. The President certifies. What happened, even with many of us saying he should not, the President certified that Mexico was in cooperation and compliance.

So now we are confronted with the situation where our own President and all of those who work for him, including a very able drug czar, Gen. Barry McCaffrey, have told us that the best thing we can do is keep the pressure on Mexico, but not to proceed with decertification from our end on the legislative side because in their opinion, instead of making matters better, it will make matters worse. Instead of causing more cooperation, it will cause less. Instead of causing Mexico to work with us in many areas that they are working in that we are now all becoming familiar with, it will force them politically to sever those kinds of relationships and to go their own way.

Might I remind fellow Senators, all of this is happening in the context of an election in Mexico which is going to take place in the not-too-distant future.

Fellow Senators, I understand Mexico. My State borders Mexico. For those who wonder whether I know about their culture, I would remind you that 38 to 40 percent of the residents of my State speak the Spanish language. While many of them are truly Hispanics from Spain, there are many who are Mexicans. But in all respects, I understand the relationship of Mexico and its populace, to the United States. I understand how they feel about us in terms of whether we really are their friends or are we the big giant to the north who is always trying to tell them what to do?

So I have come to the conclusion, absolutely and unqualifiedly, that it is better for us not to override the President but to go ahead and state our case, state our case in a resolution and then say godspeed to the President and General McCaffrey and all the others. Let us see if we can get better cooperation between these two great neighbors in the next few years.

I remind everyone the best experts now say we are not going to fix this drug problem with Mexico where all of these drugs come flowing into our States.

I might say to my friend, Senator COVERDELL, they are pouring into my State, you can be assured, and into the principal city, although it is a couple hundred miles from the border, Albuquerque. We have never had so many murders and gang slayings and drug addictions as we have now because we are at the crossroads of the two interstate highways, both of them leading in some way to the south toward Mexico.

So I am aware of that. But I came to the floor to make sure that Mexico understands that we have once again—and I hope it will be rather unanimous in the Senate—that we have come to the conclusion that we want to urge our nations to cooperate and we are urging, if not begging, Mexico to do what it can to be more cooperative and do more to alleviate this scourge on our people.

I want to also say that the current President of Mexico, Ernesto Zedillo is a very competent man. Some say he is not a good enough politician. But indeed he has a good enough brain and a good enough commitment to that country. I believe—and here again I hope I am right—that he is absolutely honest, that he is truly dedicated to clean up what he can clean up in Mexico.

President Zedillo I hope you will do that. And I hope America is there helping you rather than hindering you as you attempt to do that.

This resolution is a good resolution because it requires that sometime in September a full report will be sent to the Congress of the United States by our President, indicating whether there has been progress made in the many areas cited in this resolution. We are clearly laying before the Mexican leaders what we hope is a constructive resolution, by saying these are the kinds of things where we must see some progress.

We will be around for another day. The Mexican Government knows that. The President will be around next year and have to decide on certification again. I think the President understands that we are not expecting certification to come easy and to be a matter of course or ever just be a matter of whatever the State Department recommends. We are moving in the direction of saying we should be honest about it.

For now, most of us who urged that the President not certify, we have all come to the same conclusion. We want to lay before the American people and the Mexican people and their government what we think is going wrong in Mexico and say we want to help with it. We want to say that we are willing to stand back and do what we can in our appropriation process with the things we must do on the border for law enforcement, but we are also saying to Mexico, you can count on it. We are doing this because our President urges us to. Gen. Barry McCaffrey, the drug czar, urges us to. The State Department urges us to. But we are going to hold all of them accountable, not just Mexico.

We are expecting our Government to say the Senate really is serious and we should do something about these areas. I must say to our Government, we really risk future action by the U.S. Senate—I do not speak for the House—if we do not get some real performance and some honest evaluation in this report that we are requesting here.

That is why I am here. I feel this will do more good in our efforts to work binationally with Mexico. We need to work with Mexico on myriad fronts—those affecting this drug scourge that is flowing into American cities and thus into our young people and Americans across the board.

I thank Senator COVERDELL for his leadership, and the distinguished Senator from California.

It was a pleasure to help you get the letter signed. I think I got a few Senators, and I am pleased to have been on that. I believe our collective work will bring forth positive fruit both for us and for Mexico.

I yield the floor.

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

Mr. COVERDELL. I thank the Senator from Mexico for his generous remarks and his long work on this subject.

Mr. President, I ask unanimous consent that at the hour of 4:45 p.m., the Senate proceed to a vote on amendment No. 25, and immediately following that vote, the joint resolution be read for a third time and passed to and the motion to reconsider be laid upon the table, all without intervening action or debate.

The PRESIDING OFFICER. Without objection, rule XII is waived and the agreement is entered.

Mrs. FEINSTEIN. Mr. President, I suggest the absence of a quorum, and I

ask unanimous consent that the quorum time be applied proportionately to all who have time reserved.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TORRICELLI. 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. TORRICELLI. Mr. President, I, too, would like to commend the distinguished Senator from the State of California, DIANNE FEINSTEIN, as well as the Senator from Georgia, Mr. COVERDELL, and those who I believe in good faith have come together with this agreement. I respect their work. I know their purpose and their intent.

I do not know whether other Senators will vote in opposition to this agreement on this day. I do not know if there are any, but I will not vote for it. I want, Mr. President, to make clear my reasons, because I look at the same facts and I simply come to a different conclusion.

I remember, Mr. President, being told at the end of the cold war we were going to be free of some of the compromises of our own interests which were necessary when we were defending ourselves in that great international struggle. We would be able to speak the truth again and to put our own interests of our own people first.

This is a test of that principle. It is argued that to tell the truth about Mexico and to decertify Mexico as an ally in the war against narcotics would involve offending Mexican sensibilities. Given the realities of Mexican history or the Mexican political situation, it would cause political complications.

Mr. President, the question is not whether or not Mexico would be offended by a truthful analysis. The issue raised is whether or not Mexico is an ally in the war against narcotics. That is the only question that was asked. It is the only question that is relevant.

The truth is unmistakable. Mexico is not assisting, is not an ally in the war against narcotics, and saying that it is or postponing the judgment, as would be done by this resolution, does not escape that truth.

The truth, Mr. President, is that 14,000 Americans die every year from illegal narcotics. If this judgment is to be postponed until September 1, and March, April, May, June, July, and August are to pass, then another 7,000 Americans will be consumed in the spiral of death by illegal narcotics, and they will have died while we maintain a false conclusion.

What is it, Mr. President, we would say to the law enforcement officers from New York to Los Angeles to Chicago, to small towns all across America, to DEA agents around the world, who risk their lives every day facing the truth, if we will not face the truth?

Mexico has had an opportunity in the last year to choose sides in the war against narcotraffickers. They had a choice when the United States filed 52 extradition requests with the Mexican Government and no one was extradited. They had a choice when is 250 Mexican law endorsement officers were dismissed from their positions because of corruption, and none were prosecuted. They had a choice when the Mexican Congress passed money laundering statutes which were not enforced. Mr. President, Mexico has had a choice every day for the last year.

Now, it may be the will of this institution to give them another 6 months to make that choice again. I believe, Mr. President, that given the extensive corruption in the Mexican Government, the compromising of Mexican law enforcement officials, and their pervasive operation of narcotrafficking criminal organizations in Mexico, Mexico may now not only lack the will, but may no longer possess the ability to control the flow of narcotics to the United States. We cannot construct a policy of interdicting narcotics in Mexico by becoming part of a silent conspiracy, where Mexico pretends to be helping interdict narcotics and we pretend to believe them.

This judgment gets no less painful after 6 more months pass than it will be today. It was said, Mr. President, during the cold war that the United States and the Soviet Union went eye to eye and America never blinked. The United States and Mexico are now facing a war against narcotics, and we have made an unfortunate decision to turn our face away from the truth. The proper action of this Senate, in my judgment, would be to vote to decertify Mexico and place both Mexico and those who influence her on notice that a price will be extracted for the deaths of 14,000 Americans every year by illegal narcotics, a price will be extracted for failing to choose sides in the war against narcotics.

Mr. President, I know this is a difficult decision for every Member of the Senate. But we do not face the hardest choices. The real choices are made by our agents in the Drug Enforcement Administration, by those on border control, by the families who wait up every night to see whether their fathers and mothers and brothers and sisters in law enforcement in our cities and on our borders will come home alive. Our choice is easy. Look at the facts, review the evidence, and tell the truth. There is an open season on the American border for narcotics. Calling Mexico an ally in the war against drugs will not make them a friend and not force them to choose sides. This is a painful choice that must be made by the citizens of Mexico and her business and political leaders. If some are voting for this postponement of judgment until September 1 because they believe it would cause political problems for the PRI, the current political leadership of Mexico, then let it be so.

We serve no American or Mexican purpose by hiding from judgment the current political leadership of Mexico. It is a moment of truth by our own people. If elements of the leadership are corrupted or compromised against the interests of not only other nations against fighting narcotics, but against defending Mexico in the interests of our own people, then let the Mexican people understand that truth and vote accordingly. That is the decision, Mr. President. I believe that we postpone not only recognizing the truth about Mexico's participation in the war against drugs, but we postpone, by our silence, the Mexican people realizing the truth about their own government, at a time of political judgment in the Mexican electoral system.

For Mexican interests and for American interests, I will vote against this resolution.

A long time ago, we came to the decision that there would be a war against drugs. In wars, there are casualties. At the moment, the principal casualties are our own children and the police officers of our own country. It would be unfortunate if some in the Mexican political establishment have to face the wrath of their own people, or if the good name of Mexico is compromised. Perhaps, Mr. President, they will be added to the list of victims in the war against drugs. No war is ever won without casualties. It's time to get serious in the war against drugs. I believe decertifying Mexico is an important step.

Mr. President, I will vote accordingly.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. COVERDELL. Mr. President, I ask unanimous consent that the quorum call time be equally divided on both sides.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. 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. GRASSLEY. Mr. President, I yield myself such time as I might consume.

In the last few weeks, the Congress has spent considerable time considering Mexico. A great deal has been said and a number of proposals are on the table about how to respond to the President's decision to certify Mexico as fully cooperating.

These proposals include a resolution to simply decertify Mexico. And a resolution that would put on record the Congress' concern about the lack of visible progress on drugs. We also have a House proposal that is critical of the administration. This proposal would create another minicertification process. That means we get to have this discussion on Mexico all over again in September based on a report to follow the President's summit in Mexico next month.

In my view, these various proposals reflect a generalized concern about Mexican cooperation and a lack of consensus on how best to respond.

We need to ask ourselves where we began on this issue. The whole reason for this debate grows out of a simple fact. Congress did not accept the President's decision on Mexico. Many in Congress doubt the willingness or ability of Mexico to fight drugs. In response, Congress sought to exercise its legal obligations under the Foreign Assistance Act to find a means to overturn his decision. The means available were not satisfactory. Thinking in the Senate does not seem to favor a straight up-or-down decertification of Mexico. In addition, any such effort, even if it should pass both Houses, will face a veto. Congress does not have the votes to override. Thus, our options on how to proceed have narrowed.

Many people have compared the decision to decertify Colombia with the decision to certify Mexico. They have pronounced the process unfair since both countries have corruption problems but they were judged differently. While that is true, the basic reason is that the situations are not the same. The reason for decertifying Colombia was based on reasonably convincing evidence of corruption at the highest levels of Government. We do not have parallel information on Mexico. On the other hand, when you look at the same categories of achievement or cooperation, Mexico scores at least as well as Colombia on most of them. This is not to say that we should be content with what Mexico has done. I do not believe that Mexican officials are content. Nor do I think they take any pride in recent revelations about high-level corruption. My point is that we should not be hasty in making decisions about a country with whom we are so closely linked. We should not rush to decisions involving our third largest trading partner.

Instead, I offered an approach that I believe was both reasonable and responsible. It would have maintained our concern for accountability but it did not create yet more certification procedures for us to have to get through. And I doubt that circumstances will be any less ambiguous 90 or 120 days from now. My proposal did establish clear guidelines whereby we all—Mexico, Congress, and the public—could judge the state of cooperation using the same terms of reference. This proposal would have kept the process that Congress created. We created that process with clear intent and deliberation. I do not think it is time to change that. It is not time for the proposed experiment in Government currently on the table. Given where we started, it does not achieve what we said we expected at the outset. Nevertheless, it is the only proposal on the table. Thus we come to this vote.

I will vote for this joint resolution with reservations. I will look forward, however, to working with my collegaues in the future for a formula that ensures accountability within a framework that permits informed decisionmaking.

Mr. FEINGOLD. Mr. President, I will support the bi-partisan compromise crafted by Senators FEINSTEIN, COVERDELL and the administration because I believe the United States must signal the Mexican Government that the status quo is no longer acceptable in regard to anti-narcotics cooperation. The massive and growing influx of illegal drugs into this country from Mexico is a significant threat to both of our countries and it must be stopped.

Prior to the President's decision to certify Mexico, I joined 40 of my Senate colleagues in writing to the President and urging him to decertify Mexico because of its abysmal record —a record which includes a complete failure to extradite nationals wanted for drug crimes in this country, as well as rampant corruption at all levels of the anti-drug effort. The arrest last month of Mexico's top anti-drug official on charges that he was on the payroll of one of Mexico's largest drug cartels illustrates the nature and extent of this problem. Further, I am deeply concerned about Mexico's decision to replace much of its national police force, which was removed due to widespread corruption, with the Mexican military, an organization with a very poor record in regard to human rights offenses.

Mexico may well be a significant economic partner with the United States, but the current level of illegal drugs entering this Nation unabated from the south is simply unacceptable. Our economic partnership with Mexico should not include the flourishing drug trade which currently uses Mexico as a primary transit point. While I believe the President should not have certified Mexico, I support the Feinstein compromise because, in light of the Administration's decision, it represents the only legitimate opportunity to hold the Mexican Government accountable. I will watch the actions of our southern neighbor very closely over the coming months in the sincere hope that the Mexican Government will rededicate itself to join the United States in our effort to deal with illicit narcotics which infect both of our nations.

Mr. BIDEN. Mr. President, I am pleased to join my colleagues on the Foreign Relations Committee in bringing forward this compromise resolution with regard to Mexico and the narcotics issue.

At the outset, I want to compliment the Senators who have been deeply involved in the negotiations on this matter—the chairman of the committee, the Senator from Georgia, the Senator from California, and the Senator from Texas.

They and many other Senators have a deep and abiding concern about the serious threat that drug trafficking in Mexico posts to both that country and the United States.

Indeed, we all agree, I suspect, on several issues.

First, it is clear that we cannot overstate the role of Mexico as a source for narcotics. Mexico is the primary transit route for cocaine entering the United States, a major source country for heroin, methamphetamines, and marijuana, and a major money laundering center for illicit profits from the narcotics trade.

Second, I believe we agree that the United States bears a significant responsibility for combating the narcotics trade. Undeniably, the demand for narcotics in this country spurs the narcotics trade. But we are not solely to blame for Mexico's ills.

As the Mexican Government continually reminds us, Mexico is a sovereign nations, and it has the responsibility to do all that it can to confront the threat of the powerful drug cartels—cartels which now have considerable influence in Mexican society.

Third, we agree that corruption in Mexican law enforcement is endemic. That corruption is deeply rooted, as even Mexican President Zedillo acknowledged in his State-of-the-Nation address last fall.

Fourth, we all agree that Mexico must do much, much more in the war on drugs—as the White House acknowledged last month when the President made his certification.

All this leads to the fundamental question now facing us: What can Congress do to help us achieve our objective of reducing the flow of narcotics from Mexico to the United States?

I was disappointed that the President certified that Mexico had met the standard of fully cooperating, or taking adequate steps on its own. The systemic corruption in Mexico, combined with several failures to follow through

on commitments made, argued against granting Mexico a full stamp of approval. Instead, I urged the President to invoke the national waiver, because I believed that our interests would be better served by not isolating ourselves from Mexico—which would surely occur were we to fully decertify Mexico. For my part, I believe it could have long-lasting, damaging repercussions that we cannot now predict. At a minimum, it would inhibit the political space that President Zedillo has to press forward with his agenda of reform.

And if we destroy President Zedillo's political resolve to combat the drug traffickers, we will have achieved nothing—and we may well lose the gains we have recently made. In other words, decertification and exercising the full penalties possible under decertification offers a cure that appears to be worse than the disease.

I am pleased that we have come to a bipartisan agreement—reached last night in negotiations with the administration—on the best way forward. The resolution recognizes the aspects of the issue that I have stated—specifically that both countries must take strong action to combat the scourge of narcotics. In addition, the resolution lays out several benchmarks—a set of policies that we expect both the Mexican Government and the United States Government to undertake in the coming months.

For example, it makes clear that Mexico must implement its recently enacted anti-crime laws, including the new money laundering statute and the organized crime law. In addition, Mexico must investigate and prosecute official corruption at all levels of government—and we must do all we can to assist Mexico in that effort. And Mexico must deny safe haven to persons and organizations responsible for drug trafficking.

These and many other measures—if vigorously implemented—will be critical to strengthening the effort against the drug trade.

Mr. President, we have a major problem in Mexico. It is, in part, the result of our success in reducing the flow of narcotics through the Caribbean and Florida—and our success, in cooperation with the Government of Colombia, in dismantling the major cartels in that country. The emergence of powerful cartels in Mexico is a manifestation of the so-called balloon effect—if you pressure the drug traffickers in one area, they will move to another. Unfortunately, the traffickers are nothing if not resilient.

The result, for both Mexico and the United States, is the expansion of organized crime syndicates that have considerable power and influence over not only the drug trade, but also Mexican society itself. Combating this development will require a major commitment—of resources and political will—by both our Government and the Mexican Government.

The cooperation we have received from Mexico in the past year is far from perfect. We all acknowledge that. But we have made important progress in the past few years, and this measure will be an important contribution to spurring even greater cooperation between our two Governments.

Mr. CHAFEE. Mr. President, I am pleased that the Senators from Georgia, California, and Texas were able to reach agreement with the administration on a resolution addressing certification of Mexico's cooperation in fighting illegal drugs. I have been strongly opposed to a straight or even qualified decertification, which I believe would have undermined U.S. interests and been counterproductive in our efforts to address the scourge of illegal drug use in America.

I am not here to argue that the situation in Mexico today, with respect to drug trafficking, is in any way acceptable or serves United States interests. The Senators from California, Georgia, and many others deserve commendation for speaking out strongly about the deteriorating condition surrounding anti-drug efforts in Mexico, and the critical imperative that Mexico take stronger action to stem the flow of illegal drugs across its border into the United States. The statistics with which we have become familiar are alarming and worsening: 10.9 percent of children in the United States between 12 and 17 years of age use illegal drugs; Mexico is the source of 70 percent of the marijuana shipped into the United States, and is a transit point for between 50 percent and 70 percent of the cocaine shipped into our Nation; drug arrests and drug seizures in Mexico are only half of what they were just 4 to 5 years ago; there are 52 outstanding United States extradition requests for drug dealers in Mexico, although few, if any, Mexican nationals have been extradited to the United States on drug charges; drug-related corruption has reached the highest levels of the Mexican Government, with the recent arrest of Mexico's highest ranking antidrug official.

Mr. President, I could go on, but the fact is clear: the Mexican Government, in partnership with the United States, must do a better job of stopping illegal drug production and trafficking. The 10 billion dollars' worth of narcotics that is illegally smuggled from Mexico into the United States each year must be sharply reduced, or even better, eliminated.

But let's be clear about one thing: Solely addressing the situation in Mexico—the "supply side" of the drug problem—is incomplete and insufficient. Precious little time in the debate on decertification has been devoted to addressing the demand side of this problem, that is, the tragic, insatiable appetite for illegal drugs in the United States. If there were no demand for illegal drugs here at home, the drug kingpins and cartel chiefs that have caused so much misery, would be unemployed. A Washington Post editorial earlier this month makes this point clear, stating "the demand equation remains the true frontline of the war on drugs." I am pleased that the language agreed to in these negotiations at least in part addresses this critical aspect of our fight against drugs. We would be remiss in not putting today's debate in its proper perspective.

Nevertheless, Congress is right to speak out in an appropriate manner on the deterioration of antidrug efforts in Mexico, and the need to take concrete measures to stem this tide. I would argue that much—not enough, but much—has already been done: the drug certification law passed in 1986, while imperfect, has produced a framework that can produce real results. Nations that receive United States and international assistance are each year held to a very large measure of accountability for their cooperation with the United States in combating drugs. The specter of losing most United States foreign aid and having IMF and World Bank loans vetoed is certainly a strong incentive for governments such as Mexico to cooperate with us and take needed action.

Despite all of the problems in Mexico, there is evidence that the certification law has compelled Mexico to do more than it would have done were the law not in place. President Zedillo, in particular, has taken a number of steps, including the arrest and firing of thousands of corrupt and criminal individuals in Mexico. His Government has also eradicated an area the equivalent of 5½ times the island of Manhattan. Finally, President Zedillo has declared the drug cartels and the corruption associated with them to be Mexico's principal national security threat. But more needs to be done, and the Clinton administration has the appropriate tools available at its disposal to make further progress on achieving some very important goals. The amendment before us today not only maintains the administration's ability to enhance its cooperation with Mexico, but provides for needed accountability to Congress and the American people.

On February 28, President Clinton certified to Congress that the Government of Mexico was fully cooperating with the United States in antidrug efforts. The question before the Senate during the past several weeks is should we overrule the President's decision and decertify Mexico? I have argued that, despite the deteriorating situation in Mexico, congressional decertification is the wrong approach, and would actually be counterproductive in solving these problems. I am gratified

that the authors of the original decertification resolution have made significant compromises with the administration so that such a vote has been avoided.

Decertification would have been a slap in the face to our diplomats, who have labored, often painstakingly, to prod the Mexicans to help us crack down on illicit drug trafficking. Not only would it upset these delicate diplomatic efforts, a straight decertification would incite the well-known nationalistic political forces in Mexico, making it even more difficult for President Zedillo to further cooperate with us in achieving the goals all of us share. If it's difficult to work with Mexico now, I shudder to think what would have happened if Congress had overruled the administration by passing a straight or even qualified decertification.

I prefer instead to entrust our diplomats with the task of negotiating expanded antidrug efforts with the Mexicans, rather than hoping that decertification, even if sanctions were waived, would compel action on their part. As the March 3 Washington Post editorial states, decertification is "a blunt instrument poorly designed for the delicate political work of drug enforcement. . . . A nationalistic reaction is the inevitable result." I ask unanimous consent that this editorial be printed in the RECORD at this time.

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

[From the Washington Post, March 3, 1997]

A FINE LINE FOR MEXICO

President Clinton drew a fine line, but a sensible one, between certifying Mexico and decertifying Columbia as a reliable partner of the United States in fighting drug trafficking. The record of both Latin countries in stemming the dread trade is sad. But at least the Mexican government is demonstrably trying—it had the political courage to arrest its corrupted drug policy chief on the eve of the certification proceedings—while the president of Colombia is established as the creature of a drug cartel. Mr. Clinton decided that President Ernesto Zedillo's capacity to do better would be strengthened by certification and that President Ernesto Samper was beyond redemption. It is an arguable decision, but it fits the exigencies of the American certification law, and it also fits the facts.

By now it is accepted in the White House and elsewhere in the administration that the American certification law is a blunt instrument poorly designed for the delicate political work of drug enforcement. In a hemisphere where the premise of effective diplomacy is to respect the sovereign equality of member states, this law brings American power to bear on supply and transit states without either consulting them or providing them a reciprocal opportunity to pass judgment on American policy. A nationalistic reaction is the inevitable result. Still it is the law, and the president is bound to enforce it. Secretary of State Madeline Albright, in announcing the administration's decision on Friday, acknowledge the obligation of the United States to press ahead with its own strategy to reduce demand—a strategy it had introduced, to something less than full public attention, earlier in the week. The demand equation remains the true front line of the war on drugs.

Mexico was unconditionally certified as an American drug-fighting partner. So it is not exposed either to the political rebuke or to the economic penalties that follow from being de-certified. But Mexico is far from being in the clear. Mrs. Albright publicly listed the particular policy areas (capture and extradition of kingpins, money laundering and so on) in which the United States expects to see Mexican progress, and which she, the attorney general and the anti-drug chief will monitor.

A considerable number of legislators have indicated that they will attempt to reverse the administration's certification of Mexico. They should ask themselves how such a gesture, satisfying as it might be for the moment, actually would serve their cause, and what effect it might have in other areas of policy—trade, immigration, environment—where good relations with Mexico are vital to American interests.

Mr. CHAFEE. Mr. President, the amendment before us today represents a far more prudent approach to this sensitive issue. It outlines in detail the serious problems involved in Mexico today, and makes it clear that further progress is needed. However, instead of simply clubbing Mexico and walking away, this amendment sets very specific benchmarks for improved antidrug efforts by Mexico, and requires a progress report from the administration by September 1. Among other things, this report must describe the extent to which our two nations have made significant and demonstrable progress on dismantling drug cartels, improving law enforcement relationships, and increasing cooperation on extradition of Mexican drug dealers wanted in the United States. The amendment makes it entirely clear both to this administration and to Mexico where the failings have been and what our priorities are. However, under this compromise, nationalist forces will not be incited in Mexico, and our diplomatic efforts can continue smoothly.

I urge all of my colleagues to support this amendment. Thank you.

Mr. LEAHY. Mr. President, I think the process that has culminated in this amendment has shown that however well-intentioned, the drug certification process is poorly conceived. Mexico is clearly not cooperating in the counternarcotics effort as it should. How can it, when practically the highest ranking Mexican officials responsible for dealing with the problem are profiting from the drug trade themselves?

But decertifying Mexico would cause more problems than it would solve, by creating resentment with the very people with whom we are seeking to build stronger relations.

I will vote for the amendment, but I want to stress that I am very disappointed that the administration has not acted more forcefully and visibly to encourage the Mexican Government to deal effectively with the corruption and human rights abuses committed by Mexico's police and armed forces. We should send a strong signal to Mexico that this will no longer be ignored. I would have favored a stronger resolution than this, as I know many others would have, including the resolution's sponsor, but I hope the Mexican Government appreciates the seriousness with which we regard these concerns.

The reports of rampant corruption among Mexican military and law enforcement officials, and the human rights abuses they have been involved in, are alarming, as are reports of growing paramilitary activity in Mexico. I am concerned that, with United States support, Mexico is blurring the line between its police and armed forces. I am also concerned that our ability to monitor the equipment we provide to Mexico is inadequate. I have urged the administration to be very specific in its agreements for the transfer of equipment to the Mexican police or armed forces, so there is no ambiguity that it is to be used for counternarcotics activities and not counterinsurgency activities. Those agreements should also specify that if members of police or military units that receive our assistance are implicated in abuses, they will be immediately removed and steps taken to bring them to justice. We have done this recently in agreements with Colombian officials, and there is no reason why it could not be done in Mexico.

The United States and Mexico must work together to combat this problem. But while I and others expect far more from the Mexican Government to deal with corruption and the violence perpetrated by their own agents, unless we curb the demand in our own country, drug abuse will remain a national crisis.

In the last 10 years, the United States has spent $103 billion on programs here and abroad against drugs. Yet the DEA reports that the amount of cocaine entering the country, as well as the rates of heroin and cocaine abuse among Americans, have remained steady. Again, the evidence is clear. We will not solve this problem until we aggressively deal with the causes of drug use and addiction in our own country.

Mr. President, I want to thank Senators DODD, FEINSTEIN, COVERDELL, KERRY, MCCAIN, and HUTCHISON who have worked very hard to reach a compromise on this difficult issue.

Mr. DEWINE. Mr. President, I rise today in support of the Mexico resolution.

I think it offers a constructive solution to the bilateral problem we are facing. It gives the President of the United States an opportunity to discuss with President Zedillo of Mexico

the various concerns many of us have about the progress our two countries are making in the drug war. And it does so without provoking unnecessary and counterproductive tensions between our countries.

The problems in Mexico's drug enforcement are well known. You can hardly open a newspaper without learning about even more instances of corruption and incompetence at all levels of government and law enforcement.

It's a sad chronicle that makes for truly depressing reading. It's understandable why so many concerned Members of Congress are raising serious questions about the effectiveness of Mexico's antidrug effort.

But it's important that we in Congress stay focused on doing what's in our own national interest—not on symbolic gestures that fail to accomplish that interest.

The problems we face are real.

There are 12.8 million Americans who use illegal drugs, including 1.5 million cocaine users and 600,000 heroin addicts.

More than 1 out of every 10 children between 12 and 17 years of age use illegal drugs. One out of every four claims to have been offered illegal drugs in the past year.

The American people recognize that these are important problems—and that we have to take serious action. But let me point out, Mr. President, that there are many, many people in Mexico who support our goals. To succeed, we need that support.

Without their support, it would not have been possible for Mexico to make even today's limited progress against the drug traffickers.

That progress is limited, but it is nonetheless real.

Over the last year, in spite of the well-known cases of corruption, the Mexican Government has posted increases in drug seizures and crop eradications. That includes a 15-percent increase in marijuana seizures, a 6.3-percent increase in cocaine seizures, and an almost 80-percent increase in heroin seizures.

In 1996, Mexican authorities reported an increase of nearly 14 percent in the number of people arrested on drug trafficking and related offenses, including 28 high-level members of drug trafficking organizations. This year, as has been widely reported, Mexican authorities arrested General Jesus Gutierrez Rebollo—who had been in charge of the National Institute to Combat Drugs—for supporting the activities of the Juarez cartel.

We didn't catch him, Mr. President. The Mexicans themselves did.

Should we expect further improvements in law enforcement operations? Absolutely. We need to monitor the full enforcement of the law—in other words, keep close watch on how many of these arrests lead to prosecution and jail time.

In 1996, the Mexican Congress passed tough laws to address the problems of money laundering, chemical diversion, and organized crime. Now we should insist on full enforcement of those new laws.

This year, we have seen improved cooperation in the areas of money laundering and extradition. Mexico and the United States established a high level contact group on narcotics control to explore joint solutions to the shared drug threat and to coordinate bilateral efforts. We should now expect this increased cooperation to yield clear, positive results.

But one thing is clear: Both Governments need to dedicate greater resources to stop trafficking along our border. Senator HUTCHISON informed the Foreign Relations Committee last week of the enormous difficulties faced by her fellow Texans along the border. Specifically, ranchers with property along the border are being bribed, coerced, or having their lives threatened by traffickers seeking to use private property as a back door into our Nation. These ranchers have been told by Federal officials that it would be years before enough new border agents could be assigned to better secure their property.

Listen to some of the stories these ranchers tell—stories about the gunfights they have fought with drug gangs, and having to carry guns whenever they leave the house. It sounds like a John Ford movie about the Old West.

That has got to change.

Mr. President, let me conclude by making a broader point about Mexico's future. In my view, with this resolution, we create the opportunity for a new round of cooperation between the United States and Mexico. Mexico is not only a neighbor with whom we share a 2,000-mile border, it is also this country's third largest trading partner. If we are to be successful in our antidrug efforts, Mexico must be our ally.

Yes, the Government of Mexico needs to do more within its borders, and with us, to combat drug trafficking. The real question before us is how can we improve on that partnership.

We all know what the problems are. We all agree that they are very, very serious. But we should also recognize that this is a crucial moment in Mexico's history—and they need our support if they are going to continue in the right direction.

What the Mexican people are trying to do is make the transition from a one-party state, in which corruption and excessive government mandates stifle the hope for widespread prosperity, to a multiparty state that creates jobs and rewards job creators.

President Zedillo appears to be trying to free up Mexican society and reform the political process—changes that will make Mexico a more stable neighbor for the United States. He is opposed by powerful elements in his ruling party, and make no mistake, the outcome is still in doubt.

Now more than ever, the people of Mexico need to know that we want them to be our partners. Our national interest is served by a prosperous and democratic Mexico—a Mexico that offers hope and opportunity for its citizens.

The drug war is one area where we must continue to work together. We should redouble our efforts to look for constructive solutions—to reduce trafficking, to crack down on money laundering, and most important of all, to reduce the demand for drugs.

Our countries must be united in a very important partnership. In the anti-drug effort, as in so many other areas, we have a major common challenge, and we can only prevail if we face it together.

Mr. President, I yield the floor.

Mr. CAMPBELL. Mr. President, this month both Houses of Congress have been engaged in a difficult debate over whether to uphold or overturn the President's certification of Mexico as fully cooperating with the United States to fight drug trafficking.

This debate has had a growing negative impact on U.S. relations with an important country and trading partner along our southern border. The debate also has shown how the certification process under the Foreign Assistance Act of 1961 is not as effective as Congress originally intended it to be.

Under current law, notice provided to the target country is often too late and not specific enough to fix the problems. Moreover, access to more timely and specific information would assist Congress in exercising its legislative and oversight responsibilities.

Therefore, on Tuesday of this week, I introduced S. 457, a bill to provide a new option to the President to place countries such as Mexico on a probationary status of 7 months, during the period of March 1 through September 30. If by the end of this probationary period, the target country complies with the specific conditions stipulated by the President, full certification would be granted. However, if these conditions are not met, the United States would act firmly by cutting off aid beginning on October 1 of this year.

I am pleased that the compromise the Senate is considering today reflects to some extent the main components of my bill. The pending resolution recognizes that Mexico has taken insufficient steps to stop drug trafficking and it stipulates a 6-month period of time in which the President will review Mexico's progress in this area. The resolution also requires the President to submit a report to Congress by September 1 on Mexico's progress.

However, the resolution we consider today does not nearly go far enough.

Its findings regarding Mexico are not specific; it does not provide specific steps Mexico must take to continue receiving aid; and it does not amend the existing law to improve the certification process in the future, as my bill does.

I am voting in favor of the pending resolution today because it is the only legislation the Senate will consider this week to address the certification of Mexico. Nevertheless, I urge my colleagues to support S. 457 to improve the certification process for the future.

I thank the Chair and I yield the floor.

Mr. BURNS. Mr. President, I rise today to express my support for the joint resolution that the majority leaders, my fellow Republican and Democratic colleagues, and the administration has concluded with relation to certification of Mexico. Even though I do not think that this resolution goes far enough, I realize that this agreement is a bipartisan effort that should be enacted for the good of the Nation.

Frankly, I am disappointed that we consider a nation that supports drug cartels and warlords worthy of programs funded by the hard earned dollars of American tapayers. However, this resolution will make certain demands of Mexico and the administration to ensure that progress is made in Mexico. This resolution does not entirely burden Mexico with this responsibility; it will also create a partnership. This partnership will try to strengthen bilateral border enforcement, create a permanent working relationship between law enforcement agencies of both nations and actually assist Mexico to identify, remove and prosecute corrupt officials at all levels of Government. By creating this partnership, Mexico and the United States will closely study this situation and actually try to ensure that both of our efforts are being met. With such limited resources, our assistance to Mexico should make a difference.

Mr. President, we must work toward ensuring that Mexico halts these destructive practices for our most precious national asset, our children. Over the past few years, there has been a marked increase in the levels of cocaine, heroin, methamphetamines, and marijuana flowing into the United States through Mexico. This is hitting every urban and rural community in the United States. The protection of our most vulnerable possession, our children is the strongest argument for the passage of this legislation.

Finally, we should not be saying to the American people that this law is only good if we can also pass the chemical weapons convention treaty. This is not to suggest my opposition or support for the treaty, but I believe that each issue should be kept separate so as to ensure that both are considered on their own merits.

Thus, the most important issue for this Congress today—the only issue for Congress today—is to move forward on this resolution.

Mr. KYL. Mr. President, today we will vote on one of the most difficult issues facing our Nation: the illegal drug trade in Mexico and the United States. The resolution we will vote on requires the President to report by September 1, 1997, on the efforts of Mexico and the United States to achieve results in combating the production of and trafficking in illicit drugs. I support the resolution, and am hopeful that the report will show significant progress by Mexico and the United States in fighting the war on illegal drugs.

As my colleagues have discussed today, we cannot win the war on drugs unless Mexico achieves significant progress in the areas of drug trafficking, extradition, corruption among Mexican law enforcement and other officials, interdiction networks, implementation of laws and regulations to combat money laundering, eradication of crops destined for illegal drug use in the United States, and the strengthening of bilateral border control.

Border control must also be a top priority of the United States; and while my colleagues, including Senators COVERDELL, FEINSTEIN, and HUTCHISON, have done an excellent job detailing what must be done to further our and Mexico's efforts to fight illegal drugs, I want to concentrate for a moment on the need for additional United States Border Patrol agents.

First, I am pleased that one of three things we are asking the President to do by September 1 is detail the progress made in the deployment of 1,000 additional U.S. Border Patrol agents in 1997 as required by my amendment to the Immigration Act of 1996.

Without an effectively controlled border, the United States cannot even begin to win the war on drugs. I was disturbed that the President's fiscal year 1997 budget to Congress requested the addition of only 500 Border Patrol agents, instead of the 1,000 required in the 1986 Act. Senators MCCAIN, GRAMM, HUTCHISON, and DOMENICI recently joined me in sending a letter to the President, urging him to comply with the law, revise his budget request, and deploy 1,000 additional agents in 1997. Without an adequate contingent of customs and border agents, the problem of individuals smuggling drugs and illegal immigrants across our border will only worsen.

Border Patrol agents are on the front lines every day, working hard to seal off our borders from increasing levels of illegal immigration and the drug trade. The agents that Congress has added over the past few years have made a difference, but the need for additional agents keeps growing. Drug and illegal alien smuggling continues to grow—illegal immigrants are expected to increase by 275,000 per year over the next several years—and the effects of illegal drugs, particularly methamphetamine, have been devastating for the citizens of Arizona and the rest of the Nation.

Just a few weeks ago, a study on drug use in America showed a large increase in youth drug use over the last 5 years. Arizona fared poorly, with much higher drug use than the national average, including a startling statistic that our sixth graders are twice as likely to have tried methamphetamine than high school seniors nationwide. While we continue to talk about the need to fight illegal drugs, the precursor chemicals that make methamphetamine are being smuggled into Arizona in increasing volume. It must stop.

As the resolution we are voting on today says, the abuse of illicit drugs results in at least 14,000 deaths per year in the United States, and "exacts economic costs in excess of $67 billion per year to the American people."

Although many of us would like to see more specific actions that the Mexican government should take to show serious improvement in the war against illicit drugs, it is my hope that Mexico will be able to show significant accomplishments in the areas outlined in the resolution. Likewise, the administration must be able to show specific, detailed action in the war against drugs by, among other things, deploying 1,000 additional agents in 1997.

Mr. President, not rhetoric, but actions. That is what we must demand of Mexico and that is what we must demand of ourselves. We must work diligently to eradicate the scourge of illegal drugs that has taken so many of our citizens, young and old alike, hostage. This compromise resolution should be passed by the U.S. Senate.

Mr. DASCHLE. Mr. President, I join with my colleagues today in strongly endorsing this bipartisan resolution, which represents an important step in the fight to curb the flow of drugs from Mexico.

This resolution strongly registers Congress' unhappiness with the current situation in Mexico. It includes a clause stating that it is the sense of Congress that "there has been ineffective and insufficient progress in halting the production in and transit through Mexico of illegal drugs."

There is ample evidence that Mexico is not doing enough to combat this problem. Let me cite a few examples.

More than half the cocaine coming into the United States is smuggled across the United States-Mexican border.

Major quantities of heroin, marijuana and methamphetamines used in the United States are produced in Mexico.

Drugs are being moved illegally across the United States-Mexico border

by major criminal organizations operating on both sides of the border.

And, of great concern to the United States, there is evidence of significant corruption affecting the Mexican Government and undermining its antidrug commitments. The most dramatic recent evidence of this fact was Mexico's February 1997 arrest of its drug czar, General Gutierrez.

This resolution helps us move beyond the annual certification debate in achieving concrete action in a constructive way. Passage of this resolution will strengthen the President's hand in his upcoming April trip to Mexico. It puts the United States in a position to get the greatest possible cooperation from the Mexicans in fighting the war on drugs. And, most importantly, it puts the Mexicans on notice that we will expect such cooperation.

This resolution clearly expresses Congress' view that the Mexican Government must do more and that the United States needs a plan to push that effort. The resolution lays out the positive steps they must take by requiring the President to submit a report to Congress by September 1 of this year laying out progress with Mexico in the following important areas: Investigation and dismantling of drug cartels, development and strengthening of the working relationship between the United States and Mexican law enforcement officials; strengthening of bilateral border enforcement; denial of safe havens for those responsible for drug trafficking, including improvement of cooperation on extradition matters between the United States and Mexico; simplification of evidentiary requirements for narcotics and other related crimes; full implementation of effective laws and regulations to combat money laundering; eradication of crops intended for illicit drug use; establishment of screening process to assess the suitability of all law enforcement personnel involved in the fight against organized crime; and the support given to Mexico in its efforts to identify and remove corrupt officials throughout the government, including law enforcement and military officials.

The resolution also directs that the report include progress on important domestic goals, including the implementation of antidrug education efforts in the United States focusing on reducing drug use among young people; the implementation of a comprehensive international drug interdiction and enforcement strategy; and providing the additional personnel needed to get the job done.

This resolution is not, and must not be, the end of this process. The 1998 drug certification process will give Congress another chance to express its support or disapproval of the progress we have made with Mexico.

The resolution is not perfect, but it takes us in the right direction.

Let there be no mistake: the United States cannot tolerate anything less than an all-out effort to control illegal drugs. Mexico must demonstrate a dramatic increase in its cooperation in the effort to stop the flow of drugs across the United States-Mexico border. The United States obligation is to insist on Mexico's cooperation and to make it clear that we will do everything we can to support their effort. We will be closely monitoring progress in this area. Without it, we will face an intolerable threat to our children and a severe degradation of our relationship with Mexico.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call.

Mr. DODD. 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. DODD. How much time remains?

The PRESIDING OFFICER. The leader has 50 minutes.

Mr. DODD. Mr. President, I yield myself 15 minutes of leader's time, and I will try to use less than that time.

Let me begin these remarks by thanking the sponsors of this resolution that is pending before the Senate. I want to especially thank our colleague from Georgia, Senator COVERDELL, with whom I have the pleasure of serving with as ranking member of the Subcommittee on Western Hemisphere, Peace Corps, Narcotics and Terrorism of the Committee on Foreign Relations. He played a very major role in shaping the compromise that is now before us. I would mention as well our colleagues, DIANNE FEINSTEIN from California, KAY BAILEY HUTCHISON from Texas, JOHN MCCAIN of Arizona, and others who worked tirelessly in helping put this resolution together.

I commend them for their work in putting this resolution together. I am happy to have been a part of it. Even though I do not agree with every word in it, on balance I believe it is a very constructive approach to a very difficult problem. I am sure that all of us who worked to forge this compromise would have liked to see things added or subtracted depending upon our points of view. But, that is the nature of how a resolution like this is assembled.

I think the pending amendment captures the views of this body fairly accurately, and I suspect, the views of the American people whom we represent. Yes, there is a sense of outrage, fear, worry, and frustration over the ongoing threat posed by the Mexican drug cartels. We have paid a very heavy price for their relentless efforts to ply their trade whereever they can get away with it. The human costs of drug use are real and mounting. This scourge that still ravages this country called drugs has caused great damage to millions of people in this country and elsewhere.

The pending amendment is an attempt to express to our neighbor and ally to the south of us, Mexico, where more than 50 percent of all the drugs that come to this country are produced or transit through, that we would like to see more cooperation in our efforts to eliminate drugs from both our countries.

Mr. President, the economic costs to the American people from the illegal use of narcotics is in excess $67 billion annually. Estimates are that nearly 13 million Americans regularly use illegal substances. The revenues generated by the drug kingpins totals more than $49 billion annually—a rather remarkable statistic.

The Mexican drug cartels allocate more than $6 billion of ill gotten gains for the sale of drugs in order to bribe, or otherwise corrupt Mexican law enforcement and judicial authorities involved in counternarcotics programs.

We consume 50 percent of all the illegal drugs produced in the world. We represent 5 percent of the world's population. So clearly the United States is at the heart of the international drug problem. More and more, this is not solely an American problem. Drug consumption is beginning to ravage countries which in the past never had a problem with illegal substances and drugs. But today that is changing, and even in producing countries—transit countries—nations where money laundering goes on, consumption and the ravages of consumption are beginning to wreak havoc in these nations as well.

I cite just of few statistics. There are clearly many more. I know my colleague from California provided some other statistics in the course of her remarks concerning, for example, the amount of product coming into this country.

Let me say that I think it is perfectly appropriate and proper that we raise the issue of the effectiveness of our allies and neighbors' counter-narcotics efforts. But we should admit as well that we could do a better job here at home in helping to wage an all out effort against illegal drug use. We need to take a good hard look in the mirror as well.

I would argue very strenuously that were it not for the consumption in this country, were it not for our consumption problems, that we would have far less of a problem with nations like Mexico and others. I don't say that is an excuse to let those nations off the hook who produce, process, and tranship these illegal drugs that wind up on our streets. But if we are going to have an intelligent and thoughtful discussion about drug abuse and illegal drug production, and the problems these create, then we need to spend at

least as much time in analyzing what we in the United States are doing or are not doing in our own country that creates the market for these products as we do pointing the accusing finger at those who are involved on the supply side.

Simply put, if we did not have a domestic consumption problem we would not have the magnitude of the problem of the supply side that exists in Mexico today. With enough resources we can probably deal with Mexico. Or we can deal with Peru, and Colombia. But what we have learned historically is that as we begin to put pressure on narcotraffickers in one country, they simply relocate to another. This will continue to be the case so long as our domestic consumption rates continue to go up. The producing countries, the transit countries, the money laundering countries, are only temporary locations in the transnational international drug trafficking business.

So the first line of defense has to be a far more aggressive effort here at home to try to educate young people against the dangers and the problems associated with illegal drug use. We also need better treatment programs so that those who are hooked on drugs who want to change will have someplace to go to for help in breaking these incredibly debilitating habits. Yet today, there is a long waiting list at our drug treatment centers—a list of addicts wanting treatment that is currently unavailable to many of them. The waiting period to get into treatment can be as long as 4 years in some instances. Having to wait months and months for treatment certainly doesn't contribute to our efforts to reduce the problem of consumption.

I hope as we attempt to seriously come to grips with the international drug threat to the United States —and it is not going to disappear overnight—that we focus a lot of our attention on reducing domestic drug abuse.

Just as I believe we need to place more emphasis on the demand side, I think we need a serious rethinking of how we approach the supply side of the equation. The current approach as embodied in the annual certification process is not working. In 1986 when Congress enacted the drug certification law there was a great deal of frustration that neither the United States nor other countries were doing enough to fight the drug war. So Congress, on a bipartisan basis, set up a certification process in order to bring attention to the issue and try to do something about it. I strongly suggest to my colleagues—and I realize that I may be in the minority on this issue—that we ought to scrap this certification process and try to come up with some alternative idea that would allow us to develop a working partnership with other governments, particularly those in our own hemisphere.

There are good people in Mexico who want to see this problem stopped as well.

In fact, I made note the other day—it is worth repeating here today—that when President Zedillo of Mexico came forward and took some significant steps in dealing with the people in his own country who had been corrupted by this process, his favorability rating rose more than 10 percent in Mexican public opinion polls. It isn't just American citizens who are deeply troubled by the rising cost of illegal substances and drugs. The people of Mexico, the average citizen in the street, is worried about this. The mother in Mexico City is just as worried about her child becoming hooked on these substances as a mother in Hartford, or a mother in Atlanta, or a mother in Los Angeles. We need to be sensitive to that because they have to help us as well in trying to build a base of public support in Mexico that will encourage Mexican authorities to get tough on narcotraffickers and corrupt government officials.

My colleague from Georgia may have addressed this already. I will just state it briefly. I think our colleague from Georgia has a very sound idea in terms of how we might look at this problem a bit differently. He has proposed that all countries that are involved in the various aspects of the drug trade, whatever their level of involvement, sit down and start figuring out how we can work together to solve this problem. It isn't going to be solved in one year or two. It isn't going to be solved at all unless we come up with a common plan—a plan developed by coequals trying to deal with this issue. That is the only way to get the kind of cooperation that is absolutely critical if we are going to be successful in dealing with our allies and others who are producing these products.

I see my colleague. I will be glad to yield to him because I raised his name and mentioned his program.

Mr. COVERDELL. Mr. President, first, I want to acknowledge the almost tireless support of the Senator from Connecticut in behalf of the concept.

Just to take a second, the resolution before this body does for the first time enumerate the concept and calls on the administration to air it during the upcoming meetings in Mexico. I just wanted to mention that.

Mr. DODD. I thank my colleague for mentioning that.

I strongly urge the administration and others to take a strong, hard look at this and come forward with ideas so we can get off the certification track that brings us back here year in and year out picking winners and losers and deciding whether or not they are going to be on the good list, or the bad list, or the marginally good list. Whether they are going to be certified, decertified, or granted a national interest waiver. Debating that kind of question and getting votes of 55 to 45 or 65 to 30 for the various legislative initiatives surrounding certification doesn't get us anywhere.

We have significant evidence that decertification has not fostered better cooperation from other countries. For the last 11 years we have decertified a handful of countries year in and year out. None of these countries counter narcotics efforts have improved as a result of that action.

The simple question that must be asked about the current procedure is if it is not working should it continue? Shouldn't we consider an alternative that might really be effective in achieving the cooperation that is necessary to reduce the ravages of this problem?

If we don't try something new, we will be sitting here, I promise you, with more charts next year and more charts the year after that, and more charts the year after that, and we can beat our chests, pound the table, and scream at neighbors and allies. But my fear is that it doesn't get any better.

So, when your idea is not working very well, you ought to think anew. What the Senator from Georgia has done in my view is think anew on this. I commend him for it. I don't think he thinks nor do I think it is a perfect idea. But I think it has the seeds of success written into it. If we give it a chance and try to make it work, then I think it can produce the results that we all are looking for.

Mr. President, again I commend the authors of this amendment. I think they have expressed the views of all of us more or less. We are all blessed to have General McCaffrey heading up narcotics efforts. He has done an excellent job and he enjoys universal support for his efforts.

I urge the adoption of this amendment. But, more importantly, Mr. President, I urge that we find a different way in the coming weeks and months to address this issue before we find ourselves back again engaged in an exercise that isn't achieving the kind of results that many of us would like to see accomplished.

With that, Mr. President, I urge adoption of the resolution and yield the floor.

Mr. COVERDELL addressed the Chair.

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

Mr. COVERDELL. I thank my colleague from Connecticut for his remarks and again, as I have in the past, for his attention to this concept that we have been discussing for now 2 years, and hopefully this resolution will bring it to a new level of discussion. I apologize for interrupting, but I did want to note that we had embraced some of this concept in the resolution.

Now, Mr. President, I yield up to 5 minutes of my time to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. I thank the Chair. I thank my good colleague from Georgia for yielding time to me. I would also like to thank and recognize and compliment Senator COVERDELL, Senator FEINSTEIN, and others who have worked tirelessly on this effort to try to get more help in stopping all the drug trafficking through Mexico. I know they have worked very hard to try to craft a vehicle and language to be able to get at this issue, which we all want to do, which is reduce the drug trafficking, reduce the amount of drug flow from and through Mexico to the United States. I applaud their efforts and their tireless work in getting this done.

However, in looking at the language of this bill, I must rise in opposition to certifying Mexico as complying with our drug-trafficking efforts, and this is not, in my estimation, as I consider this vote and weigh it carefully, about bashing Mexico. This is not about bashing the administration. This is about complying with the law and interpretation of that law and a judgment that each of us must make. The fact is section 490 of the Foreign Assistance Act requires that the President certify that Mexico has cooperated fully with the United States or taken adequate steps on its own to fight drug trafficking.

That is the law, and that is the interpretation and that is what each of us have to interpret, whether this is done: Has Mexico cooperated fully with the United States or taken adequate steps on its own? Sadly, I come to the conclusion the facts are that Mexico has not cooperated fully with the United States and the steps they have taken to combat the drug trade are far from adequate. I am sad in taking that position and in looking at it this way, but I can arrive at no other conclusion.

There was a slight increase in 1996 in both drug seizures and arrests of drug traffickers. But sadly, again, this is because the numbers for 1995 were so low. Their record over the 1992 to 1993 period shows that they can do much better; they were much, much higher. So the Mexican Government, working more in cooperation with us, can do much better. In fact, Mexico's current record clearly indicates that they should not be certified for antidrug cooperation. U.S. drug agents report that the situation on the border has never been worse.

I applaud Senator COVERDELL and Senator FEINSTEIN for laying out in detail the facts that are before us. I would like to reiterate some of them again if I could.

Mexico continues to be a major transit point for cocaine entering the United States from South America. Fifty to 70 percent of the cocaine entering the United States transits Mexico, and Mexico is a supplier of 20 to 30 percent of the heroin to the United States market and up to 80 percent of the foreign-grown marijuana. Seizures of cocaine were about the same as the last 2 years but about half the level of seizures in 1991 to 1993. Drug arrests were up for 1995. However, they were considerably less than arrests in 1992 to 1993. Mexico refuses to allow the United States Navy ships patrolling for drug smugglers to put into Mexican ports to refuel without 30 days' notice. Mexico has enacted money laundering legislation, but so far the legislation has not been implemented, and Mexico is 12 months late in producing necessary banking regulations.

The record on this issue is clear, and sadly so. It is not credible to claim that Mexico has fully cooperated with the United States in fighting drug trafficking. On the contrary, the major Mexico-based drug cartels have risen to being some of the most powerful trafficking groups in the world.

I think we absolutely have to send a strong signal to the administration and to our neighbors to the south that the certification process is not just a rubberstamp exercise and that we require action on this issue. I say again that I arrive at this conclusion sadly because I think everybody in this body would much rather be able to easily certify, and I do applaud the efforts of Senator COVERDELL, Senator FEINSTEIN, Senator HUTCHISON, and many others in working on this. But we are just not there and I cannot support the certification.

I thank the Chair. I thank the Senator for yielding.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, the junior Senator from Massachusetts has requested time. I will yield 7½ minutes of my time to him, and I believe the Senator from Georgia will yield time.

Mr. COVERDELL. If the Senator from California will withhold this allotment of time for one moment while I deal with a unanimous consent that both sides agreed to in trying to facilitate a number of our Members who are trying to visit the White House and some others who are trying to catch aircraft. I will do this and then we move to Senator KERRY from Massachusetts under the circumstances the Senator has just outlined.

I ask unanimous consent, Mr. President, that the vote scheduled to occur at 4:45 today now occur at 3 p.m., and further, the following Senators to speak for up to the designated time: Senator KERRY for 15 minutes, Senator HUTCHISON for 10, Senator FEINSTEIN for 5, Senator BOXER for 5 minutes, Senator COVERDELL for 5 minutes, and any statements relating to the issue provided for in the consent remain in order prior to the close of business today.

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

The Chair recognizes the Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Chair and I thank the Senator from Georgia for his intercession and his help, and I particularly want to pay tribute to the Senator from California, [Mrs. FEINSTEIN], who has been pressing so hard on this absolutely vital issue of concern to every single American.

I listened carefully to the comments in the Chamber, particularly those of the Senator from Connecticut a moment ago. We differ on the question of whether certification is effective or not. The fact is, were it not for certification, we would not be here today fighting about what the appropriate action is with respect to Mexico and there would not be such sensitivities by Mexico or us to the consequences of our actions. Were it not for the certification process, there are whole countries that would continue to disregard, as they did prior to the certification process, any notions of cooperation. It is, frankly, only by virtue of the certification process that we have made the extra judgments with respect to Mexico that lead us to understand the dire circumstances that we find ourselves in today.

Having said that, I want to comment on one other aspect of this, because I agree with the Senator from Connecticut. I have been, I think, forceful in speaking out on this over the last years. Any efforts to make any judgment about any other country must be accompanied by efforts to make judgments about ourselves. In fact, efforts to judge ourselves ought to come first, and we ought to be much tougher on ourselves than we are on the others.

The fact is that after all these years of so-called declarations of war on drugs and all of the talk about its importance and all of the hype, we really do not have a legitimate war on drugs in our own country. I hear some people sometimes say, well, the reason we are losing the war on drugs is x, y or z. We are not losing the war on drugs, Mr. President. We are not fighting the war on drugs. Ask a lot of prosecutors around the country whether they have sufficient resources. Ask judges whether they can move people through the courts fast enough. What happened to the initiative to have drug courts? Ask drug addicts, who are the first people we ought to discuss this with, what they say about the system and if it is serious, because we treat less than 50 percent of the drug addicts in this country. If you want to take the pushers' clients away, we ought to have treatment on demand in America,

clean the streets up of the addicts, have an outreach effort that identifies them in community after community and show some tough love in the United States and provide the treatment. You cannot have pushers come along fast enough to make up for that loss of business. Do you want to deal with the people who are hitting people over the heads and robbing cars and stealing radios and entering houses at night? Then that is the way to do it. But we do not. We do not even educate all our kids in America about the danger of drugs. Only 55 percent of our children get education about drugs. The fact is that from 1956 until 1994, we enacted 43 so-called comprehensive laws to deal with international narcotics control. From 1961 to 1991 we passed over 100 bills to combat drugs. There have been 10 major multilateral declarations and agreements signed between 1970 and 1992. Between 1966 and 1991 we created roughly 18 new agencies, councils, offices, and institutes to pretend to deal with drugs. Since President Bush established the White House Office of National Drug Control Policy, we have had four drug czars.

I think these efforts tell the story. Drug use by adults may be down a little bit, but the fact is that drug use by kids is on the rise. In 1992, the number of 12th graders using illegal drugs was 27 percent; in 1996 it was 40 percent. And our efforts to educate kids about the dangers of drugs are just plain inadequate. In 1996, only 36 percent of 8th graders thought that if they took LSD once or twice they could risk harming themselves. Similarly, only 51 percent believe that crack can harm them; and only 45 percent think that cocaine could hurt them. All of these numbers are down from 1991.

So, as we talk about Mexico, let us not forget the failure of our own efforts. I intend to bring us back to this issue again and again, in the next months. It is time for us to do the job here. Every day there are 20 million 10-15 year old kids out there who need something to do after school. We cannot shut schools in the afternoon, we cannot be devoid of after-school programs, we cannot cut sports, music, arts, all of the options for our children, and suggest that they go home to houses where there is no parent, and not expect to reap the harvest of that kind of abandonment. Mr. President, that is our responsibility.

Now, what about Mexico? They also have a responsibility. We are honest, at least, about judging our court system. We are honest about putting our cops in the street, 100,000 more of them, to try to deal with this. We are honest about trying to prosecute people, police officers and others in various departments across the country, who have shown a proclivity to break the law. That does not really happen in Mexico—not really. There is a fake process that goes on there. In fact, what really happens in Mexico is that one cartel buys out the police and the judges and the prosecutors in order to bring pressure on its rival cartels. For example, the attorney general and 90 percent of police, prosecutors and judges in Tijuana and the state of Baja California are judged to be on the payroll of the Arellano-Felix cartel.

Do you want to sit around and expect them to do something? They will not because drug corruption is endemic throughout the system. Let me turn to some other examples. During his 2 years in office, former Attorney General Lozano fired some 1,250 Federal police officers and technical personnel for corruption. Yet not one of these has been successfully prosecuted. When Mexican army officers raided the wedding party of Amado Carillo Fuentes sister, they found members of the Mexican Federal Judicial Police guarding the party. Carillo Fuentes escaped thanks to a tip from the police about the raid. And on the very day that certification for Mexico was announced, Humberto Garcia Abrego, brother of Juan Garcia Abrego, and chief money launderer of the Gulf cartel was allowed to go free by Mexican officials, even though he was still under investigation for drug related crimes.

Until the Mexican Government recognizes this reality and throws out all the policemen, prosecutors, judges, and military officials on the payrolls of the traffickers, and basically says, "We are going to start again, and we are committed to this," it is impossible to have the kind of cooperation that is necessary in this effort. Our own DEA Administrator, Thomas Constantine, has told us that "There is not one single law enforcement institution in Mexico with whom DEA has an entirely trusting relationship."

When we went down to meet with the President of the United States and various Cabinet people on this subject, President Clinton properly put the issue to us. He made a judgment, for reasons that I can understand—I do not agree with, but I understand—he made a judgment that the best way to get Mexico to try to engage in this effort was to certify them. I disagree. In my judgment, to certify them, or anything less than what we are doing here now, is to ratify the status quo. And it is to say that the same patterns of behavior that have sufficiently gotten you by any critical judgments over the span of the last 10 years will be able to continue into next year and the next year until whenever it is that the United States decides they are going to start to judge things the way they really are.

The way they really are is known by everybody. Let me quote from our own State Department's International Narcotics Control Strategy Report for this year:

> Taking advantage of the 2,000 mile border between Mexico and the United States and the massive flow of legitimate trade and traffic, well entrenched polydrug trafficking organizations based in Mexico have built vast criminal empires that produce illicit drugs, smuggle hundreds of tons of South American cocaine, and operate drug distribution networks reaching well into the continental United States. Mexico is the principal transit route for South American cocaine, a major source of marijuana, and heroin, as well as a major supplier of methamphetamines to the illicit drug market in the United States.

And nowhere but California do they understand the methamphetamine aspects of this better.

> Mexico is the transshipment point for at least 50 to 60 percent of the United States-bound cocaine shipments and up to 80 percent of the methamphetamine precursors.

According to our U.S. health experts the consumption of methamphetamines is on the rise and may soon outdistance the use of cocaine as the drug of choice in the United States. Mexican-based drug trafficking organizations are the heart of this trade. The DEA reported in 1996 that:

> . . . criminal organizations from Mexico, deepening their involvement in methamphetamine production and distribution in the United States, have radically reshaped the trade. With access to wholesale suppliers of precursor chemicals on international markets . . . these groups can manufacture unprecedented quantities of high purity methamphetamine in large labs, both in Mexico and across the border in California.

Mr. President, the problem is these very cartels have reached their tentacles so far into the Mexican structure that you really have to engage in the most extraordinary kind of effort in order to change what is happening. I recognize that there have been some positive steps here and there, but the fact is, they are truly small developments measured against what we know Mexico has to do and what we have asked Mexico to do. That is the true measure of cooperation.

The fundamental problem in Mexico is the corruption that exists at any and all levels, even among those charged with fighting the drug effort. You see an occasional arrest, yes. But those arrests by Mexican authorities are not necessarily reflective of the commitment to root out drug traffickers, but rather of a well-coordinated plan by one cartel to eradicate the other by having law enforcement officials on their payroll. One of the reasons we did not immediately realize that Mexico's drug czar, Jesus Gutierrez Rebollo, was corrupt was because he arrested major drug traffickers but only those who worked for the rivals of the cartel that he worked for, that of Amado Carillo Fuentes. So, on February 18 the Mexican Defense Secretary, Enrique Cervantes announced that Gutierrez aided the Carillo cartel for 7 years by protecting cocaine shipments in exchange for vehicles, real estate and cash.

It was his taste for the good life, not Mexican efforts to root out corruption, that caught him up. And you could read a number of journalistic accounts of what happened that show that it was actually accidental that Gutierrez finally got caught.

Mexican authorities have also tried to tout the arrest and deportation of Juan Garcia Abrego, and there is no doubt that the Gulf cartel has been severely hurt by that. But what we are seeing, already, are indications that the only long term effect of those efforts is going to be to allow Carillo Fuentes to move in and takeover the Gulf cartel's operations. Likewise, efforts to target the Tijuana cartel, run by the Arellano-Felix brothers, are likely to wind up being orchestrated by Carillo Fuentes through his connections with corrupt law enforcement officials.

Mr. President, what we are trying to do here today is be sensitive to the needs of a friend and of relationships. I hope, and I pray that President Zedillo will be able to move in the direction that he has indicated that he wants to move. Unlike Colombia where you have a top-down kind of corruption, in Mexico you have a bottom-up kind of corruption. President Zedillo is going to need all the help he can get.

In my judgment what the United States Senate is going to do today, by going on record as supporting this resolution, will, hopefully, send a signal that all of us need to do more, that all of us need to hold each other up to a tougher standard, and that we need to ask Mexico to do more to help us stem this flow of drugs.

Is that the whole deal? No. As I have made clear, the bulk of the responsibility is ours.

Until we face up more to the demand side of the equation, it may seem difficult to be as demanding internationally. But that does not mean we should not be, and it does not mean that we must not ask a country as deeply affected by this as Mexico has been to begin to join us to a greater degree in this battle. It is my hope and my belief that this effort today will enable us to continue to cooperate while simultaneously sending an important signal about the seriousness of our certification process.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Texas is recognized for up to 10 minutes.

Mrs. HUTCHISON. Mr. President, I thank Senators COVERDELL and FEINSTEIN. I think they have come a long way in this process, and I appreciate their willingness to stand with what I think will be the strongest vote in the Senate and do something that is constructive, rather than destructive.

I thank Senator DODD, Senator MCCAIN, and Senator DOMENICI. I thank Senator LUGAR for coming in and helping in this process. It took all of us together to come up with a solution that we thought would be something workable with our Senate colleagues, hopefully with our House colleagues, and something that would be a help to our relationship with Mexico.

I think that was the key to this matter, because, in fact, Mr. President, we are losing the war on drugs. Mexico is losing the war on drugs. They are seeing their country rifled with corruption because of the billions of dollars that are coming in illegally, and America is losing the war on drugs because we see 1 in 4 of our children who say they have been offered illegal drugs, children as young as 8, 9, 10, 11, 12 years old. Yes, Mr. President, what we are saying today is it is no longer business as usual in the drug war.

Mexico is not a country that is thousands of miles from our border. This is our border. Mexico is our border. We are tied. We are tied economically; we are tied in security interests. We cannot walk away from this issue. It is our joint problem, and that is what we are saying today by passing this resolution.

We had $8 billion of trade with Mexico in 1975. Today, it is over $100 billion. Mexico is the United States' third largest trading partner; it is Texas' largest trading partner, with $22 billion of trade between Texas and Mexico. But our relationship is deeper than that. It is not just dollars. Every one of the border States—California, New Mexico, Arizona and Texas—were once part of Mexico. So our cultures are ingrained. We together, in the past few years, have drifted into accepting unacceptable conditions in the arena of drug trafficking. I cannot imagine a worse situation.

In my State, we have ranchers who will not go outside into their front yards without guns, because they may meet someone with an AK–47 walking across their ranch with illegal drugs. There is a state of lawlessness in my State that we have not seen since the frontier days, and we cannot let this stand. In fact, a number of our ranchers are selling their land to the highest bidders because they feel defenseless. And guess who the highest bidders are? They are people fronting for those who are trafficking illegal drugs. They are paving their way through the United States through the remote areas of our border States. This is a frightening situation.

In Eagle Pass, the intimidation began when "coyotes" were smuggling illegal aliens through this remote border area took to cutting fences and using cattle ranches as a back-door entrance to America. When local and State officials complained to the Federal Government, the response was that would be 2 years before we can get help to you. So my State sent Texas Rangers down to the border. But even that has not been enough to do the job. So we have a problem that we must solve together.

Another new thing that seems to be happening is our customs agents on our side of the border, many of whom have relatives in Mexico, are now being threatened with harm to their relatives in Mexico if they do not cooperate with drug traffickers. So this corruption is on both sides of the border.

The number of drug seizures in Mexico in 1996 was only half the number of seizures in 1993. The number of drug-related arrests in Mexico in 1996 was half the number in 1992. Mexico is the source of 20 to 30 percent of the heroin coming into our country, 70 percent of the foreign-grown marijuana, and the transit point for 50 to 70 percent of the cocaine shipped into our country. This is a sieve, and we must plug the holes.

I will say that having just described a horrendous situation in Mexico, let's look at America. In America, according to the Office of National Drug Control Policy, over 12 million people are drug addicts; 10.9 percent of young Americans between the ages of 12 and 17 are using illegal drugs; drug-related illness, death and crime cost this country nearly $67 billion in 1996.

So I have been troubled about what we are doing on our side, and yet, shortly after taking office, the Clinton administration cut the Office of National Drug Control Policy staff by more than 80 percent, hardly making it a priority. They also have made proposals to cut the DEA, the Drug Enforcement Agency, the FBI, the Immigration and Naturalization Service and other Federal agencies, including, though Congress has authorized 1,000 Border Patrol agents, only coming forward with a budget for 500.

I have spoken to the Attorney General, Janet Reno, I have spoken to the new drug czar, Barry McCaffrey, both of whom I respect very much, and I have said this is unacceptable. I cannot have my State being overrun and have only half the contingent of new Border Patrol agents that Congress has authorized. Congress has made this a priority, and we must have the same commitment from the administration.

The "Just Say No" campaign that Nancy Reagan put forward was effective, and we must have an education effort much like that one that says to our young people, "Drugs will hurt you, they will hurt you tomorrow, and they will hurt you 20 years from now when you have children." We must let them know that if we are going to win this war on drugs.

So, Mr. President, we are asking for more. We are asking for more from our country and more from Mexico, because the fact of the matter is, we are in this together. Just like any good marriage, when there is a problem, you cannot solve it if only one party is

willing to talk. We must have both parties willing to talk, both parties willing to give, both parties willing to say, yes, if we make a bigger effort together, we can lick this problem, just as we have licked the problems for over 300 years between our two countries. We don't really have an alternative and our children's lives are in the balance.

So the differences between Senator FEINSTEIN and Senator COVERDELL and myself and others about how we would solve this problem were all differences of what would be the most effective. There was never a difference among any of us about what the problem is. And that is, we are losing the war on drugs. We are losing a generation of our young people. And that is not good enough.

We must do better. And we will do better with the resolution that is before us today that says the two countries will sit down together and we will address the concerns, we will address the concerns of money laundering, of corruption. We will address the concerns of demand on our side. And, Mr. President, we will do it together. And that is why I hope this vote of the Senate is a clear message to our friend and neighbor to the south that we want to work together and we want results for the sake of both of our future generations.

Thank you, Mr. President.

Mr. COVERDELL addressed the Chair.

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

Mr. COVERDELL. I would like to yield 3 minutes of my 5 minutes to the Senator from California, Senator BOXER.

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

Mrs. BOXER. Thank you very much, Mr. President.

I want to thank the Senator from Georgia, my colleague from California, Senator FEINSTEIN. Both of them worked so hard on this.

Mrs. BOXER. Mr. President, on February 28, the administration, pursuant to the requirement of the international narcotics trafficking statute, made a decision regarding our Nation's fight against illegal drug trafficking. The decision was made to certify that Mexico has, in the past year, taken all appropriate and necessary actions in the fight against international narcotics trafficking.

I respectfully disagree with this decision, and I would like to explain why.

Under our international narcotics trafficking statutes, in order for a country which is known to be either a major source of narcotics or a major drug transit country to continue to receive U.S. aid, the President must certify by March 1 that the country is either performing adequately in cooperating with the United States or is taking steps on its own in the fight against international narcotics trafficking.

The law gives the administration three choices:

First, certification that the country is either fully cooperating with the United States or has taken adequate steps on its own to combat the narcotics trade.

Second, decertification of the country, concluding that the country has failed to meet the requirements of cooperation or action.

Third, no certification, but a vital national interest waiver—essentially a finding that the country has not met the standards of the law, but that our own national interests are best protected by continuing to provide assistance to the country.

The question of Mexico is complicated. Mexico is the leading transit country for cocaine coming into the United States: 50 to 70 percent of all cocaine shipped into the United States comes through Mexico. It is also a significant source of heroin, methamphetamines, and marijuana.

President Zedillo seems to be strongly committed to rid the Mexican law enforcement system of corruption and to fight the Mexican drug cartels. However, the reports and events of the past few weeks have made it clear that corruption in police ranks—even up to the very top ranks—is still rampant in Mexico.

Just a few weeks ago, it was revealed that the man hired to be Mexico's drug czar—the head of their anti-narcotics agency—was fired abruptly after being accused of taking bribes from one of Mexico's most powerful drug lords.

It would be as if our own drug czar, Gen. Barry McCaffrey, were found to be in league with drug gangs in our country. Why didn't the Mexican Government tell us they were investigating their drug czar? Why did they let our own drug agency brief him and give him important intelligence about our antidrug efforts? I do not call that cooperation.

Mexico has also failed to take its own steps to meet the standards of the certification law. It has not acted boldly to root out corruption in its law enforcement establishment; it has extradited to the United States only a few Mexican nationals suspected of involvement in United States drug activities; it has failed to implement new anticrime laws enacted last year.

Given these facts, I do not believe Mexico qualifies to be certified in full compliance with the drug law. I do believe that the President would have been justified in granting a vital national interest waiver for Mexico so that sanctions would not have to be applied, and I wish that he had followed that course.

Granting a waiver would send a message to Mexico that its actions in the past year were inadequate, but it would also allow the United States to continue its efforts to work with President Zedillo and others in his administration who are committed to the drug fight. Unfortunately, our parliamentary procedures do not permit a vote on such a measure, because that is not what the President supported.

The resolution before the Senate today makes some good points. It finds that, in several areas, Mexico's actions against narcotics trafficking have been inadequate:

First, evidence of significant corruption among Mexican officials, especially law enforcement;

Second, Mexico's failure to fully implement new anti-money laundering laws;

Third, drug cartels operating with impunity in Mexico;

Fourth, Mexico's failure to grant our extradition requests concerning Mexican nationals who have been indicted in United States courts; and

Fifth, decline in the number of cocaine seizures and arrests of drug traffickers in Mexico in the past few years.

These findings put Congress on record stating that Mexico is not doing enough to fight narcotics trafficking or to cooperate with the United States in doing so.

In addition to the findings, there is a sense of the Congress section stating that there has not been enough progress in halting the production in and transit through Mexico of illegal drugs.

The meat of the resolution is contained in subsection (d), which requires the President, by September 1, to submit a report to Congress on the extent of progress made by the United States and Mexico in ten areas:

First, bringing down the drug cartels;

Second, strengthening United States/Mexico law enforcement cooperative efforts;

Third, strengthening bilateral border enforcement;

Fourth, improvement of extradition matters between the United States and Mexico;

Fifth, simplifying evidentiary requirements for narcotics and related crimes;

Sixth, full implementation of money laundering laws;

Seventh, Crop eradication;

Eighth, screening backgrounds of law enforcement officials;

Ninth, increasing support for Mexico's efforts to prosecute corrupt public officials; and

Tenth, strengthening overall bilateral cooperation.

The resolution does not specify a process for congressional review of the President's report. However, as Senator FEINSTEIN said earlier, many of us will be keenly interested in the details of the report, and of course, Congress may respond in any way it deems appropriate.

So I conclude that while this resolution is not what I had hoped to vote for, I must support it, as it is the only vehicle we will have on which to make a statement concerning the Mexico drug certification question.

Finally, Mr. President, I would like to speak briefly on another subject concerning our relationship with Mexico. That is the United States embargo against Mexican tuna and the efforts by some, including the Mexican Government, to lift this embargo.

The current embargo—which was imposed in 1990 against all countries that do not have environmental policies that protect dolphins from unsafe tuna fishing practices—prohibits Mexican tuna vessels from selling their products in the United States market.

Lifting the embargo would undoubtedly lead to an increase in the number of Mexican vessels operating in the eastern tropical Pacific. I believe that, given the current power and reach of the drug cartels in Latin America—particularly Colombia and Mexico—and their frequent reliance on maritime vessels to make drug shipments, now is not the time to open up a whole new avenue of maritime trade from Mexico.

Cartels are using fishing boats and cargo ships more and more often to smuggle cocaine from Colombia to Mexico where it is then shifted to trucks and other vehicles for transport across the border into the United States.

The risk of capture for these vessels is low in an ocean so large. And even when the ships are stopped, it is hard for law enforcement to find the drugs, which are hidden in secret compartments. Many fishing vessels have sophisticated radar equipment that allows them to keep ahead of law enforcement.

According to an article in the January 30 Washington Post, our own Coast Guard admits that the eastern Pacific is "one of the most difficult places for us to interdict drug shipments. It's a vast ocean. There are no choke points, no places to hide and lots of places to search—including 2,000 miles of coast."

So why, at this time when narcotics trafficking in and through Mexico into the United States is threatening to undermine our two countries' relationship, would we deliberately make it harder to bring these cartels under control?

Mr. President, I ask unanimous consent to have printed in the RECORD two documents relating to this question—one, the Post article to which I just referred, and two, a recent report by the Humane Society of the United States on the predicted impact on narcotics trafficking of lifting the tuna embargo at this time.

And I trust that we will not act in any way to increase opportunities for drug smuggling.

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

[From the Washington Post, Jan. 30, 1997]

LATIN DRUGS FLOW NORTH VIA PACIFIC—TRAFFICKERS' SHIPS HARD TO INTERCEPT

(By Molly Moore)

MEXICO CITY.—The crew of the Ecuadoran ship Don Celso claimed to be fishermen, but, hundreds of miles off Ecuador, the 150-foot vessel's fishing gear looked as if it had not been used in months. And when a U.S. Coast Guard law enforcement team yanked open the fish hatches, it found 50,000 gallons of diesel fuel instead of tuna on ice.

If there was fuel where there should have been fish, Coast Guard Petty Officer 2nd Class Keith Thompson wondered what he would find in the fuel tanks. It took his team six days of hard searching to find out—nearly seven tons of cocaine crammed into secret containers inside the fuel tanks, the second largest maritime cocaine bust in history.

The massive cocaine discovery last October, along with three other record-breaking seizures in just the last 18 months, illustrate how quickly sophisticated Colombian and Mexican drug cartels are adjusting to law enforcement efforts and finding new trafficking routes to the United States despite the billions of dollars the U.S. government is spending on its war against drugs.

Even as the United States has increased interdiction efforts in the Caribbean and Mexico has forced curtailment of incoming flights of huge cargo planes stuffed with cocaine, traffickers have made the vast open waters and virtually unpatrolled shipping lanes and coasts of the eastern Pacific Ocean the primary trafficking route for cocaine entering the United States, Mexican and U.S. law enforcement officials say.

"When you press the balloon in one area, it pops up in another," said Vice Adm. Roger T. Rufe Jr., U.S. Coast Guard commander for the Pacific area. "We've been putting a lot of stumbling blocks in their way in the Caribbean. It's a market economy; with demand as it is in the U.S., they have plenty of incentive to try other routes."

Most of the cocaine travels by ship from South America to Mexico's Pacific Coast, where it is unloaded onto trucks and vans and transported across Mexican land borders into the Southwest United States.

Officials estimate that as much as two-thirds of all the cocaine destined for the United States, or at least 275 tons a year, now travels by ship via the eastern Pacific in what law enforcement authorities describe as the most formidable interdiction battle they have faced in recent years.

Only 23 tons of cocaine was intercepted by U.S. maritime operations in the region in the past 2½ years—most of it in just three seizures, according to the U.S. Coast Guard.

"The eastern Pacific has been one of the most difficult places for us to interdict drug shipments," said Adm. Robert E. Kramek, commandant of the U.S. Coast Guard and interdiction coordinator for President Clinton's anti-drug efforts. "It's a vast ocean. There are no choke points, no places to hide and lots of places to search—including 2,000 miles of coast."

The cocaine traffickers of Colombia and Mexico are not the only drug organizations that have discovered the eastern Pacific trafficking lanes. Illicit drug shipments are pouring into Mexico's Pacific ports by the ton, hidden in secret compartments of commercial vessels or mixed with legitimate cargo in huge metal containers—hashish from Pakistan; precursor chemicals for methamphetamines, or speed, from Asia; and huge hauls of marijuana from South America.

The drug cartels believe the risk of getting caught is so small that they are loading shipments of up to 12 tons of cocaine on fishing vessels and commercial container ships, which can slip largely undetected from South America and up the western coast of Mexico. Moreover, the cartels use sophisticated radar equipment and surveillance techniques as a means of countering search and seizure efforts of drug enforcement agencies.

Even the most primitive-looking fishing boat is often equipped with radar and electronic equipment to help smugglers determine if they are being followed, as well as scanners that can eavesdrop on military frequencies, according to U.S. law enforcement officers involved in maritime interdiction. In addition, the cartels also frequently send aircraft to fly over the trafficking routes to be used by their ships in an effort to identify anti-drug operations.

The discovery of 11 tons of cocaine on the Panamanian ship Nataly I off the coast of Peru in July 1995—the largest maritime cocaine haul ever—was the first tip-off that traffickers were shifting operations to the eastern Pacific, according to the Coast Guard's Kramek.

Last August, a Honduran ship intercepted 50 miles off the coast of Colombia was found to be carrying two tons of cocaine, a seizure followed by confiscation of the Don Celso's seven tons in October. And last Thursday, U.S. Coast Guard and Mexican authorities detained a fishing vessel 250 miles off Mexico's Pacific coast whose fuel tanks were hiding almost 3½ tons of cocaine.

Late last year the U.S. Coast Guard, which works with the U.S. Navy, the Drug Enforcement Administration, the Customs Service and other agencies, launched Operation Caper Focus off northern South America and up the Pacific coastline northward to Mexico in an effort to identify and intercept drug trafficking shipments closer to their departure ports.

"Once they've loaded and are proceeding into the ocean, it's very easy to hide," said Capt. Robert Wicklund, chief of the Coast Guard's law enforcement section for the Pacific area. "There are no natural choke points that a vessel has to pass through where we can sit and wait for them to come to us."

And often even large-scale deployments do not result in seizures. In November 1995, after a two-year intelligence-gathering operation by anti-drug agents, a U.S. Coast Guard cutter was dispatched to the eastern Pacific to monitor a fishing vessel believed to be carrying—or preparing to load—20 tons of cocaine.

The ship left Panama and headed for fishing grounds west of the Galapagos Islands. The Coast Guard cutter tailed the vessel for 2½ months but was never able to determine if it was carrying cocaine and did not stop it.

"We had the ability to know when he was fishing, when he was doing his laundry, but we didn't know whether he had drugs on board," a Coast Guard official said.

The most difficult drug shipments to detect are those secreted in the cargo containers aboard commercial vessels. Without informants at ports of departure or arrival, it is virtually impossible to detect such drug shipments, according to law enforcement officials.

"At our two main ports of Veracruz and Manzanillo, 200 containers arrive daily," said Francisco Molina Ruiz, until recently the chief of Mexico's Institute to Combat Drugs, the Mexican equivalent to the U.S. DEA. "To check one container, we need anywhere from

10 hours to three days. Some containers are frozen; others contain toxic substances, and often the dogs can't sniff for drugs."

Mexican law enforcement agencies recently have discovered several large drug stashes in container shipments, usually after receiving tips or noticing irregularities in shipping manifests.

Problems of drug interdiction in the eastern Pacific are exacerbated because the United States has few bilateral agreements with Pacific Coast nations on law enforcement cooperation, such as those it has developed over the years throughout the Caribbean.

As a result, until a few recent diplomatic breakthroughs with some nations, U.S. law enforcement officials frequently spent days in bureaucratic tangles attempting to get permission to stop or pursue suspicious vessels.

And despite the large increase in the number of drug shipments off the Mexican Pacific coast, the United States and Mexico have not conducted joint operational exercises in a year. Mexico declined to take part in the latest scheduled exercises after former defense secretary William J. Perry embarrassed Mexican officials by discussing the operations before they had been announced to the Mexican public.

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LIFTING THE TUNA EMBARGO AND CHANGING THE DOLPHIN-SAFE LABEL: THE PREDICTED IMPACT ON NARCOTICS TRAFFICKING

(A Confidential Report of the Humane Society of the United States, National Investigations, March 5, 1997)

Three U.S. laws are under attack from several Latin American nations who want to regain access to our lucrative tuna market: 1) the embargo provisions contained in the Marine Mammal Protection Act (MMPA; prohibiting the importation of yellowfin tuna from countries whose tuna fleet kills over 25% more dolphins than the U.S. fleet); 2) the International Dolphins Conservation Act (IDCA; prohibiting the sale of dolphin unsafe tuna in the U.S.); and 3) the Dolphin Protection Consumer Information Act (DPCIA; prohibiting the use of the "dolphin safe" label on any tuna caught by chasing and setting nets on dolphins).

Since the establishment of the "dolphin safe" label and the embargo against purchasing tuna caught by setting nets on dolphins, the number of vessels fishing for tuna in the Eastern Tropical Pacific Ocean (ETP) has decreased substantially. Lifting the embargo and changing the "dolphin safe" label to allow its use on "dolphin-unsafe" tuna will most likely result in a substantial increase in the number of vessels fishing in the ETP. We are concerned that this will—in addition to causing increased injury and death to dolphins—create conditions that may lead to increased and easier narcotics smuggling into the United States.

THE FLOW OF NARCOTICS INTO THE UNITED STATES

Most of the world's cocaine—an estimated 80%—originates in Colombia. In recent years, Colombian traffickers began to funnel their cocaine through Mexico. Mexican drug smugglers became the key transporters of Colombian cocaine, a service for which they were paid in cash. Through the development of successful networks and trans-border relationships, and the ability to easily bribe local police, they became more and more powerful. Eventually, they started taking their pay—50% of each load—in cocaine. This development, and the weakening of the Colombian cartels through arrests and deaths, allowed Mexican traffickers to gain greater control over narcotics trafficking in the Americas.

According to the U.S. Drug Enforcement Administration (DEA), over 70% of all cocaine entering the U.S. comes through Mexico. In 1994 and 1995, approximately 200 of the 300 metric tons of cocaine that entered the U.S. each year transited Mexico. At least two-thirds of the cocaine that enters Mexico is shipped in maritime vessels from other Latin American countries. It is then smuggled into the U.S. over various land routes into California, Arizona, and Texas.

GOVERNMENT CORRUPTION EASES SMUGGLING

Narcotics trafficking is, arguably, Mexico's biggest business. Drug sales account for as much as $30 billion a year in illegal proceeds to Mexico—more than the country's top two legitimate exports combined. Traffickers take in tens of billions of dollars every year from the sale of cocaine, and they spend millions of dollars—at least $500 million each year by some estimates—to ensure the protection and cooperation of government officials. Officials with the U.S. State Department's Bureau for International Narcotics and Law Enforcement Affairs have stated, "Drug traffickers used their vast wealth to corrupt police and judicial officials as well as project their influence into the political sector.

According to testimony obtained during the trial of drug lord Juan Garcia Abrego, the Gulf Cartel (one of Mexico's four major cartels) spends millions of dollars every month buying the support of corrupt government officials. Garcia himself has been charged with paying at least $25 million in bribes to high-ranking Mexican officials. One of his aides has testified that some of this money went to buy Javier Coello Trejo, the Deputy Attorney General in charge of drug enforcement during the Salinas administration. The use of bribes to ease smuggling is not limited to the Gulf Cartel: José Gutiérrez Rebollo, the head of Mexico's National Institute for Combatting Drugs (Mexico's DEA), was recently arrested for allegedly accepting bribes from the Juarez Cartel, considered to be the most powerful of Mexico's cartels.

Corruption in the Mexican government extends all the way from the highest government officials, such as Coello and Gutiérrez, to federal and state police, who have reportedly participated directly in cocaine smuggling. According to a recent report from the General Accounting Office (GAO), Mexican federal and state personnel were caught unloading a jet carrying 6 to 10 metric tons of cocaine in November 1995. In June 1995, federal judicial police were arrested for protecting a major narcotics trafficker. In March 1995, officers of the National Institute for Combatting Drugs were arrested for accepting cocaine and cash to allow a shipment of over a metric ton of cocaine to pass unimpeded. Mexican and American officials have also acknowledged that, during the Salinas administration, at least half a dozen traffickers, including the Juarez Cartel's Carillo, were "quietly" arrested and released by corrupt police and/or judges.

Drug corruption is found on both sides of the border: U.S. government agents have been swayed by the promise of easy money as well. In February 1996, a U.S. Customs inspector was convicted of scheming to allow 2,200 pounds of cocaine in from Mexico through the Texas border in exchange for $1 million.

Corrupt government officials in the right positions can ease the transporting of narcotics in shipments of tuna and other foodstuffs. According to witnesses in a pending U.S. civil trial of a key Salinas administration political figure, both former president Carlos Salinas de Gortari and his brother Raul had ties to the Gulf Cartel during Salinas' presidency. Raul Salinas is alleged to have received millions of dollars from drug lords and to have distributed bribes to other political figures. During this time period, Raul Salinas directed the Mexican government's food distribution organization, a position which he could have taken advantage of to aid his narcotics-trafficking associates.

NARCOTICS TRAVEL VIA EASTERN TROPICAL PACIFIC OCEAN

In recent years, as counternarcotics forces have become more adept at intercepting drugs in the air, Latin American drug traffickers have shifted their preferred method of transporting cocaine to Mexico to the sea. Department of Defense records show that since 1992, known drug-trafficking events involving aircraft decreased 65 percent, while those involving maritime vessels increased 40 percent.

Maritime vessels, such as fishing trawlers and cargo ships, are becoming more widely used by drug cartels to smuggle cocaine because the risk of capture is so low: The vastness of the ocean makes intercepting ships nearly impossible. Even when ships are apprehended, actually finding the drugs is extremely difficult, because the illicit cargo is hidden in hard-to-find secret compartments. In one recent seizure, it took authorities six days of searching to discover a seven ton load of cocaine on board a vessel of the type used for tuna fishing. Moreover, many fishing vessels are equipped with radar and scanners that allow them to determine if they are being followed, giving them an edge over law enforcement officials.

Law enforcement officials state that, without informants, drug shipments in maritime vessels are essentially impossible to detect. Drug interdiction in the Eastern Pacific is made more difficult because the U.S. has few law enforcement cooperative agreements with Pacific nations.

Officials estimate that at least 275 tons of cocaine transit the Eastern Tropical Pacific (ETP) every year. The ETP is the preferred tuna fishery of many Latin American tuna fleets that continue to fish by chasing and netting dolphins. A class 5 or 6 tuna vessel—the type used to set purse-seine nets on dolphins—is capable of concealing multi-ton shipments of cocaine with much less risk of discovery than other smuggling methods. Class 5 and 6 tuna vessels fish on the high seas for months at a time. Although they may embark for specific fishing areas, these areas cover hundreds of square miles. Furthermore, unlike a cargo vessel, which generally travels directly from point "A" to point "B," a fishing vessel may traverse an area many times—creating unique opportunities for transporting illegal goods.

The following information describes several recent incidents in which tuna vessels and other fishing-type vessels were apprehended carrying shipments of drugs. The section also discusses the arrests for alleged drug-related activity of persons with involvements in fishing businesses. In some instances, our sources identified the vessel or business in question as involved specifically in tuna fishing; in others, the sources did not specify whether the particular fishing enterprise was a tuna operation. In addition, the sources sometimes made it clear that the vessels or business were not actually engaged in fishing, but were merely false

fronts. Our discussion reflects these distinctions where they apply.

During the last eighteen months, four "record-breaking" seizures of cocaine on fishing vessels have been made: in July 1995, the Nataly 1, a Panamanian tuna vessel, was caught off the coast of Peru with more than 12 tons of cocaine; in August 1996, the Limerick, a Honduran-registered fishing ship crewed by Colombians and Ecuadorians, was seized off the Colombian coast with 2 tons of cocaine; in October 1996, the Ecuadoran tuna-type vessel, Don Celso, was captured off the country's coast with almost 7 tons of cocaine—cargo which took a U.S. Coast Guard team 6 days to find; in January 1997, the Viva Sinaloa, a Mexican fishing vessel operating out of Mazatlan, was intercepted off Mexico's Pacific coast carrying 3.5 tons of cocaine.

In September 1996, Manuel Rodriguez Lopez—believed to be tied to the Cali Cartel—and owner of Grupo Pesquero Rodriguez, which includes tuna companies in Baja California, was placed under house arrest at the port of La Paz on charges of money laundering. Rodriguez's close ties with PRI officials (the ruling party in Mexico) were also under investigation. Assets confiscated during his arrest—including six tuna vessels—were valued at $15 million. Rodriguez also owned the Nataly I and administered the fishing companies Pesquera Carimar S.A. de C.V., Pesquera Santo Tomas, Pesquera Kino, and Pesquera Cipes—all fishing companies believed to be involved in drug trafficking and money laundering.

Colombian Cali Cartel trafficker José Castrillón Henao—allegedly partners with Mexico's Rodriguez—was believed to have a fleet of 100 vessels at his disposal for transporting drugs. He owned the Panamanian-registered fishing company, Pesquera Azteca, to which the Nataly I was registered. The fleet's long range fishing boats were used to transport cocaine to islands off the Mexican coast, where the drugs were then loaded onto smaller boats for distribution along the Mexican coast. Castrillon helped finance Colombian President Ernesto Perez Balladares' 1994 campaign; the President's party said they had assumed his tuna business was legitimate when he made the contributions.

Victor Julio Patino Fomeque, a leader for the Cali Cartel, allegedly in charge of its naval smuggling operations, was recently captured by Colombian officials. A former police chief, he has been accused of using false fishing businesses to smuggle tons of cocaine to the United States from the Pacific port of Buenaventura.

THE IMPLICATIONS OF LIFTING THE EMBARGO

The current embargo on tuna from countries whose fleets set on dolphins in the ETP prohibits Mexican tuna vessels from selling their products in the U.S. market. After the embargo was imposed in 1990, the number of Mexican vessels fishing for tuna fell from 85 to 40. Lifting the embargo will most likely lead to a greater number of vessels operating in the ETP. More fishing vessels in the ETP will lead to conditions that may provide greater opportunities for drug smuggling and a reduced risk of being caught. An increase in the number of vessels, combined with the likelihood that Latin American tuna vessels would have more reason to approach the U.S. coast, would render our interdiction efforts even more difficult.

The long term potential for the well-financed narcotics smugglers to establish facilities for "tuna" processing at U.S. ports is a significant additional incentive. The existence of family connections on both sides of the border has proven to be a significant aid to narcotics trafficking, and the extension of the same methodology to smuggling via the tuna industry is possible, should the embargo be lifted. Direct coastal access to the U.S., either through offloading at sea to small fast boats which can complete the journey to our shores, or through direct unloading at tuna processing facilities at U.S. ports, may expedite smuggling by eliminating the need to cross the land border.

Mrs. BOXER. Thank you very much, Mr. President.

I thank my friend from Georgia.

Mr. COVERDELL. Mr. President, I believe, according to the previous unanimous consent, the next 5 minutes is allotted to my colleague from California.

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

Mrs. FEINSTEIN. Mr. President, I thank you.

I would like to thank again the Senator from Georgia. It has been a great pleasure to work with him and Senator HUTCHISON. We began this effort over a week ago. It has been a very intensive effort. I believe it has resulted in a resolution which will have dominant support from this body, pass the House, and be signed by the President of the United States.

More importantly, I think this resolution will become the law and will have teeth. And those teeth are: Administration: Report on September 1 the progress that has been made. Here are the specific areas in which we wish you to make progress. If there is inadequate progress made, it leaves no alternative really but to fuel up for a massive decertification battle in a year.

I want to say one thing about America's demand problem. Because the Senator from Massachusetts, Senator KERRY, who spoke on this issue, I think had it right. One of the things that I have found is that we have programs in this country that work and programs that do not work. And I would just like to recommend to everybody that might be watching this a program that does work, a program which has no Government funds, a program with whom my colleague from California and I are very well familiar.

That is a program called Delancy Street in San Francisco which takes the hardest core drug addicts, with about a 4-year stay, and puts them through an intensive program—changes their environment, changes their lifestyle, and does rehabilitate. As mayor, I helped Delancy get some land right on the waterfront. The Delancy people built their own facilities, which are stellar. They run their own businesses. They pay for their program through their labor.

And I would just like to invite—Delancy does not know I am doing this—anyone, anywhere in the United States that has an interest in replicating a program to rehabilitate American drug addicts that works, to go to San Francisco, to call Mimi Silbert, the director, and take a look at a program that works, does not take dime one of public money and does it all on their own. It is one of the most impressive programs anywhere in the United States.

If we had more Delancys and more kinds of permeations of Delancy, Delancy Streets for young children, children 14, 15, 16 years old, I think we could turn this Nation around. If we had more programs like Facts on Crack from Glide Memorial Church in San Francisco, we could begin to turn this Nation around. But in the meantime, we have to retard the supply of drugs. And that is a major first step.

So again, I say thank you to everyone that has participated. I look forward to the vote. I thank the Chair and I yield back the balance of my few minutes.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Chair recognizes the Senator from Georgia.

Mr. COVERDELL. Mr. President, we are about at the hour to bring to a conclusion a very long and arduous effort to produce a positive result as we struggle with the ravages of drugs in our country and in Mexico and in the hemisphere.

I want to acknowledge Senator KYL of Arizona who has made a contribution in terms of border agents. Again, I want to thank the chairman of the Foreign Relations Committee, Senator HELMS of North Carolina, for his great work and, of course, my immediate colleagues in the work, Senator FEINSTEIN and Senator HUTCHISON and the staffs that have worked so long and late to produce this resolution.

This resolution is a renewal statement. It is a new place and it changes the dynamics of the debate with regard to the drug cartels in the United States, in Mexico, and the hemisphere.

I would simply close by reiterating my statement earlier. I hope all of our colleagues in the hemisphere, Mexico and the other countries, will understand that this is a new statement, it is an honest appraisal of a war that is ravaging the opportunities before us as we come on the new century, and see it as a new statement, a statement of renewal and reinvigorated alliance.

Mr. President, the hour of 3 o'clock has arrived, and by the previous unanimous consent, I believe that moves us to the vote. I yield the floor.

Mrs. FEINSTEIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The hour of 3 o'clock having arrived, the question now occurs on agreeing to amendment No. 25. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Virginia [Mr. WARNER] is necessarily absent.

The result was announced—yeas 94, nays 5, as follows:

[Rollcall Vote No. 35 Leg.]

YEAS—94

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

NAYS—5

| | | |
|---|---|---|
| Brownback | Smith (NH) | Torricelli |
| Hutchinson | Thomas | |

NOT VOTING—1

Warner

The amendment (No. 25) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read the third time.

The PRESIDING OFFICER. The question now is on passage of joint resolution, as amended.

The joint resolution (H.J. Res. 58), as amended, was passed.

The title was amended so as to read:

Amend the title to read as follows: "A joint resolution requiring the President to submit to Congress a report on the efforts of the United States and Mexico to achieve results in combating the production of and trafficking in illicit drugs.".

The PRESIDING OFFICER. Under the previous order, the Chair will now recognize the Senator from West Virginia.

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

## EASTER

Mr. BYRD. "The year's at the spring; the day's at the morn; morning's at seven; the hillside's dew-pearled; the lark's on the wing; the snail's on the thorn; God's in his Heaven—all's right with the world."

Mr. President, the Senate is preparing to recess at the close of this week. Some Senators will use this time to travel to distant and exotic locations. Others will return home for busy rounds of meetings. Schools around the nation are also closing their doors for spring break. For many college students, spring break has become a beach vacation ritual, replete with loud parties, little self-restraint, and the overconsumption of booze—alcohol. At home, spring sales are in full force, with stores luring credit-happy buyers away from the outdoor pleasures that warming days and budding gardens invite. The celebration of winter's passing and the rekindling of life all around us has been lost, for many, in the materialistic and hedonistic whirlwind of everyday life. Only the pastel colors of paper flowers link the climate-controlled interior of the shopping malls with the greening of the spring earth.

But today is also the vernal equinox, that chiming peal on the celestial clock that marks the turning of the seasons, the day on which the periods of light and dark are again of equal length following the long, cold, dreary nights of winter. In 325 A.D., during the reign of that great convert to Christianity, the Emperor Constantine, the council of Nicaea met. With the help of the Archbishop of Alexandria and the astronomers of that distant day, the Council decreed that Easter should fall on the first Sunday after the first full moon following the vernal equinox. So, today we may look ahead with certainty toward the Sunday after next for the enduring celebration of that central mystery of the Christian faith, the resurrection of Jesus Christ.

Mr. President, although in recent years the trend has been to strip every religious overtone from our calendar and from our schools—and thank God the Constitution protects my right to stand on this Senate floor and talk about whatever I may please. Let it be religion. The Supreme Court cannot do anything about it.

So the trend has been to strip every religious overtone from our calendar and from our schools to rename the Christmas holiday a "winter break" and the Easter holiday a "spring break." I am not sure that the result—a nation more interested in consumption, department store sales, junk television, and professional sports performances, than in church, community and family—is a happy one. I still believe that there is a deep wellspring of religious belief that sustains our Nation as it does in the close-knit and caring communities in which I grew up. The community churches which still thrive in West Virginia were the focal point of towns and communities of my childhood.

And contrary to the beliefs of some of our sophisticated brethren in Washington and some of the other great metropolitan centers in this country, they do not have rattlesnakes in all of those churches. As a matter of fact, I have never been in a church where there was a rattlesnake—a few two-legged ones perhaps, but that is where they ought to go, to church. Social life revolved around Sunday services and activities sponsored by, or otherwise intimately linked with, the church and celebrations of faith. But as I witness the slow unraveling of our communities, their weave frayed by casual greed and picked apart by drugs and violence, I worry that the clear-flowing waters of family, church and community that nourished me and millions like me are becoming fouled and turbid. The erosion of Easter into a crass and commercial "spring break" is but one sad example of the materialistic trend in this country and in this age. More media coverage is awarded to the excesses of Mardi Gras on Fat, or Shrove, Tuesday—also called Pancake Day—than on the entire forty days of Lent. I wonder how many people who dress up and masquerade in that carnival parade recall that the original purpose of Mardi Gras was to prepare for the Lenten fasts by using up the available cooking oil and fat in a pre-fast eating binge? The binge was fun, but it did not blot out the central religious purpose of the repentant fast to follow.

Mr. President, Easter Sunday ends forty days of religious observance beginning with Ash Wednesday, set as the beginning of Lent by Pope Gregory at the beginning of the sixth century. This coming Sunday is known as Palm Sunday, in observance of the palm-strewn entrance of Jesus into Jerusalem. The following Friday, or Good Friday, marks the day that Jesus suffered on the Cross and died. It is a solemn day indeed, yet I fear that, for too many people, it is just another day off from work, filled with errands, or shopping, or travel, with not a passing thought given to the suffering of God's only Son on the cross.

I am not a minister. I do not profess to be worthy of the title. But I grew up in a Christian home. My foster father was a coal miner and my foster mother was the only mother I ever knew. They were religious people. They were not of the religious left or of the religious right. They were not of the Christian center or the Christian left or the Christian right. Neither am I. They just were plain, down-to-Earth, God-fearing, God-loving Christian parents.

And, so it is that I come to the Senate Chamber today, as I say, not as a cleric or as a minister. I probably could not be one. But I do believe in the Bible and its teachings, even though I have not always found it so easy to live up to those teachings.

Easter Sunday is not just a day to mark with brightly colored hard-boiled eggs or chocolate bunnies, or with jelly beans and plastic grass in wicker baskets. All of these ancient symbols of spring and rebirth have their place, but it disturbs me to think that children may know Christmas day only for its early morning toy-filled stockings, and Easter only for its baskets and Easter egg hunts.

Easter Sunday commemorates the resurrection of Jesus Christ. I do not ask everyone to believe as I do. I do not ask everyone to be a missionary Baptist. It does not make any difference to me whether the Senator from Illinois, the Senator from Idaho, or the Senator from Iowa is a Baptist or a Methodist or an Episcopalian or Catholic or Jewish rabbi or Moslem; it doesn't make any difference to me. I can listen to all of them and still maintain my own way of looking at things.

So, all of these ancient symbols of spring and rebirth have their place. But it disturbs me to think that children, as I say, may know Easter only as a day for baskets and Easter egg hunts.

Easter Sunday commemorates the resurrection of Jesus Christ. And I now read from the King James version. That is the only version I will read. That is the Bible that was in my father's house. It is the only one I know and the only one I will have in my house. So I read from the King James version of the Bible the Gospel of St. Mark, Chapter 16, verses 1–7. Let us listen to Mark. He was the attendant of Peter. He speaks to us of the resurrection:

And when the sabbath was past, Mary Magdalene, and Mary the mother of James, and Salome, had bought sweet spices, that they might come and anoint him.

And very early in the morning the first day of the week, they came unto the sepulcher at the rising of the sun.

And they said among themselves, Who shall roll us away the stone from the door of the sepulcher?

And when they looked, they saw that the stone was rolled away: for it was very great.

And entering into the sepulcher, they saw a young man sitting on the right side, clothed in a long white garment; and they were affrighted.

And he saith unto them, Be not affrighted: Ye seek Jesus of Nazareth, which was crucified: he is risen; he is not here: behold the place where they laid him.

But go your way, tell his disciples and Peter that he goeth before you into Galilee: there shall ye see him, as he said unto you.

So Easter is a vivid and lasting celebration of the promise of life after death. Like spring itself, Easter is, in its essence, a celebration of the rebirth of living things. That hope, that promise of life after death, guides our behavior in the here-and-now. It reinforces the need to act not only in our own selfish interests, but also for the common good, else we be judged unworthy of Christ's sacrifice. It sustains us when we encounter harsh difficulties and tragic events in our lives—and I know because I have experienced such, as have many others of us in this Chamber.

We believe that there is a better life still to come. And, if we did not have that hope, then this life would be empty. The promise of a life after death comes to us through John, "the beloved disciple". Reading from the King James version of the Bible, the Gospel of St. John, Chapter 20, verses 24–31:

But Thomas, one of the twelve, called Didymus, was not with them when Jesus came.

The other disciples therefore said unto him, We have seen the Lord. But he [Thomas] said unto them, Except I shall see in his hands the print of the nails, and put my finger into the print of the nails, and thrust my hand into his side, I will not believe.

And after eight days again his disciples were within, and Thomas with them: then came Jesus, the doors being shut, and stood in the midst, and said, Peace be unto you.

Then saith he to Thomas, Reach hither thy finger, and behold my hands; and reach hither thy hand, and thrust it into my side: and be not faithless, but believing.

And Thomas answered and said unto him, My Lord and my God.

Jesus saith unto him, Thomas, because thou hast seen me, thou hast believed: blessed are they that have not seen, and yet have believed.

And many other signs truly did Jesus in the presence of his disciples, which are not written in this book:

But these are written, that ye might believe that Jesus is the Christ, the Son of God; and that believing ye might have life through his name.

And so, Mr. President, that is the promise—"that believing" we might have life. The next two weeks may be a recess for some, and for some a "spring break," but for millions of Americans, the next two weeks are also a life-affirming celebration of the greatest gift any of us has ever received—hope in a future life. For those who have lost loved ones, Easter brings the joyous hope that we can again see, we can again be with that loved one, as I lost my grandson 15 years ago this coming April the 12th. He died on the Monday morning after Easter Sunday, perhaps around 3:30, 4 o'clock in the morning, the victim of a truck crash into a tree and a fire that devastated his beautiful body—17 years old, looking forward to graduation from high school, 6 feet 5, and 300 pounds, all man, with life ahead of him. And there are others in this Chamber who have suffered the loss of a child or a grandchild or a parent, a sister or brother or wife or husband. We can see our loved ones again.

So Easter represents the resurrection, it is the celebration of the resurrection, and it gives us hope that there will be a future resurrection. That is what it means to millions of people in this country.

As the sun warms our backs, and the spring breezes carry past us the mingled scents of pear blossoms and magnolia blossoms and the warm earth, let us offer our heartfelt prayers for our faith, for our family, for our church, for our community, and for our Nation. I hope that my colleagues and those who hear or read my words will also take a few moments away from the commerce of everyday life to reflect on the true reason why a recess is scheduled at this time—to celebrate this most holy of Christian holidays, Easter.

Edwin L. Sabin captures both the solemnity and the joy of Christ's resurrection in his poem, "Easter:"

The barrier stone has rolled away,
And loud the angels sing;
The Christ comes forth this blessed day
To reign, a deathless King.
For shall we not believe He lives
Through such awakening?
Behold, how God each April gives
The miracle of Spring.

Mr. President, I invite my colleagues to recall this miracle, and the faith that gives them and gives communities throughout our Nation the strength to persevere—to fight against the violence, the greed, and the moral decay that threaten the fabric of our families, our communities, and our Nation.

I also invite my colleagues and my fellow citizens—and I invite myself—to again see Easter Sunday as the celebration of the resurrection and the promise that there is a life after death. William Jennings Bryan and my congenial colleague from the State of Illinois, Mr. DURBIN, will appreciate this especially. William Jennings Bryan expressed it well in "The Prince of Peace":

If the Father deigns to touch with divine power the cold and pulseless heart of the buried acorn and to make it burst forth from its prison walls, will He leave neglected in the earth the soul of man, made in the image of his Creator? If He stoops to give to the rosebush, whose withered blossoms float upon the autumn breeze, the sweet assurance of another springtime, will He refuse the words of hope to the sons of men when the frosts of winter come? If matter, mute and inanimate, though changed by the forces of nature into a multitude of forms, can never be destroyed, will the imperial spirit of man suffer annihilation when it has paid a brief visit like a royal guest to this tenement of clay? No, I am sure that He who, notwithstanding His apparent prodigality, created nothing without a purpose, and wasted not a single atom in all of His creation, has made provision for a future life in which man's universal longing for immortality will find its realization. I am as sure that we live again as I am sure that we live today.

William Jennings Bryan spoke those words in "The Prince of Peace."

Mr. President, may all of us, as we approach the blessed Easter season, enjoy renewed hope in the message that we shall live again.

And when you get closer to 79—79 years and 4 months, as I am today—the more you will believe and begin to see more and more the truth, the universal truth, the eternal truth that God still

lives, that He created this great universe and all the universes, and that He created man. I don't know how He created man. I am not worried about that, by what method or through what process all that was done. But we are told that God created man out of the dust of the ground in His own image, and breathed into his nostrils the breath of life. And man became a living soul. That is good enough for me.

So, Mr. President, as we approach this Easter, let us learn again the message that comes to us from Him who said 2,000 years ago: "I, if I be lifted up from the Earth, will draw all men unto me."

Mr. President, I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, before I speak on the subject that I am here to speak on, I want to thank the Senator from West Virginia for his statement. I know that he believes what he says. And I think that he does a wonderful public service by the expression of that philosophy.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

## EXPLANATION OF ABSENCE

Mr. WARNER. Mr. President, in reference to today's vote concerning the certification of Mexico, I was unavoidably absent due to delays in travel returning to Washington from a previously scheduled speech in Richmond, VA, to the Richmond Bar Association. Had I been present, I would have voted "aye" during the recorded vote on the Coverdell/Feinstein substitute amendment to House Joint Resolution 58, the Mexico drug certification.

## UPSIDE-DOWN MANAGEMENT IN THE CRIME LAB

Mr. GRASSLEY. Mr. President, this is the fifth time I have taken the floor to make observations about the FBI's upside-down management of its crime lab.

In my view, the FBI's Director, Louis Freeh, continues to mislead the public about the lab. He would have us think that the FBI lab has met the highest standards. He has maintained that the allegations of the lab's whistleblower, Dr. Frederic Whitehurst, are all wrong. He has said that no other scientist in the lab has come forward with similar accusations. His testimony before Congress recently was totally consistent with that image.

But documents belie the Director's rosy portrayal of the lab., and of his dark portrayal of Dr. Whitehurst.

Thus far, I have released documents showing there is credibility to some of Dr. Whitehurst's allegations. I have pointed to press accounts in which the public has learned the IG's still-secret report uncovers problems in three specific cases. thus backing up Dr. Whitehurst with specifics. I released documents showing that Director Freeh was aware of the exact same allegations, investigated them, yet covered them up. I revealed that there was a second scientist who came forward with serious allegations that paralleled those of Dr. Whitehurst.

I do not know what it will take for Mr. Freeh to admit these things, Mr. President. Perhaps the public needs to see more of the FBI's documents that underscore my points. That's fine by me. Because documents don't mislead. They do not have a motive to. But, people do. And when leaders of the people mislead, there's a breakdown in confidence and trust.

And so, I am here today, Mr. President, to test the boundaries of Mr. Freeh's denials. Today, I am releasing yet more FBI documents, obtained through the Freedom of Information Act. These documents contradict Mr. Freeh's own assertions. The American people have a right to know this.

Today, I will reveal a third scientist in the FBI lab, who substantiated some of Dr. Whitehurst's more serious allegations. He substantiated them just months after the FBI Director and his team of lawyers whitewashed them. This third scientist, in fact, was Whitehurst's unit chief in the lab.

Here are the facts. In December 1992, Dr. Whitehurst made the serious allegations that his lab reports were being altered by other agents who lacked authority to do so. Altered reports could constitute tampering with evidence and obstruction of justice, and could therefore be criminal.

The universe of cases being looked at was 48 cases. Not all of them were altered. But all had to be checked. Some appeared to contain substantial changes. The Whitehurst memo of allegations went to the Assistant Director of the FBI for the Laboratory Division.

In May 1994, a review of the Whitehurst allegations—much more extensive than just the altered reports issue, but including them—was done by Mr. Freeh's lawyers, rather than by an independent body with some scientific background. Ironically, it was the IG's investigation that supplied the needed independence and a scientific approach, and only then did these problems get aired.

But, the FBI's review was headed by Mr. Freeh's general counsel, Howard Shapiro. He's the Director's top lawyer, himself a controversial figure with Congress. Mr. Shapiro felt there was no need to have an independent review because, as he said, the FBI has a long, proud history of doing its own reviews. Upon completion, the review was eventually read and signed-off-on by Director Freeh.

So, here is what the FBI's own review found. First, there were no major problems in the lab. Everything was hunky dory. On the specific issue of altered lab reports, here is what Mr. Shapiro found.

> [Laboratory Division] management made it clear that this will not be tolerated and has instructed the Unit Chief's (sic) to reiterate this policy.

How about that for a finding for this crack review team, Mr. President. They're investigating serious, possibly criminal activities. Instead of finding out whether it happened, Mr. Shapiro merely said it's not supposed to happen. His recommendation? If there were alterations, just correct the written report.

You see, Mr. President, under the long-standing Brady decision, the government is required to provide the accused with any information that might point to their innocence. Material alterations of lab analysis might fit into that category. If changes had been discovered in some reports, the proper thing to do was to judge the impact of any alterations on each court case. Instead, Mr. Shapiro thought justice would be served by simply correcting the paperwork. Cases closed.

By October 1994—about 5 months after Mr. Shapiro's review was issued—the IG got hold of the same allegations. The IG began its own review of the 48 cases.

Meanwhile, in September 1994, the FBI lab managers discovered another agent making the same allegations of altered reports as Dr. Whitehurst was making. The allegations by then were being investigated thoroughly by lab personnel.

By January 1995, the lab's investigation was completed. An FBI unit chief, whose name I will not divulge, wrote a memo of investigation to his section chief. In it, he stated that 13 of Whitehurst's 48 cases had significant alterations. He recommended the following:

> That [Supervisory Special Agent] (blank) be held accountable for the unauthorized changes he made in the [Auxilliary Examiner] dictation of SSA Whitehurst by administrative action to include both oral reprimand and a letter of censure.

The unit chief concluded his memo this way: "(Blank) committed errors which were clearly intentional. He acted irresponsibly; he should be held accountable; he should be disciplined accordingly."

The scientist-unit chief writing the memo, and who backed up Dr. Whitehurst's allegations, identified the culprit. I won't reveal who either one is. But the memo is significant. It reveals yet another scientist—a unit chief, no less—who substantiated Whitehurst's allegations. It is another apparent example of an FBI lab agent shaving the evidence to get a conviction.

What was covered over by Mr. Shapiro's team of crack lawyers less than 1 year before, was now popping up. The lab's management was finding the opposite of what Shapiro and his lawyers

found. That meant there were conflicting findings. And that is serious. The lab unit chief's report was at odds with Director Freeh's. What was senior management—those above the lab managers—to do?

The answer was not long in coming. During this time frame, FBI management indeed found a suitable discipline for this rogue agent. Mr. President, they promoted him. They made him a unit chief. The agent found to have intentionally altered evidence was promoted. That tells us how senior management resolved the dilemma. They promoted the rogue, and shot the messenger.

That set the stage for the coverup. Because just 10 months later, when the Whitehurst allegations became public, Mr. Freeh issued the following statement in response. This was on November 8, 1995. He said:

The FBI has vigorously investigated his (Whitehurst's) concerns and is continuing to do so. The FBI alone has reviewed more than 250 cases involving work previously done by the Laboratory. To date, the FBI has found no evidence tampering, evidence fabrication, or failure to report exculpatory evidence. Any finding of such misconduct will result in tough and swift action by the FBI.

Is that what happened to the rogue agent, Mr. President? Yes. The FBI took swift action to get him promoted.

The fact is, the statement by Mr. Freeh on November 8, 1995, was utterly false. Lab reports are evidence. If altered substantially—and 13 reports were—that is evidence of possible evidence tampering, and more.

Ultimately, the IG caught up with the rogue agent. The FBI did not. But the IG did. When the IG report finally reached the Bureau, this rogue agent became one of the three who were transferred from the lab. Yet no other action has been taken against him by the FBI. I aim to find out why not.

Mr. President, what is clear about all this is, the FBI is buried under a mountain of evidence showing it cannot police itself. It took the inspector general's investigation to finally root out what the FBI had covered up. Some good people in the FBI tried to do the right thing. But senior management got in the way. Senior management apparently places a higher value on maintaining image, rather than rooting out wrong.

Therefore, the time may have come for independent review of the FBI. Someone needs to police the police. They cannot police themselves. That is for sure. Perhaps the way to go is to beef up the independent IG, instead of the FBI's Office of Professional Responsibility, as the Director has proposed.

Growing up on the family farm in Iowa, my father taught us to revere and respect the FBI. They were the champions of right versus wrong in our society. We looked up to them, whether justified or not.

I still have that same respect for the FBI. There are literally thousands of good, decent men and women serving their country as FBI employees.

But those honest, hardworking agents need and deserve leadership that has integrity and credibility. They need leaders who will go after bad guys, and protect good guys. Not the other way around. They need leaders who reward honesty and punish wrongdoing—not the other way around, as we see in this case.

The issue of bad management in the crime lab is serious. Bad scientific analysis used in court means good guys can go to prison, and bad guys can walk. That's not what we want. That is un-American. That's what they have in dictatorships. There is no room for that in a democracy.

Mr. President, I have talked to my colleagues about the culture at the FBI under the present management. It seems to reward those who rush to a conviction. It seems to punish those who, in the FBI's eyes, "commit truth."

There is no better image to show this than how they treated the rogue agent—they promoted him—and how they treated Dr. Whitehurst—they went after him.

Mr. President, I do not have to say anything else. That says it all.

Mr. President, I ask unanimous consent to have relevant documents to which I referred, plus others that will help provide additional context, printed in the RECORD.

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

From SSA Frederic Whitehurst
To Asst Director John Hicks
Re alteration of laboratory report of SSA Whitehurst.

Purpose: to document the alterations of auxiliary examiner * * * laboratory reports of SSA Whitehurst * * *

Recommendation: That any alteration of AE dictation of SSA Whitehurst be done with the full concurrence of SSA Whitehurst and the Unit Chief of the Materials Analysis Unit.

Details: On 11/27/92 * * * of the Materials Analysis Unit advised SSA Whitehurst, * * * that * * * had been told by * * * that he was changing the auxiliary examiner dictation of SSA Whitehurst before publishing reports from the Laboratory. This information was the first that SSA Whitehurst has had concerning the changing of his dictation in the five and one half years that SSA Whitehurst has been a examiner in the Laboratory. At no time has SSA * * * consulted SSA Whitehurst concerning these changes.

As a result of receiving this information, SSA Whitehurst reviewed his files to determine the cases that SSA Whitehurst as worked as an auxiliary examiner since 1987 * * * which these alterations have been taking place and the possible effect of the alterations on the reported expert opinion of SSA Whitehurst.

During the period from 1987 to present SSA Whitehurst has written forty eight auxiliary examiner reports * * *. Of those reports SSA Whitehurst was able to retrieve sixteen files from records. The other files were listed as checked out and their location was not pursued. Review of the files indicates that * * * has often paraphrased or totally altered the reports. Of the sixteen files reviewed, the Laboratory reports were placed into four groups: 1.) Those where no change was made to the auxiliary examiner report. 2.) Those where paraphrasing of the report was such that the meaning was the same but the words different. 3.) Those where paraphrasing could cause possible problems in court. 4.) Those where paraphrasing changed the meaning or significantly altered the content of the report. In group one there were three reports (70921005, 91121007, and 90615067). In group two there were five reports (71116047, 71221007, 70921006, 91121008, and 71116048). In group three there were three reports (80217150, 71125046 and 91207016). In group four there were five reports (71124001, 90823043, 70920045, 90623042, and 91130017). Copies of the AE report and the final Laboratory report from each matter are included in the attached package.

This communication has been submitted to bring attention to possible problems during testimony if AE dictation is arbitrarily changed in the manner described. For example, in Laboratory matter 90823043 the AE dictation is as follows:

"Chemical and physical analyses of specimen Q4 have identified the presence of Pyrodex low explosive.

The results of chemical analyses of specimen Q6 are consistent with the presence of residues of Pyrodex low explosive.

It is the opinion of this examiner that the residues in Q6 originated from a low explosive mixture which contained Pyrodex.

Pyrodex is a commercial low explosive produced by Hodgdon Powder Co."

On the other hand the final report dictation reads,

"Present in specimen Q6 are explosive residues which chemical analysis show to have originated from a low explosive mixture which contained Pyrodex. Pyrodex is a commercial low explosive produced by Hodgdon Powder Co. . . .

Present in specimen Q4 is a quantity of black-colored powder which has been identified as Pyrodex low explosive."

Though the wording in the first paragraph is a paraphrase of the contents of the AE dictation, the contents of the second paragraph do not say at all what was said in the AE dictation. There is a big difference between determining that Pyrodex is present and saying that the powder is Pyrodex. In this particular matter there happened to be other materials present in the powder. If faced on the stand with that argument the examiner would have to admit that the dictation was wrong. Opinions presented in the AE reports from the Materials Analysis Unit have been thought out very carefully and reviewed by the Unit Chief very carefully.

In FBI Laboratory matter 70920045 the AE dictation reads:

"Specimen Q4 has the chemical and physical characteristics of C-4 explosive. Semiquantitative analysis determined that Q4 is composed of 2.5% polyisobutylene, 7.0% Di-(2-ethylhexyl) adipate plasticizer and oil and 91.5% high explosive RDX containing a small amount of HMX high explosive. C-4 is a military plastic explosive.

White powder found in specimen Q6 has the physical and chemical characteristics of pentaerythritol tetranitrate (PETN), a high explosive commonly found in detonating cord."

The final Laboratory report reads:

" . . . Present in specimen Q4 is a white putty-type material which has been identified as United States Military explosive type M112 commonly referred to as 'C-4.' . . .

Present in specimen Q6 are two (2) lengths of detonating cord which are yellow in color with three black tracer threads that contain the high explosive PETN."

In this particular matter no mention is made of the analysis conducted on specimens Q4 or Q6 nor could the Laboratory notes or AE report be found in the file.

In order to determine if the practice of altering the AE dictation of SSA Whitehurst's explosives analysis results is endemic to the Explosives Unit the reports of three other examiners who are now or have been in the Explosives Unit were reviewed. That review included reports from SSA * * *, SSA * * * and SSA * * *. In not one of their reports were the AE dictation reports of SSA Whitehurst changed even to paraphrase the reports. SSA * * * practice of altering AE reports appears to be an isolated situation.

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OCTOBER 7, 1994.

Re allegations regarding changes in FBI laboratory reports by Frederick Whitehurst.

DAVID R. GLENDINNING,
*Office of Inspector General, Department of Justice, Washington, DC.*

DEAR MR. GLENDINNING: As you will recall, several months ago you contacted me regarding numerous allegations your office had received against the FBI Laboratory Division (LD) from Supervisory Special Agent Frederick Whitehurst who is an explosive residue examiner in the LD. You explained that Whitehurst had made numerous allegations regarding problems in the FBI LD, but that only one, involving the changing of auxiliary examination dictation, warranted further investigation by your office. I told you that the FBI's Office of the General Counsel (OGC) had also received the same allegations from Whitehurst and was already conducting an investigation. As you know, our preliminary investigation is complete, and the report dated May 24, 1994, was made available to your office.

As you will recall, the allegation you were interested in investigating involved Whitehurst's claim that in some cases, Principal Examiners (PE) from the Explosives Unit had changed his Auxiliary Examiner (AE) dictation without his approval or knowledge. OGC contacted the LD management regarding this allegation who advised that the LD had a longstanding policy prohibiting any changes in AE dictation by the PE without the express permission of the AE. The LD immediately reaffirmed this policy with all its examiners. The May report made the following recommendation regarding Whitehurst's allegations on this matter:

Recommendation: We feel that LD management has appropriately addressed this issue. However, we are making the following recommendations to correct any past unapproved AE dictation changes and ensure that the AE has a chance to review final reports:

1. Examine all past reports where SSA Whitehurst and * * * (the other explosive residues examiner) were the AE's, and compare with the language of the final reports to ensure there were no changes. If changes were made, appropriate action should be taken to correct any substantive errors that were contained in the final report(s).

2. Require a copy of the final report be distributed to the AE examiners at the same time the final report is mailed to the contributor.

The FBI adopted the recommendations from the report which are currently being implemented by the LD. The deadline for the review conducted pursuant to recommendation number one is October 15, 1994, and I will forward a copy of the report to your office as soon as it becomes available.

The LD examiner who is reviewing the Whitehurst and * * * PE/AE reports advised that he believes there are still one or two reports that have not yet been retrieved. Once a final accounting of every report is completed, I will send you a copy of any remaining reports not enclosed with this letter. The only redactions in the enclosed reports are the case names and other personal identifying data.

The following is a list of the enclosed reports which are identified by the FBI LD number:

| | |
|---|---|
| 1. 00530046 | 25. 91121007 |
| 2. 70724075 | 26. 91121008 |
| 3. 70921005 | 27. 91130017 |
| 4. 70921006 | 28. 91204079 |
| 5. 70928045 | 29. 91207016 |
| 6. 71019029 | 30. 20124011 |
| 7. 71116047 | 31. 20207023 |
| 8. 71116048 | 32. 20416043 |
| 9. 71125046 | 33. 20618039 |
| 10. 71224001 | 34. 20624009 |
| 11. 71228078 | 35. 20729026 |
| 12. 80121007 | 36. 20812032 |
| 13. 80217150 | 37. 21118013 |
| 14. 80803018 | 38. 21123024 |
| 15. 80803019 | 39. 21214070 |
| 16. 81108029 | 40. 21221093 |
| 17. 81223004 | 41. 21221094 |
| 18. 90403032 | 42. 30422012 |
| 19. 90509063 | 43. 30611054 |
| 20. 90615067 | 44. 30708031 |
| 21. 90623042 | 45. 30802045 |
| 22. 90626055 | 46. 30812043 |
| 23. 90808074 | 47. 30816032 |
| 24. 90823043 | 48. 31001027 |

Please do not hesitate to contact me if you need any further information or additional assistance. I can be reached at * * *.

Sincerely yours,

———,
*Associate General Counsel.*

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To: Mr. Ahlerich
From: J. J. Kearney
Re alternations and changes in AE reports by PE examiners without approval of AE examiner scientific analysis section [SAS] Laboratory Division [LD].

Reference Mr. H. M. Shapiro memorandum to Mr. Hicks, dated 6/8/94 and Messrs * * * and * * * memorandum to Mr. Shapiro, dated 5/25/94.

Purpose: To Advise you of the actions being taken to resolve the captioned issue.

Recommendation: None, for information only.

Details: As described in the * * * and * * * memorandum to Mr. Shapiro, SSA Frederic Whitehurst, Materials Analysis Unit, SAS, has alleged that in some instances Principal Examiners (PE) from the Explosives Unit have changed his Auxiliary Examiner (AE) dictation without his approval. Following some review it appears that the practice is isolated to one * * *.

In addition, prior to issuance of the referenced memoranda, I was approached by * * * a second * * * who rendered a similar complaint concerning the work of * * * I met with * * *. Explosives Unit in an attempt to resolve the issue. During the meetings, it was apparent there was a deeper unresolved issue which existed between the examiners of the two units. The issue centered around what each unit believed their individual roles were when reporting the examinations of evidence in bombing matters. It was the position of the Explosives Unit that examiners in the Materials Analysis Unit should limit their reporting to the chemical analysis of the explosive residues and not discuss the nature of explosive materials. On the Other hand, the Materials Analysis Unit's position was that the Explosives Unit periodically went too far in their interpretation of the residue data when they formulated their conclusions and summary statements in their reports.

In these meetings, the practice that a PE not change an AE's dictation without first discussing the matter with, and getting the AE's approval was reemphasized with each of the Unit Chiefs and the Examiners. It was agreed that the two units would follow the practice. In addition, in order to ensure that the AE examiner is kept informed as to what is being reported on regarding his work, it was reemphasized that a tickler copy of the final report would be provided to the AE examiner for his review and records.

Further, I recommended that when bombing cases go to trial, we send both the explosive expert and explosive residue expert to testify to their results. This policy is in keeping with how testimony is handled in other cases in the Laboratory having both AE and PE testimony and would prevent any further confusion or possible misrepresentation of the AE dictation in bombing cases.

In order to resolve the issue * * * I have asked * * * to review * * *. Some of the cases have already been reviewed by * * *. The remainder of the cases will be reviewed by * * * and all cases will be placed into two categories:

Category One will include all those cases where no alteration occurred or if an alteration occurred, it did not change the meaning of the dictation.

Category Two will include all those cases where an alteration of the dictation occurred which caused a change in the meaning of the dictation and may have resulted in a misrepresentation of the data.

It is anticipated that the remainder of the review will be completed by October 15, 1994. A summary report of * * * findings will be prepared. At that time, it will be determined * * *.

I have enclosed * * * copy of this memorandum * * * so that the review of this matter will be comprehensive and efficient.

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JANUARY 13, 1995.

To: Mr. Kearney
From: * * *
Re alterations and Changes in auxiliary examiner (AE) reports by principal examiner (PE) without approval of AE examiner; Scientific Analysis Section (SAS) Laboratory Division (LD).

Reference J.J. Kearney's directive on 1/4/95, to document recommendations resulting from a review of captioned matter.

Purpose: To make recommendations regarding the documented alterations of auxiliary examiner dictation from the Materials Analysis Unit (MAU) by SSA Explosives Unit (EU).

Recommendations: 1. That SSA * * * be held accountable for the unauthorized changes he made in the AE dictation of SSA WHITEHURST by administrative action to include both oral reprimand and a letter of censure.

2. That the Assistant Director in Charge of the Laboratory Division mandate that all PEs provide a copy of all outgoing reports that include AE dictation to the respective AEs to avoid the possibility of mistakes/errors being furnished to a contributor as a result of misuse or misinterpretation of the AE dictation by the PE.

3. That the issue as to whether or not revised reports should be prepared and furnished to the contributors in the thirteen (13) cases where I have concluded significant alterations were done SSA * * * be referred to General Counsel for resolution.

4. That Laboratory policy be re-emphasized to insure that PEs never be allowed to testify to the results/meaning of AE dictation furnished to them that clearly falls outside their expertise.

Details: Based upon a memorandum to each Laboratory Unit Chief from J.W. HICKS dated 5/24/91, the approved, current Laboratory policy for errors made by a person in the Laboratory is clearly documented. This memorandum lists four types of errors. The alteration of another examiner's dictation without consultation with that examiner or his/her Unit Chief would fit, in my opinion, the criteria of the most serious type of error defined by the "willful or grossly negligent error."

It has always been understood practice (perhaps not written policy) that PEs do not change/alter/reword/revise AE dictation without consulting with and receiving permission from the AE, or their respective Unit chief in combination with the AE.

The problems that could arise during testimony when AE dictation is arbitrarily changed cannot be over-emphasized. The wording in all MAU dictation is carefully thought out, discussed, peer reviewed often times, and results from correct interpretations of the data. Any dictation signed out by the MAU Unit Chief or his designee should not be changed in any manner without the proper notification and consent of the AE.

In my opinion, SSA * * * chose to ignore this longstanding practice, a practice that everyone else adheres to.

It is clear that SSA * * * does not understand the scientific issues involved with the interpretation and significance of explosives and explosives residue composition. He therefore should realize this deficiency and differentiate between his personal opinions and scientific fact. An expert's opinion should be based upon objective, scientific findings and be separated from personal predilections and biases.

In order to identify a given material, it is necessary for the examiner to acquire sufficient data using acceptable scientific techniques/protocols and instrumentation to specifically identify it. If that level of data is not acquired or does not exist, then complete identification is not possible and words such as "consistent with" or "similar to" are used. This is nothing new. It is taught in our colleges and universities. It is a standard set by MAU based on experience/background, education, discussions, research and peer review of the analytical procedures in place. By rewording AE dictation, SSA * * * places an examiner in the position where he/she would be required to advise the court that the report overstates the findings and therefore is incorrect.

A FBI Laboratory report is evidence. Often times the report itself is entered into evidence during the trial proceedings. The fact that SSA * * * did make unauthorized changes in these reports could have resulted in serious consequences during legal proceedings and embarrassment to the Laboratory as well as the entire FBI.

In conclusion, SSA * * * committed errors which were clearly intentional. He acted irresponsibly; he should be held accountable; he should be disciplined accordingly. The problems regarding AE alterations by SSA * * * are verified. All of the AE dictation furnished to SSA * * * by SSA WHITEHURST has been reviewed. The causes, reasons and events which led to the occurrence of the errors has been discussed. The appropriate administrative action, in my opinion, should be that SSA * * * be given a letter of censure.

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DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
*Washington, DC, November 8, 1995.*

FBI Director Louis J. Freeh today released the following statement:

The FBI looks forward to working with the Blue Ribbon Panel named today. The FBI will assist the panel in every manner possible to ensure an objective review of our examinations and policies.

Over the past several years, Special Agent Frederic J. Whitehurst has raised a variety of concerns about forensic protocols and procedures employed in the FBI Laboratory. The FBI has vigorously investigated his concerns and is continuing to do so. The FBI alone has reviewed more than 250 cases involving work previously done by the Laboratory. To date, the FBI has found no evidence tampering, evidence fabrication or failure to report exculpatory evidence. Any finding of such misconduct will result in tough and swift action by the FBI.

The FBI Laboratory conducts over one million examinations per year and our experts testify hundreds of times annually in state and federal courts of law. At trials, FBI Laboratory examinations are constantly subject to extraordinarily vigorous challenge through cross-examination and the presentation of expert testimony by defense witnesses.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Virginia.

Mr. ROBB. Thank you, Mr. President.

## BALANCE THE BUDGET

Mr. ROBB. Mr. President, leadership often involves seizing the moment. And right now the moment is a realbut rapidly fleeting chance to actually balance the Federal budget. For those of us who have long been dedicated to stopping the Federal Government from spending more than it takes in, the moment is now. While we're away from Washington during the recess, I hope that we will use this time to prepare ourselves for serious work on the budget when we return. We cannot let another opportunity to do what's right pass us by.

I recognize the fear on both sides. The President is understandably reluctant to embrace a necessary change in the Consumer Price Index because of its effect, however minimal, on benefits for a large and vocal segment of the population. The Republican Party is reluctant to scale back its calls for a massive tax cut because of a similar effect on an equally vocal segment of their supporters.

But simple math dictates that both must occur if we are truly interested in balancing the budget and keeping it in balance over the long term. And the reality is that entitlements have got to be curbed, and the resulting savings have got to go to reducing the deficit, not tax cuts.

The Speaker of the House has taken a bold step by expressing a willingness to surrender tax cuts until the budget is balanced. I hope the President will meet this bold step by expressing his willingness to reconsider an adjustment in the CPI, or some other means to accomplish the same goal.

As meetings take place over the course of the congressional recess, I would encourage both sides to use as a starting point the Centrist Coalition budget developed last year by a bipartisan group of Senators, including myself.

The Centrist plan, known also as the Chafee-Breaux plan, was the only budget in the Senate last year that received bipartisan support. In fact, the Centrist plan received 46 votes. And to me, that seems like a logical place to start.

Our plan used conservative economic assumptions, a rational reduction in the Consumer Price Index, and a modest tax cut. We did not have, within our coalition, universal agreement on all aspects of the plan. Personally, I have always wanted to postpone even modest tax cuts until we actually achieve balance. But, I believe it provides a reasonable roadmap now of how to get from here to a budget that balances. I hope that this plan will help guide congressional and White House negotiators during their upcoming budget talks.

With that, Mr. President, I hope all of our colleagues come back fully reenvigorated and ready to start producing some results.

I yield the floor.

The PRESIDING OFFICER. Who seeks time?

Mr. GRASSLEY. addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

## COL. JOHN BOYD

Mr. GRASSLEY. Mr. President, I am very sad to report that Air Force Col. John Boyd died in West Palm Beach, FL, on March 9, 1997.

He was 70 years old.

He passed away after a long and difficult fight with cancer.

His remains were laid to rest today in Arlington Memorial Cemetery.

John was a native of Erie, PA. But John came to Iowa to go to college.

Iowa is where his Air Force career began.

He won an athletic scholarship to the University of Iowa and enrolled in the Air Force ROTC program.

After graduating in 1951, he went to flight school. He earned his wings and began flying the F-86 Saber jet.

Then he went to Korea with one goal: shoot down a MiG.

Fortunately, for everyone concerned, that conflict came to an end before his wish came true.

But to John that was one of the biggest disappointments of his life.

Mr. President, I am proud that John Boyd was educated in Iowa.

He was a great American who dedicated his life to public service.

I would like to honor him by speaking briefly about some of his most important accomplishments.

First and foremost, John Boyd was a legendary Air Force fighter pilot.

But John was no ordinary jet jockey. He applied his vast intellect to understand the dynamics of air combat maneuvering at which he excelled.

To do that, though, he had to teach himself calculus so he could work the formulas to quantify the problem.

This was the problem he saw.

Why did the heavier and slower American F–86 achieve near total domination of the superior MiG–15 encountered in Korea?

John wanted an answer to the question.

After doing some truly original and pioneering work, he began advancing a theory.

His tactical "Aerial Attack Study" became the bible for air-to-air combat training.

It was instrumental in the creation of the Fighter Weapons School at Nellis Air Force Base, NV.

That's the Air Force equivalent of the Navy's "Top Gun" program.

John being John, he never slacked off. He kept right on working and developing his theory of aerial combat.

He wanted to take it to a higher plane.

And he did.

It culminated in the Energy Maneuverability Theory.

This was a very important piece of work.

John Boyd's Energy Maneuverability Theory was seminal in the development of two of our premier fighters: first the F–15 and then the F–16.

That theory helped to shape the design of those two very important airplanes.

So, Mr. President, John Boyd was truly a giant in the field of air warfare.

When I first met John in early 1983, he was applying his genius in an entirely different field.

He had retired from the Air Force and had set up shop over in the Pentagon.

He was given a small consulting contract and a cubbyhole-size office to go with it.

His Pentagon cubbyhole was the birthplace of some very important ideas.

That's when I met John Boyd. He was just beginning his reform crusade.

He was the leader of the Military Reform Movement.

At that point in time, I was wrestling with the Reagan administration's plan to pump up the defense budget.

I was searching for an effective strategy to freeze the defense budget.

Cap Weinberger was the Secretary of Defense, and he kept asking for more and more money.

The DOD budget was at the $210 billion level that year.

But Cap Weinberger had plans to push it first to $300, then $400, and finally to $500 billion.

The money sacks were piled high on the steps of the Pentagon.

It seemed like there was no way to put a lid on defense spending—that is until John Boyd walked in my office.

To this day, I don't know how he got there. Ernie Fitzgerald may have introduced us. I don't quite remember.

But John had a secret weapon.

His secret weapon was Chuck Spinney.

Chuck was an analyst in the Pentagon's office of Program Analysis and Evaluation, or PA&E.

He had a briefing entitled "Plans/Reality Mismatch."

John's plan was to use Spinney's material to expose the flaws in Weinberger's plan to ramp up the defense budget.

So I asked DOD for Mr. Spinney's briefing but ran smack into a stone wall.

At first, the bureaucrats tried to pretend it didn't exist.

For example, Dr. Chu, Spinney's boss, characterized Spinney's briefing as nothing more than: "Scribblings and writings gathered up and stapled together."

Well, that didn't wash. It just added fat to the fire.

DOD could no longer suppress the truth.

The Wall Street Journal and Boston Globe had already published major reports on Spinney's briefing. A number of other newspapers had it and were ready to roll.

The press knew this was a substantial and credible piece of work.

John's behind-the-scenes maneuvering finally led to a dramatic hearing that was held in the Senate Caucus Room in February 1983.

It was an unprecedented event.

It was the only joint Armed Services/Budget Committee hearing ever held.

In a room filled with TV cameras and bright lights, Spinney treated the committee to a huge stack of his famous spaghetti charts.

This was Spinney's bottom line: The final bill of Weinberger's 1983–87 defense plan would be $500 billion more than promised. It was devastating.

Mr. Spinney's outstanding performance won him a place on the cover of Time Magazine on March 7, 1983.

And it effectively put an end to Weinberger's plan to pump up the defense budget.

Two years later, my amendment to freeze the defense budget was adopted by the Senate.

If John Boyd hadn't come to my office and told me about Chuck Spinney, the hearing in the Senate Caucus Room might not have taken place.

And if that hearing hadn't happened like it did, I doubt we would have succeeded in putting the brakes on Weinberger's spending plans.

The Plans/Reality Mismatch hearing was just one episode in the history of the military reform movement, but it is the one that brought me and John together.

There were many others. John was always the driving force behind the scenes, giving advice, planning the next move, and always talking with the press.

John Boyd always set an example of excellence—both morally and professionally.

Mr. President, since John died, there have been several articles published about some of his exploits.

There was a truly beautiful obituary—if such a thing exists—in the March 13 issue of the New York Times.

It describes John's vast contributions to air warfare.

Second, there is a more colorful piece, which will appear in the March 24 issue of U.S. News and World Report.

That one is written by Jim Fallows and is entitled "A Priceless Original."

Mr. Fallows describes some of John's important contributions against the backdrop of his unusual character traits.

Then, there is the letter from the Marine Corps Commandant, General Krulak.

General Krulak describes John as "an architect" of our military victory over Iraq in 1991.

That's an oblique reference to John's "Patterns of Conflict" briefing. This piece of work had a profound impact on U.S. military thought.

It helped our top military leadership understand the advantages of maneuver warfare. Those ideas were used to defeat Iraq.

And finally, Col. David Hackworth has devoted his weekly column to John Boyd. It is entitled: "A Great Airman's Final Flight."

I ask unanimous consent to have these reports printed in the RECORD.

Mr. President, we have lost a great American—a true patriot. I will miss him.

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

[From the New York Times, Mar. 13, 1997]

COL. JOHN BOYD IS DEAD AT 70; ADVANCED AIR COMBAT TACTICS

(By Robert McG. Thomas, Jr.)

Col. John R. Boyd, a legendary Air Force fighter pilot whose discovery that quicker is better than faster became the basis of a far-reaching theory that helped revolutionize American military strategy, died on March 9 at a hospital in West Palm Beach, Fla. He was 70 and had lived in Delray Beach.

The cause was cancer, his family said.

To combat pilots of the late 1950's, it was always high noon in the skies above the Nevada desert. A pilot, a crack instructor at

Nellis Air Force Base, perhaps, or a hotshot Navy flier passing through would get on the radio to call him out and within minutes Colonel Boyd would have another notch in his belt.

They did not call him 40-second Boyd for nothing. From 1954 to 1960 virtually every combat pilot in the country knew that Colonel Boyd, a former Korean War pilot who helped establish the Fighter Weapons School at Nellis, had a standing offer: take a position on his tail, and 40 twisting, turning seconds later he would have the challenger in his own gun-sights or pay $40. Colonel Boyd never lost the bet in more than 3,000 hours of flying time.

A high school swimming champion who won an athletic scholarship to the University of Iowa, Colonel Boyd, a native of Erie, Pa., had superior reflexes and hand-eye coordination, but what made him invincible in mock combat was something else.

At Nellis he taught himself calculus so he could work out the formulas that produced his repertory of aerial maneuvers and led to his 1960 report, "Aerial Attack Study," the bible of air-to-air combat.

His combat experience was limited to a few missions in Korea, but they were enough to produce a breakthrough insight. Wondering why the comparatively slow and ponderous American F-86's achieved near total domination of the superior MIG-15's, he realized that the F-86 had two crucial advantages: better visibility and a faster roll rate.

This, in turn, led Colonel Boyd to develop what he called the OODA Loop, to denote the repeated cycle of observation, orientation, decision and action that characterized every encounter. The key to victory, he theorized, was not a plane that could climb faster or higher but one that could begin climbing or change course quicker—to get inside an adversary's "time/cycle loop."

The fast-cycle combat theory, expanded by Colonel Boyd into a lecture he later delivered hundreds of times, has since been widely applied to fields as diverse as weapons procurement, battlefield strategy and business competition.

One implication of the theory was that the best fighter plane was not necessarily the one with the most speed, firepower or range. Colonel Boyd, who enrolled at Georgia Tech after his Nellis tour, was helping a fellow student with his homework over hamburgers and beer one night when he had an insight that led to a way to quantify his ideas. The resulting Energy Maneuverability Theory, which allows precise comparisons of maneuverability, is now a standard measure of aerial performance.

Assigned to the Pentagon in 1964, Colonel Boyd became an important figure in a movement that started in response to $400 hammers and other headline excesses of Defense Department spending and soon expanded to question the need for many hugely expensive weapons systems.

Although he had allies in the Pentagon, Congress and business, Colonel Boyd's ideas often went against the grain of a military-industrial bureaucracy devoted to the procurement of the most advanced, most expensive and (not coincidentally, he felt) most profitable planes.

Although his design ideas helped give the F-15 a big, high-visibility canopy, his major triumph was the F-16, a plane lacking many of the F-15's high-tech, expensive features, but which is far more agile and costs less than half as much, allowing for the purchase of many more of them for a given expenditure.

Top Air Force officers were so opposed to the concept of producing a plane that did not expand on the F-15's cutting edge technology that Colonel Boyd and some civilian allies developed it in secret.

The plane was hailed for its performance in the Persian Gulf war, a war whose very strategy of quick, flexible response was based largely on ideas Colonel Boyd had been promoting for years.

Colonel Boyd, who maintained that the lure of big-money defense contracts invariably perverted weapons assessment, was so personally fastidious that during his years in the Pentagon he became known as the Ghetto Colonel because he lived in a basement apartment.

He carried his notion of propriety to such an extreme that when he retired in 1975 and began some of his most productive work, as a Pentagon consultant, he insisted that his family live on his retirement pay. Initially offering to work full time without pay, he was persuaded to accept one day's pay every two-week pay period, because he had to be on the Pentagon payroll to have access to the building, before retiring in 1988.

He is survived by his wife, Mary; three sons, Stephen, of Springfield, Va., Scott, of Burke, Va., and Jeff, of Delray Beach, Fla.; two daughters, Kathryn, of Delray Beach and Mary Ellen Holton of Centerville, Va.; a brother, H.G. Boyd of Pompano Beach, Fla.; a sister, Marion Boyd of Erie, and two grandchildren.

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[From Inside the Pentagon, Mar. 13, 1997]

LETTER TO THE EDITOR

TO THE EDITOR: I was deeply saddened to learn of the passing of Colonel John Boyd, USAF (Ret.). How does one begin to pay homage to a warrior like John Boyd? He was a towering intellect who made unsurpassed contributions to the American art of war. Indeed, he was one of the central architects in the reform of military thought which swept the services, and in particular the Marine Corps, in the 1980's. From John Boyd we learned about competitive decision making on the battlefield—compressing time, using time as an ally. Thousands of officers in all our services knew John Boyd by his work on what was to be known as the Boyd Cycle or OODA Loop. His writings and his lectures had a fundamental impact on the curriculum of virtually every professional military education program in the United States—and on many abroad. In this way he touched so many lives, many of them destined to ascend to the very highest levels of military and civilian leadership.

Those of us who knew John Boyd the man knew him as a man of character and integrity. His life and values were shaped by a selfless dedication to Country and Service, by the crucible of war, and by an unrelenting love of study. he was the quintessential soldier-scholar—a man whose jovial, outgoing exterior belied the vastness of his knowledge and the power of his intellect. I was in awe of him, not just for the potential of his future contributions, but for what he stood for as an officer, a citizen, and as a man.

As I write this, my mind wanders back to that morning in February, 1991, when the military might of the United States sliced violently into the Iraqi positions in Kuwait. Bludgeoned from the air nearly round the clock for six weeks, paralyzed by the speed and ferocity of the attack, the Iraqi army collapsed morally and intellectually under the onslaught of American and Coalition forces. John Boyd was an architect of that victory as surely as if he'd commanded a fighter wing or a maneuver division in the desert. His thinking, his theories, his larger than life influence, were there with us in Desert Storm. He must have been proud at what his efforts wrought.

So, how does one pay homage to a man like John Boyd? Perhaps best by remembering that Colonel Boyd never sought the acclaim won him by his thinking. He only wanted to make a difference in the next war . . . and he did. That ancient book of wisdom—Proverbs—sums up John's contribution to his nation: "A wise man is strong, and a man of knowledge adds to his strength; for by wise guidance you will wage your war, and there is victory in a multitude of counsellors." I, and his Corps of Marines, will miss our counsellor terribly.—Proverbs 24:5-6

Sincerely,

C.C. KRULAK,
*General, U.S. Marine Corps,*
*Commandant of the Marine Corps.*

EDITOR'S NOTE: Col. John Boyd, who retired from the Air Force in 1975, died March 9 at age 70. A fighter pilot of legendary ability, Boyd was the author of several pivotal explorations of warfighting theory, including "Destruction and Creation" (1976), "Patterns of Conflict" (1981), and "Conceptual Spiral" (1991).

While still in the Air Force, Boyd was largely responsible for the early design of the F-15 and F-16 fighters, and contributed significantly to the design of the A-10 close air support aircraft. His "energy maneuverability theory" is still in use in designing aircraft for maximum performance and maneuverability.

Boyd is probably best known for developing the concept of the "OODA Loop," short for "observe, orient, decide, act"—effectively a guide to anticipating enemy moves in a fast-paced battle and heading them off at the pass. The term was widely used during the 1991 Persian Gulf war in reference to the U.S. force's ability to get "inside" Iraq's decisionmaking cycle.

Boyd is considered the father of the Air Force's original "fighter mafia" and, after his retirement, a key leader of the military reform movement in the 1980s.

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[From U.S. News & World Report, March 24, 1997]

A PRICELESS ORIGINAL

(By James Fallows)

True originality can be disturbing, and John Boyd was maddeningly original. His ideas about weapons, leadership, and the very purpose of national security changed the modern military. After Boyd died last week of cancer at age 70, the commandant of the Marine Corps called him "a towering intellect who made unsurpassed contributions to the American art of war." Yet until late in his life, the military establishment resisted Boyd and resented him besides.

Boyd was called up for military service during the Korean War and quickly demonstrated prowess as an Air Force fighter pilot. More important, he revealed his fascination with the roots of competitive failure and success. U.S. Planes and pilots, he realized, did better in air combat than they should have. In theory, the Soviet-built MiG they fought against was far superior to the F-86 that Boyd flew. The MiG had a higher top speed and could hold a tighter turn. The main advantage of the F-86 was that it could change from one maneuver to another more rapidly, dodging or diving out of the MiG's way. As the planes engaged, Boyd argued,

the F–86 could build a steadily accumulating advantage in moving to a "kill position" on the MiG's tail.

Boyd extended his method—isolating the real elements of success—while maintaining his emphasis on adaptability. In the late 1950s, he developed influential doctrines of air combat and was a renowned fighter instructor. In the 1960s, he applied his logic to the design of planes, showing what a plane would lose in maneuverability for each extra bit of weight or size—and what the nation lost in usable force as the cost per plane went up. Within the Pentagon, he and members of a "Fighter Mafia" talked a reluctant Air Force into building the F–16 and A–10—small, relatively cheap, yet highly effective aircraft that were temporary departures from the trend toward more expensive and complex weapons.

Warrior virtues. After leaving the Air Force as a colonel in 1975, Boyd began the study of long historical trends in military success through which he made his greatest mark. He became a fanatical autodidact, reading and marking up accounts of battles, beginning with the Peloponnesian War. On his Air Force pension, he lived modestly, working from a small, book-crammed apartment. He presented his findings in briefings, which came in varying lengths, starting at four hours. Boyd refused to discuss his views with those who would not sit through a whole presentation; to him, they were dilettantes. To those who listened, he offered a worldview in which crucial military qualities—adaptability, innovation—grew from moral strengths and other "warrior" virtues. Yes-man careerism, by-the-book thought, and the military's budget-oriented "culture of procurement" were his great nemeses.

Since he left no written record other than the charts that outlined his briefings, Boyd was virtually unknown except to those who had listened to him personally—but that group grew steadily in size and influence. Politicians, who parcel out their lives in 10-minute intervals, began to sit through his briefings. The Marine Corps, as it recovered from Vietnam, sought his advice on morale, character, and strategy. By the time of the gulf war, his emphasis on blitzkrieglike "maneuver warfare" had become prevailing doctrine in the U.S. military. As a congressman, Dick Cheney spent days at Boyd's briefings. As defense secretary, he rejected an early plan for the land war in Iraq as being too frontal and unimaginative—what Boyd would have mockingly called "Hey diddle diddle, straight up the middle"—and insisted on a surprise flanking move.

John Boyd laughed often, yet when he turned serious, his preferred speaking distance was 3 inches from your face. He brandished a cigar and once burned right through the necktie of a general he had buttonholed. He would telephone at odd hours and resume a harangue from weeks before as if he'd never stopped. But as irritating as he was, he was more influential. He will be marked by a small headstone at Arlington Cemetery and an enormous impact on the profession of arms.

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[From King Features Syndicate, Mar. 18, 1997]

DEFENDING AMERICA, A GREAT AIRMAN'S FINAL FLIGHT

(By David H. Hackworth)

Col. John R. Boyd of the United States Air Force is dead.

Future generations will learn that John Boyd, a legendary fighter pilot, was America's greatest military thinker. He's remembered now by all those he touched over the last 52 years of service to our country as not only the original "Top Gun," but as one smart hombre who always had the guts to stand tall and to tell it like it is.

He didn't just drive Chinese fighter pilots nuts while flying his F–86 over the Yalu River during the Korean War, he spent decades causing the top brass to climb the walls and the cost-plus, defense-contractor racketeers to run for cover.

He was not only a fearless fighter pilot with a laser mind, but a man of rare moral courage, the mission of providing America with the best airplane came first, closely followed by his love for the troops and his concern for their welfare. Many of the current crop of Air Force generals could pull out of their moral nose dive by following his example.

After the Korean War, he became known as "40-Second" Boyd because he defeated opponents in aerial combat in less than 40 seconds. Many of his contemporaries from this period say he was the best fighter pilot in the U.S. Air Force.

Not only was he skilled and brave, but he was also a brain. The Air Force recognized this and sent him to Georgia Tech, not to be a "rambling wreck," but to become a top graduate engineer. It was there that he developed the fighter tactics which proved so effective during the Vietnam War, and the concepts that later revolutionized the design of fighter aircraft and the U.S.A.'s way of fighting wars, both in the air and on the ground.

He saved the F–15 from being an 80,000-pound, swing-wing air bus, streamlining it into a 40,000-pound, lean and mean fixed-wing fighter, which Desert Storm proved still has no equal.

Boyd was also a key player in the development of the F–16, probably the most agile and maneuverable fighter aircraft ever built, and costing half the price of the F–15. The top brass didn't want it. To them, more expensive was better. Boyd outfoxed them by developing it in secret.

Chuck Spinney, who as a Pentagon staffer sweated under Boyd's cantankerous, demanding tough love says, "The most important gift my father gave me was a deep belief in the importance of doing what you think is right—to act on what your conscience says you should act on and to accept the consequences. The most important gift Boyd gave me was the ability to do this and survive and grow at the same time."

Boyd never made general—truth-tellers seldom do in today's slick military because the Pentagon brass hate the truth, and try to destroy those who tell it. They did their best to do a number on John. But true to form, he always out-maneuvered them.

Norman Schwarzkopf is widely heralded as the hero of Desert Storm, but in fact, Boyd's tactics and strategy were the real force behind the 100-Hour War. Stormin' Norman simply copied Boyd's playbook, and the Marines were brilliant during their attack on Kuwait.

As USMC Col. Mike Wyly tells it, Boyd "applied his keen thinking to Marine tactics, and today we are a stronger, sharper Corps."

His example inspired many. He affected everyone with whom he came in contact. He trained a generation of disciples in all the services, and they are carrying on his good work, continuing to serve the truth over self.

For those who know, the name Boyd has already become a synonym for "doing the right thing." His legacy will be that integrity—doing the hard right over the easy wrong—is more important than all the stars, all the plush executive suites and all the bucks.

God now has the finest pilot ever at his side. And He, in all His wisdom, will surely give Boyd the recognition he deserves by promoting him to air marshal of the universe.

For sure, we can all expect a few changes in the design of heaven as Boyd makes it a better place, just as he did planet earth.

The PRESIDING OFFICER. The Senator from Kentucky.

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## ANTITRUST IMPLICATIONS OF THE COLLEGE BOWL ALLIANCE

Mr. MCCONNELL. Mr. President, Senator BENNETT of Utah, Senator THOMAS and Senator ENZI of Wyoming, and I have been working on a matter that we wish to discuss with our colleagues in the Senate for the next few moments. Senator THOMAS needs to leave so he is going to lead off.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. I thank the Chair.

• Mr. President, I rise today to speak about the college football Bowl Alliance. I am concerned that under the Bowl Alliance structure, athletic excellence is not being recognized in postseason I–A college football play.

Fresh in the minds of Wyoming football fans is the last game of regular season play when the nationally ranked Cowboys played against No. 5-ranked Brigham Young University for the Western Athletic Conference [WAC] championship title. Both teams went into the game believing the winner would be selected for major postseason bowl action. UW and BYU delivered a terrific conference championship game. BYU won 28–25 over Wyoming in overtime play. It was the first WAC title game won in overtime. Unfortunately, neither WAC team was invited to a major New Year's bowl.

The 1996 selections to the New Year's bowl games shed revealing light on the college football Bowl Alliance. Invitations to the most lucrative major bowls games—the Orange Bowl, the Sugar Bowl, and the Fiesta Bowl—were largely sent to high-profile, highly marketable teams instead of worthy teams. Many sports fans were disappointed at the postseason New Year's bowl matchups. I am concerned about the closed selection process that has developed and the impact the Bowl Alliance structure will have on I–A collegiate football.

The Bowl Alliance operates outside the purview of the National Collegiate Athletics Association [NCAA]. The Bowl Alliance was created in 1993 when the Atlantic Coast Conference, the Big East Conference, the Big 12 Conference, the Southeastern Conference and Notre Dame came together and took it upon themselves to provide and acquire

teams to participate in the major bowl games. These Bowl Alliance conferences have contracts with the television networks and large corporate sponsors—Federal Express, Tostitos, and Noika. Champions from each alliance conference are automatically guaranteed a berth in one of the major bowl games. The nonalliance conferences remaining out in the cold are the Western Athletic Conference [WAC], the Big West Conference, Conference USA, the Mid American Conference and the 11 Independent teams.

The Bowl Alliance claims its purpose is to create optimal matchups and identify and national champion. Considering the 1996 selections for the bowl games, I question if quality matchups is the true goal. Last season, TV viewers saw No. 20 Texas lose to No. 7 Penn State 38–15 in the Fiesta Bowl. Texas' record was 8–4. The Orange Bowl showcased No. 9 Virginia Tech losing to No. 6 Nebraska 41–21.

Appearance in a Bowl Alliance game pays well. Each participating team takes approximately $8,000,000 back to its school. In addition, the teams get the national visibility and prestige that leads to strong athletic recruitment. Conferences outside the alliance have a remote chance of participating in one of the Alliance Bowls. Over time it will hurt the quality of the nonalliance teams who will have difficulty in recruitment. The Alliance Bowl structure will make the alliance teams stronger and relegate the nonalliance teams to a second-tier status.

The alliance ensures its monopoly through the use of the at-large rule. Although the champions of the self-selected Alliance Bowl conferences automatically appear in one of the major bowl games there are two remaining at-large spots. It is questionable as to whether those two spots are truly at-large and open to any high-quality team that can play their way into one of the spots. A team from the WAC was deserving of one of those at-large spots last year, but the invitation never came.

I am concerned for the future of the athletes and schools in the nonalliance conferences. That is why I joined with Senators MITCH MCCONNELL, ROBERT BENNETT, and MIKE ENZI in writing to the Department of Justice [DOJ] and the Federal Trade Commission [FTC] to request an investigation of the Bowl Alliance. We suspect possible violations of the Sherman Antitrust Act. In 1996, the eight Alliance Bowl participants, including the Rose Bowl participants, went home with a total of $68 million. The 28 teams that played in the minor bowl games shared a pot of $31 million. We requested a formal investigation of the matter. If there is wrong-doing we want to see the DOJ and the FTC use their statutory enforcement powers to break this lock on college football.

We are not asking for special consideration for any one team. We would like to see genuinely open competition restored to college football postseason bowls. Postseason play should be about recognizing achievement. Letting the best teams play is in the best interest of our student athletes and our schools.●

I wish to associate myself with the efforts of the Senator from Kentucky, the Senator from Utah, and my friend from Wyoming in doing some things that we think have impact in football. The Bowl Alliance has a great effect on small schools, particularly the University of Wyoming, BYU, Louisville, and others, and so we think this is an issue which needs to be discussed. I am very proud to be associated with the comments my friends will make.

I thank the Chair.

Mr. MCCONNELL. I thank my friend from Wyoming for his contribution to the matter that we will now proceed to discuss with our colleagues.

Mr. President, at a time when the country is swept away by March madness—particularly, I notice the occupant of the chair has a fine team in March madness that will probably, no doubt, come in second to Kentucky in the end—and the excitement of competitive college basketball, we are nevertheless reminded of the fundamental unfairness of college football's pseudo playoffs. Specifically, I am talking about the College Bowl Alliance.

The alliance is a coalition of top college football conferences and top postseason bowls. Over the past few years, the alliance has entered into a series of restrictive agreements to allocate the market of highly lucrative postseason bowls. By engaging in this market allocation, the coalition bowls and the coalition teams have ensured that they will receive tens of millions of dollars, while the remaining teams and bowls are left to divide a much smaller amount. The alliance agreements have the purpose and effect of making the already-strong alliance teams stronger while relegating the remaining teams to a future of, at best, mediocre, second-class status.

Mr. President, in college football, there can be no Cinderella stories. There can be no unranked, unknown Coppin State going to the playoffs and beating the SEC regular season champion, South Carolina, and going down to the wire with a Big 12 power like Texas.

A team like Coppin State could never make it to the lucrative college football postseason. You see, a team like that would be excluded because it's not in the College Bowl Alliance and its fans don't travel well. It doesn't even have its own band.

College football has no room for a Sweet 16 that includes teams like St. Joseph's and the University of Tennessee at Chattanooga. The opportunity to be in college football's Elite Eight and Final Four is essentially determined before the season begins.

The basic message, Mr. President, is that—if David wants to slay Goliath—he'd better do it during basketball season. He won't be allowed to play Goliath when the football postseason rolls around.

College football has no room for the underdog. In fact, as evidenced by the 1997 New Year's bowls, college football doesn't even have room for top-ranked teams—unless those teams are members of the exclusive Bowl Alliance.

I first raised this issue in 1993 when my alma mater, the University of Louisville, had a 7–1–0 record and a top ranking, but was automatically excluded from the most lucrative New Year's bowls. I contacted the Justice Department and explained that the alliance agreements constituted a group boycott, and, thus, violated the Sherman Act.

The Justice Department promised to promptly review the matter.

Shortly thereafter, the College Bowl Alliance entered into a revised agreement whereby the 1997 New Year's bowls would be open to any team in the country with a minimum of eight wins or ranked higher than the lowest ranked—alliance—conference champion.

Despite this pledge, the alliance continued its apparent boycott of nonalliance teams. During the 1996 season, Brigham Young University and the University of Wyoming, both members of the nonalliance Western Athletic Conference [WAC], met the alliance criteria. Wyoming finished the season 10–2 and ranked 22d in the country, while BYU won 13 games and was ranked the fifth best team in the country.

Neither team, however, was afforded an opportunity to play in the alliance bowls. In fact, BYU's record and ranking was superior to nearly every alliance team, including four of the six teams who participated in the high-visibility, high-payout alliance bowls.

Mr. President, this issue is about more than football, apple pie, and alma mater. This is about basic fairness and open competition. This is about a few conferences and a few bowls dividing up a huge multimillion-dollar pie among themselves.

In 1997, the eight participants in the alliance bowls, including the Rose Bowl participants shared an estimated pot of $68 million while the 28 nonalliance bowl participants were left to divide approximately $34 million. In short, the market has been divided such that eight teams rake in 70 percent of the postseason millions, while 28 teams get nothing more than the leftover 30 percent.

This chart may have printing that is too small for the camera to pick up, but it illustrates the nature of the problem.

The Alliance bowls—Fiesta, Sugar, Orange, and Rose—totaled $68.2 million. That is eight teams that benefited from the $68.2 million. The nonalliance bowls—and here is a whole list of them—collectively shared $34 million. Clearly, most of these teams never had an opportunity, no matter how good they were, to participate in the New Years Day payout bowls. Therein lies the antitrust problem, a clear antitrust problem I might say.

These short-term millions lead to long-term benefits for the alliance conferences. Guaranteed appearances in high-visibility bowls directly translate to: more loyal fans, more generous alumni, and much more willing athletic recruits.

If you don't believe it's easier for alliance teams to recruit, just pick up the phone and call the coach at an independent school like Central Florida, or the coach at the University of Louisville or BYU. These coaches will tell you time after time that the top high school athletes don't want to play for teams that don't have a shot at the top New Year's bowl games.

Mr. President, in summary, there is substantial evidence that the most powerful conferences and the most powerful bowls have entered into agreements to allocate the postseason bowl market among themselves and to engage in a group boycott of nonalliance teams and bowls. The effect of these agreements is to ensure that the strong get stronger, while the rest get weaker.

I have joined with my colleagues—Senator BENNETT, Senator ENZI, and Senator THOMAS—to request that both the Justice Department and the Federal Trade Commission investigate the intent and effect of the alliance agreements. I ask unanimous consent that the Justice Department letter be printed in the RECORD at the end of my remarks.

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

(See exhibit 1.)

Mr. MCCONNELL. In closing, I'd like to point out that this effort is much more than just a few Senators cheering for their home teams. The Supreme Court has said it much more clearly than we ever could. So, I quote the Court, which I seem to be doing quite often these days:

> [O]ne of the classic examples of a *per se* violation of section 1 is an agreement between competitors at the same level of the market structure to allocate territories in order to minimize competition . . . This Court has reiterated time and time again that "horizontal territorial limitations . . . are naked restraints of trade with no purpose except stifling of competition."

This fundamental principle of antitrust law should guide the review of the Justice Department and the Federal Trade Commission. In the words of the D.C. Circuit, "the hallmark of the [unlawful] 'group boycott' is the effort of competitors to 'barricade themselves from competition at their own level.'"

Today, we are calling on all interested parties to break the barricade. We are challenging the NCAA, the Bowl Alliance commissioners, and the Alliance bowl committees to take action to bring about genuine competition to college football and the postseason.

Postseason playoffs can be a reality for college football. It works for college basketball, college baseball, and it works for college football—at the Division I–AA, Division II, and Division III levels. They all have a playoff system, all of them except Division I.

The opportunity to compete in postseason bowls should be based on merit, not membership in an exclusive coalition.

So, Mr. President, I thank my good friend and colleague from Utah, Senator BENNETT, for his fine work on this issue. And also Senator ENZI for his great work on this. We are hoping for the best. Obviously, the solution to this problem that we would all prefer is for the organizations themselves to solve the problem. But, if they do not, it seems pretty clear to each of us that this is an antitrust case the Justice Department should pursue.

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

EXHIBIT 1

U.S. SENATE,
*Washington, DC, March 14, 1997.*

Hon. Joel I. Klein,
*Acting Assistant Attorney General, Antitrust Division, U.S. Department of Justice, Washington, DC.*

DEAR MR. KLEIN: We believe that there is substantial evidence of serious violations of Section 1 of the Sherman Act (15 U.S.C. 1) by the College Bowl Alliance ("Alliance").

The Alliance is a coalition of top college football conferences and representatives of top postseason college football bowls. Over the past few years, the Alliance has entered into a series of restrictive agreements to allocate the market of highly-lucrative New Years' bowls. By engaging in this market allocation, the coalition bowls and the coalition teams have ensured that they will receive tens of millions of dollars, while the remaining teams and bowls are left to divide a much smaller amount. In 1996, for example, the eight Alliance bowl participants (including the Rose Bowl participants) went home with a total of $68 million, while the 28 non-Alliance bowl participants shared a pot of $31 million. Moreover, the Alliance agreements have the additional purpose and effect of making the already-strong Alliance teams stronger while relegating the remaining teams to a future of, at best, mediocre, second-class status.

As you will recall, the Antitrust Division commenced a review of this coalition in late 1993. Shortly thereafter, the Alliance agreed that the top bowls would be open to all teams based on merit. The 1997 New Year's Bowls, however, proved to the contrary. We are writing to advise you of these recent material events and to urge that you initiate a formal investigation into this matter.

I. BACKGROUND

Courts have routinely declared that agreements among competitors to allocate territories and exclude would-be competitors are a violation of Section 1 of the Sherman Act. See, e.g., Smith v. Pro Football, Inc., 593 F.2d 1173, 1178 (D.C. Circuit 1978). As the D.C. Circuit has explained:

> "The classic 'group boycott' is a concerted attempt by a group of competitors at one level to protect themselves from competition from non-group members who seeks to compete at that level. Typically, the boycotting group combines to deprive would-be competitors of a trade relationship which they need in order to enter (or survive in) the level wherein the group operates. . . . [The hallmark of the 'group boycott' is the effort of competitors to barricade themselves from competition at their own level.'"

*Id.* This fundamental principle should be kept in mind while reviewing the facts surrounding the College Bowl Alliance.

A. ORIGINAL COLLEGE BOWL ALLIANCE AGREEMENT

In 1991, five college football conferences (ACC, Big East, Big Eight, Southeastern, and Southwestern conferences) and the independent University of Notre Dame, formed a coalition with the prestigious College Bowl Committees of the Federal Express Orange, USF&G Sugar, IBM Fiesta, and Mobil Cotton Bowls ("Alliance bowls").[1] The Pac-10 and Big Ten also participated in the coalition, although their champions played in the Rose Bowl under a separate agreement.

The coalition agreement was expressly designed to reduce competition in the postseason match-ups of teams and bowls, and to guarantee every coalition team an opportunity to vie for a lucrative, high-visibility bowl. The contract specifically guaranteed that each coalition team participating in any of the Alliance bowls would receive a minimum payout based on similar terms. Typically, an Alliance bowl team has taken home a purse in excess of eight million dollars. Moreover, the original Request for Proposal contained a clause requiring that no Alliance bowl or Alliance team could compete in time slots opposite other Alliance bowls.

The agreement also stipulated the procedure by which the top-ranked and lesser-ranked Alliance teams were matched up with participating Alliance bowls. Three conferences were guaranteed berths at a specific Alliance bowl regardless of the ranking of their champion team. Any team not in the Alliance, however, was precluded from competing in any of the Alliance bowls, regardless of its record or ranking.

The Alliance conferences and Notre Dame received substantial benefits from the coalition agreements. They were assured a berth at a major postseason bowl—regardless of their topmost ranking. Further, all of the participants in the Alliance bowls were guaranteed to receive a substantial minimum payment and national visibility. Such visibility in turn enhanced fan support, alumni fund-raising, and athletic recruiting for the bowl teams.

By dividing the lucrative market of major postseason bowls among themselves, the Alliance Conferences and Notre Dame expressly and effectively excluded a substantial number of the other Division 1A teams

[1] The Bowl Alliance was originally called the Bowl Coalition. Additionally, pursuant to the dissolution of the Southwest Conference, the Big Eight became the Big 12, and the Cotton Bowl dropped out of the coalition.

from any of the prestigious New Year's Bowls. The excluded teams were those which were either independent or in non-Alliance conference such as the Western Athletic Conference, the Big West, and the Middle America Conference.

B. INITIAL REQUEST FOR ANTITRUST INVESTIGATION

In response to these market allocations, Senator Mitch McConnell formally requested that the Justice Department investigate the intent and effect of the Bowl Alliance agreements. Specifically, Senator McConnell pointed out that the Bowl Alliance agreements precluded a non-Alliance team from going to the significant and lucrative Alliance Bowls—even when the non-Alliance team had a better record and a better ranking than an Alliance team. In response, the Justice Department commenced a review of the Bowl Alliance.

C. "REVISED" COLLEGE BOWL ALLIANCE

Thereafter, the College Bowl Alliance entered into a revised agreement whereby the 1997 New Year's bowls would supposedly have two of the six Alliance slots "open to any team in the country with a minimum of eight wins or ranked higher than the lowest-ranked conference champion from among the champions of the Atlantic Coast, The Big East Football, The Big Twelve and Southeastern conferences."

At that point, Senator McConnell concluded that the "new arrangement seems to open competition to the top tier bowl games." (Letter from Honorable Mitch McConnell to the College Football Association, December 21, 1995.) The Justice Department apparently made a similar determination.

Notwithstanding the promise of open competition, the Alliance announced that it would consider non-Alliance teams for the "at-large" openings only if they signed a special restrictive agreement. The Alliance demanded that the terms of this "participation agreement" be kept confidential. Nevertheless, a key term of this agreement apparently was that the at-large participants had to promise to accept an offer from an Alliance bowl over any offers from non-Alliance bowls. In the words of the Alliance, "[t]here are no 'pass' or withdrawal options."[2]

D. CONTINUED BOYCOTT OF NON-ALLIANCE TEAMS

The potential antitrust fears became a reality after the 1996 regular season when the Alliance continued its apparent boycott of non-Alliance teams. During the 1996 season, Brigham Young University and the University of Wyoming, members of the non-Alliance Western Athletic Conference, had "a minimum of eight wins or [were] ranked higher than the lowest-ranked [Alliance] conference champion. . . ."

BYU, in fact, met both of the Alliance criteria by compiling a remarkable 13-1 record and earning a ranking of the fifth best team in the country. This record and ranking was superior to nearly every Alliance team, including the University of Texas, 8-5 record and a No. 20 ranking; Pennsylvania State University, 11-2 record and a No. 7 ranking; Virginia Tech, 10-2 record with a No. 13 ranking; and Nebraska, 11-2 record and a No. 6 ranking. Nevertheless, BYU did not receive an at-large invitation to play in any of the prestigious Alliance bowls; while Texas, Penn State, Virginia Tech, and Nebraska all were invited to play in various Alliance bowls, with the attendant financial and recruiting benefits. Similarly, Wyoming finished with an impressive 10-2 record and a No. 22 ranking, but was not afforded an offer to play in the Alliance bowls.

E. FORMATION OF THE "SUPER ALLIANCE"

In June 1996, the Alliance lock on college football power was strengthened as the Rose Bowl agreed to join the Alliance, which guaranteed the Big Ten and Pac-10 conferences automatic berths in an Alliance bowl. The Alliance has officially renamed itself the "Super Alliance."

II. SHERMAN ACT PROHIBITS MARKET ALLOCATIONS AND GROUP BOYCOTTS

The Sherman Act prohibits the Alliance agreements. Section 1 of the Sherman Act is violated where: (1) there is an agreement, (2) that unreasonably restrains trade, and (3) affects interstate commerce. 15 U.S.C. 1. It is beyond dispute that interstate commerce is affected by the millions of dollars that flow through the Alliance bowls to the Alliance conference teams. Thus, our analysis focuses on the existence of agreements and the unreasonable restraint of trade.

A. THE ALLIANCE IS LINKED BY AT LEAST THREE AGREEMENTS

The Alliance coalition is linked by a minimum of three agreements that limit competition. First, the Alliance conferences—the ACC, Big East, Big 12, Big Ten, Pacific 10 and the Southeastern conferences—have horizontally agreed not to compete with each other for the top postseason bowls. Next, the Alliance bowls—the Sugar, Fiesta, and Orange bowls—have horizontally agreed not to compete with each other for the top-ranked teams. Third, the Alliance conferences and the Alliance bowls have vertically agreed to further their horizontal agreements by limiting participation with non-Alliance teams and non-Alliance bowls. These agreements individually and in their totality demonstrate "a conscious commitment to a common scheme designed to achieve an unlawful objective." *Monsanto Co.* v. *Spray-Rite Serv. Corp.*, 465 U.S. 752, 768 (1984).

Moreover, strong evidence suggests the existence of an "anti-overlap" agreement. The coalition's original Request for Proposal contained an explicit "anti-overlap" clause. Under the terms of such an agreement, no Alliance bowls or teams could compete in time slots opposite other Alliance bowls. Although this clause was officially removed following a letter of protest from the Holiday Bowl, the Alliance's exclusive prime television slots are strong indicators of an anti-overlap agreement. Such circumstantial evidence may be used to prove the existence of an agreement. *See id.*

B. THE ALLIANCE AGREEMENTS UNREASONABLY RESTRAIN TRADE UNDER EITHER A PER SE TEST OR A RULE OF REASON TEST

The effect of these interlocking agreements is to unreasonably restrain trade. Courts determine the reasonableness of a restraint by applying either a *per se* test or a rule of reason test. *See, e.g.*, *NCAA* v. *Board of Regents*, 468 U.S. 85, 100-01 (1984). The Alliance agreements fail under either analysis.

(1) PER SE ANALYSIS

The facts underlying the Alliance warrant the stringent *per se* analysis. Although courts have often analyzed regulations of sports organizations under a rule of reason, *see, e.g.*, *Justice* v. *NCAA*, 577 F. Supp. 356, 380 (D. Ariz. 1983) (citations omitted), such a lenient review is inappropriate where the purpose of the regulations is to eliminate business competition. *See, e.g., id.* (citing *M & H Tire Company, Inc.* v. *Hoosier Racing Tire Corp.*, 560 F. Supp. 591, 604 (D. Mass. 1983); *Blalock* v. *Ladies Professional Golf Assoc'n*, 359 F. Supp. 1260, 1264-68 (N.D. Ga. 1973)). The Alliance cannot cloak its purpose and effect under the garb of NCAA self-regulation, *cf., Justice*, 577 F. Supp. at 379 (rule of reason is appropriate where NCAA enforced rules against compensating athletes), where the underlying facts demonstrate that business-minded entities acted with the clear intent to exclude non-Alliance bowls and non-Alliance teams from multi-million dollar opportunities.

Courts have routinely condemned such market allocations and group boycotts under the *per se* rule. *See Fashion Originators' Guild* v. *Federal Trade Comm'n*, 312, U.S. 457 (1941) (group boycott); *United States* v. *Addyston Pipe & Steel Co.*, 85 Fed. 271 (6th Cir. 1898), *mod.*, 175 U.S. 211 (1,899) (market division). As the Supreme Court has explained:

[o]ne of the classic examples of a per se violation of section 1 is an agreement between competitors at the same level of the market structure to allocate territories in order to minimize competition. . . . This Court has reiterated time and time again that "horizontal territorial limitations . . . are naked restraints of trade with no purpose except stifling of competition."

*United States* v. *Topco Associates*, 405 U.S. 596, 608 (1972) (citations omitted).

For example, in *United States* v. *Brown*, 936 F.2d 1042 (9th Cir. 1991), the Ninth Circuit held that an agreement between two billboard advertising companies providing that each would not compete with the other's former billboard leaseholds for one year was *per se* illegal. Similarly, the agreement among the Alliance bowls not to compete with each other for teams should be *per se* illegal. *Id.* Likewise, the agreement among the Alliance teams not to compete with each other for the Alliance bowls should be struck down. *Id.*

(2) RULE OF REASON

The Alliance agreements also fail under a rule of reason analysis. Under the rule of reason, courts require a plaintiff to show that there are significant anti-competitive effects. *See NCAA* v. *Board of Regents*, 468 U.S. 85, 100-01 (1984). Once this burden has been met, the defendant must show that there are pro-competitive effects, which then shifts the burden back to the plaintiff to demonstrate that such effects can be achieved in a less restrictive manner. *Id.* at 120 (striking down restraint on broadcast of college football where there was no sufficient pro-competitive justification).

(A) ANTI-COMPETITIVE EFFECTS

As set forth above, the anti-competitive effects of the Alliance on college football generally and the New Year's bowls specifically are undeniable. Instead of having all the bowls bidding for all the teams, a super-coalition of powerful bowls and powerful teams has divvied up the prized opportunities among themselves. As the Supreme Court stated in *NCAA* v. *Board of Regents*, "[t]he anti-competitive consequences . . . are apparent . . . [when] [i]ndividual competitors

[2] In the fall of 1996, the Alliance sent out "participation offers" to presumably all of the non-Alliance teams. Both Brigham Young University and the University of Wyoming signed the restrictive participation agreements, but included a proviso stating they would not agree to all of the restrictive terms. Specifically, the University of Wyoming explained that "the University . . . and the Western Athletic Conference will not comply with any expressed or implied provision that prevents other members of the WAC from participating in bowls that compete with any Alliance Bowl, or with any other provisions that might violate antitrust laws."

lose their freedom to compete." 468 U.S. at 107–08.

The facts of the 1996 season indicate that non-Alliance teams were not allowed to genuinely compete for one of the lucrative Alliance bowls. For example, BYU was not invited to an Alliance bowl in spite of having a "minimum of eight wins" *and* being "ranked higher than" four of the Alliance teams participating in Alliance bowls. Moreover, non-Alliance bowls were unable to genuinely compete for the Alliance teams in light of the anti-overlap rule and the "no-pass" rule—the latter of which mandated that all Alliance-eligible teams must accept offers from Alliance bowls—regardless of how lucrative a non-Alliance bowl offer might be.

These anti-competitive effects are in direct contravention of well-established Supreme Court precedent. In *NCAA*, the Court explained that "'[i]n a competitive market, each college fielding a football team would be free to sell the right to . . . its games for whatever price it could get.'" *NCAA*, 468 U.S. at 106 (quoting district court and striking down restraints). The Alliance agreements clearly restrict such a right for both the non-Alliance bowls and the non-Alliance teams. *See also United States* v. *Paramount Pictures, Inc.*, 334 U.S. 131, 154 (1948) (striking down block booking because it "eliminate[s] the possibility of bidding for films theater by theater. [Such agreements] eliminate the opportunity for the small competitor to obtain the choice first runs, and put a premium on the size of the circuit.")

(B) NO PRO-COMPETITIVE EFFECTS

The Alliance cannot establish that its restrictive agreements produce any pro-competitive effects. In fact, the Alliance's own language reveals that it did not have *even* a pro-compeititve *purpose*. The Alliance states that its "framework enhances the quality of postseason college football match-ups, increases the likelihood of pairing the two highest ranked teams in the nation in a bowl game, and provides excitement for the coaches, players, and fans." According to a recent *Sports Illustrated* article, the purpose and effect of the Alliance is not to determine the true national champion, but rather "is to avoid the creation of NCAA-run national playoffs. . . . The Alliance exists to keep the power and the money in the hands of the Alliance bowls and the four conferences that receive guaranteed berths in those bowls. . . . Any national championship games that result are a bonus." Layden, Tim, "Bowling for Dollars," *Sports Illustrated*, Dec. 16, 1996 at 36.

The Alliance goals fall far short of actually allowing the best teams to compete in the best bowls. The 1996 season is a painful reminder of this fact. Instead of consumers getting to watch a highly-competitive match-up between No. 5 ranked BYU and another top-ranked team, they were forced to endure two blow-outs in the Alliance: the Fiesta Bowl where No. 7 Penn State defeated No. 20 Texas 38–15, and the Orange Bowl, where No. 6 Nebraska trounced No. 9 Virginia Tech 41–21. These match-ups were based on membership in the Alliance, not on merit.[3]

[3] Additionally, there is evidence which indicates that the decision was not based on consumer preference. One poll is reported to have shown that fans would have preferred the following teams in an Alliance bowl: BYU—48%, Penn State—22%, and Colorado—21%. As the Court has stated, "[a] restraint that has the effect of reducing the importance of consumer preference . . . is not consistent with [the] fundamental goal of anti-trust law." *NCAA*, 468 U.S. at 107 (citation omitted).

In short, the Alliance "framework" fails to enhance competition, as well as failing to meet its own stated goals. The rule of reason inquiry must end here where the anti-competitive restrictions are "not offset by any pro-competitive justifications sufficient to save the plan . . . ." *NCAA*, 468 U.S. at 97–98.

III. CONCLUSION

Based on the facts available at this time, it is clear that the Alliance agreements fail under either *a per se* rule or a rule of reason. As the Supreme Court has explained, "the essential inquiry remains the same—whether or not the challenged restraint enhances competition." *NCAA*, 468 U.S. at 104. The restrictive Alliance agreements reduce competition in the lucrative New Year's bowls, and guarantee every Alliance team an opportunity to reap the short- and long-term profits of a high-visibility bowl. The Alliance not only perpetuates the current power structure, but, in fact, exacerbates it. The strong get stronger, while the rest get weaker.

As policymakers and football fans, we urge the Justice Department to use its statutory enforcement powers to break this lock on college football. We have every reason to believe that your investigation will reveal additional evidence of the Alliance's anti-competitive purpose and effects. Action must be taken to restore genuinely open competition to college football and to postseason bowls.

Sincerely,

MITCH MCCONNELL.
CRAIG THOMAS.
ROBERT F. BENNETT.
MIKE ENZI.

The PRESIDING OFFICER. The Senator from the home State of the BYU Cougars, the Senator from Utah.

Mr. BENNETT. Mr. President, I thank you for that commercial. I must, in the spirit of full disclosure, report that I am not a graduate of Brigham Young University but of the University of Utah, which happens to be ranked in the top three in the current basketball season along with the University of Kansas and the University of Kentucky. I wish the Final Four could include Utah, Kentucky, and Kansas, but I am afraid Utah and Kentucky will have their showdown prior to the Final Four and only one of the two will make it. If it is not Utah—as I am confident, of course, that it will be—I hope, for the sake of my friendship with the Senator from Kentucky, that it will be Kentucky that goes to the Final Four with Kansas.

But the very fact that we can have this conversation about the NCAA underscores the importance of what we are talking about with respect to football. These teams will get to the Final Four in basketball on the playing field and not in the boardroom. The decision will be made on the basis of how good they are and how entertaining they can be on television by virtue of their skill, rather than how sharp the negotiators were that put together the stacked deck in advance of the final event.

I have a chart here that reports what happened in the last bowl circumstance. Every team in color, whether it is the two in yellow, the two in orange, or the two in red, appeared in an alliance bowl.

The two teams in white, No. 2 and No. 4, that did not appear in an alliance bowl, appeared in the Rose Bowl, which is now part of the alliance. Only one of the top seven teams did not appear in a lucrative alliance bowl—and that happens to be the team from BYU.

Rather than go on in a parochial fashion, as the Senator from the State in which BYU appears, I would like to summarize this circumstance from a source that is clearly not parochial and not particularly biased to BYU as a school.

I am quoting from the article that appeared in Sports Illustrated on the 16th of December, 1996, entitled, "Bowling For Dollars." In the article they made it very clear what the real criteria was here. Quoting from the article:

Sunday's selections shed revealing light on the alliance. . . . It was the shunning of Brigham Young, however, despite the fact that the Cougars have a higher ranking and a better record than either of the at-large teams chosen (Nebraska and Penn State) by the alliance, that served to trash two widely accepted myths.

Myth No. 1: The purpose of the alliance is to determine the true national champion.

Sports Illustrated says:

Not even close. The purpose of the alliance is to avoid the creation of NCAA-run national playoffs. Such playoffs would put the NCAA in charge of the beaucoup dollars the event would generate. The alliance exists to keep the power and the money in the hands of the alliance bowls and the four conferences that receive guaranteed berths in those bowls.

A fairly direct statement to the point raised by my friend from Kentucky.

Now, Sports Illustrated goes on:

Myth No. 2: The alliance bowls exist to give fans the best possible games.

Bowls are businesses, with major corporate sponsorship and huge television deals. Their purpose is to fill stadiums, generate TV ratings, and create precious "economic impact" on their communities in the days leading up to the games.

Now, Mr. President, comes the paragraph that makes it clear that Sports Illustrated is not necessarily friendly to BYU in every circumstance, but summarizes why this decision was made.

BYU fails, not only on the strength-of-schedule issue but also on the economic-impact side. Bowls, particularly the Sugar Bowl, thrive on bar business. One of the tenets of the Mormon faith is abstinence from alcohol. You do the math. In the French Quarter, they don't call the most famous thoroughfare Milk Street. "We used to go to the Holiday Bowl, and our fans would bring a $50 bill and the Ten Commandments, and break neither" says BYU Coach LaVell Edwards. Nebraska fans, on the other hand, travel like Deadheads, and spend like tourists.

Choosing bowl teams based in significant part on the rabidity and spending habits of their fans isn't fair to the audience watching the bowls at home. For all its flaws, BYU would even be a more intriguing opponent for Florida State than a team the Seminoles have already beaten. Unfortunately, money rules all matchups.

Mr. President, BYU did go to a postseason game—the Cotton Bowl. The Presiding Officer from Kansas and this Senator from Utah entered into a friendly wager, which fortunately this Senator from Utah won when BYU beat the team from Kansas.

Satisfying as that victory was for Brigham Young University, the point made by Sports Illustrated is still important. It is the fans on television who support the tremendous amount of money available to these alliance bowls, by tuning in and being available as an advertising audience.

It is those fans who were deprived of the opportunity of seeing the best game available on New Year's Day.

So for that reason, I am delighted to join in this effort to see to it that we do something to see that the antitrust laws apply here and that a conspiracy in a boardroom does not take place to siphon off the heavy money to one group at the expense of not only the other group but also of the fans.

Mr. MCCONNELL. Will the Senator yield for a question?

Mr. BENNETT. Yes, I yield.

Mr. MCCONNELL. I am not sure it is a question, but rather an observation. Also, the BYU Cougars, as a result of the Cotton Bowl appearance probably—I don't have the figure in front of me, maybe staff does—probably got about $2.5 million as opposed to the roughly $8 million that would have been available had they been selected, as they obviously should have been selected, for an alliance bowl. We are talking not just about bragging rights here, we are talking about real money. We are talking about a $6 million differential, Mr. President. So this is not just putting a trophy in the school gym. This is a big business with huge economic implications.

Mr. BENNETT. The Senator from Kentucky is exactly correct. One of the reasons, I am sure, why the Senators from Wyoming are joining in this effort is that under the rules of the Western Athletic Conference, Brigham Young would not take that money home by itself. It would be shared with the other schools in the conference, one of whom posted a sterling record themselves, the Wyoming Cowboys. They were frozen out of any bowl appearance at all on New Year's Day. They cannot even salve that particular wound with the money Brigham Young would distribute throughout the Western Athletic Conference with participation in an alliance bowl.

As I said before, the money comes primarily from television revenues, and by creating a restraint-of-trade circumstance to hold those television revenues for a certain set of conferences, the leaders of the alliance have damaged every other conference in the country, including schools like Wyoming, which would have received a significant amount of money had it been available to the Western Athletic Conference.

The message out of the alliance is: WAC need not apply, regardless of how their teams are or have ever been.

I yield the floor.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Thank you, Mr. President. Today, I am pleased to join my colleagues, Senator THOMAS from Wyoming, Senator MCCONNELL from Kentucky, and Senator BENNETT from Utah, in urging the Justice Department to exercise its enforcement powers to break the current anticompetitive lock on college football, if football does not do it itself.

I have a special interest in college athletics. I followed college athletics for some years, and I enjoy the excitement and competition of college basketball and football. I especially enjoy the competition in the Western Athletic Conference. My son, Brad, played basketball at the University of Wyoming, and so I watched numerous WAC games, both as a Cowboy fan and as a father. I am disappointed to see the University of Wyoming and other very competitive WAC teams kept out of the top college bowl games because of the anticompetitive College Bowl Alliance. These clandestine agreements keep our players on the bench and in the grandstand when they should be out there on the field.

I think it is interesting we are discussing the anticompetitive effects of the college football alliance in the midst of the NCAA college basketball tournament. The NCAA basketball playoff system, while not perfect, aims to include the finest 64 college basketball teams in the Nation. In this tournament, any of those 64 teams has the possibility of winning the national championship. This arrangement is designed to maximize competition for the benefit of all the players, the fans, and the schools involved. In contrast, the College Bowl Alliance has decreased the competitiveness of college football to the detriment of the fans and schools involved.

The alliance is a coalition of top football college conferences and representatives of the top post-season college football bowls. Over the past few years, the alliance has entered into a number of restrictive agreements designed to divide the market of the most highly lucrative New Year's football bowls. These agreements effectively preclude the nonalliance teams from having access to the most prestigious and lucrative bowl games, even when one of the nonalliance teams has a better record and a higher national ranking than any of the alliance teams. These restrictive agreements are bad for football, and they violate Federal antitrust law.

Just this last January, as you have heard, 2 of the top 25 ranked football teams in the country fell victim to this anticompetitive alliance. Brigham Young University, a member of the nonalliance Western Athletic Conference, finished the year with a remarkable record of 13 and 1 and was ranked 5th in the Nation. Another member of the WAC, the University of Wyoming, finished its regular season with a formidable 10 and 2 record and a national ranking of 22, but it was not given an offer to play in any of the alliance bowls. In fact, as has been mentioned, despite its excellent year, the University of Wyoming was not given the opportunity to play in any postseason bowl game. This came as a great disappointment to the Cowboy fans nationwide.

The alliance is bad for football since, as a practical matter, it prohibits teams from outside the alliance playing the top bowl games. The football games are now taking a back seat to the money games being played behind doors closed to both players and the fans. This has resulted in alliance teams having an institutional advantage in both bowl receipts and future recruiting.

In 1996, the eight alliance bowl participants, including the teams playing in the Rose Bowl, split a total of $68 million. That was eight teams. In contrast, the 28 nonalliance participants divided a total of $31 million. This disparity in financial return is not good business. It results in a built-in advantage for alliance teams in the areas of future recruiting and program development.

The alliance agreement provides unlawful economic protection for its members to the detriment of college football generally. The alliance's market allocation agreements have, in turn, hurt consumers. One poll has shown that college football fans would have preferred to have seen several nonalliance teams, including Brigham Young University and the University of Colorado, in top bowl games. These agreements amounted to changing the rules with 2 minutes left in the fourth quarter. These are precisely the type of market allocation agreements the Sherman Antitrust Act was passed to prohibit.

I strongly urge the Justice Department and the Federal Trade Commission to use their statutory powers to end the alliance's anticompetitive stranglehold on college football if they cannot do it on their own.

I thank the Chair and yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. MCCONNELL. Will the Senator from Minnesota just allow me a couple minutes?

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I thank my good friend from Wyoming

for his important contribution to this issue and express to our colleagues that we intend to stay interested in this. There is some indication in today's paper that some accommodation to the WAC and to the Conference USA may be forthcoming. But I want to reassure all of those who have been left out that the antitrust case is clear and that the four of us plan to continue our interest in this, if the problem is not solved by the organizations themselves. I thank my friend from Wyoming for his important contribution.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I would like to add one more statement for the edification and information of Senators. The Senator from Wyoming referred to his team's record of 10 and 2. One of those two was a loss to Brigham Young University literally in the last seconds with a field goal that no one expected anybody could make that caused the game to go into overtime, and then Brigham Young won in overtime.

If that had gone the other way, it would have been Wyoming that would have earned the position that BYU was denied. They would have beaten the fifth ranked team, would have had a 10 and 1 record and would have been a clear choice for an alliance bowl. It was BYU's victory over Wyoming that pulled BYU to that level. That is why I am happy to join with him in saying we both got robbed.

The PRESIDING OFFICER. The Senator from Minnesota has the floor.

Mr. GRAMS. Thank you very much, Mr. President.

Not to take away from the debate of my fellow Senators and friends here, I still have to just root on our Minnesota Gophers tonight as they take on Clemson in the "Sweet Sixteen" and hope and wish them the best.

## THE 90TH BIRTHDAY OF HAROLD STASSEN

Mr. GRAMS. Mr. President, I rise today to pay tribute to the accomplishments and contributions of a great Minnesotan, Harold Edward Stassen, as he approaches his 90th birthday.

Harold Stassen began to make his mark on our Nation's history when he was elected Governor of Minnesota in 1938 at the young age of 31. He was known as the Boy Governor, he was twice reelected and remained the youngest chief executive of any State until 1943.

In 1943, Mr. Stassen resigned from office as Governor to accept a commission in the U.S. Navy. There, he served honorably on the staff of Adm. William Halsey until 1945 and attained the rank of Captain. During World War II, Mr. Stassen earned the Legion of Merit award, was awarded six major battle stars, and was otherwise decorated three times.

One little known fact about Harold Stassen is that he was personally responsible for freeing thousands of American prisoners of war in Japan shortly before that country surrendered in World War II.

According to a 1995 newspaper account, Mr. Stassen spent 2 weeks planning the evacuation of some 35,000 prisoners from POW camps scattered throughout Japan. At the time, there was considerable anxiety that Japanese soldiers would choose to retaliate against the prisoners for their country's loss in the war.

On August 29, 1945, before the official surrender date, Mr. Stassen actually set foot in Japan and began what would be the largely successful implementation of his evacuation plan.

After World War II, Harold Stassen was appointed by President Franklin Roosevelt as a delegate to the 1945 San Francisco conference on the founding of the United Nations. He is now the only living American who participated in the drafting, negotiating, and signing of the United Nations Charter.

Mr. Stassen went on to become an influential advisor throughout the administration of President Eisenhower. This included serving as a member of the National Security Council, as the Director of the Foreign Operations Administration, and as the Deputy Representative of the United States to the United Nations Disarmament Commission.

Mr. Stassen also has made many contributions outside of public life, including his service as the president of the University of Pennsylvania from 1948 to 1953.

However, he will be best remembered for his life-long interest in the United Nations. Since his involvement in the founding of the United Nations, Harold Stassen has maintained a dedicated and passionate commitment to bettering this international organization.

In fact, he has published numerous proposals for reforming the United Nations Charter and has made it his personal mission to educate the American public about the U.N.

Just 2 years ago, we celebrated the 50th anniversary of the United Nations. On April 13th of this year, Harold Stassen will celebrate his 90th birthday. A wide array of national and State officials will come together on this day in St. Paul, MN, to recognize Mr. Stassen.

As we continue our bipartisan efforts to renew and strengthen the relationship between the United States and the United Nations, I think it is fitting to honor one American with a distinguished record of public service who has long supported that effort.

As the chairman of the International Operations Subcommittee, the U.S. Congressional Delegate to the United Nations General Assembly, and also a fellow Minnesotan, I want to wish Harold Stassen a very happy 90th birthday and congratulate him for his accomplishments and many positive contributions to the history of the State of Minnesota, the United States, and the United Nations.

Thank you very much, Mr. President.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

## AGRICULTURE IN WASHINGTON STATE

Mr. GORTON. Mr. President, agriculture is a cornerstone of Washington State's economy. Washington State farmers produce over $5.8 billion worth of agriculture products, employ more that 100,000 people, and export nearly a quarter of all their goods to international markets. Without a doubt, Agriculture is Washington's No. 1 industry.

As I travel around the State I have listened closely to the comments, suggestions, and concerns of our State's agriculture community. Farmers and ranchers in Washington have without exception told me they want a smaller and less intrusive Government; a Government that lets farmers, ranchers, and local communities make decisions for themselves; and most importantly, a Government that will step up to the plate and fight for issues that affect their lives. As Washington's senior Senator, I plan to work for just that.

The web of Federal practices, laws and regulations governing agriculture in the United States should offer our farmers consistency, flexibility and market access for their goods. Farmers view the Federal Government, like the weather and seasons, as an outside force to be dealt with. I want to ensure that the Federal Government is a partner with agriculture, instead of an east-coast overseer.

This year, the wheat, barley, canola, pea and lentil, potato, hops, sweet cherry, and apple associations, as well as countless other growers' organizations, have visited me in Washington, DC. From our discussions, I have compiled a list of broad agriculture priorities on which I will focus in the 105th Congress.

I have always had, and will retain, open channels of communication with my State's agriculture communities. Firsthand knowledge of the situations and problems that farmers and growers face is, for me, an invaluable tool as I work on issues that impact their way of life. So, I intend to meet with farmers, ranchers, irrigators, processors, shippers, and other agricultural interests during the April recess to discuss these matters.

For 3 days I will tour eastern Washington to discuss private property

rights, tax reform, salmon recovery issues, agriculture research, transportation issues, the Endangered Species Act, trade policies, regulatory relief, the future of the Hanford reach and the reform of immigration policies important to the agricultural communities throughout Washington State.

During my visits to Yakima, Spokane, and the tri-cities, I will discuss my top 10 priorities for agriculture, refine them, and solicit feedback from the various agriculture interests that are affected by a wide range of intrusive Federal policies. My visit to eastern Washington will give me the opportunity to continue discussions already begun with Washington State's farmers, explain my intentions, and reaffirm my commitment to the agriculture community.

To reiterate, the agriculture community's interests are Washington State's interests—Washington's economic health and job base are greatly affected by the success or failure in this sector of our economy. I will therefore pursue my 10 priorities, which I believe will help build a stronger future for Washington State.

Two years ago agriculture communities in eastern Washington gave me the opportunity to work for them, represent their interests, and fight against policies that threaten their livelihood. As their Senator, I will be working aggressively to promote their interests in the 105th Congress.

Mr. President, I take this occasion to thank my friend and colleague from Hawaii who has been here longer than I have and has waited patiently for recognition, allowing my short remarks to precede his longer ones. He is a kind and thoughtful gentlemen.

Mr. AKAKA. Mr. President, I thank my colleague for his appreciation and wish him well during this break.

(The remarks of Mr. AKAKA pertaining to the introduction of S. 490 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

## ASIAN-AMERICANS AND THE POLITICAL FUNDRAISING INVESTIGATION

Mr. AKAKA. Mr. President, as we prepare for hearings on campaign fundraising irregularities, I would like to express concern about the negative impact that this issue is having on the image of the Asian-American community.

Mr. President, Asian-Americans are an important part of our body politic. They have made significant contributions to politics, business, industry, science, sports, education, and the arts. Men and women like Senator DAN INOUYE, Kristy Yamaguchi, Tommy Kono, I.M. Pei, David Henry Hwang, An Wang, and Ellison Onizuka have enhanced and invigorated the life of the Nation.

Indeed, Asian-Americans have played a fundamental part in making this country what it is today. Asian immigrants helped build the great transcontinental railroads of the 19th century. They labored on the sugar plantations of Hawaii, on the vegetable and fruit farms of California, and in the gold mines of the West. They were at the forefront of the agricultural labor movement, especially in the sugarcane and grape fields, and were instrumental in developing the fishing and salmon canning industries of the Pacific Northwest. They were importers, merchants, grocers, clerks, tailors, and gardeners. They manned the assembly lines during America's Industrial Revolution. They operated laundries, restaurants, and vegetable markets. They also served our Nation in war: the famed all-nisei 100th/442d combat team of World War II remains the most decorated unit in U.S. military history.

Despite their historical contributions, Asian immigrants and Asian-Americans have suffered social prejudice and economic, political, and institutional discrimination. They were excluded from churches, barber shops, and restaurants. They were forced to sit in the balconies of movie theaters and the back seats of buses. They were required to attend segregated schools. They were even denied burial in white cemeteries—in one instance, a decorated Asian-American soldier killed in action was refused burial in his hometown cemetery. Rather than receive equal treatment, Asians on the whole were paid lower wages than their white counterparts, relegated to menial jobs, or forced to turn to businesses and industries in which competition with whites was minimized.

For more than 160 years, Asians were also refused citizenship by a law that denied their right to naturalize, a law that remained in effect until 1952. Without citizenship, Asians could not vote, and thus could not seek remedies through the Tammany Halls or other political organizations as did other immigrant groups. The legacy of this injustice is seen today in the relative lack of political influence and representation of Asian-Americans at every level and in every branch of government.

Additionally, Asians were denied immigration rights. The Chinese Exclusion Act of 1882 singled out Chinese on a racial basis, and the Gentlemen's Agreement of 1908 and the National Origins Act of 1924 prohibited Japanese immigration—while permitting the annual entry of thousands of immigrants from Ireland, Italy, and Poland. The 1924 law also allowed European immigrants to bring their wives from their homelands, but barred the entry of women from China, Japan, Korea, and India. Even Asians who were United States citizens were prohibited from bringing Asian wives into the country. Conversely, the 1922 Cable Act provided that any American woman who married an Asian would lose her citizenship. It was not until the 1965 Immigration and Nationality Act eliminated immigration by national origins that the vestiges of these legal restrictions were lifted.

Asians were also targeted by laws prohibiting them from owning property. The alien land laws passed by California and other Western and Southern States earlier this century, fostered by nativists and envious competitors, placed heavy obstacles in the path of struggling Asian immigrants and their children that were not faced by others.

Perhaps most egregiously, Asians were denied civil rights guaranteed under the Constitution. The relocation of Asian-Americans from the west coast and Hawaii and their detention in internment camps between 1941 and 1946 is one of the worst civil rights violation in our history. One hundred twenty thousand men, women, and children of Japanese descent, two-thirds of them citizens, were incarcerated behind barbed wire fences, without due process or evidence of wrongdoing, under the grim view of machine gun towers. German-Americans or Italian-Americans did not suffer a similar fate. In the process, Americans of Asian ancestry were torn from their friends, their loved ones, their property, and their faith in the American dream. It was only in 1988, through legislation sponsored by Senator INOUYE, Senator STEVENS, and others who serve in this body today, that the U.S. Government officially apologized for this injustice.

The reasons for historical prejudice and discrimination against Asians are complex, often involving economic or political motives. For example, at one time European immigrant labor groups felt threatened by cheap Asian labor and staged strikes and acts of violence against Asians. Employers cultivated such ethnic antagonism as a stratagem to depress wages for all workers, Asian and European. Nativists used Asians as a foil for their racist philosophies. Politicians cynically exploited anti-Asian sentiment to maintain power. And the press used the "Yellow Peril", the specter of unlimited "oriental" immigration, to sell papers. But at heart, the reasons for anti-Asian practices remain far simpler: Asians looked different, they had accents, they worshipped different gods. They came from cultures and spoke languages that were beyond the narrow experience of traditional, white America.

Thus, Asians and Asian-Americans were targets. Unlike other contemporaneous immigrants—Irish, Italians, Poles, Jews—Asians stood out; they could not blend into the majority white population. Asians were naturally suspect for their skin color and

appearance: they looked different so many Americans believed they must be different; that is to say, somehow less than true-blooded American. In many instances, the reaction of Asians was to turn inward, to establish their own communities or ghettoes, like Chinatown or Japantown, or turn to small businesses or farms where they did not have to compete for employment against Caucasians—further isolating and insulating their communities from the rest of American society.

In time, however, Asians became more integrated in American life. The progeny of immigrants were born citizens, spoke only English, watched television and went to the movies, danced to the latest music, and felt they earned their place in society through workplace contributions and military service. As they assimilated, Asian-Americans enjoyed success in many areas of endeavor; in fact, they have been so successful that Asian-Americans have been cited as the "model minority." Today, Asian-Americans tend to have high educational achievement, some are prominent in business and the professions, and they have been cited by social scientists for having community spirit, a sense of fiscal responsibility, and a strong work ethic.

But the model minority image is mythical in many respects. On average, Asian-Americans earn less than Caucasians. There is a significant income disparity between Asians and whites with equal education. Asian-Americans also tend to be located in secondary labor markets, where wages are low and prospects minimal, and occupy lower or technical positions, where income potential is not as great as in the executive ranks. Proportionately fewer Asian-Americans are managers than is the case with other population groups; they constitute less than half of 1 percent of the officers and directors of the Nation's thousand largest companies. In corporate America, Asian-Americans have their own "glass ceiling."

In addition, many Americans mistakenly view the successful assimilation of more established, affluent groups such as Chinese-Americans and Japanese-Americans as the community norm. They do not realize that the community is extremely diverse in terms of ethnicity and recency of immigration. The more recent arrivals from Southeast Asia—for example, Vietnamese, Thais, Cambodians, Laotians—have significantly lower levels of income, education, and occupational advancement.

Perhaps because of their success, perceived and otherwise, Asian-Americans continue to suffer for their minority status. They are periodically targets of hate crimes. The 1982 baseball bat killing of Vincent Chin in Detroit, a scapegoat for the Detroit auto industry's inability to compete with Japan, illustrated America's ignorance about Asian-Americans—Chin was of Chinese, not Japanese, heritage—and the inequality of justice for Asian-Americans—the killers paid a fine of $3,780 and never served jail time. In 1987, teenagers chanting, "Hindu, Hindu," beat a young Indian-American to death. These are not isolated incidents. Last year, a report by the National Asian Pacific American Legal Consortium found that hate crimes against Asian Pacific-Americans grew from 335 incidents in 1993 to 458 incidents in 1995, a 37 percent increase in just two years.

These violent incidents have been paralleled and surely fed by a growing national xenophobia. The fear of things foreign has manifested itself in cutbacks in international programs; the growth of the English only movement; and the passage of California's proposition 187 and Federal legislation to curtail social services to undocumented aliens and legal residents. Fear of Asians and other minorities is also seen in proposals to rollback minority language provisions of the Voting Rights Act and in broadbased attacks on affirmative action in education, employment, and contracting.

I recall that only a few years ago, during the height of the debate over the budget deficit, much was made of the fact that a significant portion of our debt was held by Japan, but overlooked was the fact that both the British and Dutch had far greater investments in United States debt and property than the Japanese. Likewise, Japanese purchases of signature properties like Pebble Beach and Rockefeller Center received sensationalized coverage, but few stories traced the decline and eventual sale of these high-profile investments to other owners.

Today, with the hype and hoopla surrounding Asians and Asian-Americans involved in the fundraising controversy, we see hints of the kinds of anti-Asian treatment that have been practiced in the past.

The first and most obvious of these is the inappropriate and misguided attention paid by the media, commentators, and public figures to the ethnic heritage of those involved in the fundraising controversy. For example, an early Washington Post front page headline trumpeted an "Asian Funds Network." However, upon a careful examination of the article, the reader found the article was principally concerned with Asian-Americans, not Asians. Clearly, in some quarters, "Asian" and "Asian-American" are synonymous, unlike the case with Europeans and European-Americans. In fact, the term "European" Americans is rarely heard in public discourse, because the ethnic origin of European Americans is not presumed to have a bearing on their patriotism.

Despite the fact that Asian-Americans have paid taxes, lived and worked here for several generations, and died in military service, a different standard applies: Asian-Americans are still deemed to have an extraordinary, perhaps sinister, connection to their countries of origin.

Mr. President, I think that I speak for the entire Asian-American community in expressing the hope that we can get to the bottom of this whole controversy, wherever the cards may fall. Those responsible for violations of laws or improper conduct should be identified and appropriately dealt with by the relevant authorities. However, I know that Asian-Americans also agree that the gratuitous attention to the heritage and citizenship of John Huang and other fundraisers is unjust and destructive. According to the press and others, John Huang isn't simply a DNC fundraiser or even an Asian-American fundraiser; rather, he is referred to as a "Taiwan-born naturalized citizen with ties to an Indonesian conglomerate" or, worse, "an ethnic Chinese with overseas connections."

Last fall, during an appearance at the University of Pennsylvania, Presidential candidate Ross Perot erroneously referred to John Huang as an "Indonesian businessman." Later, alluding to the fundraising controversy, Mr. Perot rhetorically asked his audience, "Wouldn't you like to have someone out there named O'Reilly? Out there hard at work. You know, so far we haven't found an American name." The implication of these and other characterizations is that being Asian and naturalized, rather than of European stock and native born, somehow renders one less American.

Mr. President, this hyphenation or qualification of citizenship status is one of the subtle ways in which Asian-Americans are cast as different and therefore suspicious. To some, Asians and Asian-Americans are the Fu Manchus of Hollywood legend—evil, cunning, and inscrutable Easterners who march in lockstep to some hidden agenda. According to this view, being of Filipino or Thai or Pakistani heritage is all the same—if your skin is yellow or brown, you are alleged to share certain invidious characteristics of your race; your individualism fades into a kind of monolithic group identity.

Thus, all Asians and Asian-Americans are, by extension, responsible for John Huang's or Charlie Trie's or Johnny Chung's alleged misdeeds. Furthermore, goes this circular reasoning, since it is accepted that Asians lack individualism, John Huang, Charlie Trie, and Johnny Chung must be part of an Asian conspiracy.

A columnist for the New York Times played on this stereotype when, in a series of editorials last year, he wrote of the "penetration of the White House by Asian interests" and characterized John Huang as "the well-subsidized

Lippo operative placed high inside Clinton Commerce." The columnist also referred to an "Asian connection" which provided contributions through "front men with green cards." Even the respected Wall Street Journal described some of John Huang's donations as coming from "people with tenuous connections to this country," although it is unclear whether it was referring to Asian residents or Asian-Americans.

A more recent manifestation of this stereotype can be found on this week's cover of the National Review, which depicts President Clinton and Mrs. Clinton with slanted eyes, buckteeth, and wearing a coolie hat and Mao cap, respectively, over the headline, "The Manchurian Candidates." This is a true low for reporting standards, more reminiscent of William Randolph Hearst's Yellow Press than of modern journalism. Some irresponsible publications, in the interests of sensationalism, are obviously more than willing to conflate racist stereotypes with modern standards of objective journalism. The President, Mrs. Clinton, and the Asian-American community are owed an apology for this gross affront to decency and taste.

Mr. President, a second major fallout of the fundraising affair is the impression fostered by the media and commentators that legal Asian-American participation in the political process is illegitimate. Charges of undue influence on the part of the Asian-American community have been raised with regard to immigration policy, specifically, the "fourth preference" category that allows siblings of citizens to immigrate.

The press makes much of the fact that Asian-Americans who are concerned about this matter also contributed money to the campaign. Certainly Asian-Americans, the majority of whom are immigrants, wish to be reunited with their families. However, it is improper to imply that contributions to political campaigns by Asian-Americans should be held to a higher standard or any more suspect than contributions by other Americans. This is tantamount to suggesting that the practice of giving to political campaigns should be limited only to non-Asians.

A third troublesome impact of the fundraising allegations is the overhasty and excessive reaction to the issue of legal contributions by permanent residents. In the wake of the "Asian donor" story, proposals have been made to eliminate their eligibility to make political contributions. Alarmed by the public fallout of the controversy, the Clinton administration and the Democratic National Committee have preemptively decided not to accept contributions from permanent residents or U.S. subsidiaries of foreign corporations. And a number of Members of Congress have returned contributions made by permanent residents who are Asian, not because the contributions were illegal but because they feared the public's reaction to their accepting "Asian" money.

Mr. President, I acknowledge that there are legitimate concerns regarding the wisdom of allowing permanent residents to make contributions to political campaigns, apart from the possibility that proscribing such contributions may violate the free speech rights accorded all residents, citizens and aliens alike, by the Constitution. As my colleagues know, the Supreme Court has held that campaign contributions are an activity protected by the first amendment, and that the first amendment rights of legal residents are fully protected.

In this instance, however, I am more concerned by the possibility that the only reason why campaign contributions by permanent residents has become an issue now is because, for the first time, Asians and Asian-Americans happen to be involved in a major way. Evidence of this perhaps can be seen in the DNC's private audit of supposedly suspect contributions.

Reportedly, DNC auditors asked Asian-American donors whether they were citizens, how they earn their money, if they would provide their tax returns, and other intrusive questions, while threatening to tell the press if the donors did not cooperate. Some of the Asian-Americans contacted were longtime political contributors with impeccable reputations, who were naturally outraged. The DNC audit clearly smacked of selective harassment of those who happened to have Asian surnames; it underscores the Asian-American community's fear that they are being asked to pay for the alleged transgressions of a handful of individuals who happen to be of Asian heritage.

Mr. President, a fourth major concern of the fundraising affair is that it has undermined Asian-American leadership opportunities in Government. According to some analyses, the fundraising affair impelled the Clinton administration to drop from consideration the names of University of California-Berkeley Chancellor Chang-Lin Tien and former U.S. Congressman Norm Mineta for the positions of Secretary of Energy and Secretary of Transportation, respectively. Thus far, no Asian-American has ever held Cabinet rank, and only a handful are represented in the senior ranks of Government.

Furthermore, I would not be surprised to learn that every Asian-American candidate for political appointment is currently being scrutinized for contacts he or she may have had, no matter how innocent, with the Asian and Asian-American principals in the fundraising investigation. As a consequence, I greatly fear that promising Asian-American candidates for responsible Federal office will fall by the wayside, victims of guilt by association.

A fifth and perhaps most serious impact of the fundraising story, however, is its long-term effect on Asian-American participation in the political process. Last year, a record 75,000 Asian-Americans registered to vote, a sign of the Asian-American community's newfound confidence and political maturity. I am deeply concerned that biased scrutiny of Asians and Asian-Americans by the press, politicians, and investigators will kill this initial flowering of a historically quiescent and apolitical community, a flowering that led to the historic election of an Asian-American to governorship of a mainland State.

Will this scandal confirm Asian-Americans' fears that the system is rigged against them, discouraging them from participating in the development of public policy in a meaningful way? If so, this would be tragic for a community that is by far the fastest growing in the Nation, which is expected to comprise 7 percent of the population by 2020, and which has so many skills and experiences to offer our country. This tragedy would be compounded for those immigrants recently escaped from the yoke of authoritarianism, who might find the consequences of political activism reminiscent of the penalties experienced in their countries of origin.

In conclusion, Mr. President, as we investigate the fundraising affair, let us remember the bigotry, prejudice, and discrimination faced by Asian immigrants and Asian-Americans as they struggled for acceptance in the New World. Let us recall how they overcame steep social, economic, and institutional barriers to become valuable, contributing members of society.

With this in mind, Mr. President, let us keep our attention on matters of substance—the laws that were possibly broken, the processes and procedures that were bent, the individuals who circumvented or corrupted the system, and most of all what we can do to prevent abuses in the future. These are the real issues at hand.

By the same token, Mr. President, let us avoid focusing on such irrelevancies as the ethnicity of the participants in this affair. Let us cease characterizing individuals by meretricious stereotypes; conversely, let us avoid judging an entire community by the actions of a few individuals. To do otherwise, Mr. President, would be a grave disservice to the seven million Americans of Asian ancestry who are valued and rightful participants in our great democratic experiment.

Thank you, Mr. President. I ask unanimous consent that the text of articles by Robert Wright and Frank Wu

addressing Asian-Americans and the fundraising controversy be printed in the RECORD following my remarks.

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

[From Legal Times, Feb. 10, 1997]

THE ASIAN-AMERICAN CONNECTION—THE CAMPAIGN CONTRIBUTIONS FIASCO AND RACIAL STEREOTYPING

(By Frank H. Wu)

As Congress prepares for hearings on the campaign fund-raising fiasco arising from the work of Democratic Party official John Huang, the racial aspects of the controversy have become obvious to many Asian-Americans, if not to the general public. But to combat the problem of racial stereotyping in this matter, its presence first must be acknowledged.

Consider the following evidence:

Before the November election, independent presidential candidate Ross Perot commented about the controversy: "You know, so far we haven't found an American name." And: "Wouldn't you like to have someone out there named O'Reilly? Out there hard at work." Likewise, during the campaign, Republican candidate Robert Dole and House Speaker Newt Gingrich warned of foreigners buying the White House. After Bill Clinton's re-election, auditors from the Democratic National Committee began contacting Asian-American donors, asking whether they are citizens, how they earn their money, and if they will provide their tax returns, all the while threatening to tell the press if the donors do not cooperate.

Meanwhile, New York Times columnist William Safire, who seems to have written about nothing else since introducing this scandal to the mainstream media, dubs the controversy the "Asian connection"—the title itself revealing a perceived racial element to the matter. The Wall Street Journal, in its initial series of articles, described Asian-Americans as "people with tenuous connections to this country." Huang himself is almost always referred to as an "ethnic Chinese" with overseas connections, despite his U.S. citizenship and low-key assimilationist approach.

Imagine how odious the same stories would be with a different racial or religious group standing in for Asian-Americans. If Jewish politicos were described as having a "Jewish connection" or portrayed as traitors who represented Israeli interests, many more people might be troubled by the anti-Semitic implications. When Pat Buchanan and Gore Vidal began to verge on such claims in the 1980's, none other than William F. Buckley was prompted to publish a book of essays discussing the "new" anti-Semitism.

Furthermore, nobody has suggested that the ethical lapses of Speaker Gingrich can be traced to his ancestry. Nor do people believe that the disgrace of consultant Dick Morris reflects on his entire racial group. Yet the leading newspapers and television networks continue to focus almost exclusively on Asian-Americans who are alleged to have given money improperly, attributing their behavior to their racial backgrounds, while giving only passing notice to campaign contribution transgressions by whites. (In this past election, after all, it was a Dole adviser who received the heaviest fine ever assessed for a proven case of money-laundering.)

Recently, journalists Robert Wright and Michael Kelly argued over whether l'affaire Huang was an incident of "yellow peril" revisited. Writing in the online magazine Slate, Wright suggested that racism had been used to transform a minor scandal into a case of alleged major wrongdoing. Kelly responded in The New Republic that this view was merely a ploy by the Democrats to avoid answering questions about misconduct.

Despite this focus, Asian-Americans are strangely missing from the scene, the silent subjects of the debate. Asian-Americans cannot afford simply to stand by and allow the attacks on Huang to proceed, without at least asking people to pause before assuming he represents all of us. By the very nature of the allegations, however, Asian-American (as well as Democratic) commentators are assumed to be self-interested or covering up. Moreover, if we do speak out, we look like we are defending not only the behavior of a monolithic community but also the actions of foreign companies. We're in a classic Catch-22 situation.

There have been a few exceptions to this silence. As the scandal was developing last October, the nonpartisan Congressional Asian Pacific American Caucus Institute (CAPACI) held coordinated press conferences in Washington, Chicago, and Los Angeles to denounce the treatment of the Huang matter. Yet the only coordinated Asian-American response to the crisis was given minimal media coverage.

Similarly, the day before CAPACI held its event, the Rev. Jesse Jackson called a press conference in New York. The Rainbow Coalition leader was as supportive of Asian-American political empowerment as he was critical of Indonesian government labor policies. His statements attracted even less attention than did CAPACI's.

Despite the intense media interest in Asian-American involvement in campaign contributions, our positive electoral accomplishments are ignored. Until the president praised him in his State of the Union message last week, how many Americans were aware that Gary Locke, the son of Chinese immigrants, was the first person of Asian descent to win a governorship on the continental United States when he was elected to head the state of Washington last November? Nor was it widely reported that in the last election, Asian-American civil rights and community groups organized an unprecedented nationwide naturalization drive to ensure that eligible individuals became citizens and exercised their rights. Or that a record number of Asian-Americans voted. These stories and others received a fraction of the coverage that the Huang spectacle has attracted.

The nature of the impropriety alleged against Huang also belies a racial bias, or at least a lack of understanding of what constitutes valid national vs. improper special interests. Initially, the nexus between the contributions and public policy decisions was said to be some vague influence on American foreign policy by multinational companies or Asian governments. Later, the alleged "payoff" for campaign contributions was alleged to be related to immigration matters—an issue that clearly is of particular interest to the Asian-American community, but also one of national concern.

Indeed, last year, immigration was the issue dividing the country. The Clinton administration's strategy, like that of moderates in Congress, was to distinguish between legal and illegal immigration: Save the legal immigrants by sacrificing the illegal immigrants.

As it happens, Asian-Americans—a majority of whom are immigrants—generally supported family-based immigration. Like other Americans, many Asian-Americans were especially concerned with protecting the so-called fourth preference, which allows citizens to sponsor their brothers and sisters as immigrants.

Huang recognized the obvious. He organized a dinner bringing together Asian-Americans and the Democratic Party at a lucrative fund-raiser, a dinner at the Hay-Adams Hotel in Washington at $25,000 per couple. President Clinton himself attended the fete.

Huang wrote a briefing memo prior to the dinner stating that immigration would be a key issue for Asian-American voters. President Clinton denies that he ever read the memo. In any event, his administration had already made the strategically sensible decision to oppose abolition of the fourth preference.

Critics have suggested that this series of events demonstrates that the president "flip-flopped" on the fourth preference, sacrificing the interests of the American public in controlling the borders for an infusion of foreign money to his campaign. Such a view, of course, ignores the fact that the people who seek to bring over their relatives are themselves citizens. And the view is based on an erroneous understanding of what the administration's position had been.

In fact, in the past, the Clinton administration had sought only to suspend use of the fourth preference temporarily, until the waiting list was cleared out. It never pushed for outright elimination of the provision. Thus, a misunderstanding of the distinction between interrupting use of the fourth preference and abolishing it may have produced the appearance of impropriety.

Indeed, the scandal is not that Asian-Americans were able to voice our views on immigration, but that we had to look like we were potential donors of large sums of money before we would be heard. Assuming that Asian-American contributors helped save the national tradition of immigration, there is nothing shocking about people trying to bring together their families or actively participating in politics in an effort to do so.

Immigration connects our nation to the rest of the world. Much as the rules of immigration affect citizens along with their immigrant relatives, they also turn on domestic politics blended with foreign affairs. If Asian-Americans and others who care about allowing immigrants to come to this country are motivated by some sort of racial self-interest, then the same might be said of whites and others who wish to close the borders.

There is a better way than to allow political disagreements to degenerate into such suspicions. Otherwise, genuine issues of campaign finance reform will be obscured by racial accusations and counter-accusations.

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SLANTED—RACIAL PREJUDICE IS PART OF WHAT FUELS THE CLINTON CAMPAIGN SCANDAL

(By Robert Wright)

The New York Times runs a lot of headlines about scandals, but rarely does it run a headline that is a scandal. On Saturday, Dec. 28, it came pretty close. The headline over its lead Page One story read: "Democrats Hoped To Raise $7 Million From Asians in U.S." On the inside page where the story continued, the headline was: "Democrats' Goal: Millions From Asians." Both headlines were wrong. The story was actually about a 1996 Democratic National Committee document outlining a plan to raise (as the lead

paragraph put it) "$7 million from Asian-Americans."

Memo to the New York Times: "Asian-Americans" are American citizens of Asian ancestry. "Asians," in contrast, are Asians—citizens of some Asian nation. And "Asians in U.S." are citizens of some Asian nation who are visiting or residing in the United States. This is not nit-picking. It gets at the heart of the subtle, probably subconscious racial prejudice that has turned a legitimately medium-sized scandal into a journalistic blockbuster.

Would a Times headline call Polish-Americans "East Europeans in U.S."? (Or, in the jump headline, just "East Europeans"?) And the headline was only half the problem with Saturday's story. The story itself was wrong-headed, implying that there's something inherently scandalous about Asian-Americans giving money to a political campaign. In fact, the inaccurate headline was necessary to prevent the story from seeming absurd. Can you imagine the Times running—over its lead story—the headline "Democrats Hoped To Raise Millions From U.S. Jews"?

Political parties target ethnic groups for fund-raising all the time (as Jacob Weisberg recently showed in these pages). They target Hispanics, they target Jews, they pass the hat at Polish-American dinners. To be sure, the Asian-American fund-raising plan was, in retrospect, no ordinary plan. It went quite awry. Some of the projected $7 million—at least $1.2 million, according to the Times—wound up coming in the form of improper or illegal donations (which, of course, we already knew about). Foreign citizens or companies funneled money through domestic front men or front companies. And sometimes foreigners thus got to rub elbows with President Clinton. For all we know, they influenced policy.

But the truly scandalous stuff was old news by Dec. 27. What that day's story added was news of the existence of this document outlining a plan to raise money from Americans of Asian descent. And that alone was considered worthy of the high-scandal treatment.

Leave aside this particular story, and consider the "campaign-gate" scandal as a whole. What if the same thing had happened with Europeans and Americans of European descent? It would be just as improper and/or illegal. But would we really be so worked up about it? Would William Safire write a column about it every 15 minutes and use the loaded word "aliens" to describe European noncitizens? If Indonesian magnate James Riady looked like John Major, would Newsweek have put a huge, ominous, grainy black-and-white photo of him on its cover? ("Clinton's European connection" wouldn't pack quite the same punch as "Clinton's Asian connection"—the phrase that Newsweek put on its cover and Safire has used 16 times in 13 weeks.) Would the Times be billing minor investigative twists as lead stories?

Indeed, would its reporters even write stories like that Saturday's? The lead paragraph, which is supposed to crystallize the story's news value, is this: "A White House official and a leading fund-raiser for the Democratic National Committee helped devise a strategy to raise an unprecedented $7 million from Asian-Americans partly by offering rewards to the largest donors, including special access to the White House, the committee's records show." You mean Democrats actually offered White House visits to Americans who cough up big campaign dough? I'm shocked. Wait until the Republicans discover this tactic! The Friday after Christmas is a slow news day, but it's not that slow. And as for the "unprecedented" scale of the fund-raising goal: Virtually every dimension of Clinton's 1996 fund-raising was on an unprecedented scale, as we've long known.

There are some interesting nuggets in the Times story. But among them isn't the fact, repeated in the third paragraph, that fund-raisers told Asian-American donors that "political contributions were the path to power." And among them isn't the fact, repeated (again) in the fourth paragraph, that "the quid pro quo promised" to Asian-American donors was "in many cases a face-to-face meeting with the President." And, anyway, none of these nuggets is interesting enough to make this the day's main story. The only way to do that is to first file Asian-Americans in the "alien" section of your brain. That's why the story's headline is so telling.

The funny thing about this scandal is that its root cause and its mitigating circumstance are one and the same. Its root cause is economic globalization—the fact that more and more foreign companies have an interest in U.S. policy. But globalization is also the reason that the scandal's premise—the illegality of contributions from "foreign" interests—is increasingly meaningless. Both the Times and the Washington Post (in its blockbuster-lite front-page story, the next day) cited already-reported evidence that a $185,000 donation (since returned) may have originated ultimately with the C.P. Group. The C.P. Group is "a huge Thai conglomerate with interests in China and elsewhere in Asia" (the Times) and is "among the largest foreign investors in China" (the Post). But of course, Nike, Boeing, General Motors, Microsoft, IBM, and so on are also huge companies with interests in China and elsewhere in Asia. They, no less than Asian companies, at times have an interest in low U.S. tariffs, treating oppressive Asian dictators with kid gloves, and so on. Yet it is perfectly legal for them to lubricate such lobbying with big campaign donations.

Why no journalistic outrage about that? Well, for starters, try looking at a grainy newsweekly-sized photo of Lou Gerstner and see if it makes you remember Pearl Harbor. (By the way, neither the Times nor the Post noted that the ominous C.P. Group is involved in joint ventures with Ford and Nynex.)

You might think that, in an age of globalization and with the United States' fate increasingly tied to the fate of other nations, the United States' best newspaper would be careful not to run articles that needlessly feed xenophobia. Guess again. Six weeks ago a Times op-ed piece by political scientist Lucian Pye explored the formidable mindset that governs China today. Current Chinese leaders have "distinctive characteristics" that give them "significant advantages" over the United States in foreign policy. They "see politics as exclusively combative contests, involving haggling, maneuvering, bargaining and manipulating. The winner is the master of the cleverest ploys and strategems [sic]." Moreover, Chinese leaders are "quick to find fault in others" and try "always to appear bold and fearless." Finally ("in a holdover from classical Chinese political theory"), China's leaders "insist on claiming the moral high ground, because top leaders are supposed to be morally superior men." In short, China's "distinctive" edge lies in combative, Machiavellian, mud-slinging, blustery, self-righteous politicians. Gosh, why didn't we think of that?

These peculiar traits, Pye noted, aggravate another disturbing feature of modern China. It seems that the Chinese people vacillate "between craving foreign goods and giving vent to anti-foreign passions." in other respects, too, they evince a "prickly xenophobic nationalism." Imagine that.

LINKS

Feel free to read the Times story that got me so exercised (the Times Web site requires that you register before serving you the page; registration is free). Or, instead, you can subject yourself to my further exegesis on appropriate ethnic terminology. You can also view the grainy Newsweek cover featuring Asian-American James Riady—the Oct. 28 issue, which is headlined "Candidates for Sale: Clinton's Asia Connection." From Slate's "The Compost," read Jacob Weisberg's column about the history of fund-raising fraud in the United States and Eric Liu's piece damning the press for painting Asian-Americans a having dual loyalties. PoliticsNow begins the new year with a feature, titled "1996 Yearbook; Scandals," that covers the fund-raising issue. Visit the DNC Web site for a more positive portrayal of the embattled organizations.

## EPA'S COSTLY REGULATIONS

Mr. BYRD. Mr. President, the Environmental Protection Agency has proposed new rules to modify the ambient air standards for ozone and particulate matter. I recently wrote to the EPA and urged the agency to reaffirm the current standards, conduct additional monitoring of particulate matter and related air quality issues, and allow our States to complete action on the ambitious clean air standards that are already in place before implementing additional regulations. I was joined in this letter by Senators ROCKEFELLER, FORD, GLENN, and ROBB.

These proposed rules have been extremely controversial, and have been sharply criticized by State Governors, municipal leaders, and business organizations. I have recently been made aware that these rules have also been criticized by other Federal agencies.

During the interagency review of these rules overseen by the Office of Management and Budget, several Federal agencies submitted comments which questioned many aspects of the proposed rules, including their scientific basis and cost effectiveness. These comments are part of the public record. Judging by the tone of the comments from the interagency review process, it appears that many Federal agencies are concerned about these proposed rules.

In but one example, the EPA has stated that the total national cost of implementing the ozone rule would be $2.5 billion. However, the Council of Economic Advisers has stated that the cost of full attainment of just the ozone rule could be $60 billion, or $57.5 billion more than estimated by the EPA. This is a substantial discrepancy. The Department of Transportation, in its initial interagency review submission, concluded that "it is incomprehensible that the administration would

commit to a new set of standards and new efforts to meet such standards without much greater understanding of the problem and its solutions." The U.S. Small Business Administration stated that EPA's proposed regulation "is certainly one of the most expensive regulations, if not the most expensive regulation faced by small businesses in 10 or more years." The SBA said that "considering the large economic impacts suggested by EPA's own analysis that will unquestionably fall on tens of thousands, if not hundreds of thousands of small businesses, this (proposal) would be a startling proposition to the small business community."

I understand that some of these Federal agencies had also planned on submitting comments to the EPA as part of the public comment period. However, the Oil Daily, a trade publication, has reported that these agencies were prevented from doing so. The Oil Daily reported that "according to a leaked memo, the agencies were muzzled [by OMB] * * *" The article further quotes the memo as instructing agencies that "based upon reports from a meeting this morning * * * Federal agencies will not [I repeat not] be transmitting comments on the EPA proposals."

Although the agencies provided critical comments during the interagency review process, there is no evidence that the proposed rules were significantly modified to reflect their concerns. OMB cannot, therefore, defend its "muzzling" of Federal agencies—as characterized by the Oil Daily—by arguing that the proposed rules reflect the collective wisdom and judgment of Federal agencies, when the exact opposite is the case. I would also note that the interagency review comments from last fall are part of the public record, and so there is no reason why the agencies could not also submit comments during the public comment period. EPA and OMB are apparently holding conversations with some of the Federal agencies, but the critical comments of other agencies will not be shared with Congress and other interested parties. On its face, this becomes a private comment period, rather than a public comment period.

I am disturbed by this apparent lack of candor and public accountability on the part of the administration in discussing these rules. These proposed rules will impose significant costs, not only on our Nation, but also on Federal agencies themselves. Many agencies and departments operate facilities that will be directly affected by these rules. As the ranking member of the Senate Appropriations Committee, I believe that these impacts and costs must be considered and reviewed as part of the appropriations process.

I am, therefore, today writing to various Federal agencies requesting that these agencies individually comment on the cost of the proposed EPA rules, both with regard to the operations of the individual departments, and upon that aspect of the Nation's infrastructure that is regulated by the departments in question. I am also writing to the Director of the Office of Management and Budget, requesting his comments on the cost of these proposed rules to the Federal Government in its entirety.

As our Nation strives to balance the budget, while at the same time providing Federal programs and services desired by the public, it is important that the significant costs of new regulations, such as these, be made available and taken into account as part of the budget process.

Mr. President, I yield the floor.

Mr. DOMENICI. Mr. President, I do not want to take much time. Am I correct in assuming that the Senate is ready to recess shortly?

The PRESIDING OFFICER (Mr. ABRAHAM). The Senate is still waiting for the House with respect to the adjournment resolution.

(The remarks of Mr. DOMENICI and Mr. GORTON pertaining to the submission of S. Con. Res. 16 and S. Con. Res. 17 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, with the concurrence of my good friend from North Dakota, I will just proceed for a moment.

## HAPPY BIRTHDAY TO SENATOR DANIEL PATRICK MOYNIHAN

Mr. LEAHY. Mr. President, on March 16, Daniel Patrick MOYNIHAN, the senior Senator from New York State, turned 70. Senator MOYNIHAN has been referred to, quite properly, as the intellectual of the Senate and called by many, a renaissance man. I mean no disrespect when I say that during a couple of the gatherings of the Irish on March 17, he was also referred to as the "World's Largest Leprechaun."

To me, Senator MOYNIHAN is a good friend and a mentor, a wise voice that I heard before I was in the Senate, and since. He is a man who has spoken with great prescience on issues involving families and the economy, global power and welfare reform, on so many things.

Senator MOYNIHAN has served in administrations of both Democrat and Republican Presidents. He has always been ahead of his time, sometimes with a controversial voice that then turns out to be the only accurate voice.

Like all other Senators, I wish him very well as he heads into the latest decade of his life.

Mr. President, I ask unanimous consent that a column by David Broder entitled "The Moynihan Imprint" be printed in the RECORD.

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

[From the Washington Post, Mar. 16, 1997]

THE MOYNIHAN IMPRINT

(By David S. Broder)

Today is the 70th birthday of a unique figure in the public life of this nation for the past four decades, the senior senator from New York, Daniel Patrick Moynihan. Tomorrow, a day-long symposium and a celebratory dinner at the Woodrow Wilson Center will make it clear just how large Moynihan's legacy is.

Previewing the papers to be delivered, as Georgetown professor Robert A. Katzmann, a onetime student of Moynihan's and organizer of the tribute, allowed me to do, was a reminder of just how rich and varied the New York Democrat's contributions have been.

He has been prescient about subjects as diverse as the crisis of the American family and the breakup of the Soviet Union. As his fellow scholar Seymour Martin Lipset points out, his 1965 report for President Johnson, titled "The Negro Family: The Case for National Action," was bitterly controversial at the time. But 30 years later, everyone has come to understand that the wave of out-of-wedlock births and the scarcity of jobs in the inner cities are overwhelming the welfare system and threatening the stability of the whole society.

As Michael Barone of Reader's Digest notes, it was Moynihan in January of 1980 who said that "the defining event of the decade might well be the breakup of the Soviet empire."

Moynihan was unable to persuade his colleagues in government to move in timely fashion to head off the family crisis he discerned, or to curb the excessive costs of the 1980s arms race with the Russians.

But as Stephen Hess, his deputy in the Nixon White House, and half a dozen others argue, he was a shrewd and often successful operative in policy jobs and diplomatic posts under four presidents (two of each party) and for the last 20 years as a member of the Senate.

For all his focus on social problems, Moynihan has left a strong physical imprint on the nation as well. In his Labor Department days under President Kennedy, he managed to rewrite the architectural standards for government buildings and to launch the rehabilitation of Pennsylvania Avenue into what is now nearing completion as the grand ceremonial thoroughfare of the Republic.

As a senator, Moynihan six years ago fundamentally redirected national transportation policy by converting the traditional highway program into something grandly called the Intermodal Surface Transportation Efficiency Act—a charter for states and communities to use federal funds for mass transit as well as roads. Characteristically, as another paper points out, he had written a magazine article as far back as 1960 on the negative impact the highway-building boom of the 1950s was having on older cities like New York.

Sweeping as they are, the papers to be delivered tomorrow do not embrace all the aspects of the Moynihan persona. Together with his wife, Liz, a warmhearted woman with the toughness it takes to have run most of his campaigns, Moynihan has a great gift for friendship, a talent for keeping score of slights or rebuffs—and a really wicked sense of humor.

On the last point, a speech that Moynihan delivered at a Gridiron Club dinner during

the Reagan administration remains indelible in the memories of all who were there. It was his idea to explain to a bemused President Reagan that David Stockman—Reagan's precocious but controversial budget director, who had been a live-in baby sitter of the Moynihans during his Harvard graduate student years—was in fact a Democratic mole who had been programmed to subvert the Reagan presidency from within. It may have been the funniest Gridiron speech ever.

I also cherish the memory of a Moynihan speech in Philadelphia during the Democratic presidential primaries of 1976. Moynihan was supporting his great friend, Sen. Henry M. "Scoop" Jackson of Washington, and had been dispatched by the Jackson campaign to fire up a dinner audience of labor union Jackson backers. They were, of course, drunk and boisterous by the time he arose, but Moynihan delivered a scholarly discourse on the forces shaping the American economy and the Western alliance, worthy of a Harvard seminar. And when he got around to his candidate, a man of sterling qualities but no great pizazz, he was inspired to describe Jackson with one of the most gracious phrases ever applied to someone who was really boring. "Our candidate," said Moynihan, "is blessed with the charisma of competence."

The union guys had no idea what the hell he meant, but they knew it deserved applause. That's the way many of us in the press feel about Moynihan. He's sometimes over our heads, and often light years ahead of us. But we know he's something special.

Mr. LEAHY. Mr. Broder speaks far more eloquently than I could of what Senator MOYNIHAN has done and continues to do as he climbs new heights every year.

Mr. President, I also ask unanimous consent that an article from The Hill of Wednesday, March 19, entitled "The Senate's Renaissance Man Turns 70," be printed in the RECORD.

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

[From the Hill, Mar. 19, 1997]

DANIEL PATRICK MOYNIHAN—THE SENATE'S RENAISSANCE MAN TURNS 70

In a public career spanning three decades in the groves of academe and the halls of government, Sen. Daniel Patrick Moynihan (D-N.Y.) has helped shape public policy on a wide range of issues that bear on almost every major aspect of American life.

Thus, when he turned 70 on St. Patrick's Day, a group of Moynihan's friends, aides, colleagues and supporters used the occasion to highlight his accomplishments at a day-long celebration at The Woodrow Wilson Center.

The four-term senator, former U.S. ambassador to India, former Harvard professor and aide to three presidents was the guest of honor at a dinner culminating the tribute to "The Intellectual as Public Servant," excerpts of which follow.

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(By Michael Barone, Senior Staff Editor, Reader's Digest)

Harry McPherson, writing about the Senate of the 1950s, described a Senate dominated by "whales" and populated otherwise by 'minnows.' But the Senate in which Daniel Patrick Moynihan took his place was quite another place. The senators after whom the three Senate office buildings were named had all died—Richard Russell in 1971, Everett Dirksen in 1969, Philip Hart in 1976. Sam Ervin had retired in 1974 and William Fulbright was beaten that year. Hubert Humphrey was battling the cancer that killed him in 1978 and his old adversary James Eastland would retire that year. Lyndon Johnson and Robert Taft were long gone. Mike Mansfield had retired and the new majority leader, Robert Byrd, was regarded as a technician, in an office that carries none of the great powers appertaining to the Speaker of the House. Fully 18 of the 100 senators in January 1977 had been elected for the first time. CBS News had to rent the large room in the Sheraton Carlton Hotel and repaint it for their "Meet the Senators" program. This was a heavily Democratic Senate, but a Senate without driving Democratic leaders, and a Senate which knew little or nothing about its new Democratic president. It was a Senate in which political and policy entrepreneurs could articulate their ideas and advance their causes: not a bad place for a Renaissance man. "In this Senate, you do your work in committees, not on the floor," Moynihan has said. And so Moynihan's first and perhaps most important decisions were what committees to serve on. He had confronted the question in a debate in the 1976 primary, unsure at first how to answer. His opponents gave predictable answers—Labor, said one, because that is where the great urban aid programs are drawn up; Foreign Relations, said another, the forum for the great debates on the Vietnam War; another said Judiciary, which handled civil rights. Moynihan's answer: "Finance. Because that's where the money is."

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(By Nicholas N. Eberstadt, Visiting Scholar, American Enterprise Institute)

Anyone even vaguely familiar with his long and distinguished career will already know that Daniel Patrick Moynihan is a polymath. For over four decades, this sometime speechwriter, political adviser, domestic affairs counselor, diplomat and senator has also occupied himself, with seeming effortlessness, as an established expert—in fact, a pre-eminent authority—in an unnerving multiplicity of intellectual disciplines and academic fields: among them, American history, architectural criticism, arms control, educational policy, ethnology, income policy, international law, public finance, public policy research and evaluation, the sociology of the family, and urban planning. As a habitual and evidently incorrigible trespasser in the sometimes jealously guarded fields of specialized learning, it should come as no surprise that Moynihan's intellectual ambit has taken him into many other areas not enumerated above.

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(By Suzanne Garment, Resident Scholar, American Enterprise Institute)

The foreign service will never be composed of Moynihans—and a good thing, too. The international political system would collapse under the pressure. Still, every so often the debate resumes about whether the foreign service is professionalized enough and whether too many ambassadorial appointments are going to outsiders who do not have "ambassadorial temperament." When we hear this argument, we should remember that making reasonable room for outsiders is necessary if we are to have room for the Moynihans, and that having one Moynihan around at a crucial foreign policymaking juncture makes it worthwhile to put up with entire troops of lesser professionals in the ambassadorial ranks.

(By Robert A. Katzmann, Walsh Professor, Georgetown University, The Brooking Institution)

But for the 20th Amendment, March 4, 1997, would have been the day the nation inaugurated its president. Instead, it may come to be remembered as the day when the nation began to change its mindset about secrecy in government. For that is when the Commission on Protecting and Reducing Government Secrecy issued its report.

Most commissions receive scant attention. Rare is the commission report which has a life beyond its issuance; most are consigned to the microfiche collection in the basement of some federal depository library. But this report on secrecy would be different because of its chair, Sen. Daniel Patrick Moynihan.

If the typical commission is concerned with moving organizational units from one place to another, this would seek to change the way we think about a problem so as to better address it. It is vintage Moynihan—using an instrument of government, in this case a commission, to shape the very definition of policy and its debate.

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(By Stephen Hess, Senior Fellow, The Brookings Institution)

Sen. Moynihan is the political man of ideas. Some are his own, some he borrows, some are cosmic, others more modest: Our generation greatest spotter of ideas that might make our society somehow better. This is a remarkable talent. But what turns it into a national treasure is a finely attuned antenna for knowing when an idea is ready for the public arena, the skill to be in positions to make his ideas matter, and the flair to make others notice. It is a harnessing of intellectual energy and political smarts that is so rare that when such a person is also blessed with long life, we must create opportunities to celebrate.

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(By Seymour Martin Lipset, Hazel Professor of Public Policy, George Mason University)

Why was Moynihan so prescient? I would say because he has known from the start that there is no first cause, not in politics, not in social science.

What Pat teaches is that not only are there no utopias, there are no solutions, not in the state or in the completely uncontrolled market. There are only approximations, only the continuing struggle for decency, for morality, for equality of opportunity and respect.

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(By Robert A. Peck, Commissioner, Public Buildings Service)

What did he know and when did he know it? Ask this about Pat Moynihan in the matter of public works and, as in so many other fields of public policy, the answers are: more than everyone else and long before, as well. In public works, as in other arenas, he has transformed the debate. Public architecture he single-handedly disinterred from the grave and resurrected on the political agenda. If you would see his monuments in this field, look about you literally.

On public buildings, urban design, highways, transit, waterways, water supply and even sewers, he has brought to bear his trademark qualities; an eclectic historical memory, a rapier tongue and typewriter, a nose for demography and geography, an inner ear for the data that matter and in immunity to ideological blinkering. In this field in particular Moynihan the political vote-counter and Moynihan the passionate

New Yorker rival Moynihan the political scientist. Moynihan's achievements are worthy of the great public builders, from Hadrian to Hausmann to Robert Moses, only Moynihan's are humane.

Mr. LEAHY. Mr. President, I thank the forbearance of my good friend, the senior Senator from North Dakota, and I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I want to thank the Senator from Vermont for his observations on the ranking member of the Finance Committee, who is really an American legend.

I also want to just say to my colleague, Senator BUMPERS, who is coming on the floor, that I will be brief so that Senator BUMPERS can have his time. And I look forward to hearing his remarks.

## THE BUDGET

Mr. CONRAD. Mr. President, let me just say that Senator DOMENICI, the chairman of the Budget Committee, has come to the floor this afternoon and presented two possible budgets. One is the President's budget, but without the trigger mechanism the President provided to assure balance even if the Congressional Budget Office projections are the ones that are used.

The President's budget, of course, reaches unified balance by the estimates of the Office of Management and Budget, but it does not reach balance by the estimates of the Congressional Budget Office. And I want to emphasize, "unified balance." All of us need to understand that is not real balance.

Nobody should be fooled anywhere about any of these budgets that talk about balancing on a so-called unified basis, because when they use that big word, what they are talking about is putting all of the trust funds into the pot to claim balance. So I think it is important to understand I do not believe any of these budgets that claim unified balance are really balanced budgets at all.

But, with that said, I think it is also important to understand when you hear these differences between Office of Management and Budget projections and Congressional Budget Office projections, the fact is both of them over the last 4 years have been overly pessimistic. They have overestimated what the deficit would be. And I think that is also important to keep in mind.

As I understand it, the Senator from New Mexico, the chairman of the Budget Committee, offered the President's budget but without his trigger mechanism. Why did the President not balance according to CBO's projections? Well, very simply, when he did his budget he did not have available to him the CBO baseline. He did not have available the CBO projections. Although he asked for them, and asked for them repeatedly, they were not prepared in time.

So in order to fulfill his responsibility to present a budget, he used his Office of Management and Budget projections, which, again, I emphasize have been overly pessimistic, not a rosy scenario, overly pessimistic over the last 4 years in order to present a budget. He provided a trigger mechanism so that if, in fact, CBO's projections were different, were even more pessimistic than his own Office of Management and Budget's, that he could still be in unified balance by the year 2002.

I also understand the Senator from New Mexico has offered a second budget that has no tax cuts or no net tax cuts and also has very deep cuts in domestic discretionary spending. When we use the term "domestic discretionary spending," what we are talking about is that category of spending that includes education, roads, bridges, airports, parks. Those are the categories of spending that are included in so-called domestic discretionary spending.

Mr. President, if I could, the reason I came to the floor this afternoon was to try to put this all in some perspective. Because I think unless people have an idea of what we are talking about in terms of the estimated expenditures of the Federal Government over the next 5 years and the estimated revenues and where the money goes, it is very hard to understand the nuances of these budget discussions.

This chart shows over the next 5 years what we are anticipating spending from the Federal Government: $9.3 trillion. The revenue that is forecasted for the Federal Government over the next 5 years is here in this block: $8.5 trillion.

So it is readily apparent that we are faced with a circumstance that, without change, we are going to be adding $800 billion to the national debt.

Unfortunately, our friends on the other side of the aisle in Senate bill 2, which means clearly that is one of their highest priorities, says the first thing to do is to cut the revenue anticipated by $200 billion. So they take this sliver off to start with. They reduce our revenue from $8.5 trillion down to $8.3 trillion as the initial step in addressing this gap between expenditure and revenue. It makes no sense to me why you would dig the hole deeper before you start filling it in. That is what our friends on the other side of the aisle have been talking about.

Instead of addressing this $9.3 trillion worth of expenditures with $8.5 trillion of revenue, they say cut it to $8.3 trillion of revenue to begin with. So now we have $1 trillion that will be added to the national debt.

Mr. President, this chart shows where the money is going to be going over the next 5 years. This is where the money is scheduled to be spent, and I think this is what our friends across the way are struggling with as they struggle to come up with a budget resolution. Where are you going to cut? If we can see we are faced with adding $1 trillion to the national debt based on scheduled spending and scheduled revenues, and they start out by first taking $200 billion of revenue away, so you create a $1 trillion hole to fill in, where are you going to cut?

Here is where the money is scheduled to go: Social Security, $2.1 trillion of the $9.3 trillion that we are scheduled to spend over the next 5 years. Interest on the debt, $1.3 trillion. Clearly you cannot cut interest on the debt. Everybody is against cutting Social Security. Those two alone are 37 percent of the scheduled expenditures. Defense, $1.4 trillion, another 15 percent. We do not hear much of anybody talking about cutting defense. So you start adding it up, defense is 15 percent, Social Security is 23 percent, which is 38 percent, and interest on the debt is 14 percent. That is 52 percent of the scheduled expenditures which nobody is talking about cutting.

That takes us to Medicare, $1.3 trillion, or another 14 percent of Federal expenditures. Medicaid, $600 billion, about 7 percent of Federal expenditures over the next 5 years. Other entitlements. We use that terminology and it refers to things like retirement, nutrition for children, welfare. Those are things that are in the categories of "other entitlements."

Then there is nondefense discretionary spending, which I referred to earlier and which Senator DOMENICI, in the second budget that he laid down here, would cut very deeply. He would cut from an unconstrained baseline $263 billion out of this category. That is a tremendous amount of money out of defense and nondefense. Those two are called discretionary spending. From the nondefense discretionary side, the budget he just presented would cut $183 billion out of a total that we are scheduled to spend over the next 5 years of $1.5 trillion. Again, what we are talking about there is education, roads, bridges, airports, parks, law enforcement.

Do we really want to be cutting those areas in the magnitude of the budget that the chairman of the Budget Committee has laid down? I do not think so. I do not think Senator DOMENICI thinks so. In fact, I am quite confident he does not think so. He is just making a point with the second budget he laid down of what it would take even with no tax cuts to achieve unified balance. Remember, unified balance is not balance at all. That is when you take all the money from all the trust funds and throw those into the pot to claim that you are balancing the budget.

I hope this puts in some perspective what it is that we face this year. This

is not going to be easy. That is, hopefully, the message that I have communicated here. When you look at what the scheduled revenue is of the Federal Government—maybe we could show that chart again—$9.3 trillion are the expenditures, and we are scheduled to have $8.5 trillion of revenue. If the first thing you do is take $200 billion out of the revenue column, now you are at $8.3 trillion, and you have $9.3 trillion of expenditures, you have $1 trillion added to the national debt. Is that what we want to do? To have the kind of massive tax cut that some have talked about, you have to borrow it all. Does that make sense? Should we borrow money to have a tax cut? Does that make sense to people? We already have a $5 trillion national debt. How deep in the hole are we going to go around here before we respond?

Mr. President, these are the major categories of Federal spending. I think one can see that if we are going to be serious about balancing the budget and doing it in an honest way, we have a tall order in front of us. Talking about tax cuts of $200 billion over the next 5 years, which our friends on the other side of the aisle have put up as their Senate bill No. 2, really makes no sense to me. It especially makes no sense when you look at what happens to that tax cut proposal in the second 5 years. This is not just a matter of reaching some kind of balance in the year 2002. We have to be looking over the horizon here, because the real challenge is, where is this all going? The real challenge is we have the baby boom generation coming along, and they are going to start retiring in the year 2012, and they will double the number of people almost overnight eligible for our major programs.

We are headed for a circumstance in which, if we fail to change course, we are going to either have an 80 percent tax rate—yes, 80 percent; does anybody believe we will do that?—or a one-third cut in all benefits. Cut Social Security one-third, cut Medicare one-third, cut all veterans benefits one-third. Those are the kind of draconian options that will be presented to this Congress and a future President if we fail to act.

We have a responsibility to respond. I submit that having tax cuts of $200 billion over the next 5 years that explode to $500 billion over the next 10 years is not rational, is not responsible, is not the way to begin to fill in the hole. I have never seen anybody that went out to fill in a hole and the first thing they did was dig it deeper. It makes very little sense to me.

I hope that Senator DOMENICI, by presenting these budget options this afternoon, sobers up people on both sides of the aisle here, sobers up those who think that we can have massive tax cuts. That is not in the cards. That is not serious if people are going to be honest with the long-term fiscal imbalances this country faces. That is not facing it head on or squarely. Also, I hope it stands as a message to people on my side of the aisle, some who are opposed, for example, to correcting the Consumer Price Index that we use to adjust for the cost of living. The evidence is overwhelming that we are making an overcorrection for the cost of living by as much as perhaps 1 percent a year. It sounds like a small amount, but it makes a big difference over time. That 1 percent mistake will cost the U.S. Government $1 trillion over the next 12 years. Some on my side say we cannot touch that.

If we can't touch that, and the other side says we have to have a big tax break, you begin to wonder what can we do around here? Goodness knows, if we can't correct a mistake, which I believe the CPI is in terms of adjusting for the cost of living based on the best evidence that we have, what can we do? If our friends on the other side want to have dessert before we start eating our vegetables in the face of this enormous challenge of these long-term fiscal imbalances, then how serious are they really about addressing the challenges facing America's future?

We have an opportunity here to do something great for America, because this isn't just some dry discussion about making columns of numbers add up. That isn't what this is about. This is not a counting exercise. This is about the future economic strength of America. This is about what kind of jobs are going to be available for our kids. This is about what kind of life future Americans are going to enjoy. This is about the competitive position of America. That is what is at stake. It is not just some dull, lifeless debate about balancing a budget. This discussion is about what we can do to strengthen America for the future and the difference that we can make in the lives of the people of our country by being responsible now, because what we have been told is, if we balance this budget in this window of opportunity we have before the baby boomers start to retire, our economy in the future will be 30 percent larger than if we fail to act.

Some may be listening to this saying, "Wait a minute. I am lost. What is the connection between balancing the budget now and having a bigger economy later?" It is very simple, but it is very real. If we are going to grow the economy, if we are going to make it bigger, if we are going to have more jobs, we need investment. To have investment you have to have savings. The biggest threat to savings in this country is the deficits that the Federal Government runs, because those deficits take money out of the pool of savings of our society.

That is why this debate matters. It is perhaps the single most important debate we will have in this Congress this year. If we all do it seriously and honestly and face our responsibilities squarely, we can do something great for our country.

I thank the Chair. I yield the floor.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Illinois.

Mr. DURBIN. Thank you, Mr. President.

## THE NOMINATION OF PETE PETERSON

Mr. DURBIN. Mr. President, I rise this evening to address an issue which is one that many of us have labored over for decades, the legacy of the Vietnam war.

So many people have said and written that the returning veterans did not receive the credit which they deserved for putting their lives on the line for our Nation. Regardless of the wisdom or popularity of that war, so many of those veterans came home and, frankly, found it difficult to start their lives again in America.

In this Congress of the United States about 12,000 men and women have served in the House of Representatives, and it is my understanding that 1,843 men and women have served in this U.S. Senate.

It was my good fortune to serve in the House before I came to the Senate and my better fortune to meet an extraordinary individual in the House of Representatives, a Vietnam veteran, who had an amazing story to tell. This colleague of mine in the House from the State of Florida, Pete Peterson, was an Air Force pilot in the Vietnam war. Pete served 27 years in the Air Force. He gave most of his adult life in service to his country. But the most amazing part of his service in Vietnam was not in an airplane in the clouds but on the ground. For 6½ years Pete Peterson was a prisoner of war in Vietnam.

He is a very soft-spoken and friendly person. He hardly ever brings up the subject about his military service. But one day over lunch, I said, "Pete, if you are not uncomfortable to talk about it, tell us what you remember about those 6½ years." For the next hour Pete spoke and answered our questions from his colleagues in the House. I will tell you that my memory of that conversation will be with me for the rest of my life. To try for a moment to envision or imagine what it must have been like to spend 6½ years in a prison camp in North Vietnam is almost beyond any of us. He talked about the deprivations, physical and mental, and how he managed to survive.

Pete is not one to boast about it. He is not alone in having gone through that experience. Our colleague from Arizona, Senator JOHN MCCAIN, had a similar experience as prisoner of war in

Vietnam. I have not spoken to my colleague, JOHN MCCAIN about it. But I read about it in a book published recently entitled "The Nightingale Song," which told the history and the story of others who went through that experience.

The interesting thing about Pete Peterson is that he came out of that experience, went to work in Florida, and decided that there was more to give to this country. So he ran for the U.S. House of Representatives and was elected.

Then in April of last year President Clinton turned to then Congressman Pete Peterson and asked him to undertake what was a major responsibility, to serve as the first U.S. Ambassador to Vietnam. It was a controversial posting. Some in this body and others really questioned whether or not we should have diplomatic relations. But many, like Pete Peterson and JOHN MCCAIN, believe that we have reached that moment in history where the best thing for both of our countries is to have diplomatic relations. I thought the President made a wise choice.

Those who watched the program 60 Minutes which was on last Sunday night may have seen the segment about Pete Peterson, once a downed pilot in a rice paddy in Vietnam, pushed away into a prison camp for 6½ years, now with the opportunity to return as the Ambassador from the United States of America to Vietnam and, I am certain, to return to that same village and meet the people who held him at bay and pushed him into that prisoner-of-war camp.

So Pete Peterson's name was put up and suggested, and the reaction was positive. People said what a fitting choice to take someone who has been through this life experience, who has endured this time as a prisoner of war, and to ask him to serve as our Ambassador in Vietnam.

Of course, his name was submitted to the Senate at that point for confirmation. Some problems arose and questions about whether or not as a sitting Congressman he could be appointed to a post that was created during his term in office. But after all was said and done, his name was resubmitted this year in January, and he received a favorable hearing in the Senate Foreign Relations Committee. In fact, his sponsors at his hearing included not only his home State Senator, Senator GRAHAM of Florida, but also Senator JOHN MCCAIN, a man from the opposite side of the aisle who identified with Pete's experience and said that he would be an excellent choice as the Ambassador to Vietnam.

So we come this evening to the Chamber in the hopes that we can make it clear that his name, Pete Peterson's name, will come before this Senate for consideration and, I hope, confirmation in the very near future.

The majority leader, Senator LOTT, and I had a conversation on this subject earlier in the day. He was kind enough to return to the Chamber for this moment to speak to this issue. I thank my colleague for doing that. I will at this point yield the floor so the Senator from Mississippi may make comments on this confirmation of Pete Peterson.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. If the Senator from Illinois will yield, I will be glad to respond to his comments. They have certainly been very good ones.

We all understand and appreciate and agree with the remarks about the tremendous service and the quality of man that Pete Peterson is. I am satisfied that he would be a great representative for our country in any position, whether it be an easy one, great luxury, or a tough one, as this one will be when he is confirmed.

The Senator is right that there are those of us in the Chamber and in America who doubt the wisdom of going forward with this normalization with Vietnam for a variety of reasons. Particularly, the Senator from New Hampshire, Mr. SMITH, has raised a lot of questions and concerns over the years about POWs and missing in action, accounting for those POWs. He is very concerned about those servicemen that have not been identified, have not been accounted for. He has made that very clear. He has serious doubts that Vietnam is actually doing all that it can do or all it has said it would do in moving toward normalization and accounting for those POW/MIAs, and he has asked me as majority leader in a very good, strong letter, lengthy letter to give him an opportunity to ask some questions and get some answers.

I try to honor that kind of request for any Senator on either side of the aisle whenever I can within reason. And I have also joined him through my staff that deals with the Intelligence Committee to work with the intelligence staff to try to get a report or reports in response to the questions that Senator SMITH has asked.

Those reports may not be sufficient or they may not be good, but Senator SMITH has indicated he has no desire to hold this nomination up at length. In fact, I think he would agree with me and the Senator that this is an excellent choice for any position.

So it is my intent, barring some unforeseen complication, that this nomination would be brought up on Tuesday or Wednesday the week we come back. I believe that would be the 8th or 9th. I do not think it would be appropriate to hold it up beyond that. And again, barring something that I cannot imagine right now—and, of course, assuming that over the next 2½ weeks we will get these reports—we would call that nomination up. I think we would be able to do that, and I certainly want to. I do not see any reason why we would not be able to based on my conversations with Senator SMITH.

We appreciate the interest of the Senator in his former colleague from the House, and look forward to working with the Senator on this and other issues.

Mr. DURBIN. I thank the majority leader. This will be good news in Marianna, FL, where Pete Peterson is waiting for word on his new assignment. He has accepted the important assignment for this country. He has given so much more than any of us have ever been asked to give. And this new assignment to Vietnam is one that Pete takes very seriously.

My colleague and friend from Mississippi, the majority leader, has raised an important critical issue of the unaccounted for POWs and MIAs. I cannot think of a person who will take that responsibility more seriously than Pete Peterson, who knows men whom he served with in the Air Force and other branches who are not accounted for. And I am certain that he will work with diligence to try to establish their whereabouts to the satisfaction of their families as quickly as possible.

Of course, in terms of our relations with Vietnam, that debate will go on, and our relationship with that country will be decided based on the conduct of Vietnam toward the United States and vice versa. A man of Pete Peterson's stature I think will enhance that relationship, and I am confident that when he is called for consideration on Tuesday or Wednesday after we return, he will receive strong bipartisan support for this assignment.

I thank the majority leader for coming to the floor. I know he has a very busy schedule, but I consider this an important matter, as I am sure he does. I appreciate his cooperation. I thank my colleague from Arkansas for giving me this opportunity to speak first.

I yield back my time.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Will the Senator from Arkansas allow me to put a couple brief statements in the RECORD and make a unanimous consent request. This should not take very long at all.

Mr. BUMPERS. My pleasure, Mr. President.

Mr. LOTT. I thank the Senator.

## TRIBUTE TO SAM ADCOCK

Mr. LOTT. Mr. President, I take this opportunity to recognize and say farewell to an outstanding staffer and dear friend of mine, Sam Adcock.

For the past 7 years, Sam has served not only as my national security advisor, but as one of my most-trusted and

able advisors. Sam is moving on to other challenges, but it is my privilege to commend him for the service he has provided me and the Senate as a whole.

The youngest of four children born to Pat and Larry Adcock, Sam was born in Baton Rouge, LA, and although Sam was not a native Mississippian, he assured me he had relatives in the Magnolia State.

I am not sure what effect being the youngest in such a large family had on Sam, but I think it must have played some part in cultivating his competitive nature.

It is this, combined with a gut instinct for effective legislation, which has made Sam Adcock such an important part of my team.

Sam joined my staff as a full-time employee in 1990, after serving for a year as a military liaison. He served as my legislative assistant while I was a member of the Armed Services Committee, and quickly sank his teeth into the complicated process of military appropriations.

Mississippi's shipyards and military bases owe Sam Adcock a debt of gratitude for the countless hours he spent arguing on their behalf.

During the 1991, 1993, and 1995 Base Realignment and Closure [BRAC] procedures, due in large part to Sam's hard work, Mississippi was the only State that had no bases closed.

Among the many areas where Sam's expertise was invaluable to me were the development of the LHA and LHD programs. Perhaps one of our greatest legislative triumphs was working in 1995 to help Ingalls Shipbuilding of Pascagoula, MS, win the $1.4 billion contract for LHD 7.

Sam worked around the clock to help Ingalls win this contract so important to the men and women of Jackson County, MS, but that was not unusual for him. I know Mississippians would be proud to know how relentlessly Sam pursued what was in their State's best interests.

The country, too, should be proud to have had such a champion of strong military ideals fighting to preserve our Nation's military prowess. I could always count on Sam to go into a meeting for me and come away with the best possible deal for Mississippi and our country as a whole.

In addition to his service as my armed services advisor, Sam was promoted to the position of legislative director. He has always been a take-charge kind of guy, and he ensured that my office's legislative staff was prepared and proactive. As effective as Sam's leadership was, he was also one of the most well-liked members of my staff.

While those who have worked against Sam know what a formidable opponent he is, those who have worked with him know what a pleasant and approachable man he can be.

As Sam Adcock moves on to a new and exciting position as vice-president for government operations at Daimler Benz, I wish him, his wife Carol, and their young son Austin, the best of luck.

Sam exemplifies all that is good in the congressional staffers who work so hard here on Capitol Hill. He is honest, industrious, intelligent, and talented.

My office will be poorer for his departure, but the people of this country are richer from his time as a Senate staffer. For his loyal and dedicated service, I thank him.

Mr. President, I yield the floor.

## TRIBUTE TO JIM GRAHNE

Mr. LOTT. Mr. President, I want to express the gratitude of the Senate to Jim Grahne, the director of our Senate Recording and Photographic Studios. Jim is retiring this week after 27 years of dedicated service to the Senate.

Jim Grahne has been one of our most talented technical and management professionals in the Office of the Sergeant at Arms.

He is an engineer by training and profession and has used his skill, creativity and expertise to shepherd the Senate through nearly 30 years of broadcast and photographic technology. I am referring to the television, radio and photographic services on which we as members, and as an institution, so readily rely.

It was Jim's leadership that made technically possible the broadcast of the proceedings of the Senate floor.

While that accomplishment may be one of his professional highlights, he always sought ways to improve products and services to members.

Some of the recent successes of Jim and his staff include the installation of a fiber optic network for the broadcast of committee hearings, CD-Rom and on-line photo data base services for members' offices. Jim and his staff have also pioneered the use of closed captioning text, audio and visual technologies.

This year the studios released full text and audio search and retrieval of floor proceedings. Offices may now search for and download any speech or debate text and audio with 15 minutes of its being given.

Our gratitude for Jim is not limited to his understanding and appreciation for technology. Because he came to the Senate from the commercial news and broadcast industry, he understands the importance of the press and of the role played by visual and sound images.

Every day that the proceedings of the Senate are made available to the press here and around the world, it is an affirmation and practical example of democracy in action. That goal has been an important part of Jim's motivation.

Mr. President, our Senate family wishes Jim and Linda, his wife of 34 years, and their children—Mark, Lena, and Karen—the very best and hope he gets some time to spend on that sailboat with his granddaughter, Megan. But, knowing Jim as we do, we can expect his sleeves will be rolled up and into another challenge in the very near future.

## NUCLEAR WASTE POLICY ACT AMENDMENTS

### MOTION TO PROCEED

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 27, S. 104, the nuclear waste bill.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Mr. President, on behalf of colleagues on this side of the aisle, I do object.

The PRESIDING OFFICER. Objection is heard.

### CLOTURE MOTION

Mr. LOTT. Mr. President, I move to proceed to the nuclear waste bill and send a cloture motion to the desk.

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

The assistant clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to S. 104, a bill to amend the Nuclear Waste Policy Act of 1982:

Trent Lott, Larry Craig, John Ashcroft, Dan Coats, Tim Hutchinson, Sam Brownback, Mitch McConnell, Conrad Burns, Frank Murkowski, Jon Kyl, Connie Mack, Spencer Abraham, Chuck Hagel, John McCain, Don Nickles, and Gordon Smith.

Mr. LOTT. Mr. President, I regret the objection from our colleagues on the other side of the aisle. I know the Senator from Illinois was objecting on behalf of other Senators that could be directly affected by this issue. I have filed a cloture motion on the motion to proceed to the nuclear waste bill. So I now ask unanimous consent that the cloture vote be at 2:30 p.m. on Tuesday, April 8, and the mandatory quorum under rule XXII be waived.

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

Mr. LOTT. In light of this agreement to conduct this cloture vote on Tuesday, April 8, I now announce that there will be no votes during the session of the Senate on Monday, April 7, the day that we return, although there will be debate on that day. I expect debate to occur on the pending motion to proceed to the nuclear waste bill on that Monday, and the Senate may be asked to consider other legislative or executive

items on that Monday. I will be discussing Monday's schedule further with the Democratic leader and will inform the Senate as to what other items the Senate may consider when it reconvenes following the Easter recess period.

I thank all my colleagues for their attention. I now withdraw the motion.

The PRESIDING OFFICER. The motion is withdrawn.

Mr. LOTT. Mr. President, just in conclusion, I want to recognize the Senator from Arkansas, who is in the Chamber at this time. I thank him again for his courtesy in allowing me to do this and recognize that he is a member of the Committee of Energy and Natural Resources that reported this legislation. I think it is very important legislation. I understand that the Senators from Nevada will have to make their points in opposition to what it would do, but I do think it is just absolutely essential that this country face up to the need to deal with our nuclear waste. There is no easy way to do it. There is no perfect solution for all 100 Senators. But we passed it last time through the Senate and it died aborning in the House. I am told this time that we will, when we pass it, the House will also pass it, and this time we hope we can get it to the President. And we hope we can get it to the President in a way that he feels he can sign it.

We must do this because it is an issue that will not go away. Nuclear waste is sitting in cooling pools and barrels all over this country from South Carolina to Vermont, from the banks of the Mississippi River to the shores of the Pacific Ocean. We must deal with this problem, and so that is why I take this procedure to make sure that we get it up for consideration and for debate when we return from the Easter recess.

I thank the Chair. I thank the Senator from Arkansas.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, let me say before I begin my remarks on a separate subject, that the majority leader is absolutely right when he talks about the necessity for developing a system of disposing of high-level nuclear waste in this country from our nuclear powerplants.

I, when I was Governor of Arkansas 22 years ago, wondered how on Earth we were going to deal with that. That was the reason I was always opposed to building more nuclear plants when we had not figured out how we were going to decommission the ones that we had and dispose of the nuclear waste that was coming out of them. So it is one of the most difficult, knotty problems I have ever faced.

I am ranking on the Energy Committee and we have wrestled with this at length over the years. This is no time to debate it, except to say it is one of the most awesome, difficult problems I have ever been confronted with.

## FORGO TAX CUTS UNTIL WE BALANCE THE BUDGET

Mr. BUMPERS. Mr. President, I rise to pay tribute to my colleague in the House, Speaker GINGRICH. For those of you who think that I must need a saliva test for saying that, here is why. It was earlier this week in a press conference, that Speaker GINGRICH made a very responsible statement. He said that this Congress should forgo tax cuts until we balance the budget—an eminently sensible, unassailable proposition insofar as I am concerned.

I expected him to get the reception he got. Some of his very best friends in the House jumped on him and said, "You have betrayed us." Thirty House Members sent him a hot letter, saying, "What on Earth are you thinking?"

I don't know what he was thinking, but I assume he was thinking the same thing I was thinking, and that is that the snake oil of cutting taxes and balancing the budget makes no sense whatever. We have tried it. Ten years from now or 20 years from now, when memories have faded a little further, I would rather expect people to say, yes, we can cut taxes and balance the budget. But we are, really, only 4 years away from the end of George Bush's tenure as President; we are 16 years away from 1981 when the U.S. Senate took leave of its senses and passed a massive tax cut on the proposition that if we would do that and simultaneously balance the budget, which was at that moment $87 billion out of kilter, that we could balance the budget by 1984 if we just bought into this proposition that we needed to cut taxes monumentally to stimulate the economy.

But I am again happy to report to my colleagues I did not buy that snake oil. There were 11 Senators—believe it—11 U.S. Senators who said, "This is crazy. It will never work. It makes no sense whatever. It violates economic principle, violates normal sanity." But we went ahead and did it, and I will never forget that fall day when President Reagan, at Rancho Mirage, signed the bill in front of about 100 television cameras, saying, "You have given me the tools. Now I'll do the job and nobody will be left behind."

Here is what happened. Twelve years later, we had accumulated $2.5 trillion in additional debt to go with the already $1 trillion debt that we had incurred during the first 200 years of this country's history—actually less than that. But from the date we adopted and ratified the Constitution in 1789, until the day we passed that tax cut in 1981, the debt had accumulated to less than $1 trillion. Twelve short years later, we had increased that trillion-dollar debt by $3 trillion, and the national debt at that time then became $4 trillion, and we have been striving to dig ourselves out of that hole ever since.

Mr. President, 3 or 4 weeks ago I was walking out that door to go back to my office and one of the most conservative Republican Senators in the U.S. Senate, who happens to be a good friend, came over to me and he said, "I'll tell you, DALE, confidentially, I've never seen things better. The economy is as good as it ever gets. A lot of things are going right in this country." I almost fainted. I said, "I could not agree with you more."

I sometimes wonder why people are not dancing in the streets. Since 1992 we have taken the deficit from $290 billion to $107 billion in 4 short years. The unemployment rate in this country is the lowest in years. Some economists say you you cannot get it much lower than 5.3 or 5.4 percent. Interest rates are at a manageable level. And this morning, everybody who read the Washington Post saw a feature story about how the deficit is continuing to go down.

Let me back up. The President sent his budget over here and he said: In 1997, the deficit will be about $127 billion. It will be about the same in 1998. This morning the newspaper reports that because of this economy, enjoying the longest sustained growth since Dwight Eisenhower was President, even CBO, which is very conservative in their projections, says the deficit this year is going to be down to $115 billion. But other very reputable economists say, no, you are underestimating the taxes the people of this country are going to pay this year because the economy is doing just fine. They say, we believe the deficit will be under $100 billion.

I am the eternal optimist. I like to believe that last statement, that the deficit will be below $100 billion, turns out to be true, in which case we will have done something that is unprecedented in this country. We will have had 5 sustained years of deficit reduction.

Do you want the economy to continue as it is now and have this sustained growth that we have been enjoying? I will tell you a simple way to do it. You send a message to the American people that the U.S. Congress has come to its senses, and decided to forgo tax cuts of any kind until the United States budget is in balance.

Then tell them, on top of that, this year's deficit is not going to be $99 billion; we're going to further reduce it to $90 billion or $85 billion. I can tell you, Wall Street will jump with joy.

Why would we be considering tax cuts of $193 billion, almost $200 billion? Why would the U.S. Senate be considering a $200 billion tax cut over the next 5 years and $508 billion over the next 10 years? Why are we considering

that when we know that a tax cut of that magnitude is going to stimulate the economy? And why do we want to stimulate an economy that is perking along so well that Alan Greenspan keeps Wall Street on edge every day saying, "If this economy gets any hotter, I'm going to raise interest rates"? That is the constant threat every time the Federal Reserve Board meets, the threat of higher interest rates.

You cut capital gains taxes, and I promise you it will not be long until you will have an interest rate increase from the Fed. You cut these other taxes to the tune of $200 billion over the next 5 years, and I promise you interest rates will go up. Alan Greenspan will see to it. And if interest rates go up, the market will drop and economic activity will drop. So why would we insist on making a crazy economic decision to stimulate an economy which is moving along sharply?

I see statements in the press every morning of some politician saying, "Well, people know how to handle their money a lot better than Washington. It's a lot better to leave it in their pocket than send it to Washington." I understand that, and I understand that if you are looking for applause, that statement is a good way to get it. But I also understand that we have a golden opportunity that does not present itself often, and that is to honestly balance the budget and give the people of this Nation a night's sleep like they have never had before.

The Senator from New Mexico offered two budgets this afternoon. One was the President's. I said many times on this floor, I am not enamored with the President's budget. I am not enamored with any budget which does not reduce the deficit this year and next. The Senator from New Mexico is getting very close to singing my song. You like bipartisanship? You like for Republicans and Democrats to agree? The Senator from New Mexico probably is not trying to curry my favor, but he is getting awfully close to doing it with his resolution which says no tax cuts until we get to a balanced budget using CBO's figures.

Mr. President, the Budget Committee has been deliberating, and I think they have been making some progress, incidentally. They even think they have the deficit down to $111 billion now, and if they are that close, I think it is absolutely imperative that we improve over the 1996 deficit by cutting it below $107 billion this year and below that next year.

One of the things about the proposal of the Senator from New Mexico is that when we reach that happy day—when we are in balance—then half of any surplus will go to reduce the cuts made in nondefense discretionary spending. That is education, law enforcement, environment, health care, medical research. It is all the things that make us a great nation. But the Senator from New Mexico very carefully has focused on making cuts in nondefense discretionary spending. Well, what is wrong with asking the Defense Department to help out? Why in the name of all that is good and holy would we, in 1996, insist that the Defense Department take $9 billion more than they even asked for?

I sit on the Defense Appropriations Committee, and I am telling you, I get absolutely nauseated at times. You take the F–22 fighter plane, which we do not need, I promise you—and I am going to stand at this desk and maybe lose another battle on the F–22—but when you start talking to me about building 438 airplanes at $180 million each to compete with a Russian airplane that is not even on the drawing board, let alone being off the drawing board, and at a time when we are building 1,000 advance F–18's which will be as good, or better, than any plane that could possibly challenge us for the next 20 years, and then follow that in 2015 with a joint strike fighter—no, they want to fill in what they say is a gap with a plane, Mr. President, that costs $180 million a copy, 438 of them.

Would you like to know how much the estimated cost of the F–22 has gone up in the past year compared to what we were told in 1996? $15 billion. $15 billion in 1 year. God knows what it will be by the year 2006 or 2007 when we start building these airplanes. We will not be able to afford them, I can tell you that.

I am simply saying that we should look at what we are going to cut. The Senator from New Mexico has a $100 billion cut in Medicare. And what about Medicaid? I do not know whether we are cutting Medicaid $9 billion or $22 billion. You hear conflicting numbers on that, but bear in mind what these programs are. Medicare is health care for our elderly; Medicaid is health care for the poor, the most vulnerable of all our children.

Last year, we cut welfare recipients' food stamps, everything, for the poorest people in the country, $55 billion. Mr. President, I am not going to go home and tell my constituents that I voted to savage the most vulnerable people in our population, the children and the elderly and the poor, and that I voted to give the money to the wealthiest 5 percent of the people in America. And I promise you, if I were running against somebody that had done that, I could make that case in spades and be absolutely certain of my ground.

I did not vote for the welfare bill last year. I was one of the 21 people that did not. You can call me a bleeding heart liberal. You can call my anything you want to. But when this body starts saying the only way we can balance the budget is by giving the Pentagon billions they did not even ask for and cutting Medicare by $100 billion, and depriving the poorest children in the country of Medicaid to the tune of $22 billion, and making $55 billion in welfare cuts—you see, I would have to say I never went to Methodist Sunday school as a boy, but I did. I believed those Methodist Sunday school stories about my obligation to my fellow man. You hurt your fellow man, you insult God.

So I am not going to do it, whether you want to talk about religion or whether you want to talk about common sense, whether you want to talk about what has made this country great. One thing that has made this country great is our commitment to the elderly. We reduced the poverty rate among them from 25 percent to 12 percent since 1950. We ought to keep doing it. We ought to come to our senses.

I intend to sit down and visit with the Senator from New Mexico and talk seriously with him about this. I am not negotiating on behalf of the President or anybody else. But I want to applaud the Senator from New Mexico this afternoon because he has made a very important statement that a lot of people on that side will disagree with. But I think he is on the right track. I think NEWT GINGRICH made a very important statement earlier this week, and I applaud him for it.

Mr. President, I appreciate having the opportunity to make these statements. I have been intending to do this all week and had such a schedule I could not do it. But I am feeling better tonight about the direction we are headed than I have in some time.

I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the executive calendar: Calendar Nos. 39, 40, 61, and 62.

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

Mr. LOTT. Mr. President, for the information of all Senators, this involves two appointments to the Federal Mine Safety and Health Review Commission, a nominee to be a U.S. district judge for the District Court in DC, Colleen Kollar-Kotelly, and Rose Ochi to be Director, Community Relations Service, Department of Justice.

#### NOMINATION OF JUDGE COLLEEN KOLLAR-KOTELLY

Mr. LEAHY. Mr. President, last night we finally broke through the stall and the Senate confirmed the nomination

of Merrick Garland to be a judge on the United States Court of appeals for the District of Columbia Circuit. During that extended debate on a nomination that had been delayed too long, I urged the Republican leadership to take up the nomination of Judge Colleen Kollar-Kotelly to the U.S. District Court for the District of Columbia.

I am encouraged that those who schedule matters in the Senate have heard our plea and are finally willing to consider this nomination, as well. When we confirm Judge Kollar-Kotelly, we as a Senate will literally double the number of judges we have confirmed this year—from one to two. Unfortunately, there will still be 68 vacancies on the district courts around the country and a record 24 vacancies on the Federal courts of appeals.

Judge Colleen Kollar-Kotelly's nomination was first received from the President in March 1996 and was previously reported to the Senate in September 1996. This nomination was not acted upon before the adjournment of the 104th Congress. She was renominated on the first day of this Congress. her nomination was re-reported again without a single dissent from the Judiciary Committee 2 weeks ago. During that time there has been an anonymous Republican with an unspecified concern that has prevented this nomination from being considered. In other words, there is an unspecified hold.

Over the last 5 years, the District Court for the District of Columbia has been at full strength with 15 active judges for only about 6 months. The court has been operating with three vacancies for over a year and another judge is currently absent due to illness. I understand that the vacancies have been contributing to a rise in the backlog of civil and criminal cases pending before the court.

The criminal case backlog increased by 37 percent in 1996. So much for getting tough on criminals. We are fortunate to have senior judges who were willing and able to pitch in during these vacancy periods. Indeed, senior judges recorded one-third of the total court time spent by all judges in this district from July 1995 to June 1996. In the words of the court's chief judge: "The Court cannot continue to rely on senior judges to bear this much of the caseload." I agree.

I thank the majority leader for agreeing to proceed to Senate consideration of Judge Kollar-Kotelly's nomination. And I thank Chairman HATCH of the Judiciary Committee for pressing forward with this important nomination.

The Senate has not been doing its job when it comes to considering and confirming nominations for judicial vacancies. I asked last night what justified the unconscionable delay in taking up Judge Garland's nomination, what fatal flaw in his character or fairness the Republicans had uncovered? I ask those questions again with respect to this nominee, a hard-working woman who has been serving on the superior court bench here in the District of Columbia for the last 13 years, having been appointed by President Ronald Reagan. The answer is the same: There is no explanation why she was not confirmed before now. She is another of the unlucky victims of the majority's shutdown of the confirmation process last year.

With respect to this nominee, I note that the ABA Standing Committee unanimously found her well qualified for this position, thereby giving her the ABA's highest rating. She has been an associate judge of the Superior Court of the District of Columbia since 1984 and has served as the deputy presiding judge of the Criminal Division.

Before that she was the chief legal counsel at Saint Elizabeths Hospital here in the District. She served as an attorney in the appellate section of the Criminal Division of the Department of Justice for almost 3 years.

She is a distinguished graduate of Catholic University and its Columbus School of Law. She clerked for the Honorable Catherine B. Kelly on the District of Columbia Court of Appeals. She has been active in bar associations and on numerous committees of the Superior Court.

I thank all Senators for confirming this nominee as a judge on the United States District Court for the District of Columbia.

Mr. FAIRCLOTH. Mr. President, I am not going to object to the unanimous consent for the confirmation of the nomination of Colleen Kollar-Kotelly to be U.S. district judge for the District of Columbia, but I would like it recorded that if we had conducted a rollcall vote on the nominee, I would have voted in the negative.

Mr. LOTT. Mr. President, I ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements relating to the nominations appear at the appropriate place 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.

The nominations were confirmed as follows:

THE JUDICIARY

Colleen Kollar-Kotelly, of the District of Columbia, to be U.S. District Judge for the District of Columbia.

DEPARTMENT OF JUSTICE

Rose Ochi, of California, to be Director, Community Relations Service, for a term of 4 years.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Mary Lucille Jordan, of Maryland, to be a Member of the Federal Mine Safety and Health Review Commission for a term of 6 years expiring August 30, 2002. (Reappointment)

Theodore Francis Verheggen, of the District of Columbia, to be a Member of the Federal Mine Safety and Health Review Commission for a term expiring August 30, 2002.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

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

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senate from Montana.

(The remarks of Mr. BURNS pertaining to the introduction of S. 509 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

## PARTIAL-BIRTH ABORTIONS

Mr. SANTORUM. Mr. President, I rise to talk about an issue that was talked about at great length today in the House of Representatives and voted on. That is the issue of partial-birth abortions, or as the Congressman who led the debate on the floor of the House, Congressman HENRY HYDE, refers to it as partial-birth infanticide where, in fact, you have a baby that is at or near viability in the fifth and sixth month of pregnancy when most of these abortions are performed, delivered completely out of the mother, and all that is left in the mother is the head—what we are talking about here is not an abortion. What we are talking about is killing a child.

I think, incredibly, frankly, given the results of the last election where the Republicans lost seats in the House, and getting a sufficient number of House votes to override a—hopefully not, but probably—Presidential veto of this bill—we needed 290 votes. We thought going in we would be assured of that number. In fact, we thought we would be well assured of that number, given the results of the election and what we thought was the intention of the Members.

It turned out that the House passed the partial-birth abortion ban by a vote of 295 to, I believe, 136. That is five votes more than the required constitutional majority of 67 percent of the House. So they do have enough votes in the House of Representatives to override a Presidential veto.

The action now shifts here to the U.S. Senate. We are going into recess and will be for the next couple of weeks, but I have had conversations with the majority leader, and we anticipate bringing that bill up sometime shortly after we reconvene here in the Senate in April and hope for a full debate on this issue.

As to what happened in the House, when we saw the number of votes change, resulting in a sufficient number to override the President's veto, I hope that same kind of dynamic occurs here in the Senate. Those votes changed because of new information that has been brought to light about what actually is going on out in America on this issue of partial-birth abortions. We were originally told by the advocates of the procedure, the industry and those who support the procedure, the abortion rights groups, that this was "a rare procedure." That phrase was used over and over again, "A rare procedure." The President of the United States used "a rare procedure, done only in the third trimester, in cases where the mother's life or health was in danger or where there was a severe fetal deformity."

That was the argument and the reason the President vetoed it, and that is why many Members of the Senate stood here and said they could not find themselves in a position where if someone was in this kind of dire consequence that they would limit a person's option.

We had plenty of medical testimony at the time, and even more has come in since, that says that this is never an indicated procedure to protect the life or health of the mother, never an indicated procedure. It is not in any textbook on obstetrics. You will not find it in any of the medical literature. I am quoting lots of obstetricians who have testified before Congress, including an obstetrician in the House of Representatives, Dr. Tom Coburn, a Member of the House, and C. Everett Koop, the former Surgeon General, who worked with small premature babies. So we have overwhelming medical authority that this procedure is never indicated to protect the life and health of the mother.

But we also found out new information, that in fact this is not a rare procedure. This is a procedure that is done thousands upon thousands of times. The estimate given by the abortion providers is 3,000 to 5,000 times a year. The only independent evidence we have been able to gather is by a press reporter in Bergen County, NJ, who surveyed a clinic in her community, and in that one clinic in northern New Jersey there were 1,500 partial-birth abortions performed every year. Now, if there are 1,500 in one clinic, and we have another doctor who has testified in Nebraska, Bellevue, NE—no offense to my colleagues from Nebraska, but hardly a large metropolitan area—where this doctor said in the last 2 years he has done 1,000 partial-birth abortions, if you just take those two isolated instances and the fact, as the reporter from Bergen County said, that this procedure, according to the doctors there, is done in other places in the New York metropolitan area, but if you just take those two sites alone, it is very hard to say we only have 3,000 to 5,000 of these being performed nationwide.

There is no way to check because the people who provide the statistics are the advocates for the procedure. So, of course, they are not going to give us the real numbers. They know that their Achilles heel in this debate, in the debate not just on partial-birth abortions but, frankly, on all abortions, is late-term abortion. This is not something the American public feels comfortable with, but in fact, something the American public overwhelmingly rejects. They think that goes too far. So there is really no reason for them to give us accurate information. When I say there is no reason for them to give us accurate information, it is because there is no way to check whether that information is accurate. The Government keeps no statistics on the number of partial-birth abortions. So there is no way for anybody to independently verify this.

Now, I have asked many reporters who have covered this issue, "How about doing a little reporting? How about verifying your story instead of taking what the Alan Guttmacher Institute," which is an arm of the abortion advocacy group and is always cited in literature and in the press as this "independent source." That is just ludicrous. They are an advocate, a zealous advocate of the absolute right to choose. So using their information is as bad as using the providers themselves who are advocates of the procedure.

Now, some reporters have actually gone through the process of calling their clinics. We have gotten a variety of different feedback. I talked to a reporter from the Baltimore Sun who said she called some of the hospitals and clinics in Baltimore that do abortions, and they hung up the phone on her. They didn't want to talk to the press. It is none of their business. Others have said they have called and had nice conversations and were told, "We don't do that here." They very well may not do it, but we have no way of checking. The press has no way of checking because they are not going to make their records available. It is confidentiality, and I understand that. But there is no way for us to know how many abortions are done, partial-birth or late-term abortions. You will have advocates get up for this procedure on the Senate floor and talk about this as being "very rare," or "only a few thousand." Just imagine, put yourself in the context of children—children are used a lot on this floor as a defense for a lot of Government programs.

Imagine if you were talking about 3,000 to 5,000 children who we would let starve to death in this country; what would we do about it here? Would we say it is only 3,000 or 5,000 who we are going to let die because we don't want to take any action? I am not too sure that we would do that. But, in fact, that is what we are doing. We are accepting their numbers, which I don't accept. I don't think, frankly, the press should accept them. I think throwing this number out of 3,000 to 5,000, quoting an advocate of the procedure as the authority for the statistical information as a basis for the debate—I mean, I will throw a number out—let's say 50,000, which is probably as credible as the number you are going to get from the other side. It is probably as credible, and probably even more credible because I am just pulling it out of a hat; they are deliberately throwing a number out that they know is well below what the actual number is.

So I hope that when we have this debate, we realize, number one, that it is not a rare procedure. And, frankly, we don't know how rare it is. What we do know is that the numbers given out in the past were lies. Let's call it what they were—lies, a deliberate attempt by the abortion industry and advocates to mislead the Congress. They sent people up here and they testified to that lie. So now we are going to believe them and give them a second chance to lie to us.

I am sorry. Fool me twice, shame on me. They are not going to fool me twice. I am not going to accept their number, and I don't think anybody should. They have no credibility because they have lied once and, number two, there is no independent verification of that number, because they will not open up their books. They won't even let reporters talk to them. So I encourage the press covering this debate now, and who covered it in the past, not to use a phony number. As horrible as that number is, my goodness we are talking of an admission of at least 3,000 to 5,000—3,000 to 5,000 innocent children, at least 90 percent of which—according to their industry—are healthy babies and healthy mothers.

Frankly, even if it were 300 to 500, or just 30 to 50, it should outrage every Member of the Senate that we allow that to happen in such a barbaric way. But 3,000 to 5,000—maybe it's 30,000 to 50,000; who knows? But it is not a rare procedure, and it is not done just on mothers who have severe health complications or life-threatening ailments. We know that. One reason is obvious that we know it. We know it by understanding what the procedure is. The other reason we know is because we

have all the medical experts testifying that this procedure is never indicated to protect the health or the life of the mother. But the other reason we know that this procedure would not be used is just by knowing what the procedure is. Take a case. We have a mother whose life is in danger. Now, I will add that we have a provision in this bill to protect the life of the mother. If this procedure is ever needed to protect the life of the mother, it can be used. But let me suggest that that would never happen. We have it in there, frankly, for cosmetic reasons. It would never happen, because if a mother's life is in imminent danger, would any physician use a procedure that takes 3 days to perform? If the woman presents herself to the hospital in a life-threatening condition, would you say, "We have this great procedure that takes 3 days to do; we will give you medication, come back in 2 days"? You would if you want to kill the mother, or if you want malpractice, but not if you want to provide competent medical services to a woman in need. So it would not be used in that situation.

Let's talk about the health condition. Again, if somebody presents herself with a severe health consequence, they could use their fertility or—to be honest with you, I don't know why someone would suggest that we want to protect ourselves from losing our fertility by killing a healthy baby. I don't understand that. If you want to protect your fertility to have children, why would you kill a healthy baby to do that? This is something that strikes me as an argument that I have not heard a sufficient answer to on the other side. Why would you kill one child so you could have more children? As far as I know, there is no guarantee of being able to get pregnant again. Unfortunately, there are tens of thousands, probably hundreds of thousands of couples who are trying to have children and can't. If you have been blessed with a healthy baby and a healthy pregnancy, I don't know why you would do this procedure. But the point is, you would not go through this 3-day procedure if there was an imminent health risk to the mother. It is just not logical.

This procedure was not designed by a physician who was looking out for the health and life of the mother. This was designed by a physician, in his own words, as a more efficient way to do abortions for the abortionist, not for the mother. It is efficient in that the mother can come in and do it on an outpatient basis. Late-term abortions are much more complicated. It is much more involved. This basically prepares the woman for a shorter visit to the clinic and a more convenient way for this abortionist to perform the abortion and to be able to do more of them in one day. That is the reason this procedure was developed.

You will hear testimony of people who have written textbooks on abortion, who said they would never use this, and they do late-term abortions. So I just ask my colleagues to listen to all of the facts. We had, I think, last year—and it was unfortunate, and I will not point blame at anybody. I am not too sure there is blame. We had a situation where the vote came up in an election year, in an election climate. Members are people, too. They feel a comfort zone on issues. It is very hard for them to sort of break out of this comfort zone into unknown territories, particularly around a very politically charged environment, even though the facts were there; many of the facts were available for the override vote. Certainly, a lot of them were not given credibility in the mainstream media. Now they have been.

So I ask many of my colleagues who have already cast a vote more than once on this issue to have an open mind, to step back and look at the reality of partial-birth infanticide and recognize your obligation to those children, recognize your obligation to your constituents in trying to ascertain the truth, and make a decision that is in the best interest for America and for your State, not for the interest group that supports you in your election, not for the advocates who you may have good relationships with. We are in our comfort zone with people who agree with us. It is very easy for us to sort of hang around those people and sort of feed off each other. I understand that. But sometimes you have to step back from all of that. You have to step out in the cold and look at the cold, hard facts and make a decision using your mind and using your heart on what is right—not what is right politically for me, not what is right for my friend, but what is right for our culture and what is right for our whole existence as a country.

I think when we do that, I think when Members take time to do that, we will see something very special happen here, which is what happened in the House today. Members will have stepped out of that comfort zone, which I know is very hard to do, will take an honest look at the facts and make a decision that is right for America. That is my hope.

I am going to be working very diligently, and I know other Members are, in making sure that this information is disseminated.

I again encourage the press to do your job, fact-check your stories before you write them, and ascertain the truth. Do not just report what people say. I know some people think that is their job. If that is the job of a reporter, then reporting has sunk to a new low in this country if all we do is run around and report what people say. That is not journalism, in my book. At least make an attempt to find out the truth. At least check. This is serious stuff. We are not talking about how the Senate buys paper here. It is important. It takes taxpayer dollars. We have a system. We are talking about very weighty issues. We are talking about the issues of life and death, about a barbaric procedure that just goes beyond any vision that I can imagine that people in this country have of what our civilization and what humanity is.

So take that responsibility seriously on your side. We take it seriously here. I think, if you do your job and if Members of the Senate do their job, which is to honestly face the facts, allow those facts to rebound off your sense of judgment, your sense of right and wrong, then I think what will bounce back is a vote to end this barbarism in this country by an overwhelming vote.

## MORNING BUSINESS

(During today's session of the Senate, the following morning business was transacted.)

## ACCEPTANCE OF PRO BONO LEGAL SERVICES

Mr. BYRD. Mr. President, on October 3, 1996, the Senate adopted Senate Resolution 321, which I introduced, and which had the bipartisan support of both the Majority and Minority Leaders. The resolution authorizes a Senator to accept pro bono legal services when challenging the constitutionality of a Federal statute, and then only when the statute in question expressly authorizes the Senator to file such a suit.

In addition, Senate Resolution 321 required the Select Committee on Ethics to establish regulations providing for the public disclosure of information relating to the acceptance of pro bono legal services performed as authorized by the resolution. Those regulations were adopted by the Committee on February 13, 1997, and were subsequently printed on page 2421 of the CONGRESSIONAL RECORD dated February 24, 1997.

Specifically, those regulations state, in relevant part:

A Member who accepts pro bono legal services with respect to a civil action challenging the validity of a Federal statute as authorized by S. Res. 321 shall submit a report to the Office of Public Records of the Secretary of the Senate and the Senate Select Committee on Ethics. * * *

The regulations go on to state:

All reports filed pursuant to these Regulations shall include the following information: (1) A description of the nature of the civil action, including the Federal statute to be challenged; (2) the caption of the case and the cause number, as well as the court in which the action is pending, if the civil action has been filed in court; and (3) the name and address of each attorney who performed pro bono services for the Member with respect to the civil action, as well as the name

and the address of the firm, if any, with which the attorney is affiliated.

On January 2, 1997, I, along with former Senator HATFIELD, Senator LEVIN, Senator MOYNIHAN, and Representatives WAXMAN and SKAGGS, filed a civil action in U.S. District Court for the District of Columbia challenging the constitutionality of Public Law 104–130, the Line Item Veto Act. That suit, titled Byrd v. Raines, was filed pursuant to section 3 of the Act, which authorizes precisely this type of suit.

In our quest to utilize the best legal talent available, we have, in accordance with Senate Resolution 321, chosen to accept the pro bono services of several distinguished attorneys. To date, they have provided each of us with invaluable service through consultation, research, analysis, and legal representation.

At this time, I would like to advise the Senate that, as required by the aforementioned regulations issued by the Select Committee on Ethics, Senators LEVIN, MOYNIHAN, and I have filed the necessary reports fully disclosing the representation which we have received. However, in an effort to comply with not only the letter of those regulations, but also with their spirit, I am today placing in the CONGRESSIONAL RECORD copies of those reports so that all Senators will be thoroughly apprised of the details of this matter.

Mr. President, I ask unanimous consent that the two reports to which I have referred be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
*Washington, DC, March 12, 1997.*

Hon. MITCH MCCONNELL, *Chairman,*
Hon. BYRON L. DORGAN,
*Vice-Chairman, Select Committee on Ethics, U.S. Senate, Washington, DC.*

GENTLEMEN: In accordance with the regulations promulgated by the Select Committee on Ethics pursuant to Senate Resolution 321 of October 3, 1996, we are submitting this report with respect to our acceptance of certain pro bono legal services. Those services have been, and will continue to be, accepted by us in connection with the filing of a civil action challenging the validity of a federal statue. Please find below the details of this action as required by the regulations, which were published in the Congressional Record dated February 24, 1997.

1. This is a civil action in which we, as plaintiffs, have challenged the constitutionality of Public Law 104–130, the Line Item Veto Act.

2. The case, captioned *Senator Robert C. Byrd, et al* v. *Franklin D. Raines, et al*, civil action number 97–0001, was filed on January 2, 1997, and is currently pending in the United States District Court for the District of Columbia before the Honorable Thomas Penfield Jackson.

3. *Pro bono* legal services have been provided to us by:

Mr. Lloyd N. Cutler, Mr. Louis R. Cohen, Mr. Lawrence A. Kasten, Wilmer, Cutler & Pickering, 2445 M Street, N.W., Washington, DC; Mr. Charles J. Cooper, Mr. Michael A. Carvin, Mr. David Thompson, Cooper and Carvin, 2000 K Street, N.W., Suite 401, Washington, DC; Mr. Alan B. Morrison, Ms. Colette G. Matzzie, Public Citizen Litigation Group, 1600 20th Street, N.W., Washington, DC; Mr. Michael Davidson, 3753 McKinley Street, N.W., Washington, DC.

As always, it is our intent to fully comply with both the letter and the spirit of the regulations issued by the Select Committee on Ethics. We trust that this report serves to fulfill that intention. Should you or your staff wish further information pertaining to the matter, please have your staff contact Peter Kiefhaber (Senator Byrd) at 4–7215, Linda Gustitus (Senator Levin) at 4–5538, or Mark Patterson (Senator Moynihan) at 4–7800.

Sincerely,

ROBERT C. BYRD,
CARL LEVIN,
DANIEL PATRICK MOYNIHAN.

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U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
*Washington, DC, March 12, 1997.*

Hon. GARY SISCO,
*Secretary of the Senate, U.S. Senate, Washington, DC.*

DEAR MR. SISCO: In accordance with the regulations promulgated by the Select Committee on Ethics pursuant to Senate Resolution 321 of October 3, 1996, we are submitting this report with respect to our acceptance of certain *pro bono* legal services. Those services have been, and will continue to be, accepted by us in connection with the filing of a civil action challenging the validity of a federal statute. Please find below the details of this action as required by the regulations, which were published in the CONGRESSIONAL RECORD dated February 24, 1997.

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Should you or your staff in the Office of Public Records wish further information pertaining to the matter, please have your staff contact Peter Kiefhaber (Senator Byrd) at 4–7215, Linda Gustitus (Senator Levin) at 4–5538, or Mark Patterson (Senator Moynihan) at 4–7800.

Sincerely,

ROBERT C. BYRD,
CARL LEVIN,
DANIEL PATRICK MOYNIHAN.

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## ADDITIONAL COSPONSOR—S. 6

Mr. INHOFE. Mr. President, I ask unanimous consent that my name be added as an original cosponsor to S. 6, the partial-birth abortion bill.

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

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## BOSTON GLOBE SERIES OF ARTICLES ON POVERTY IN WESTERN MASSACHUSETTS

Mr. KENNEDY. Mr. President, last week, the Boston Globe carried a superb series of articles on poverty in the rural towns of western Massachusetts. The series was entitled "Hidden Massachusetts" and it was written by two Globe reporters—David Armstrong and Ellen O'Brien. These two have done an excellent job portraying the impact of job loss on both individuals and communities. The towns in this area have been devastated by plant closings and layoffs. Factories and mills throughout the region have pulled out for warmer climates and cheap overseas labor. The jobs which remain are predominantly low paying. Salaries in the communities west of Worcester are dramatically lower than those in the remainder of the state. With this sense of economic hopelessness has come increased levels of crime, violence and abuse.

These articles are a poignant reminder that the rising economic tide has not lifted all boats. Similar stories could be told about impoverished communities in every one of our states. For those with limited education and outdated employment skills, the economic environment is growing increasingly hostile. The macro-economic numbers which describe a growing economy conceal a great deal of individual pain and dislocation. As a nation, we need to pay much more attention to the disturbing growth in income disparity. The working poor are becoming poorer, and the middle class are finding it tougher to maintain their living standard. We must provide these hard working men and women with the tools they need to succeed in the new economy. We must provide them with the opportunity to share in the prosperity.

I call these articles to your attention, and I ask unanimous consent that excerpts from them be printed in the RECORD, because their message is a national one. The problems faced by the people of western Massachusetts are the same problems which confront us all across America. We must make the American dream a reality for more of our citizens. These stories are an important reminder that we have not yet done so.

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

[From the Boston Globe, Mar. 9, 1997]

HIDDEN MASSACHUSETTS

BEHIND THE SCENIC LANDSCAPES, ON THE BACK ROADS OF A RURAL MASSACHUSETTS, IS A WORLD OF POVERTY AND ABUSE, VIOLENCE AND DESPERATION

(By David Armstrong and Ellen O'Brien)

It's dim and stale in the basement lockup at district court, the sickly yellow walls

echoing the tales of a thousand petty criminals who have sat here waiting to see the judge upstairs. There are two cells, each with heavy steel bars painted black. There are no windows.

In the far cell, on the edge of a wooden bench, sits a stocky, babyfaced 11-year-old with straight brown hair that's cut short. He stares at a concrete wall where someone has scratched the words "White Power." In the corner is a shiny, metal toilet welded to the wall.

He is Chevy Van Pickup—so named because his parents thought it sounded cool. He's here for allegedly mugging a woman outside a package store in Athol, a small town near the New Hampshire border where he lives.

Chevy already is the youngest child in the custody of the State Department of Youth Services, the agency that oversees the treatment and punishment of kids in trouble.

His rap sheet would be impressive if he were an adult, never mind a child a decade shy of the legal drinking age.

Athol police first picked him up when he was 5 years old (his mother can't remember what he did). When Chevy was 7 years old, the youngest age at which someone can be charged with a crime in Massachusetts, he was arrested four times—once for attacking another student with a trumpet.

Now confirmed to a facility for young criminals in Lancaster, Chevy spends his free time making cards for his grandfather and trying to earn good behavior points so he can buy presents for his sisters. For the first time, he is learning how to read.

On the rare occasions his mother visits, Chevy repeatedly asks for hugs and tells her how much he loves her.

Head west from Boston, past the pricey suburbs, beyond the bustle of Interstate 495, and you'll find some of the loveliest landscapes in New England.

But it's a cruelly deceiving portrait.

Behind the pastoral facade live some of the poorest, most violent, most abused, and desperate young people in the state. This is the hidden Massachusetts—the tragic, ugly underside of a state renowned for prestigious universities, famous hospitals, high incomes, and educated residents.

In many towns and small cities along Route 2, where tourists crowd maple sugar stands, assaults are more widespread than in Boston or Springfield.

South of the Quabbin Reservoir, a stone's throw from antique shops and Old Sturbridge Village, there are towns with more high school dropouts, pregnant teenagers, and families on food stamps per capita than in Brockton or Lynn.

And in parts of Berkshire County, where the well-to-do spend summer nights sipping wine on the lawn at Tanglewood, the rate of child abuse is the highest in Massachusetts.

Police and city officials in Boston, 80 miles from Chevy's house in Athol, brag about a drop in juvenile crime and earn praise nationally for their efforts. It's just part of a steady diet of good news in the Boston area these days: Home sales are up, unemployment down, consumer confidence high.

But police chiefs in many small towns watch as their crime rates soar. Child protection officials may tout an overall decline in reported child abuse, but in some places out here, it's happening more and more.

People in these towns talk not of success stories, but of a lost generation growing up without hope on the backroads of Massachusetts.

"People in Boston think I am dealing with Mayberry RFD," says Southbridge Police Chief Michael Stevens. "They don't know anything. I've got big-city problems."

PASSING TIME, MAKING TROUBLE

Before he was sent off to Lancaster, Chevy often roamed the streets of downtown Athol. It wasn't that long ago that Main Street pulsed with the comings and goings of thousands of factory workers. On Thursdays, payday at the two biggest mills, stores stayed open until 9 p.m.

Today, clothing shops and theaters have given way to human service agencies. One of the remaining industries is the casket manufacturer where Chevy's father worked before he died. The buzz on the street comes not from shoppers, but the "benchies," teenagers who hang out on Main Street benches, doing drugs and harassing passersby.

Teenagers in towns like Athol complain they are trapped. They say there is nothing to keep them busy and no buses or subways to take them to malls or theaters. When they quit school or graduate, they quickly find out there are few jobs that pay more than $6 an hour.

For some, making trouble is an easy way to pass the time.

It was three teenagers from Athol who captured national headlines two years ago when they embarked on a wild spree down the Eastern Seaboard that ended with the shotgun murder of a elderly Florida man in his home.

In Greenfield, a 22-year-old mildly retarded man was slowly tortured to death in 1995 by four men he considered his friends, police say.

And last August, two teenage Sturbridge girls were brutally beaten to death with a log, allegedly by an older man who regularly offered to buy beer for young girls in town.

Many in Athol, a town of 11,588 residents, dismiss the Florida incident as an aberration, pointing out that murders are still rare and crimes committed by strangers an exception. Residents of other rural towns make the same point.

But clearly, life has changed.

Once cherished for their simple ethos of hard work, many of these former farming and industrial centers are among the most violent places in the state.

Of the 30 communities with the highest rates of assault, eight are located along scenic Route 2, from Interstate 495 to the New York border.

Some of the youngest children ordered into state custody in the past two years come from similar towns just the other side of the Quabbin Reservoir.

They include two 12-year-olds from Ware; two 13-year-olds from Warren and West Brookfield; and a 13-year-old Brookfield boy committed this June for possession of a hypodermic syringe.

Ask anybody—a teacher, a cop or a social worker—what went wrong and what can be done to fix it, and the answer is always the same: The good jobs left and until they are replaced things will probably get worse.

"The lack of an economic future for these kids is unbelievable," says Lynne Simonds, who coordinates youth programs in the Central Massachusetts town of Ware. "Look around: They see what you see. People out of work, hanging on street corners. They choose crime as a way to make a living."

[From the Boston Globe, Mar. 11, 1997]

HIDDEN MASSACHUSETTS

WITHOUT JOBS THAT PAY A LIVING WAGE, LITTLE WILL CHANGE FOR THE STRUGGLING FAMILIES OF RURAL MASSACHUSETTS

(By David Armstrong and Ellen O'Brien)

Although many poor families in Central and Western Massachusetts are on welfare, most struggle to stay off, working at low-paying jobs, creatively juggling their bills, accepting private charity when desperate.

These are their stories.

HEATH.—Bob Tanner's day begins shortly after 2 a.m. with a 22-mile drive down unforgiving mountain roads to his job sweeping floors and cleaning restrooms at McDonald's.

The trip is hard enough, but some mornings Tanner climbs into his car and finds his fuel tank empty. The gas thieves, armed with siphons, have hit three times this winter.

"It's just hard times," his wife, Donna, says matter-of-factly, grimly acknowledging that those who steal gas from struggling families are also hurting.

Bob, who recently turned 44, takes home about $180 a week, after $60 a week is deducted for health insurance. It is the only income for the couple and their two children.

The commute alone costs $50 a week in gas, and their rent is $100 a week.

"Sometimes I'm just worn out," Donna says of the constant struggle to pay bills and buy the basics, like food. "ninety percent of the people out here die from stress."

The Tanners live with Donna's mother in a home that sags under the burden of long winters and years of neglect. The only heat comes from a wood stove in the front room. The homemade stove was crafted from a 50-gallon oil drum.

Wood is the primary or only source of heat in many homes throughout the hill towns near the Vermont and New Hampshire borders. In Heath, 42 percent of the homes are heated by wood, according to the US Census. The state average is 1.5 percent. A third of the homes in Heath also lack complete plumbing, the largest percentage in the state.

Bob cuts as much wood as he can in the spring, but he usually ends up having to buy three cords each winter. In the never-ending battle for survival, it is a major expense.

Bob has applied for other jobs, at Mayhew Steel down in Shelburne Falls and at several businesses in Greenfield, but he is not optimistic about improving his situation any time soon.

"If you don't have a good job now, forget it," he says. "It's getting worse. Every company is moving."

The Tanners point to neighboring Colrain, where the largest employer in town, American Fiber & Finishing, has announced it will move to North Carolina next June. The town's second largest employer, Veratec Cotton Bleachery, is also threatening to leave unless it gets economic incentives to stay.

Neil Stetson, 49-year-old pastor of the Colrain Community Church and a native of Heath, said the scenic hill towns off Route 2 in Western Massachusetts are filled with hard-working people who lose hope with the departure of every decent-paying job.

"You can't eat the view," he says. "It's a beautiful area. I know that's what tourists see. But it's kind of a facade of beauty. Behind it, there is much pain. With every plant closing, the window of opportunity diminishes."

Isolated by geography, families like the Tanners also feel forgotten. They read about

the billions of dollars spent on the Big Dig in Boston and find it hard to believe more can't be done to help bring jobs to the western part of the state.

"Governor Weld and all of them never come this way," Bob says. "They forget the people here are helping to pay their salaries."

FAMILIAR, DESTRUCTIVE CYCLE

ATHOL John Guyer walks into his small, basement apartment carrying a pillow and sleeping bag. It's 7:30 p.m. and he is tired, sore, and reeking of chicken. He woke up before dawn, sat or slept in a cramped van with no heat for two hours, and worked all day at a farm in Connecticut before making the long return trip home. His hands and arms are a patchwork of red scratch marks left by angry birds.

The 22-year-old Guyer spends his day moving chickens in and out of cages, giving them shots to inoculate them from disease and slicing the beaks off chicks. Most of the work takes place in stifling hot barns where it is difficult to breathe in the swirl of dust and feathers. During busy times, the grueling work can stretch nonstop over several days and nights.

For this, John is paid $6 an hour.

He hates working with the chickens, but has been unable to find anything better. From time to time he quits, only to go back when he needs the money. He is deep in debt and behind on the rent and almost every other bill.

When asked about the good jobs in the area, John ticks off a few: Installing satellite dishes for as much as $110 a day or building above-ground pools during the summer at $175 a unit. These jobs are hard to get, however, and tend to be seasonal.

In the not-so-distant past, men like John could find decent paying work at one of the many factories in Athol. They were the kinds of jobs that could support a family and provide a comfortable retirement. But today, only one large factory remains—the Starrett Tool Co., which employs 1,100.

"For kids right out of school, there are low-paying jobs out there," says Tom Kussy, director of the North Quabbin Chamber of Commerce in Athol. "We have plenty of those jobs. It is a problem. We will never be the great industrial center we were before."

John is typical of a lot of struggling young men in Athol. He dropped out of high school in the ninth grade and became a father before he was 20. He and his 18-year-old wife, Sherry, were married in October. They have been together since she became pregnant in middle school with their first son, who is now 3. They have another boy 8 months old.

The danger for John, say probation officers and police in Athol, is slipping into a familiar cycle of excessive drinking and violence that often follows the frustration of working one lousy job after another or not working at all.

John has been arrested several times, mostly for minor incidents. In July, he was charged with assaulting Sherry and placed on probation.

Despite a court order to stop drinking, John hosted his own bachelor party in October. Police found him sitting with friends in the smoke-filled living room of his apartment. In a chair in the corner, Sherry fed their baby a bottle. John admitted drinking a few beers that night and was ordered into alcohol counseling sessions, which he reluctantly attends.

John recently quit the chicken job again. He is working 20 hours a week for $6.50 an hour at a Shell station in Gardner, 15 miles away.

As bad as things are now, some worry it could get worse in Athol. There are whispers about Starrett's moving south, like so many of the other factories that once made this a vibrant industrial center.

Douglas R. Starrett, the company's CEO, has heard the rumors and is the first to admit Athol would be "devastated" if his company left. Nonetheless, he offers no guarantees.

"I can't say we will never do anything, but we want to stay here," says Starrett, who is 76 and a lifelong resident. "A lot of people see a gritty mill town, but that is not what I see. It is a great place * * * made on the wood stove.

One of her children jokes about being able to make "welfare casserole" again: macaroni and cheese, a can of tuna fish and cream of mushroom soup.

Although the family is not on welfare, they subsist entirely on government benefits and the generosity of local charities.

There is $212 a month in food stamps, $1,135 a month in disability payments, $106 every other week in veterans' benefits, $325 each winter in fuel assistance, and clothes and food baskets form the Clothing Collaborative in nearby Orange. All the children receive free or reduced-priced lunches at school.

Only one member of the family has health insurance and that is provided by the publicly funded MassHealth plan.

Cindy worked for a time last year as a store clerk in nearby Winchester, N.H., at $6 an hour, but says she quit because her son was having problems at school.

The Sheffields are one of thousands of families barely surviving in the hill towns of Central and Western Massachusetts.

"People have no idea this town exists," Cindy says. "You say Warwick and they say, 'Warwick, Rhode Island?'"

Warick sits about five miles north of Route 2 between Athol and Greenfield. It is a town of fewer than 1,000 people with no industry. The only store in town recently went out of business.

The Sheffields live up a steep, dirt road in a house built by Cindy's husband, Bob, who collects disability payments for mental illness. The interior was never finished, and Cindy doubts they will ever have enough money to cover the plywood floors.

While the long country roads in Warwick recall another era, the scene inside Cindy's home is decidedly modern and chaotic.

Her oldest son, Donald, just had a baby with his 15-year-old girlfriend; all three are living in the home. There are Cindy's other children, a 10-year-old son and 12-year-old daughter, adding to the crunch are relatives from South Carolina, a family of six that has returned to Massachusetts to look for work and are staying with the Sheffields temporarily.

Every day begins early, with the children getting ready for school. The oldest are bused to Northfield, a trip that takes an hour each way.

At 10 a.m., Cindy bundles up the baby and walks her son, Ben Morin, to the elementary school nearly two miles away. Cindy recently bought a car, but has no money to register or insure it. At noon, the three of them make the return trip, either on foot or in the car of a school employee.

They walk because Ben is not allowed on the school bus and only allowed to attend a special two-hour tutoring session in a room isolated from other students. The arrangement was made after he allegedly threatened to kill his teacher earlier in the year, a charge he and his mother deny.

There is a telephone in the Sheffield home, but it can't receive incoming calls and only toll-free and collect calls are possible when dialing out.

A shiny satellite dish stands out among the abandoned cars and furniture in the front yard. Cindy bought the dish after a cable company employee told her there was a "better chance of seeing Jesus Christ" than having cable installed in her area.

"We got to get something for the kids," she says. The Sheffields couldn't keep up the payments, however, and the satellite service was shut off.

Satellite dishes sprout like weeds in the yards of many of the poorest homes in this part of the state. It's one of the things social workers count on seeing when they visit.

Ray Burke, head of the westernmost office of the state Department of Social Services, says a former social worker who left to take a similar job in North Carolina explained there was only one difference between poor families in the two states.

In rural Massachusetts, every poor family has a satellite dish, TV and piles of cut wood. In North Carolina, every poor family has a satellite dish, TV and air conditioner.

SHOULD HAVE STAYED ON WELFARE

ORANGE.—Tina Jellison works the first shift at Catamount Manufacturing in this old mill town, stuffing plastic ties into boxes as they roll down an assembly line.

At $6.83 an hour, it's a job that pays her only about $50 a month more than what she received on welfare three years ago. The paycheck is not nearly enough to pay off her debts and keep up with the rent and never-ending bills.

Tina is realistic about the chances of finding a higher paying job, so she turns to lady luck and the Massachusetts State Lottery for help. She is a self-described scratch ticket addict, looking for a big hit to turn around her life.

"I started playing lottery tickets because I was desperate to get out of the hole," she says. "I've never hit on scratch tickets and I've cut back lately."

Cutting back means spending $25 instead of $60 on payday for scratch tickets.

Tina, who lives in a second floor apartment in downtown Athol with her two sons, ages 10 and 12, is not the only one with lottery fever. In a town with one of the state's lowest median incomes, residents spent $5.1 million on instant tickets alone in 1995.

Tina is struggling to hold onto her job. Her two sons are frequently in trouble with the police and forced to skip school to attend hearings at the Orange courthouse. A single mother, she never misses a court hearing or school meeting. It also means a lot of missed workdays.

Then there is her car, an aging Chevy Citation with so many problems Tina is thankful for each day it gets her to work.

"I should have just stayed on welfare," she says.

But she plans to keep working, in part because new welfare rules will make it difficult to begin collecting again. As for those scratch tickets?

"I could get over the hump if I could just get over the scratch tickets," she says.

## NEW WELFARE LAW HURTS MENTALLY DISABLED IMMIGRANTS

Mr. KENNEDY. Mr. President, under the new welfare law, many mentally disabled legal immigrants will lose their SSI and AFDC benefits. As a result, some of these immigrants will be

unable to pay their room and board at residential treatment facilities. They may be forced to live on the street, without enough money to buy their life-saving medication.

Two cases demonstrate this problem. In the first case, Mr. X, a former officer in the South Vietnamese army, came to the US as a refugee in 1991. As a result of 12 years on the front lines of the Vietnam War, and 10 years of torture in a re-education camp, he suffers from serious mental illness. At the age of 54, he is too old to start over, learn a new language, and hold down a job.

He receives treatment at a mental health center in California, and receives SSI. If his benefits are terminated, he will no longer have enough money to pay for his treatment. He is studying to pass the naturalization exam, but his memory impairment limits his ability to study.

In the second case, a refugee from Vietnam receiving SSI has been diagnosed with schizophrenia, and relies heavily on medication. Without it, he hears voices, and cannot concentrate, follow instructions, or remember anything he learned. He receives $772 a month, of which $692 goes for room and board at a residential facility. If his SSI benefits are cut off, he will be forced to leave the facility, and will be unable to pay for his medication.

Unless Congress takes action, these stories will continue, and immigrants who need help for serious mental disabilities will be turned away from their treatment centers and residential facilities. I ask unanimous consent that two recent newspaper articles on this issue may be printed in the RECORD.

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

[From the Miami Herald]

A CATASTROPHE AWAITS

In the rhetoric of Congress, welfare reform was to push the able-bodied off the dole and into the work place. In the reality of South Florida's legal immigrants—those who have met every legal test for being here, but who now are cruelly to the rejected—it bids to push the aged, the sick, and the disabled off their balance and into the street. Or the grave.

What awaits is a human tragedy. It is unwise, unfair, and manifestly un-American. It will be felt in South Florida as in few places in this, the nation made great by immigrants.

Maria Cristina Rodriguez is 76 and a social worker at the Little Havana Activities and Nutrition Center. She now runs six support groups for anxious seniors. She can't forget the 79-year-old woman who—as talk of benefits cuts rolled radio waves last year—jumped to her death from her subsidized apartment. "Here I finish," said her suicide note, "before they finish me."

Now the final countdown has started, and this kind of panic is spreading. One day recently, 500 distressed seniors waited for the local office of U.S. Rep. Ileana Ros-Lehtinen, R-Miami, to open. There they sought succor. But little was to be had. Congress had spoken.

Social-service agencies already are feeling the rising tide of dread and demand. At the Little Havana Center, two 80-year-old women walked in with a written suicide pact. With no family to turn to, and facing loss of their Supplemental Security Income—their sole means of living—they thought it best to kill themselves. Heed that, Congress.

Would that this panic were overblown. It is not. Thanks to last year's welfare-reform law, legal immigrants who are destitute, sick, or aged will lose their federal assistance beginning in August. Florida expects 115,000 immigrants to lose life-sustaining benefits, principally food stamps and SSI.

The numbers in Dade are particularly frightening. Here, if nothing is done, 80,000 legal immigrants—nearly twice the number of Dade's U.S.-citizen "welfare moms" who'll lose benefits in the next two years—will lose there life-line support. That 80,000 includes more than 40,000 who get SSI—the cash aid for the most poor, aged, and disabled.

The new welfare law did make some exceptions. Immigrants who worked in the United States 10 years, were veterans of the nation's armed forces, or who were admitted as refugees or granted asylum may remain eligible for aid. For most legal immigrants, though only citizenship offers a safety net.

What the welfare law did not provide was any assistance for those immigrants too old and infirm to document their work history or other eligibility criteria. Not did it provide for those already in the naturalization process. Nor did it allow for those who, because of mental disability, are not legally competent to take the citizenship oath. In this saddest of categories, at least 5,000 immigrants will lose benefits in Dade and Broward, says the Alliance for Aging, which administers federal funds to 30 local agencies.

U.S.-citizen Floridians transitioning from welfare to work are getting two years and job training before their aid is cut. In that light, the transition time offered legal immigrants—a scant one year—its pathetic. It comes at a time when the Miami Immigration and Naturalization Service office has 90,000 cases to process, and becoming a citizen can easily take 10 to 13 months. So even if the INS adds 70 new employees to process applications—a plan announced this week—some legal immigrants could lose months of vital benefits before becoming citizens and having their eligibility restored.

Picture Dade (and to a lesser extent Broward) after August. Elderly legal immigrants evicted and homeless. Anxiety-provoked deaths and disease. Overwhelmed families and social-services agencies. For the economy, the loss of $200 to $300 million annually. It is a book of tragedy waiting to be written not in chapters, but in paragraphs—each representing a single, undeserved, preventable human tragedy.

Many Floridians express concern, but few so far have taken meaningful action. Some legislators have been searching for solutions in Tallahassee and Washington. Governor Chiles has been pressing for federal fixes as well. Area agencies are cooperating in trying to think the unthinkable. Catholic Charities of the Archdiocese of Miami, for one, has been trying to raise funds for a massive naturalization and immigrant-assistance drive.

Yet, altogether, inexplicably, with five months to go, south Florida remains woefully undermobilized. (By comparison, Los Angeles County, Calif, organized 200 agencies and started a massive naturalization drive last October.)

Unless superhuman efforts begin now, there won't be enough time to avert the human carnage.

[From the Salt Lake Tribune, Jan. 27, 1997]

AFTER DECADES, UNCLE SAM TELLS ELDERLY NONCITIZENS WE WON'T HELP YOU ANYMORE: UNCLE SAM ROLLING UP WELCOME MAT

(By Patty Henetz)

Federal lawmakers meant to be absolutely clear when they ordered the end of public assistance to legal immigrants in the Personal Responsibility and Work Opportunity Act of 1996.

Just look at the bill's name. If questions remain, its backers will spell it out: Come to America. But never forget you are a guest and must pull your own weight.

Rose Boyer assumed that responsibility when she emigrated here from Lebanon 76 years ago. But the 92-year-old widow, who has been in nursing homes for the past 30 years, can't speak for herself because she has no idea what is going on around here.

Which may be just as well, since the letter she received from the state the first week of December would have been incomprehensible even if she did not suffer from dementia.

The letter said her medical-assistance case would be closed as of Dec. 31, 1996. Under new federal regulations, she is not qualified to receive Medicaid benefits. The $2,700 her nursing home received each month for her care would cease. Incredibly, the government appeared to be telling her it was time she quit shirking her responsibilities.

At the same time, state Humane Services Director Robin Arnold-Williams alerted Gov. Mike Leavitt that Boyer was likely to lose her aid, as could several others. The governor vowed to protect her—at least until August. "He isn't going to kick people out on the street because there was a line in the regulation that said we had to," says Leavitt spokeswoman Vicki Varela.

So now, no legal immigrants will lose their Medicaid protections. And if Leavitt, state humane services officials, the immigrants' families and friends have their way, no one will—even though on its face the federal law would have done it otherwise.

Rose Boyer's husband was naturalized in 1939 and died in 1946. She reared nine children, all U.S. citizens. She has outlived one of them. Her youngest living child, Sandy resident Louis Boyer, is 59. Her oldest son is retired and ill; another lives on his Social Security payment of $500 per month. The other three sons have diabetes. One has lost two legs, another has lost one leg, and all three were blinded by their disease. One daughter is a retired maid who can't walk much anymore; the other daughter, a 61-year-old clerical worker who wants to retire, also has difficulty walking.

Louis Boyer helps out the five siblings who live in Utah.

"I try to do what I can," he says. "I could pay for her keep, but then I would be in trouble. Our family has a lot of problems, but so far our mother is the only one on welfare. It was a big shock to me when they said they were going to kick her out."

Kris Mosley, Murray Care Center's social worker, was beyond shock. "I was furious," she says. "I was screaming mad. Who would want to discharge this little lady who can't walk, can't talk, who can barely feed herself?"

It may be difficult for affected families to take much comfort in this, but Utah is getting off easy. The federal welfare cuts are hammering more populous states, particularly those on the coasts.

Nationwide, 250,000 elderly immigrants are expected to lose their food-stamp allotments. About 500,000 legal noncitizens, the

vast majority of them elderly, will lose their Supplemental Security Income benefits. SSI is paid to qualified people with severe disabilities. In California alone, about 390,000 of the 2.7 million on Aid to Families with Dependent Children are legal noncitizens.

Utah officials are optimistic that few residents here will be hurt by the new restrictions because the state can decide whether to continue some benefits. Leaders are working to avoid harming noncitizens who are in the country legally, especially the most vulnerable elders on Medicaid.

Last fall, the Utah departments of Health and Human Services surveyed the rolls of legal noncitizens receiving Medicaid and found that as many as 250 could be in jeopardy. They examined ways to keep from cutting benefits and reduced that list to 10 names. Further culling left only three people ineligible for Medicaid, says Michael Diely, director of the state Health Department's division of health-care financing. Two are in nursing homes, one is at the state training center.

Legal noncitizens who receive food stamps will lose that benefit April 1, and the state is not allowed to do anything to continue it. Some 1,900 Utah legal noncitizens receiving SSI are now under review; because SSI eligibility requirements have become increasingly strict under the reforms, hundreds stand to lose their disability pay.

The Utah Legislature this session will consider a bill, the Family Employment Program Bill, sponsored by Rep. Lloyd Frandsen, R-South Jordan, that could provide noncitizen legal residents with cash payments. And Leavitt has been asked to take part in related negotiations with federal leaders during the National Governors Association meeting next month.

"The whole issue of having a handful of people that we need to take care of and the possibility of more down the road demonstrates the need for more flexibility from the federal government," Varela says.

Many of the people affected by the reforms are noncitizens who have not bothered to become naturalized. They are known as PRUCOLS, or people residing in the country under color of law. The Immigration and Naturalization Service knows and has known they are here, but has made no move to deport them. This group includes those who came to the country on temporary or student visas and never left. They work here, have families and pay taxes, have stayed beyond their legal limit but have not been deemed illegal. Many of them are old, and now, most of them are scared.

Lorena Riffo, who heads the state Office of Hispanic Affairs, says she is working with the federal Immigration and Naturalization Service to assist the many older legal noncitizens who have applied for citizenship since the federal reforms were enacted. It may be possible, she says, to allow people older than 65 to take the citizenship exam in their native languages and in senior centers instead of INS offices, which could quell anxieties.

These measures won't help people who are incapable of becoming citizens, such as Rose Boyer and Lia Andrienko.

Andrienko's husband was one of the millions killed during the Stalinist purges in the old Soviet Union. After her husband was killed in 1938, she was ordered to leave Kiev or risk death for having married an enemy of the state. Her daughter was 1 year old. For most of her life, Mila Andrienko, now Popova, kept her father's history a fearful secret.

In 1989, when it was possible, Mila and her husband, Oleg, left Ukraine for the United States. Mila, who had been a physician, now works as a medical assistant. Oleg, formerly a civil engineer, delivers newspapers. In 1991, they sent for Lia, who was 82 and without other family. She became ill with dementia soon afterward. She would not sleep at night; her daughter and son-in-law, who worked all day, stayed awake while Lia roamed the house sobbing and tearing her clothes. "For three years, I did not sleep," says Popova. "She did awful things at night. I do not know why I didn't give her pills."

Finally, the Popova asked the state for help. Andrienko went on Medicaid and moved into the Murray Care Center, where Rose Boyer also lives. And like Rose Boyer, Andrienko got a letter in December telling her—though she could not understand—that her time on American medical assistance had run out.

"When I received this letter, I cried," says Popova. "What will I do? I cannot leave my job to care for her. And Kris (Mosley) said 'We will fight. We will fight.'¿¿"

Social worker Mosley has been fighting since the letters came. The promise Leavitt made to protect the three legal noncitizens who otherwise would lose their Medicaid is good until August. Mosley is on an ad hoc committee trying to figure out how to extend the protection. "One answer is to go through the deportment process, with an attorney," she says. A judge could find it absurd to send Rose Boyer back to Lebanon more than seven decades after she left and issue a 'suspension of deportation,' which would allow her to stay on Medicaid. Lia Andrienko could apply for political asylum, but probably wouldn't get it, leaving the Popovas to pay for care they simply cannot afford.

"Their answer is not a pretty one," Mosley says. "Under all the guidelines, no matter what piece of paperwork I fill out, I cannot change their alien status."

Naturally, Louis Boyer is worried. "My mother needs 24-hour care. I wouldn't be able to take care of her," he says. "I don't know why she never became a citizen. She went to school here, but never finished her education because she was barefoot and pregnant for so many years. She must have figured that with her husband and her children all citizens, it was no big deal. She entered the country legally, but she never had a green card. She has a Social Security card, given to her in 1972."

Popova doesn't know what is going to happen with her mother. She certainly can't go back to Ukraine. For now, Popova consoles herself with her sense of gratitude and good luck at being in the United States.

"Every time I am in the nursing home, I say, 'Bless America. Bless these people.'¿¿" she says. "I am happy because my family is happy here. I am an American."

## SPONSORSHIP STUDY SHOWS DEVASTATING EFFECTS OF IMMIGRATION LAW

Mr. KENNEDY. Mr. President, a soon-to-be-released study commissioned by the Immigration and Naturalization Service shows that the immigration law Congress passed last year will have a devastating impact on family reunification—especially for working families.

Members of Congress may think they voted last year to put aside proposals to reduce legal immigration. But in fact, as this new study shows, last year's bill may have accomplished back door cuts that could not have been achieved through the front door. The onerous new sponsorship requirements are likely to cause a one-third reduction in the number of immigrants entering the United States to join close family members here.

The new law requires immigrants and US citizens seeking to bring immigrant relatives to the US to meet strict income requirements. Anyone sponsoring an immigrant relative for admission to the US must earn at least 125% of the poverty level. For a family of four, 125% of the poverty level is more than $20,000 per year.

The INS study examined sponsorship patterns under the old law, and found that 29% of family sponsors had incomes below 125% of poverty. That means 3 out of every 10 families who came here in recent years probably could not have been reunited with family members under the new 125% rule. In addition, 52% of immigrants who sponsored their spouses did not meet the 125% income threshold. In other words, over half of all immigrants who brought in husbands or wives—the closest of all family members—would be disqualified if they tried to bring them in today.

In addition, according to the study, 29% of American citizens who sponsored their spouses earn below the 125% level. That's 3 out of every 10 American citizen sponsors who could not be reunited with their spouses under the new law.

The new requirement hurts both working American families and legal immigrants. As a result, large numbers of them cannot reunite with their loved ones. The new threshold means that the average construction workers with two children could not sponsor their immigrant spouse.

We are talking about hard-working Americans and legal immigrants—people who have played by the rules. I doubt that anyone in this Congress wants to deny American citizens the opportunity to bring their spouse to America or watch their children grow up here. But, that is what the 125% requirement does. It denies hard-working Americans these opportunities because the full time job they hold doesn't pay enough.

Supporters of the new requirement claim that the income requirement is intended to keep immigrants off welfare. But in reality, after last year's sweeping welfare reforms, there is very little public assistance for which legal immigrants qualify. They are banned from receiving SSI and Food Stamps until they have worked and paid taxes for 10 years—or until they become citizens. They are banned from Medicaid and other needs-based programs for their first five years in the United

States, after which they receive assistance only if their sponsors are unable to provide for them. So even if their sponsors have only modest incomes, the immigrants they sponsor are ineligible for public aid.

I supported measure to make sponsors more responsible for the care of the immigrants they bring in. But these requirements should not be so burdensome that they prevent American citizens from having their wives or husbands or children join them in the United States.

We expect sponsors to be responsible—far more responsible than we expect ordinary Americans to be. We expect sponsors to do it all—pursue the American dream, hold a good job, and under the new law, hold a better job than almost a third of American citizens. The 125% requirement contained in the new immigration law puts family reunification out of reach for many hard-working Americans and the majority of legal immigrants.

In addition, the study found that the 125% requirement disproportionately affects minority communities. Half of the immigrants coming from Mexico and El Salvador had sponsors who earned less than 125% of the poverty level. The same was true for a third of immigrants coming from Korea and the Dominican Republic, and a fourth of immigrants coming from China and Jamaica. So, future immigrants from these countries will have unfair difficulty reuniting with their families in the United States.

Supporters of the 125% requirement often point out that the new law allows low income sponsors to overcome the 125% hurdle by lining up backup sponsors. What they fail to say, however, is that low-income, working class sponsors usually have low-income, working class friends. As a result, it is extremely difficult to find back up sponsors with income sufficient to meet the 125% requirement.

In addition, because the new law makes sponsorship agreements legally binding contracts, non-family members are unlikely to agree to sponsorship. Friends and family know that if they agree to sponsor an immigrant, they can be sued by the federal, state, or local government if the immigrant needs public assistance. If the immigrant they sponsor is injured on the job and needs medical care, the back-up sponsor may have to pay thousands of dollars in medical bills. Many families are not willing to ask their friends and other relatives to shoulder such a heavy burden.

I hope that all of us in this Congress who are concerned about families in the immigration laws will work together to revise these harsh provisions. There is no justification for this blatant kind of bias in the immigration laws, and Congress has an obligation to end it.

I ask unanimous consent that a recent article from the New York Times on this new study be printed at this point in the RECORD.

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

[From the New York Times, Mar. 16, 1997]

IMMIGRANT STUDY FINDS MANY BELOW NEW INCOME LIMIT

(By Celia W. Dugger)

A new Federal analysis has found that an immigration law adopted last fall will make it much more difficult for poor and working-class immigrants to bring family members to the United States legally, especially Mexicans and Salvadorans, whose incomes are generally lower than those of other immigrant groups.

But Congressional sponsors of the legislation say their intent was not to impose unfair burdens on immigrant families but simply to prevent them from becoming dependent on public aid.

The law requires immigrants seeking to bring relatives here to meet income requirements and to make legally enforceable promises to support the newcomers.

Advocates for immigrants say these restrictions are a backdoor way to slash legal immigration in a year when Republicans in Congress failed to reduce immigration levels directly. They say it will needlessly divide hard-working husbands and wives from each other and their children.

The law, which is to go into effect later this year after regulations are finalized, requires immigrants sponsoring family members for admission to the United States to make at least 125 percent of the poverty level, or $19,500 for a family of four.

Under the old law, there was no income test for sponsors, just a requirement that incoming immigrants show they would not need public aid. In deciding whether to issue visas, consular officers at United States embassies overseas could consider whether prospective immigrants had jobs waiting, marketable skills, enough savings to support themselves or a sponsor.

Preliminary research, sponsored by the United States Immigration and Naturalization Service and based on a random survey of 2,160 statements signed by sponsors of family immigrants in 1994, found that about 3 in 10 of those sponsors had incomes below the new standard.

Another study conducted last year by the Urban Institute, a nonprofit research group in Washington, reached similar conclusions. Its examination of 1993 Census Bureau income data found that 40 percent of immigrant families in the United States and 26 percent of Americans born in the United States would not make enough to sponsor an immigrant under the new standard.

Federal immigration officials refused to discuss their new research, which had not yet been released, or to say whether the preliminary findings had changed. But several people familiar with the research—three who opposed the new law and two who favored it—described the findings on condition that their names not be used.

Based on the survey of statements signed by sponsors, immigration officials estimated that roughly half of the Mexicans and Salvadorans, one-third of the Dominicans and Koreans, one-fourth of the Chinese and Jamaicans and one-fifth of the Filipinos, Indians and Vietnamese would not have met the new income requirements.

One opponent of the new laws who spoke on condition of anonymity said the study showed that half of the legal permanent residents and about 3 in 10 of the citizens who sponsored their wives in 1994 would not have met the income standard.

The cases surveyed included both immigrants seeking to join their families here and those already in the United States, who may have entered on student visas or illegally, trying to become legal permanent residents.

In 1994, 461,725 immigrants came to the United States to join their families here, according to Federal statistics. Demographers with the New York City Planning Department estimate that about 1 in 6 of those immigrants came to the city.

But the new research comes with these cautions: the income reported on each statement was not verified, and the size of the families and the incomes they would need to meet the new standard were difficult to determine in a substantial portion of the cases.

Representative Lamar Smith, a Texas Republican who is chairman of the House Immigration Subcommittee and a sponsor of the law, said in a statement on Friday that he had been advised that the methodology of the immigration service's research was "fatally flawed."

New studies of the impact of last year's immigration law are being scrutinized because the issue of immigration is so politically charged and because legal changes so often have unanticipated consequences.

Complicating this debate is the disagreement among experts about just how much legal immigrants rely on public assistance. The Urban Institute says that 94 percent of immigrants do not receive welfare. George J. Borjas, a professor of public policy at the John F. Kennedy School of Government at Harvard University, using a broader definition of welfare benefits, says that 21 percent of all immigrant households receive some type of public assistance, compared with 14 percent of native households.

Even with the data on the income requirements, it is difficult to predict exactly what impact the new law will have on immigration levels. For one thing, people who cannot immigrate legally may come anyway.

"The perverse effect of the law will be to encourage illegal immigration," said Cecilia Munoz, a deputy vice president of the National Council of La Raza, a nonprofit Hispanic civil rights organization. "The ties between families are probably stronger than our laws."

All immigrants seeking to join their families will need a sponsor when the law takes effect; the old law did not require a sponsor for those who convinced officials that they could support themselves. About one-quarter of the immigrants who joined their families in 1994 had no sponsor, according to the new research, and it is not possible to determine how they would have fared under the new law.

In addition, under the new law, sponsors who do not meet the new income standards will be allowed to recruit a friend or other relative who does earn enough to sign a statement in their stead, promising to support the new immigrant if necessary.

That may enable more people to bring in relatives, although another provision of the law is already discouraging some close family members, not to mention friends, from signing such legally binding statements, immigration lawyers say.

In the past, such promises have generally been found unenforceable in the courts, but the new law specifically empowers Federal,

state and local governments to sue sponsors of immigrants who wind up on public assistance. It also allows immigrants to sue their sponsors for support. The sponsor is responsible until the immigrant becomes a citizen or has been working and paying taxes for 10 years.

Ana C. Zigal, an immigration lawyer in Baltimore, said she represents a young college student married to an illegal Mexican immigrant who installs air-conditioners for a living. The student, who works as a sales clerk in a department store, does not make enough to sponsor her husband and her father is "very scared" about signing a statement promising to support his son-in-law if necessary, Mr. Zigal said.

"What if that kid has a car accident that leaves him a paraplegic?" Ms. Zigal said. "The father is weighing his daughter's happiness against these future unknowns."

The new requirements continue to stir debate about the purpose of immigration to the United States. Groups that favor more restrictive policies, like the Federation for American Immigration Reform, contend the law will help keep out those who cannot support themselves.

"We don't need to import a poverty class into this country," John L. Martin, special projects director at the federation, said.

But advocates for immigrants say the new law runs counter to America's commitment to encouraging immigrants to reconstruct their close families here.

"The new law will mean that literally thousands of U.S. citizens and lawful permanent residents won't be able to reunite with their spouses, children and other family members," said Jeanne A. Butterfield, executive director of the American Immigration Lawyers Association.

## IN RECOGNITION OF PAUL HOSHIKO

Mr. ALLARD. Mr. President, I rise today to pay tribute to a fine American, a great father and a good friend, Paul Hoshiko of Eaton, Colorado. Paul recently passed away, but left behind him a legacy of accomplishment and achievement that deserves to be recognized by all Americans.

To many, Paul Hoshiko was known as a leader in the agricultural arena. To others he was known for his civic involvement and his donation of time and money for various charities. I knew him not only in those regards, but also as a moral man who put his family first; who had a deep and abiding faith in his God; and one who was an unabashed patriot. But in all regards and to all who knew him, Paul Hoshiko, was admired and respected.

He served on numerous boards and committees throughout his life which showed his standing in the community. One of the most prestigious positions he held was his appointment by the U.S. Secretary of Agriculture to the Colorado State Agricultural Stabilization and Conservation Committee. Some other organizations he was involved with were the Extension Advisory Committee, Colorado Seed Growers Association, Central Weld Water District, member of Kersey & Greeley area Chamber of Commerce, member of Weld County Farm Bureau, Director of Lower Latham Reservoir for over 30 years, and the hospital foundation, among others. He received countless awards from these associations which illustrate his leadership and influence.

Paul was perhaps best known around the country as the "onion king". In fact, his sole appearance on commercial television (at least so far as I know) was standing in an onion field explaining to a future U.S. Senator what it took, "to be a good onion man". He was elected to the Board of the National Onion Association and served as president for five years. During his tenure the national office was moved to Greeley, Colorado. He served on the board of directors of this association until his death.

However, perhaps most notable and dearest to his heart, Paul should be recognized for his lifelong devotion to the 4–H program. He actively participated in this organization his entire life, both as a member and as a leader. He was continuously taking strides to make 4–H an astronomical success, including but not limited to his active involvement in the International Farm Youth Exchange program, the National Western Stock Show, an annual State 4–H golf tournament, and a 4–H lighted softball field. He made a tremendous impact on those lives he touched while partaking in the 4–H program. His devotion is reflected in the faces of those youth who had the opportunity to work with him in these projects.

In summary, Mr. President, as you can see by my remarks, Paul was a born leader. He gave to his family, community, church and region unselfishly. He was the kind of man who only comes along every so often . . . and his life deserves to be recognized.

## THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, March 19, 1997, the federal debt stood at $5,367,674,335,377.56.

One year ago, March 19, 1996, the federal debt stood at $5,058,839,000,000.

Five years ago, March 19, 1992, the federal debt stood at $3,862,284,000,000.

Ten years ago, March 19, 1987, the federal debt stood at $2,243,959,000,000.

Fifteen years ago, March 19, 1982, the federal debt stood at $1,050,933,000,000 which reflects a debt increase of more than $4 trillion ($4,318,164,231,511.65) during the past 15 years.

## TRIBUTE TO THE LATE EDWIN CRAIG WALL, JR.

Mr. THURMOND. Mr. President, in any state, there are certain individuals who make their mark in one or more fields, and in the process, they not only earn personal success, but they also make significant contributions to the place they call "home". I rise today to pay tribute to one such man, Edwin Craig Wall, Jr., who was a successful businessman and civic booster, who recently passed away after being struck by a heart attack.

During his adult life, Mr. Wall distinguished himself as a leader of business and industry in the Grand Strand area of South Carolina. This region is one of the fastest growing parts of the Palmetto State and represents a well developed and diversified economy that includes manufacturing, tourism, and shipping concerns. Tens of thousands of South Carolinians are employed in good paying, secure jobs, and the revenues that are contributed to our State's coffers from this area are certainly significant. Without question, Mr. Wall helped to create this very impressive picture of economic health that typifies the Grand Strand and Pee Dee.

Though Mr. Wall entered the businessworld with a tremendous advantage, his father had built a very successful company called Canal Industries, he chose not to rest on the accomplishments of his namesake. Trained at the business schools of Davidson College and Harvard University, Mr. Wall was determined to find ways to streamline Canal and make it more efficient and profitable. From what I understand, he was more than successful in his objectives, as Canal is now a world leader in the timber industry, as well as becoming a prominent company in commercial development in the Myrtle Beach area.

Perhaps one of the hallmarks of a good business person is how much they give back to the community and state which allowed them to prosper. In the case of Mr. Wall, he was very generous in what he contributed to South Carolina and he set an excellent example for other corporate executives to follow. His expertise and insight were valued by many, and he served on countless boards, including those of Davidson College and NationsBank. He was a strong advocate of education and worked hard to ensure that the Palmetto State had a school system that would guarantee that none of our citizens lack for the skills they would require to succeed in life.

Mr. President, Craig Wall was a man who had a tremendous impact on life in South Carolina, and though he passed away at far too young an age, his star certainly shone bright. We are all grateful for the leadership and contributions he made throughout his life and career, and his wife and children have my deepest sympathies.

## NATIONAL AGRICULTURE DAY

Mr. COVERDELL. Mr. President, I would guess that many in the gallery today, and even some of my colleagues, are unaware of today's significance for

rural America. Today is National Agriculture Day and should be a time of great reflection and celebration for all Americans. It is unfortunate that many in today's society are unaware of agriculture's daily role in their lives, but the fault for this may lie with those of us in the agricultural sector who have not properly told our story. The significance of this day is held in the tremendous, yet quiet, success story American farmers have written in building this nation. Although our agricultural community is in a period of great transition, there still can be no dispute—American farmers produce the world safest, most abundant and affordable food and fibers. This did not come by accident. American farmers, with a few exceptions, have enjoyed a positive partnership with their government. Congress has long backed vital research, promotion and insurance activities for farmers. These efforts, for the most part, need to continue in order to maintain our excellence. Just coming out of the 1996 Farm Bill, we should now carefully evaluate our work to determine where our policies have been successful and where we need work. Let's not forget that agriculture is our nation's number one export product, and in my state, is the largest industry. My point is, just like a good crop, our agriculture community needs attention.

Now, what is the future of agriculture? I tend to believe that our future is in trade and technology. We are strategically positioned to compete and win on a world market. We are also leading the world in our ag research with many exciting advancements on the horizon. Where we need to concentrate is on the crafting of future Agriculture leaders for America. In my state, the Georgia Farm Bureau, the Georgia Agribusiness Council and the state Department of Agriculture and University, in coordination with others involved in agriculture, have teamed up to promote a program for future ag leaders. Program participants are selected for their leadership, integrity and effectiveness and are chosen in order to better communicate with non-ag leaders the many challenges facing agriculture today. This program was adopted six years ago and is called the Georgia Agri-Leaders Forum. The Agri-Leaders of Georgia are all standouts in various fields related to agriculture. They come from farms, banks, electrical membership cooperatives, commodity groups and other organizations with a common agricultural thread. These leaders should be commended for their contributions to agriculture and their service in what should be a mission to better educate America on just what her annual harvests mean to our national security and health. They are the best and brightest in Georgia agriculture each year, and I want to recognize them on this important day. The following are the class of the 1997 Georgia Agri-Leaders Forum:

Dr. David K. Bishop, Extension Animal Scientist (University of Georgia) Tifton, GA; Roger L. Branch, Southeastern Gin Inc., Surrency, GA; Louie Canova, Floyd County Extension Director, Rome, GA; Charles Enfinger, Pineland Plantation, Newton, GA; Clint Hood, President, Allied Bank of GA;, Louisville, GA; Sam James, Regional Marketing Manager, Gold Kist, Inc., Atlanta, GA; Debra M. Cervetti Engineer, Cornerstone Engineering, Moultrie, GA; James Colson, Regional Accounts Manager, Gold Kist Inc., Valdosta, GA; Frank Dean, Vice President, North GA; Farm Credit, ACA Daniel L. Johnson, D.L. Johnson Farms, Alma, GA; Robert F. Jones, The Kroger Company, Atlanta, GA; George Larsen II, Lone Oak Plantation, DeSoto, GA; April Lavender, Georgia Forestry Association, Norcross, GA; Mary Ellen Lawson, GA; Department of Agriculture, Atlanta, GA; Dr. Daniel V. McCracken, Dept. Of Crop and Soil Science (University of GA;), Griffin, GA; Clete Sanders, S&S Farms, Forsyth, GA; Shirley Stripling, Chula Peanuts and Grain, Chula, GA; Stephen L. Morgan, ISK Bioscience, Thomasville, GA; James R. Noble, GA; Power Company, Tifton, GA; Richard L. Oliver, Area Conservationist (USDA/NRCS), Rome, GA; Lynn D. Thornhill, Abraham Baldwin Agricultural College, Tifton, GA; Frank Wade, Jr., A.F. Wade CPA, Cochran, GA;

Mr. President, I want to again recognize and congratulate this fine class of agri-leaders for their contributions to agriculture and to their country on this National Agriculture Day.

## NORTHERN IRELAND WOMEN'S COALITION

Mr. KENNEDY. Mr. President, earlier this week, I met with Monica McWilliams of the Northern Ireland Women's Coalition. She and Pearl Sagar were the only two women participating in the Northern Ireland peace talks, so ably chaired by our former Senate colleague George Mitchell, when they began last June.

The Northern Ireland Women's Coalition is composed of Unionist and Nationalist women who have united in common cause for peace and for an end to religious discrimination in Northern Ireland. The Coalition serves as an eloquent voice of civility in an often uncivil climate. It is especially important that women's voices continue to be heard in the search for an end to the violence and a peaceful future for Northern Ireland.

Monica McWilliams talks frankly and effectively about her commitment to inclusive peace talks and an end to the violence in Northern Ireland. Speaking about the intransigence of some in the talks, she has said, "We're naming them, we're blaming them, and we're shaming them." She has called on the IRA to restore its cease-fire, and called on the British Government to admit Sinn Fein to the peace talks when the cease-fire is restored.

Monica McWilliams and her colleagues in the Coalition have shown a great deal of courage in their involvement in the political process. Ms. McWilliams recently had her car vandalized, but as she bravely stated, "That's okay, as long as there's peace."

Mr. President, the Women's Coalition offers real hope for a better future for Northern Ireland. I ask unanimous consent that a recent article about the Coalition which appeared in the Manchester Guardian in England be printed in the RECORD.

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

[From the Guardian, Feb. 17, 1997]

WOMEN ALL TOGETHER NOW—IF THE POLITICAL TALKS IN NORTHERN IRELAND COLLAPSE, WILL THE WOMEN'S COALITION SURVIVE?

(By David Sharrock)

In its corridors of power, the political brokers of Northern Ireland's future have weighty issues on their minds. Here comes Monica McWilliams of the Women's Coalition, being tackled by one of Ian Paisley's Democratic Unionists lieutenants. Constitutional reform? Bill of Rights? Cross-border bodies? Well no, actually. It's about the trouser suit she's wearing. Doesn't she realise that ladies ought to wear skirts? It's not easy being a woman politician in Ulster. All the main parties have them, but as the DUP's Iris Robinson opined just three years ago, their role has been that of the "ordinary housewife", more often in the kitchen brewing the tea than in the conference hall making policy.

Not any more. When John Major called an election for May 30 last year, a group of women got together and decided to enter the fray. But if the political talks at Stormont collapse under the weight of a renewed terrorist onslaught while everyone awaits a new Government in Westminster, will the Women's Coalition survive? It has been a rocky nine months since the Stormont talks and the Separate Forum meetings began, in many respects a baptism of fire for these women with little experience of life at the political coalface. Perhaps for that reason, the Women's Coalition seems nowhere near as depressed as the other parties by the lack of progress.

A sense of humour helps. Monica McWilliams, a senior lecturer in social policy at the University of Ulster, and Pearl Sagar, an east Belfast community worker, need thick skins to survive the bearpit that is the forum, a body boycotted by Sinn Fein and the SDLP. Ten days ago, for instance, the DUP MP Rev. William McCrea told the Forum in his best Old Testament delivery: "As long as I live, I'll have a mission, which is to teach those two women to stand behind the loyal men of Ulster." So Sagar and McWilliams burst out singing Stand By Your Man. "He was raging," McWilliams laughs, adding: "You can be shocked by the abuse you get. I had to ask the chair to call order three times. At one stage, Ian Paisley Junior started mooing." May Blood knows why they are treated like this. "It's because we're making inroads, they're threatened by us. The strange thing is, I would know the DUP quite well, living and working on the Shankill. Now outside they're one thing, but I can meet them inside the talks and it's as if I didn't even exist. I can understand where they're coming from, but you can't be thinking like that now. They've got to realise that

women have as much part to play here and I think this is what really bugs men." But it's not just the way they are treated by their political equals that irks the Women's Coalition. The media, they claim, aren't prepared to take them seriously either. Last month, Blood, McWilliams and Sagar were invited to Number Ten for talks with the prime minister. A half-hour meeting ran on for an hour and a quarter. But neither the BBC nor UTV in Northern Ireland covered the event. The Belfast Telegraph gave it 300 words.

"If it had been any of the other parties, they would have been all over them," says Kate Fearon, a 27-year-old think tank assistant director. "The problem is, we tend to get into the press only when we are being badly treated by the other parties and it's easy to reel off such stories." They are all frustrated at the lack of recognition they have received for the behind-the-scenes work going on at the talks. The confirmation of former US Senate leader George Mitchell as chairman, for example, in a marathon session running into the early hours of the morning.

The drafting of an "Order in Council" which could immediately enact the North report's proposals on regulating parades was another coup. Labour's Mo Mowlam commented: "If the Women's Coalition can produce draft legislation with such speed and with very little administrative back-up, why can't the Government?" Blood thinks a major spin-off from their party has been the promotion of women into public roles by the other parties. Brid Rodgers of the SDLP has a much higher profile now than 12 months ago, while women in Sinn Fein have always been active but rarely received the recognition they deserved. The loyalist Progressive Unionist Party even has its own women's executive.

"Iris Robinson's not saying 'I'm only a housewife' now. She regards and presents herself as a credible representative of her party. And she's good in the debates. You'll find a lot of women in the parties who may not admit it publicly but they are saying privately, thank God the coalition came into being." The greatest good women can bring to the political talks, Fearon believes, is the ability to "Untaint the concept of compromise, because we have always had to compromise. It's a dirty word to men." Compromise may be a long way down the road, but there's one thing the men in the other parties could do straight away to show they are reformable. "They've only recently been able to start calling us the Women's Coalition, before that it was always the Ladies' Coalition. They couldn't get their heads around it. The only time they use women was when they prefixed it with whingeing or whining."

## HONORING ARNOLD ARONSON ON HIS 86TH BIRTHDAY

Mr. KENNEDY. Mr. President, I am here along with a number of my colleagues to honor Arnie Aronson on his 86th birthday, which was March 11. Arnie eminently deserves his reputation as one of the greatest founders of the civil rights movement.

Throughout his long and brilliant career, he has been a leader in every stage of the struggle for equal justice for all Americans. Over half a century ago, in 1941, he headed the Bureau of Jewish employment problems, a one-person agency in Chicago that investigated discrimination against Jews. There were no fax machines, no cellular phones, no computers then, no television sets—just one person with an iron will to eradicate discrimination.

Arnie recognized that the plague of discrimination would not be overcome unless victims of different races and religions joined together. As Arnie once said, "the struggle for civil rights cannot be won by any one group acting by or for itself alone, but only through a coalition of groups that share a common commitment to equal justice and equal opportunity for every American."

At that time, Arnie also formed the Chicago Council Against Religious and Racial Discrimination, a coalition of religious, labor, ethnic, civil rights, and social welfare organizations. His organization was immensely successful in addressing the problems of discrimination.

For over 30 years, from 1945 to 1976, Arnie was program director for the National Jewish Community Relations Advisory Council, a coalition of national and local Jewish agencies. During this period, he worked on every major piece of civil rights legislation, and every major civil rights issue. In 1954, after the historic Supreme Court decision in Brown versus Board of Education, Arnie organized the Consultative Conference on Desegregation. This organization provided much-needed support to clergy members who were under fire for speaking out in favor of the decision. He coordinated the campaign that resulted in 1957 in the enactment of the first civil rights laws since reconstruction. He was also a leader in persuading Congress to enact the three great civil rights laws of the 1960's—the Public Accommodations Act of 1964, the voting Rights Act of 1965, and the Fair Housing Act of 1968. The list goes on and on.

Arnie was also a principal founder of the Leadership Conference on Civil Rights. To this day, the Leadership Conference is a powerful force for progress on civil rights precisely because of Arnie's influence and example in the 1950's. When others were seeking to divide the Nation with prejudice and bigotry, Arnie was uniting the Nation through hope and opportunity. The statement of purpose he prepared for the Leadership Conference has as much power today as it did when Arnie drafted it in 1967. The statement reads:

> We are committed to an integrated, democratic, plural society in which every individual is accorded equal rights, equal opportunities and equal justice and in which every group is accorded an equal opportunity to enter fully in the general life of the society with mutual acceptance and regard for difference.

In 1985, Arnie became president of the Leadership Conference Education Fund. Under his guidance, the Fund has focused on working with young children to root out prejudice early and instill an appreciation for the diversity that is the Nation's greatest strength.

As we all know, the battle is not over. Civil rights is still the unfinished business of America. But because of Arnie Aronson, we have made substantial progress. Arnie is powerful proof that one person can make a difference in the lives of millions of our fellow citizens. It is an honor to join in wishing Arnie a very happy belated birthday.

Mr. LEAHY. Mr. President, I come to the Senate floor to wish Arnie Aronson a happy belated 86th birthday and to commend him on his many achievements.

Arnie has been working for civil rights for over 50 years. He began at a time when help wanted ads openly specified "Gentile Only" or "Irish Need Not Apply." In the early 1940's he organized a coalition of religious, ethnic, civil rights, social welfare and labor organizations into the Chicago Council Against Religious and Racial Discrimination. By 1950 he was working with Roy Wilkins and many others to organize support for President Truman's proposed civil rights effort and engineered the combination of national organizations that created the Leadership Conference on Civil Rights.

He and the Leadership Conference were instrumental in the enactment of the first extensive Federal civil rights laws since Reconstruction, the landmark 1964 Civil Rights Act, the fundamental Voting Rights Act of 1965 and the pivotal Fair Housing Act of 1968. They have been critical to our civil rights efforts at every turn ever since.

The Statement of Purpose he drafted for the Leadership Conference says a great deal about this extraordinary man and his dedication to the rights of all: "We are committed to an integrated, democratic, plural society in which every individual is accorded equal rights, equal opportunities and equal justice and in which every group is accorded an equal opportunity to enter fully into the general life of the society with mutual acceptance and regard for difference."

Arnie went on to help organize clergy, churches and synagogues. He was a founding member of the National Urban Coalition and a charter member of Common Cause. In the last 10 years, while well in his 70's, he assumed the presidency of the Leadership Conference Education Fund and helped invigorate its educational and public service activities.

I am proud to call Arnie my friend and to take this opportunity to wish him a happy belated birthday.

Mr. JEFFORDS. Mr. President, I rise today to pay tribute to Arnold Aronson, a man that has spent his life working for a goal that is dear to my heart; an integrated, democratic, plural society in which every individual is accorded equal rights, equal opportunities and equal justice.

Mr. Aronson began his work toward achieving his goal in a time when discrimination was overt and widespread in our country. Beginning in a one-person agency founded in 1941 to combat employment discrimination against people of the Jewish faith, Mr. Aronson eventually became the Secretary of the Leadership Council on Civil Rights, an organization dedicated to insuring equal rights to all segments of society.

Under his guidance the Leadership Council was able to plan, coordinate and facilitate the passage of the 1964 Civil Rights Act, the Voting Rights Act of 1965 and the Fair Housing Act of 1968. His ability to recognize the strength of building coalitions in support of a common legislative goal was instrumental in the passage of all of these bills, and this belief helped assure that the tough decisions that had to be made did not fracture the coalition.

Since 1985, Mr. Aronson has served as the President of the Leadership Conference Education Fund. Under his supervision, the Fund has increasingly focused on programs aimed at developing positive intergroup attitudes among young children. This focus has included a 10-year partnership with the Advertising Council of America aimed at developing public service announcements dealing with diversity and prejudice. As we all know, the children of today will be growing up into the teachers, doctors and Presidents of tomorrow. Discussing this topic with the children of today, should help us achieve our goal of equal rights, equal opportunities and equal justice for all.

Mr. President, while not a household name in the battle for civil rights, Arnold Aronson deserves our recognition and high praise for his years of hard work fighting for civil rights for all. I remain hopeful that in the foreseeable future we will be able to achieve our goal of equal rights, equal opportunities and equal justice for all.

I appreciate this opportunity to pay tribute to Arnold Aronson, and I yield the floor.

Mr. LIEBERMAN. Mr. President, I rise to make a few remarks concerning Arnold Aronson. For some Americans, civil rights is a cause. For others, civil rights has been a crusade. For Arnold Aronson, civil rights has been his life.

In his quiet, effective, persistent way, Arnold Aronson fought the battles that too many Americans simply talked about. It made no difference whether the victims were Jewish workers or Protestant pastors, black adults or white children, Arnold Aronson knew that there was only one American dream and that it applied to all Americans.

Arnold Aronson has over the last half century worked with all the big names in civil rights, Americans like A. Philip Randolph and Roy Wilkins. But Arnold Aronson should not be honored for the big names for whom he worked but for the countless millions who he worked so hard to help.

Arnold Aronson once said: "The struggle for civil rights cannot be won by any one group acting by or for itself alone but only through a coalition of groups that share a common commitment to equal justice and equal opportunity for every American."

For Arnold Aronson, opportunity knew no boundaries of age, race, or religion. Opportunity was simply a principle to be lived and practiced, consistently, lovingly, and most of all, together.

From his work with the Bureau on Jewish employment in Chicago in 1941 to his presidency of the Leadership Conference Education Fund for the past decade, Arnold Aronson has turned that principle of opportunity for all into his life's mission.

Ms. MOSELEY-BRAUN. Mr. President, I rise today to honor one of the founders of our Nation's civil rights movement, Arnie Aronson on the occasion of his 86th birthday.

Mr. Aronson began his fight against discrimination in 1941. He headed the Bureau on Jewish Employment Problems in Chicago, Illinois. At that time discrimination against Jews was overt and widespread. Oftentimes help wanted ads stated "Gentile Only" need apply. Realizing that employment discrimination was a prevalent problem that affected people of all races, he organized the Chicago Council Against Religious and Racial Discrimination, a coalition of religious, labor, ethnic, civil rights, and social welfare agencies. As Council Secretary, Mr. Aronson directed the campaign that led to the first Municipal Fair Employment Practices Commission in the Nation.

He went on to form a statewide coalition, the Illinois Fair Employment Council which initiated the Illinois campaign for fair employment practices legislation. Due to his experience in the area of employment discrimination he served as a consultant to other states that sought similar legislation.

From 1945 until 1976, Mr. Aronson served as the Program Director for the National Jewish Community Relations Advisory Council, a coalition of national and Jewish agencies. He helped develop policies and programs for Jewish agency involvement on issues of civil rights, civil liberties, immigration reform, church/state separation, Soviet Jewish emigration, and support for Israel.

In 1949, Mr. Aronson served as Secretary of the National Emergency Civil Rights Mobilization. This group was formed to lobby in support of President Truman's proposed civil rights program. The Mobilization consisted of approximately 5,000 delegates from 32 states representing 58 national organizations. At the time, it was described as the "greatest mass lobby in point of numbers and geographical distribution" that ever came to Washington.

In 1950, Mr. Aronson helped found the Leadership Conference on Civil Rights, one of the nation's leading civil rights organizations. He served as Secretary of the Conference from 1950 to 1980. In addition to being responsible for the overall administration of the Conference, he helped plan and coordinate the campaign that resulted in the enactment of the first civil rights laws since Reconstruction, the 1964 Civil Rights Act, the Voting Rights Act of 1965, and the Fair Housing Act of 1968. During Mr. Aronson's tenure with the Conference, he helped contribute to some of the Conference's most productive years.

I could go on, Mr. President, for there is no shortage of achievements, but I think that these few examples are sufficient to illustrate what an extraordinary contribution Arnie Aronson has made to the civil rights of our Nation. It is no exaggeration to say that millions of men and women of all races—who may never know Arnie Aronson—have benefited directly from his dedication and personal sacrifice on behalf of civil and human rights. He has made a positive and constructive difference for our Nation. I am pleased to wish him a belated happy 86th birthday.

Mr. WELLSTONE. Mr. President, it is time for attention to be given to Arnold Aronson. Few students in this country, when studying Civics in their high schools and elementary schools, learn of the name Aronson. When they read about the 1964 Civil Rights Act, the Voting Rights Act of 1965, the Fair Housing Act of 1968, the Civil Rights Restoration Act of 1988, and the Americans with Disability Act—each in their own right a high water mark for our Nation—they hear names like King, Kennedy, and Johnson—but not Aronson.

This is a lamentable omission for two reasons. First of all, none of these landmark pieces of legislation would ever have happened if it hadn't been for him. Second, school children across the Nation should be taught about the vital role non-elected individuals have played in our society, and the indispensable role of grass roots efforts and coalition building—two pillars of our political structure exemplified by Arnie Aronson. Mr. President, this nation should understand that our landmark civil rights laws were born in our Nation's communities, not in the minds of our Presidents. The truth is that the leadership came from the bottom, so to speak; not the top. The initiative required for these fundamental shifts in our society were born in the hearts of thousands of individual citizens, each of whom reached out to their respective communities, and were strung together delicately and persistently by a

few motivated and foresighted leaders like Arnie Aronson.

The reality is that Arnie has no one to blame but himself for his lack of notoriety. Arnie, as his friends and colleagues all know, shuns publicity with the same energy that some employ in its pursuit. But had Arnie been a self-promoter, then he never could have satisfied the complex interpersonal agendas necessary to organize so many disparate views, so many different goals, so many challenging attitudes. Arnie weaved together practically every major civil rights organization in the country into the grandparent of all coalitions, and perhaps still one of the most successful coalitions this century, the Leadership Conference on Civil Rights. Some of the organizations that eventually found a voice under his umbrella were in their infancy at the time and now are household names; others had such distinct agendas that it is nothing short of miraculous that they were willing to lend their names to any unified cause. But Arnie is a master consensus builder, and he accomplished more than most people could imagine, by advancing the interests of others rather than himself, by the practically unknown arts of self-sacrifice and behind-the-scenes hard work.

By doing what he does, Arnie sets an example for us all. He has shown us what this Nation is capable of accomplishing, if it has the right goal in mind, and the will to reach that goal. He is an inspiration, because of his tolerance, his eagerness to hear out views that others might find offensive, his patience to find new, non-threatening ways of expressing strong opinions, and his ability to harness and channel tremendous energy in productive directions. There are millions of Americans enjoying lives and jobs and suffering far less discrimination than their parents endured, thanks to Arnie.

Mr. President, Arnie Aronson should be anything but a secret in this nation. He is a role model for us all.

## PUBLIC CALL FOR CHILDREN'S HEALTH COVERAGE

Mr. DASCHLE. Mr. President, last week, over one-half dozen groups representing millions of Americans spread out across Capitol Hill to lobby for legislation that would guarantee every child health insurance. Their message was simple: it is wrong that America, alone among industrialized nations, doesn't assure health protection for its children.

We in Congress should heed their call and work together to erase this ignoble distinction.

Bolstering their message was the release last week of the Children's Defense Fund's 1997 edition of the "State of the Children Yearbook." The picture that report paints of the state of children's health care is bleak.

Every 48 seconds a child is born without insurance. One in every 7 children is uninsured for the entire year. Nearly 1 in every 3 is uninsured for at least one month during any year. Nine out of every 10 uninsured children is from a family where at least one parent works.

In announcing the results of this report, Marian Wright Edelman, CDF's President, succinctly sums up the situation. "Lack of health insurance is a problem we can solve right now and make a huge difference in many child lives. The issue is whether we care enough to build the political will to do it."

The effects of children not having insurance are well known to us all: Children without health coverage get less cost-effective preventive care, less basic care and more costly acute care when their illness is too advanced to ignore. Further, uninsured children are more likely to suffer preventable disease and have trouble learning.

How can we reverse these trends? Proposals to address this problem are well known to all of us and simply stated through the following principles. First, make health coverage available to every uninsured child through age 18 and every uninsured pregnant woman. Second, make coverage genuinely affordable to all families. Third, give children access to coverage that provides for the full range of health care that children need. Finally, build on—do not replace—the current employer-based system, Medicaid and public-private initiatives in the States.

Advocates of guaranteeing all children health insurance are telling us to act bipartisanly. And there is ample precedent for bipartisan action on behalf of children's health. Almost every health reform bill, Democratic and Republican alike, introduced in the 103d Congress provided assistance to low-income Americans to purchase private health coverage—most had special assistance for the cost of children's coverage.

In other words, we have agreed in the past that children who fall through the cracks deserve proper health coverage.

Children don't vote; they do not sit on corporate boards; and they cannot argue their case on the Senate floor. But we have a vote. We can take it upon ourselves to improve the lives of our children and their families by making our nation's children our top priority.

The public has taken note. Now is the time to answer their call. Our children deserve no less.

## MESSAGES FROM THE HOUSE

At 11:54 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1. An act to amend the Fair Labor Standards Act of 1938 to provide compensatory time for employees in the private sector.

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At 7:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 1122. An act to amend title 18, United States Code, to ban partial-birth abortions.

## MEASURE REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 1. An act to amend the Fair Labor Standards Act of 1938 to provide compensatory time for employees in the private sector; to the Committee on Labor and Human Resources.

## MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 1122. An act to amend title 18, United States Code, to ban partial-birth abortions.

## 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–1470. A communication from the Assistant Secretary of Defense (Force Management Policy), transmitting, pursuant to law, the report relative to funding of morale, welfare, and recreation activities; to the Committee on Armed Services.

EC–1471. A communication from the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule entitled "Fisheries of the Northeastern United States" (RIN0648–XX75) received on March 19, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1472. A communication from the Inspector General of the Department of Health and Human Services, transmitting, pursuant to law, the report of Superfund financial activities at the National Institute of Environmental Health Sciences for fiscal year 1995; to the Committee on Environment and Public Works.

EC–1473. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of three rules received on March 18, 1997; to the Committee on Finance.

EC–1474. A communication from the Acting Commissioner of Social Security, transmitting, pursuant to law, a report relative to the Supplemental Security Income program; to the Committee on Finance.

EC–1475. A communication from the Acting Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Department of Justice, transmitting, pursuant to law, the rule entitled "Consolidation, Elimination, and Clarification of Various Regulations," (RIN1117–

AA33) received on March 18, 1997; to the Committee on the Judiciary.

EC–1476. A communication from the Director of the Office of Communications of the Department of Agriculture, transmitting, pursuant to law, the 1996 annual report of the Department under the Freedom of Information Act; to the Committee on the Judiciary.

EC–1477. A communication from the Director (Government Relations) of the Girl Scouts, transmitting, pursuant to law, the report of work and activities for fiscal year 1996; to the Committee on the Judiciary.

EC–1478. A communication from the Administrator of the Panama Canal Commission, transmitting, a draft of proposed legislation to authorize expenditures for fiscal year 1998 for the operation and maintenance of the Panama Canal and for other purposes; to the Committee on the Armed Services.

EC–1479. A communication from the President and Chairman of the Export-Import Bank, transmitting, a draft of proposed legislation to amend the Export-Import Bank Act; to the Committee on Banking, Housing, and Urban Affairs.

EC–1480. A communication from the Director of the Peace Corps, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC–1481. A communication from the Executive Director of the United States Arctic Research Commission, transmitting, pursuant to law, the report under the Inspector General and Federal Managers' Financial Integrity Acts for fiscal year 1996; to the Committee on Governmental Affairs.

EC–1482. A communication from the Director of the Office of the Institute of Museum Services, transmitting, pursuant to law, the report on internal control and financial systems for fiscal year 1996; to the Committee on Governmental Affairs.

EC–1483. A communication from the Chairman of the U.S. Merit Systems Protection Board, transmitting, pursuant to law, the annual report for fiscal year 1996; to the Committee on Governmental Affairs.

EC–1484. A communication from the Public Health Service, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, a rule entitled "Elimination of Establishment License Application" received on March 19, 1997; to the Committee on Labor and Human Resources.

EC–1485. A communication from the Acting Secretary of Labor, transmitting, pursuant to law, the evaluation report on the Youth Fair Chance program; to the Committee on Labor and Human Resources.

EC–1486. A communication from the Assistant Secretary of the Interior for Land and Minerals Management, transmitting, pursuant to law, a rule entitled "Oil Spill Response Requirements" (RIN1010–AB81) received on March 18, 1997; to the Committee on Energy and Natural Resources.

EC–1487. A communication from the Chair of the Federal Energy Regulatory Commission, transmitting, pursuant to law, a rule entitled "Standards For Business Practices" received on March 19, 1997; to the Committee on Energy and Natural Resources.

EC–1488. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, the report entitled "Performance Profiles of Major Energy Producers 1995"; to the Committee on Energy and Natural Resources.

EC–1489. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation entitled "The National Economic Crossroads Transportation Efficiency Act of 1997"; to the Committee on Finance.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Affairs:

Special Report entitled "Legislative Activities Report of the Committee on Foreign Relations of the United States Senate During the One Hundred Fourth Congress" (Rept. No. 105–8).

By Mr. WARNER, from the Committee on Rules and Administration:

Report to accompany the resolution (S. Res. 54) authorizing biennial expenditures by committee of the Senate (Rept. No. 105–9).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Report to accompany the bill (S. 104) to amend the Nuclear Waste Public Act of 1982 (Rept. No. 105–10).

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 270: A bill to grant the consent of Congress to the Texas Low-Level Radioactive Waste Disposal Compact.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works:

Judith M. Espinosa, of New Mexico, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term of four years.

D. Michael Rappoport, of Arizona, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term expiring October 6, 2002.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

## 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 Ms. COLLINS (for herself, Ms. SNOWE, Mr. HATCH, and Mr. COCHRAN):

S. 482. A bill to amend the Internal Revenue Code of 1986 to partially exclude from the gross estate of a decedent the value of a family-owned business, and for other purposes; to the Committee on Finance.

By Mr. ROBB (for himself and Ms. MIKULSKI):

S. 483. A bill to fully fund the construction of the Woodrow Wilson Memorial Bridge; to the Committee on Environment and Public Works.

By Mr. DEWINE (for himself, Mr. KENNEDY, and Mr. BOND):

S. 484. A bill to amend the Public Health Service Act to provide for the establishment of a pediatric research initiative; to the Committee on Labor and Human Resources.

By Mr. MCCONNELL (for himself, Mr. CRAIG, Mr. KEMPTHORNE, Mr. GRASSLEY, Mr. COCHRAN, Mr. ROBERTS, and Mr. BOND):

S. 485. A bill to amend the Competitive, Special, and Facilities Research Grant Act to provide increased emphasis on competitive grants to promote agricultural research projects regarding precision agriculture and to provide for the dissemination of the results of the research projects, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BROWNBACK (for himself, Mr. GRASSLEY, Mr. HAGEL, and Mr. JOHNSON):

S. 486. A bill to amend the Omnibus Trade and Competitiveness Act of 1988 to clarify the limitation for accession to the GATT and the WTO of foreign countries that have state trading enterprises; to the Committee on Finance.

By Ms. MIKULSKI (for herself, Ms. MOSELEY-BRAUN, Mr. INOUYE, and Mrs. BOXER):

S. 487. A bill to amend the Public Health Service Act with respect to employment opportunities in the Departement of Health and Human Services for women who are scientists, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KYL:

S. 488. A bill to control crime, and for other purposes; to the Committee on the Judiciary.

By Mr. KYL (for himself and Mr. REID):

S. 489. A bill to improve the criminal law relating to fraud against consumers; to the Committee on the Judiciary.

By Mr. AKAKA:

S. 490. A bill to amend the Internal Revenue Code of 1986 to adjust for inflation the dollar limitations on the dependent care credit; to the Committee on Finance.

By Mr. FORD:

S. 491. A bill to amend the National Wildlife Refuge System Administration Act of 1966 to prohibit the United States Fish and Wildlife Service from acquiring land to establish a refuge of the National Wildlife Refuge System unless at least 50 percent of the owners of the land in the proposed refuge favor the acquisition; to the Committee on Environment and Public Works.

By Mr. SARBANES:

S. 492. A bill to amend certain provisions of title 5, United States Code, in order to ensure equality between Federal firefighters and other employees in the civil service and other public sector firefighters, and for other purposes; to the Committee on Governmental Affairs.

By Mr. KYL (for himself and Mr. GORTON):

S. 493. A bill to amend section 1029 of title 18, United States Code, with respect to cellular telephone cloning paraphernalia; to the Committee on the Judiciary.

By Mr. KYL (for himself, Mr. ABRAHAM, and Mr. REID):

S. 494. A bill to combat the overutilization of prison health care services and control rising prisoner health care costs; to the Committee on the Judiciary.

By Mr. KYL (for himself, Mr. LOTT, Mr. NICKLES, Mr. MACK, Mr. COVERDELL, Mr. HELMS, Mr. SHELBY, and Mrs. HUTCHISON):

S. 495. A bill to provide criminal and civil penalties for the unlawful acquisition, transfer, or use of any chemical weapon or biological weapon, and to reduce the threat of acts of terrorism or armed aggression involving the use of any such weapon against the United States, its citizens, or Armed Forces, or those of any allied country, and for other purposes; to the Committee on the Judiciary.

By Mr. CHAFEE (for himself, Mr. GRAHAM, and Mr. JEFFORDS):

S. 496. A bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence; to the Committee on Finance.

By Mr. COVERDELL (for himself and Mr. FAIRCLOTH):

S. 497. A bill to amend the National Labor Relations Act and the Railway Labor Act to repeal the provisions of the Acts that require employees to pay union dues or fees as a condition of employment; to the Committee on Labor and Human Resources.

By Mr. CHAFEE (for himself and Mr. MOYNIHAN):

S. 498. A bill to amend the Internal Revenue Code of 1986 to allow an employee to elect to receive taxable cash compensation in lieu of nontaxable parking benefits, and for other purposes; to the Committee on Finance.

By Mr. CHAFEE (for himself, Mr. BAUCUS, and Mr. GREGG):

S. 499. A bill to amend the Internal Revenue Code of 1986 to provide an election to exclude from the gross estate of a decedent the value of certain land subject to a qualified conservation easement, and to make technical changes to alternative valuation rules; to the Committee on Finance.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 500. A bill to authorize emergency appropriations for cleanup and repair of damages to facilities of Yosemite National Park and other California national parks caused by heavy rains and flooding in Decemeber 1996 and January 1997, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MACK (for himself, Mr. SHELBY, Mr. COCHRAN, Mr. D'AMATO, and Mr. HAGEL):

S. 501. A bill to amend the Internal Revenue Code of 1986 to provide all taxpayers with a 50 percent deduction for capital gains, to increase the exclusion for gain on qualified small business stock, to index the basis of certain capital assets, to allow the capital loss deduction for losses on the sale or exchange of an individual's principal residence, and for other purposes; to the Committee on Finance.

By Mr. GRASSLEY:

S. 502. A bill to amend title XIX of the Social Security Act to provide post-eligibility treatment of certain payments received under a Department of Veterans Affairs pension or compensation program; to the Committee on Finance.

By Mr. NICKLES:

S. 503. A bill to prevent the transmission of the human immunodeficiency virus (commonly known as HIV), and for other purposes; to the Committee on Labor and Human Resources.

By Mrs. FEINSTEIN (for herself, Mrs. BOXER, and Ms. SNOWE):

S. 504. A bill to amend title 18, United States Code, to prohibit the sale of personal information about children without their parent's consent, and for other purposes; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. LEAHY, Mr. D'AMATO, Mr. THOMPSON, Mr. ABRAHAM, and Mrs. FEINSTEIN):

S. 505. A bill to amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for other purposes; to the Committee on the Judiciary.

By Mr. HATCH:

S. 506. A bill to clarify certain copyright provisions, and for other purposes; to the Committee on the Judiciary.

S. 507. A bill to establish the United States Patent and Trademark Organization as a Government corporation, to amend the provisions of title 35, United States Code, relating to procedures for patent applications, commercial use of patents, reexamination reform, and for other purposes; to the Committee on the Judiciary.

By Mrs. FEINSTEIN:

S. 508. A bill to provide for the relief of Mai Hoa "Jasmin" Salehi; to the Committee on the Judiciary.

By Mr. BURNS:

S. 509. A bill to provide for the return of certain program and activity funds rejected by States to the Treasury to reduce the Federal deficit, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, as modified by the order of April 11, 1986, with instructions that if one Committee reports, the other Committee has thirty days to report or be discharged.

By Mr. MOYNIHAN:

S. 510. A bill to authorize the Architect of the Capitol to develop and implement a plan to improve the Capitol grounds through the elimination and modification of space allocated for parking; to the Committee on Rules and Administration.

By Mr. CHAFEE (for himself, Mr. ROCKEFELLER, Mr. JEFFORDS, Mr. DEWINE, Mr. DODD, Ms. MOSELEY-BRAUN, Mr. KERRY, Mr. KERREY, and Mr. KENNEDY):

S. 511. A bill to require that the health and safety of a child be considered in any foster care or adoption placement, to eliminate barriers to the termination of parental rights in appropriate cases, to promote the adoption of children with special needs, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. DODD, Mr. ROBB, Ms. MOSELEY-BRAUN, Mr. LAUTENBERG, Mr. KERRY, Ms. SNOWE, Mrs. MURRAY, Mr. FEINGOLD, Mr. HARKIN, Mr. CHAFEE, Mr. JEFFORDS, Mr. AKAKA, Mr. BINGAMAN, and Mrs. FEINSTEIN):

S.J. Res. 24. A joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. MACK (for himself and Mr. GRAHAM):

S. Res. 66. A resolution commending the University of Florida football team for winning the 1996 Division I Collegiate Football National Championship; considered and agreed to.

By Mr. CRAIG (for himself and Mr. REID):

S. Res. 67. A resolution to authorize the printing of the History Manuscript of the Republican and Democratic Policy Committees in Commemoration of their 50th Anniversaries; considered and agreed to.

By Mr. SPECTER (for himself, Mr. AKAKA, and Mr. SMITH of New Hampshire):

S. Res. 68. A resolution designating April 9, 1997, and April 9, 1998, as "National Former Prisoner of War Recognition Day"; considered and agreed to.

By Mr. LOTT:

S. Con. Res. 14. A concurrent resolution providing for a conditional adjournment or recess of the Senate and the House of Representatives; considered and agreed to.

By Mr. TORRICELLI:

S. Con. Res. 15. A concurrent resolution expressing the sense of Congress that the United States support the accession of Taiwan to the World Trade Organization; to the Committee on Finance.

By Mr. DOMENICI:

S. Con. Res. 16. A concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 1998, 1999, 2000, 2001, and 2002; to the Committee on the Budget.

S. Con. Res. 17. A concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 1998, 1999, 2000, 2001, and 2002; to the Committee on the Budget.

By Mr. LAUTENBERG (for himself and Mr. D'AMATO):

S. Con. Res. 18. A concurrent resolution recognizing March 25, 1997, as the anniversary of the Proclamation of Belarusan independence, and calling on the Government of Belarus to respect fundamental freedoms and human rights; to the Committee on Foreign Relations.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. COLLINS (for herself, Ms. SNOWE, Mr. HATCH, and Mr. COCHRAN):

S. 482. A bill to amend the Internal Revenue Code of 1986 to partially exclude from the gross estate of a decedent the value of a family-owned business, and for other purposes; to the Committee on Finance.

THE FAMILY BUSINESS AND FAMILY FARM PROTECTION ACT OF 1997

Ms. COLLINS. Mr. President, today I am proud to be introducing the Family

Business and Family Farm Preservation Act of 1997, which will provide urgently needed estate tax relief to our Nation's family-owned businesses and farms. It is no accident that this is my first bill as a Member of the U.S. Senate, for I fervently believe that small, family enterprises hold the key to our economic growth and prosperity and that Government policies must promote and not undermine their continued existence.

Simply put, the extremely high estate tax rates make it very difficult for many families to pass their businesses on to the next generation—the very opposite of what Government policy should be. After allowing for what is essentially a $600,000 exemption, an amount which has not been increased in a decade, the marginal rates that effectively apply for estate tax purposes range from 37 to 55 percent, higher than any other generally applicable Federal tax rates. Adding insult to injury, some of what we leave to our children has already been subject to income taxation, and the combined effect of income and estate taxes can be a tax bite as high as 73 percent.

It should come as no surprise that when a family business or farm is left to the sons and daughters of the owner, the estate often lacks the cash to pay the tax. A 1995 Gallup survey found that one-third of the owners of family businesses expect that some or all of the company will have to be sold to satisfy estate tax liabilities. That this actually comes about is reflected in the experience of the inheritors of such businesses, 37 percent of whom reported that they had to shrink or restructure the enterprises solely to meet estate tax obligations.

Mr. President, behind these statistics are the stories of hard-working Americans whose life's work is dismantled by a confiscatory tax. One of those stories was recently told to me by Judy Vallee of Cumberland, ME. In 1933, her father opened a restaurant in Portland and worked hard over time to expand the business into a chain of 25 restaurants along the east coast. When the father died in 1977, the family was left with a staggering estate tax bill of about $1 million. Lacking the cash to pay the tax, they had to take on partners outside the family, totally restructure the company, and arrange to pay the tax in installments. Unfortunately, even these measures were not enough, and they ultimately had to liquidate the business at fire-sale prices.

Ironically, Judy Vallee now finds herself in the very same situation, but this time as a business owner and not a potential heir. When the original business was liquidated, she managed to purchase one of the restaurants in her own name, which she has now developed into a prosperous enterprise. Eager to leave the restaurant to her son and desperate to ensure that history does not repeat itself, she has spent a small fortune on life insurance to enable her son to enjoy the fruits of her own hard work.

Mr. President, jobs are the primary worry of Maine people, and often overlooked in this debate is the negative effect of the estate tax on employment. Let me give you an example. A potato bag manufacturer in northern Maine, the area I'm originally from, has told me that he would be able to expand his operation and hire more people were it not for the money he has to spend on estate planning and life insurance. In another instance, the owner of a Maine trucking company made the painful decision to sell the business to a large, out-of-state corporation rather than leaving it to his children and forcing them to assume a large debt to pay the estate tax. Not only was he compelled to abandon what he and his father before him had spent their lives building, but making matters worse, the new corporate owner moved the administrative operations out of State, costing Maine 50 good jobs.

Maine's experience is common throughout our Nation. The Gallup survey found that 60 percent of business owners reported that they would add to their work forces were it not for the estate tax. Two studies mentioned in a Wall Street Journal editorial last month quantified the job losses caused by this levy—one put it at 150,000 and the other at 228,000. In a word, the harm is widespread.

My bill would give relief to small businesses. It would raise the amount effectively excluded from the tax from $600,000 to $1,000,000, which probably does little more than compensate for inflation during the past decade. While $600,000 understandably seems like a considerable sum, the fact is that many small businesses require investment in complex or heavy equipment which easily exceeds that threshold. Referring to a machine essential to his business, the owner of a Maine sawmill recently asked me, "What are my sons supposed to do? Sell the debarker to pay the tax?" There is no justification for this legal Catch 22, under which the second- or third-generation business owner can only pay the tax by selling assets essential to running the business.

My legislation would also lower the effective tax rate for the next $1.5 million from 55 to 27.5 percent and would increase from 10 to 20 years the time during which family businesses could pay the tax on an installment basis.

These measures are not designed to provide relief to large enterprises. Rather, the beneficiaries, Mr. President, will be enterprising Americans, many of whom risk their life savings and work at their factories, mills, offices, and farms 7 days a week to build a small business, with the reasonable expectation that their Government will let them pass it along to their children.

Prior to becoming a Member of the Senate, I ran Husson College's Family Business Center in Bangor, ME. I would share with you two lessons I learned from that experience. First, those family business owners who understand the estate tax cannot comprehend why the Federal Government imposes a tax that undermines the very type of activity it says it wishes to encourage. Second, many small business owners do not take the extreme measures required to prepare for the estate tax, often with devastating and totally unexpected consequences for their families.

Why do I call these measures extreme? In the Gallup survey, the respondents estimated spending an average of more than $33,000 over 6½ years on lawyers, accountants, and financial experts to help plan and prepare for the estate tax. The cost is not only monetary, for the average number of hours spent in the planning process was 167.

As currently designed, the estate tax represents bad public policy. In my State, it is the 30,000 small businesses, many of them family owned, which provide most of the new employment opportunities, and it is these businesses which will account for two-thirds of the new jobs in the future. By discouraging the development and expansion of family enterprises, the estate tax stands as the enemy of job creation and economic growth.

Mr. President, it is time for our actions to match our rhetoric. If we believe in promoting family businesses, as we say we do, and if we believe in promoting family farms, as we say we do, we must change a tax policy which takes the family out of the family business and family farm. Mine is not a call for Government assistance or for special treatment. Mine is a call to reform an unfair, destructive, and confiscatory tax.

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By Mr. ROBB (for himself and Ms. MIKULSKI):

S. 483. A bill to fully fund the construction of the Woodrow Wilson Memorial Bridge; to the Committee on Environment and Public Works.

THE WOODROW WILSON MEMORIAL BRIDGE FULL FUNDING ACT

• Mr. ROBB. Mr. President, I introduce legislation that responds to an urgent situation facing the Capital region—the crumbling Woodrow Wilson Bridge. I am pleased to be joined in this effort by my distinguished colleague from the other side of the Potomac, Senator MIKULSKI. The bridge is already a major bottleneck for travelers on Interstate 95, and in 7 years the current bridge will probably need to be closed as unsafe for travel.

It is with this knowledge that Congress created the Woodrow Wilson Memorial Bridge Authority in 1995 to hasten the selection, design, and replacement of the old bridge. The replacement bridge has now been selected, and

construction will begin in late 1998 or 1999.

Last Thursday, the Washington Post joined the chorus calling for action to fund the bridge, and I ask unanimous consent that a copy of the Post editorial, "Fixing a Dangerous Bridge," be included in the RECORD. The Post points out that the Clinton administration's $400 million funding proposal is wholly inadequate, that it wouldn't buy three lanes at yesteryear prices. I wholeheartedly agree.

So today my distinguished colleague, Senator MIKULSKI and I are introducing the Woodrow Wilson Bridge Full Funding Act to ensure the bridge is completed quickly and funded without tolls. Our legislation authorizes full Federal funding for building the new bridge.

This proposal is forward-looking. Today, area roads are already terribly congested. Only Los Angeles has more traffic. And over the next few decades, traffic congestion is expected to increase by 70 percent. The Woodrow Wilson Bridge is a bottleneck today because it is old and narrow. Ten years from now we'll still have a bottleneck if, because of inadequate Federal funding, we're forced to put toll booths on the bridge. We need full funding now to keep tomorrow's traffic moving.

Full funding for the bridge is also important for the environment—this metropolitan area has been classified by the EPA as a nonattainment area because of its poor air quality. Traffic congestion contributes significantly to this pollution. For that reason, I've supported mass transit initiatives like commuter rail service and the Metro system, higher fuel economy standards, alternative-fuel vehicles, and transportation alternatives such as telecommuting. These initiatives, while important, are only part of the solution. We also need to keep traffic moving to reduce the amount of time vehicles stand idling and adding to the smog problem in this region. Full funding for the Woodrow Wilson Bridge replacement will not solve the congestion problems in northern Virginia, but it will help.

Finally, my proposal is also reasonable. The Woodrow Wilson Bridge is part of the interstate highway system. Comparable interstate projects, including the nearby Baltimore's Fort McHenry Tunnel have received 90 percent Federal funding, despite the fact the projects are owned by the individual States. The bridge, on the other hand, is wholly owned by the Federal Government. Moreover, as a recent opinion piece in Car & Travel put it, the bridge is "a major gateway to our Nation's Capital." It's time for the Federal Government to pay its share.

Mr. President, I ask unanimous consent that the text of my legislation be printed in the RECORD.

There being no objection, the bill was ordered tc be printed in the RECORD, as follows:

S. 483

*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 "Woodrow Wilson Memorial Bridge Full Funding Act".

**SEC. 2. FINDINGS.**

Congress finds that—

(1) traffic congestion imposes serious economic burdens on the metropolitan Washington, D.C., area, costing each commuter an estimated $1,000 per year;

(2) the volume of traffic in the metropolitan Washington, D.C., area is expected to increase by more than 70 percent between 1990 and 2020;

(3) the deterioration of the Woodrow Wilson Memorial Bridge and the growing population of the metropolitan Washington, D.C., area contribute significantly to traffic congestion;

(4) the Bridge serves as a vital link in the Interstate System and in the Northeast corridor;

(5) identifying alternative methods for maintaining this vital link of the Interstate System is critical to addressing the traffic congestion of the area;

(6) the Bridge is—

(A) the only drawbridge in the metropolitan Washington, D.C., area on the Interstate System;

(B) the only segment of the Capital Beltway with only 6 lanes; and

(C) the only segment of the Capital Beltway with a remaining expected life of less than 10 years;

(7) the Bridge is the only part of the Interstate System owned by the Federal Government;

(8)(A) the Bridge was constructed by the Federal Government;

(B) prior to the date of enactment of this Act, the Federal Government has contributed 100 percent of the cost of building and rehabilitating the Bridge; and

(C) the Federal Government has a continuing responsibility to fund future costs associated with the upgrading of the Interstate Route 95 crossing, including the rehabilitation and reconstruction of the Bridge; and

(9) the Federal Government should provide full funding for construction of the replacement Bridge.

**SEC. 3. FULL FUNDING OF BRIDGE.**

(a) INTERCHANGES.—Section 404(5)(F) of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (Public Law 104–59; 109 Stat. 629) is amended by inserting "interchange," after "roadway,".

(b) FUNDING.—Section 104(i) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking "From" and all that follows through "final engineering" and inserting "The Secretary shall obligate sums made available under paragraph (3) for final engineering and construction"; and

(2) by adding at the end the following:

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1998 through 2004 such sums as are necessary to carry out this subsection.".●

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By Mr. DEWINE (for himself, Mr. KENNEDY, and Mr. BOND):

S. 484. A bill to amend the Public Health Service Act to provide for the establishment of a pediatric research initiative; to the Committee on Labor and Human Resources.

THE PEDIATRICS RESEARCH INITIATIVE ACT OF 1997

Mr. DEWINE. Mr. President, I introduce legislation that will increase our Nation's investment in pediatric research.

THE PROBLEM

Children under the age of 21 represent 30 percent of the population—and yet, the NIH devotes only somewhere between 5 and 14 percent of its budget to their needs.

Just as there has been a recognition in recent years that women and minorities have been neglected in research efforts nationwide, there's a growing consensus that children deserve more attention than they are getting.

THE SOLUTION

The bill I am introducing today would help us begin to remedy this lack of research into children's health. This legislation would create a Pediatric Research Initiative within the Office of the Director of NIH to encourage, coordinate, support, develop, and recognize pediatric research. The bill would authorize $75 million over the next 3 years for this initiative. Last year, we received a $5 million downpayment in the appropriations process, and we look forward to working with the appropriators to continue on the path toward the necessary level of funding.

This is a crucial investment in our country's future—and one that will produce a great return. If we focus on making our children healthy, we'll set the stage for a healthy citizenry 60 to 70 years into the future.

This initiative will also promote greater coordination in children's health research. Today, there are some 20 Institutes and Centers and Offices within NIH that do something in the way of pediatrics. In my view, we need to bring some level of coordination and focus on these efforts.

In developing this initiative, I have made sure that it gives the Director of NIH as much discretion as possible. The money has to be spent on outside research, so that the dollars flow out to the private sector—but it can go toward basic research or clinical research, at the discretion of the Director.

This bill does not create a new Office, Center, or Institute. It proposes spending for research, not infrastructure.

This initiative has the support of the pediatric research community in children's hospitals and university pediatric departments all over the country. It has been endorsed by the National Association of Children's Hospitals, the American Academy of Pediatrics, the Association of Medical School Pediatric Department Chairmen, the American Pediatric Society, Children's Hospitals and University Medical Centers,

the Juvenile Diabetes Association, Advocates for Children With Special Conditions, Pediatric Academy Societies, Association of Ohio Children's Hospitals, Children's Hospital Affiliates of the Missouri Hospital Association, Children's Hospital Association of Texas, Federation of Children's With Special Health Care Needs, and Family Voices.

Mr. BOND. Mr. President, I rise today in strong support of Senator DEWINE's effort to establish a pediatric research initiative within the Office of the Director at the National Institutes of Health [NIH].

To achieve real progress in improving the health of our Nation's most vulnerable and valuable resource—our children—we must strengthen public investments in pediatric research; enhance Federal coordination among the NIH Institutes to ensure quality multidisciplinary research in areas of scientific progress; develop new incentives for investment in pediatric clinical trials; support new ways to treat children with special conditions; and develop information to promote safer and more effective use of prescription drugs for children.

The opportunity for scientific progress in combating and preventing illnesses and diseases affecting children has never been greater. To assist the NIH in strengthening its pediatric research efforts, I, along with other members of the Labor, HHS, and Education Appropriations Subcommittee, successfully secured $5 million for the NIH Office of the Director to begin this new pediatric research initiative last year.

Senator DEWINE's legislation builds upon that down payment, and I look forward to working with other Members of the Senate in ensuring passage of this effort.

Although health care spending for children is only a fraction of total health care spending, we must not turn our backs on the health care needs of our children. Pediatric research offers potential savings in health care costs as well as substantial benefits to the well-being of children for a lifetime. Moreover, pediatric research contributes to new insights and discoveries in preventing and treating illnesses and diseases among our country's adult population.

Let me close by saying that this bill complements legislation I introduced last week which will provide surveillance, research, and services aimed at the prevention of birth defects, the No. 1 killer of babies. We currently know the causes of about 30 percent of all birth defects. With the enactment of a pediatric research initiative and the Birth Defects Prevention Act of 1997, we will shed new light on the causes of birth defects as well as numerous other diseases, illnesses, and other health factors afflicting our Nation's children.

By Mr. MCCONNELL (for himself, Mr. CRAIG, Mr. KEMPTHORNE, Mr. GRASSLEY, Mr. COCHRAN, Mr. ROBERTS and Mr. BOND):

S. 485. A bill to amend the Competitive, Special, and Facilities Research Grant Act to provide increased emphasis on competitive grants to promote agricultural research projects regarding precision agriculture and to provide for the dissemination of the results of the research projects, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE PRECISION AGRICULTURE RESEARCH, EDUCATION, AND INFORMATION DISSEMINATION ACT OF 1997

• Mr. MCCONNELL. Mr. President, today several colleagues and I are introducing the Precision Agriculture Research, Education, and Information Dissemination Act of 1997.

Earlier this month the Senate Committee on Agriculture, Nutrition, and Forestry began a series of hearings on reforming and reauthorizing agricultural research programs. It is our desire that as we move through this process this legislation will become part of the research reauthorization that is signed into law.

This legislation emphasizes research on precision agriculture technologies. These technologies are very exciting and will enable the United States to maintain and augment our competitive edge in global agricultural markets. The legislation amends the Competitive, Special and Facilities Research Grant Act of 1965 by modifying the National Research Initiative [NRI] to give the Secretary of Agriculture authority to provide research, extension, and education competitive grants and programs that emphasize precision agriculture technologies and management practices.

This legislation represents a compromise between various interests. The bill is supported by The Fertilizer Institute, National Center for Resources Innovations, Experiment Station and Extension Service Directors, Lockheed Martin, and a consortium of other high technology companies.

An identical bill H.R. 725 was introduced by Congressman LEWIS and Congressman CRAPO on February 12, 1997.

Precision agriculture technologies are rapidly advancing, and it is crucial that the agricultural research community invest in this field of research so that all farmers will be able to benefit. This bill will not only increase the investment in precision agriculture, but it will also emphasize an educational process that will assist all farmers in adopting precision agriculture technologies and applications.

Emerging technologies in production agriculture are changing and improving the way farmers produce food and fiber in this country. New technologies such as global positioning satellites field mapping, geo-reference information systems, grid soil sampling, variable rate seeding and input applications, portable electronic pest scouting, on-the-go yield monitoring, and computerized field history and record keeping are just a few of the next generation technological tools in use today.

Today, these technologies can map these variables and data instantaneously as an applicator or combine drives across the field. In short, each farm field using precision technology becomes a research pilot. And in the down months or winter season a farmer can collect the data from the previous growing season and adjust dozens of important agronomic variables to maximize the efficient use of all the farmers inputs: time, fuel, commercial inputs, seed rate, irrigation—the list goes on and on.

These precision farming tools are already proving to help farmers increase field productivity, improve input efficiency, protect the environment, maximize farm profitability, and create computerized field histories that may help increase land values. Collectively, these and other emerging technologies are being used in an integrated, site-specific systems approach called "Precision Agriculture." Progressive and production minded farmers are already using these technologies. In a decade they may be as commonplace on the farm as air-conditioned tractor cabs and power steering.

Precision farming seems to offer great promise for improving production performance. Inherently, it sounds very appealing to be able to evaluate production conditions on an individual square foot, yard, or acre basis rather than that of a whole field. It would seem that we should be able to treat any situation more appropriately the smaller the plot we are considering. There have been great strides in predicting productivity on the basis of smaller and smaller units on the ground than we have ever realistically envisioned in the past, measuring yields as we harvest, being able to collect soil samples on a very small pilot basis and prescribe corrective measures on the go. All of these things are possible. They are being done on an experimental basis in many locations. Some producers have adopted the new technology and are using it.

Precision farming is, in its simplest form, a management system for crop production that uses site-specific data to maximize yields and more efficiently use inputs. The technology is quickly gaining acceptance and use by producers, farm suppliers, crop consultants, and custom applicators.

Precision farming links the data-management abilities of computers with sophisticated farm equipment that can vary applications rates and monitor yields throughout a field.

Mr. President, the capabilities of precision agriculture technologies are rapidly increasing. The economic and environmental benefits of these technologies have not been fully realized. Increasing the use of these technologies and development of complementary new technologies will benefit American agriculture, the U.S. economy and both domestic and global environmental concerns. In Kentucky this type of research can help producers increase their yield while protecting environmental concerns such as water quality. I believe these new high-technology tools can make agriculture better by boosting production, environmental quality and profits.●

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By Mr. BROWNBACK (for himself, Mr. GRASSLEY, Mr. HAGEL and Mr. JOHNSON):

S. 486. A bill to amend the Omnibus Trade and Competitiveness Act of 1988 to clarify the limitation for accession to the GATT and the WTO of foreign countries that have state trading enterprises; to the Committee on Finance.

THE FAIRNESS IN STATE TRADING ACT OF 1997

Mr. BROWNBACK. Mr. President, I rise today to introduce the Fairness in State Trading Act of 1997. This bill, which is cosponsored by Senators GRASSLEY, HAGEL, and JOHNSON, is a bipartisan approach to addressing the problem faced by U.S. exporters in countries in which state trading enterprises [STE's] dominate the economy.

The Fairness in State Trading Act would subject the import activities of STE's to the jurisdiction of section 1106 of the 1988 Omnibus Trade and Competitiveness Act of 1988, (19 U.S.C. 2905). If this bill passes, the President would have to determine whether the import activities of the state trading enterprises of an applicant to the WTO impede, or are likely to impede, U.S. exports to that country. If the President makes such a determination, the WTO Agreement cannot apply between the United States and that nation until the latter agrees that its STE's will make decisions based exclusively on commercial considerations.

The Brownback bill is designed to ensure that the WTO accession protocol agreements of such countries as China, Russia, and the Ukraine include a provision in which these countries specifically agree that their STE's will make purchasing decisions based solely on commercial considerations. This provision is important because these WTO applicants have indicated that they intend to continue to purchase commodities such as wheat, corn, rice, vegetable oils, and sugar exclusively or almost exclusively through STE's.

Without a strong commitment from these countries to depoliticize their import practices, the United States would only have recourse to GATT article XVII for questionable activities undertaken by China's STE's. In 1995, the GAO determined that article XVII is an ineffective mechanism for policing the activities of STE's, and that the state trading activities of China, Russia, and the Ukraine present problems that article XVII is not capable of addressing.

Weak enforcement of STE activities would enable the STE's of new WTO members to continue to employ a politicized procurement process. Why should the United States be more concerned about the state trading activities of new members of the WTO rather than the activities of current members? Because the state trading activities of current WTO members pale in comparison to the state trading activities of nations such as China, Russia, and the Ukraine.

Import decisions must be made on purely commercial considerations. GATT article XVII is not capable of effectively policing the state trading activities of countries accustomed to a command-and-control economic model. Before we apply the WTO Agreement between the United States and these countries, we must ensure that they agree to depoliticize their import practices.

Kansas, Iowa, Nebraska, South Dakota, and States across the Nation grow the best crops in the world. Exports of these and other U.S. commodities have skyrocketed as tariff and nontariff barriers to these goods have been reduced worldwide. We cannot allow state trading activities to supplant tariff and other nontariff measures as the new barriers to U.S. exports. Let's make sure that U.S. goods can compete on a level playing field in the markets of new members of the WTO before we lock in reductions in our barriers to goods from these countries. Please print statement and bill in the RECORD.

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

S. 486

*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 "Fairness in State Trading Act".

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) State trading enterprises play a significant role in the economies of several countries that have applied to the World Trade Organization (referred to in this Act as the "WTO").

(2) The General Agreement on Tariffs and Trade (referred to in this Act as the "GATT"), and especially GATT Article XVII, does not adequately prevent countries from using state trading enterprises as a disguised barrier to imports from the United States.

(3) The United States economy will be adversely affected by the accession to the WTO of foreign countries that have state trading enterprises that make production or procurement decisions based upon noncommercial considerations.

(4) State trading enterprises have a particularly negative impact on United States farmers.

**SEC. 3. ACCESSION OF COUNTRIES WITH STATE TRADING ENTERPRISES TO GENERAL AGREEMENT ON TARIFFS AND TRADE OR WORLD TRADE ORGANIZATION.**

Section 1106 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2905) is amended—

(1) by striking "major foreign country" each place it appears and inserting "foreign country";

(2) in subsection (a), by amending paragraph (1) to read as follows:

"(1) whether state trading enterprises produce or procure a significant share of—

"(A) the goods exported from such foreign country;

"(B) the goods imported into such foreign country; or

"(C) the goods produced domestically in such foreign country; and"; and

(3) in subsection (b)(2)(A)—

(A) by amending clause (i) to read as follows:

"(i) will make purchases and sales in international trade based solely oh commercial considerations (including price, quality, availability, marketability, and transportation), and"; and

(B) in clause (ii), by striking ", in accordance with customary practice,".

Mr. HAGEL. Mr. President, I rise today as an original cosponsor of the legislation introduced by my distinguished colleague from Kansas, Senator BROWNBACK. This bill is an important step toward opening foreign markets to American products—especially our agricultural products.

Several countries have State Trading Enterprises that control all imports of certain products. These trading enterprises create a bottleneck in trade—a bottleneck controlled by the Government, not by free enterprise. The result is that foreign politics end up controlling trade decisions, and American exporters get hurt.

This bill would require the United States to oppose membership in the World Trade Organization for any country that has a State Trading Enterprise that refuses to buy our products for reasons other than market conditions. Its purpose is simple: It gives America leverage against countries that shut out our exporters for political reasons.

This is important for all of America's exporters, who benefit from having a level playing field. It is especially important for American farmers. This bill will give our negotiators an important new tool to use as they oppose the unjustified actions of State trading enterprises around the world. It will help us get American dairy products into New Zealand and American wheat into Canada.

But its most important effect will be in regard to China. China is an enormous and growing market. As China emerges economically, we must do all we can to bring China into the world trading system as a full partner. If we want our exporters to do business in

China's emerging market, we need to ensure that China plays by all the rules of trade that govern the rest of the world.

The discussions about China's accession to the World Trade Organization are ongoing. I strongly believe China must accept all obligations that WTO membership entails. That includes letting the market, not the politicians, control its trading decisions. China must dismantle its remaining State Trading Enterprises—especially the enterprise that controls the import of wheat into the country.

American farmers—especially our wheat producers—need full and free access to China's market. This bill gives our trade negotiators a small but important tool to help ensure that will happen.

I urge my colleagues to support it.

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By Ms. MIKULSKI (for herself, Ms. MOSELEY-BRAUN, Mr. INOUYE and Mrs. BOXER):

S. 487. A bill to amend the Public Health Service Act with respect to employment opportunities in the Department of Health and Human Services for women who are scientists, and for other purposes; to the Committee on Labor and Human Resources.

THE HHS WOMEN SCIENTIST EMPLOYMENT OPPORTUNITY ACT

• Ms. MIKULSKI. Mr. President, I introduce the HHS Women Scientist Employment Opportunity Act. What this bill does is quite simple. It will require all agencies within the Department of Health and Human Services to establish policies to ensure employment opportunities for women scientists within the Department. It will ensure a fair break for the many dedicated women scientists serving at the National Institutes of Health, the Center for Disease Control and Prevention, the Food and Drug Administration, and other agencies or offices in the Department. Policies are to be reviewed regularly and revised if necessary.

This bill is about the promoting equality. It is about supporting and advancing the careers of women scientists. It is about our Government leading the way in setting an example for both academia and industry on career policies for women scientists.

In 1992, it came to my attention that women scientists at the National Institutes of Health were not being treated fairly. Women scientists at NIH indicated that they were not being given research and conference assignments that would help advance their careers. They were not being adequately recognized for their accomplishments. Publication opportunities were limited. Questions were raised about tenure and comparability of pay with male colleagues.

Legislation was introduced in the 103d and 104th Congresses to address these concerns. I am encouraged that NIH voluntarily adopted some of the provisions outlined in these bills. But, this is only a start. We must continue to address the equity issues and policies impacting career advancement of our best and brightest women scientists. These issues deserve our utmost attention. That is why this bill is so important. It will ensure that the policies are in place to promote career opportunities for women scientists. And, it will ensure that policies are reviewed regularly, that progress is monitored and that policies are revised if necessary.

What I like about this bill is that it addresses a problem in our own backyard. It says we in the Federal Government have a problem, and we are going to fix it. It ensures that our women scientists working at HHS are treated fairly. It serves as a model for the private sector by setting the stage for equity among our career scientists. It shows that we are very serious about equity and fair play in the scientific community. I encourage my colleagues to join me in supporting the HHS Women Scientist Employment Opportunity Act.•

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By Mr. KYL:

S. 488. A bill to control crime, and for other purposes; to the Committee on the Judiciary.

THE CRIME PREVENTION ACT OF 1997

Mr. KYL. Mr. President, I rise to introduce the Crime Prevention Act of 1997. One of the most important responsibilities for the 105th Congress is to pass a tough comprehensive crime measure that will restore law and order to America's streets. Reported crime may have decreased slightly over the past few years, but the streets are still too dangerous. Too many Americans are afraid to go out for fear of being robbed, assaulted, or murdered. In fact, according to the Bureau of Justice Statistics report "Highlights from 20 Years of Surveying Crime Victims," approximately 2 million people are injured a year as a result of violent crime. Of those who are injured, more than half require some level of medical treatment and nearly a quarter receive treatment in a hospital emergency room or require hospitalization.

THE CRIME CLOCK IS TICKING

The picture painted by crime statistics is frightening. According to the Uniform Crime Reports released by the Department of Justice, in 1995 there was: A violent crime every 18 seconds; a murder every 24 minutes; a forcible rape every 5 minutes; a robbery every 54 seconds; an aggravated assault every 29 seconds; a property crime every 3 seconds; a burglary every 12 seconds; and a motor vehicle theft every 21 seconds.

In short, a crime index offense occurred every 2 seconds. And this is just reported crime.

STATISTICS

Again, according to the Uniform Crime Reports in 1994, there were 1,798,785 violent crimes reported to law enforcement, a rate of 684.6 violent crimes per 100,000 inhabitants. The 1995 total was about 40 percent above that of 1985.

Additionally, in 1995 there were: 21,957 murders, a rate of 8.2 per 100,000 inhabitants; 580,545 robberies, a rate of 220.9 per 100,000 inhabitants; 2,594,995 burglaries, a rate of 987.6 per 100,000 inhabitants; 1,099,179 aggravated assaults, a rate of 418.3 per 100,000 inhabitants; and 97,464 rapes, a rate of 37.1 per 100,000 inhabitants.

Further, juvenile crime is skyrocketing. According to statistics compiled by the FBI, from 1985 to 1993 the number of homicides committed by males aged 18 to 24 increased 65 percent, and by males aged 14 to 17 increased 165 percent. In addition, according to the Department of Justice, during 1993, the youngest age group surveyed—those 12 to 15 years old—had the greatest risk of being the victims of violent crimes.

THE HEAVY COST OF CRIME

Aside from the vicious personal toll exacted, crime also has a devastating effect on the economy of our country. To fight crime, the United States spends about $90 billion a year on the entire criminal justice system. Crime is especially devastating to our cities, which often have crime rates several times higher than suburbs.

A Washington Post article detailed the work of Professors Mark Levitt and Mark Cohen in estimating the real cost of crime to society. According to the article, "[i]nstead of merely toting up the haul in armed robberies or burglaries, Cohen tallied all of the costs associated with various kinds of crime, from loss of income sustained by a murder victim's family to the cost of counseling a rape victim to the diminished value of houses in high-burglary neighborhoods." These "quality of life" costs raise the cost of crime considerably. Cohen and Levitt calculated that one murder costs society on average $2.7 million. A robbery nets the robber an average of $2,900 in actual cash, but it produces $14,900 in "quality of life" expenses. And while the actual monetary loss caused by an assault is $1,800, it produces $10,200 in "quality of life" expenses.

LEGISLATION

Fighting crime must be a top priority. Few would dispute this. According to a poll conducted for Reuters by the New York-based John Zogby Group that was released on January 31, 1997, voters rank crime as the most important issue. Further, according to an article in the July 19, 1995 Tucson Citizen, about 500 business, education, and government leaders in Tucson ranked crime as the number one issue in a survey commissioned by the Greater Tucson Economic Council. Also, according

to a November 6, 1996 article in The Arizona Daily Star, Arizonans rank crime as one of the most important issues.

Given the magnitude of the problem of crime in our society, I believe that it is important to consider a comprehensive crime package. My bill has solid reforms that should blunt the forecasted explosion in crime. I would like to take this opportunity to outline of the provisions included in the Crime Prevention Act of 1997.

VICTIM RIGHTS AND DOMESTIC VIOLENCE

Women are the victims of more than 4.5 million violent crimes a year, including half a million rapes or other sexual assaults, according to the Department of Justice. The National Victim Center calculates that a woman is battered every 15 seconds. A message must be sent to abusers that their behavior is not a "family matter." Society should treat domestic violence as seriously as it does violence between strangers. My bill will strengthen the rights of domestic violence victims in Federal court and, hopefully, set a standard for the individual States to emulate.

First, my bill authorizes the death penalty for cases in which a woman is murdered by her husband or boyfriend. Courts will not, under this bill, be able to exclude evidence of a defendant's violent disposition toward the victim as impermissible "character" evidence. My bill also provides that if a defendant presents negative character evidence concerning the victim, the government's rebuttal can include negative character evidence concerning the defendant. It makes clear that testimony regarding battered women's syndrome is admissible to explain the behavior of victims of violence.

We must establish a higher standard of professional conduct for lawyers. My legislation prohibits harassing or dilatory tactics, knowingly presenting false evidence or discrediting truthful evidence, willful ignorance of matters that could be learned from the client, and concealment of information necessary to prevent sexual abuse or other violent crimes.

Violence in our society leaves law-abiding citizens feeling defenseless. It is time to level the playing field. Federal law currently gives the defense more chances than the prosecution to reject a potential juror. My bill protects the right of victims to an impartial jury by giving both sides the same number of peremptory challenges.

The 1994 Crime Act included a provision requiring notice to State and local authorities concerning the release of Federal violent offenders. Under the act, notice can only be used for law-enforcement purposes. The Justice Department opposes this limitation because it disallows other legitimate uses of the information, such as warning potential victims of the offender's return to the community. My bill would delete this restriction.

It is our responsibility to continue to work to combat violent crime, wherever it occurs. Titles I and II take an important step toward protecting the rights of crime victims, curbing domestic violence, and removing violent offenders from our streets and communities.

FIREARMS

Almost 30 percent of all violent crimes are committed through the use of a firearm, either to intimidate the victim into submission or to injure the victim, according to the Bureau of Justice Statistics. And 70 percent of all murders committed were accomplished through the use of a firearm. To help stop this violence the bill increases the mandatory minimum sentences for criminals who use firearms in the commission of crimes. It imposes the following minimum penalties: 10 years for using or carrying a firearm during the commission of a Federal crime of violence or drug trafficking crime; 20 years if the firearm is discharged; incarceration for life or punishment by death if death a person results.

THE EXCLUSIONARY RULE

To ensure that relevant evidence is not kept from juries, the bill extends the "good faith" exception to the exclusionary rule to non-warrant cases, where the court determines that the circumstances justified an objectively reasonable belief by officers that their conduct was lawful.

THE DEATH PENALTY

The vast majority of the American public supports the option of the death penalty. A Gallup poll conducted in April 1996 found that 79 percent of Americans support the death penalty, and an ABC News/Washington Post poll conducted in January 1995 found that 74 percent of Americans favor the death penalty for persons convicted of murder.

To deter crime and to make a clear statement that the most vicious, evil behavior will not be tolerated in our society, the bill strengthens Federal death penalty standards and procedures. It requires defendant to give notice of mitigating factors that will be relied on in a capital sentencing hearing—just as the Government is now required to give notice of aggravating factors—adds use of a firearm in committing a killing as an aggravating factor that permits a jury to consider the death penalty, and directs the jury to impose a capital sentence if aggravating factors outweigh mitigating factors.

HABEAS CORPUS

To eliminate the abuse, delay, and repetitive litigation in the lower Federal courts title VI of this bill provides that the decisions of State courts will not be subject to review in the lower Federal courts, so long as there are adequate and effective remedies in the State courts for testing the legality of a person's detention. This provision limits the needless duplicative review in the lower Federal courts, and helps put a stop to the endless appeals of convicted criminals. Judge Robert Bork has written a letter in support of this provision.

ADMINISTRATIVE SUBPOENA

The bill allows high-ranking Secret Service agents to issue an administrative subpoena for information in cases in which a person's life is in danger. The Department of Agriculture, the Resolution Trust Corporation, and the Food and Drug Administration already have administrative subpoena power. The Secret Service should have it to protect the lives of American citizens.

CONCLUSION

The Kyl crime bill is an important effort in the fight against crime. We can win this fight, if we have the conviction, and keep the pressure on Congress to pass tough crime-control measures. It is time to stop kowtowing to prisoners, apologists for criminals, and the defense lawyers, and pass a strong crime bill.

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By Mr. KYL (for himself and Mr. REID):

S. 489. A bill to improve the criminal law relating to fraud against consumers; to the Committee on the Judiciary.

THE TELEMARKETING FRAUD PREVENTION ACT

Mr. REID. Mr. President, I am proud to be an original cosponsor to the Telemarketing Fraud Prevention Act. Unfortunately, my State of Nevada has the highest rate of bogus telemarketing operations in the Nation. I have been involved over the last few years with uncovering these scams. We held a hearing last year in the Special Aging Committee to call attention to this crime, which primarily targets seniors. At the time of the hearing I called these scams electric muggings, and stated that Congress needs to treat these telephone thugs like criminals on the street who attack and steal. This act aims to do just that.

Nationwide these phone schemes cost consumers over $60 billion a year. As I stated earlier, Nevada has the highest rate of fraudulent telemarketing operations. But Kathryn Landreth, U.S. attorney for Nevada, has been working with the Department of Justice to break up these schemes. Last year they rounded up over 200 fraudulent operators in Las Vegas. Nevada AARP members served as decoys for the sting, and I again commend them for doing so.

Sadly, victims of telemarketing fraud are most often our senior citizens. These white-collar thugs who cheat victims out of their hard-earned money, are swindlers who choose to satisfy their greed by bilking others instead of doing an honest day's work. These thugs not only rob their victims of their financial security, but also of their dignity. Many older Americans

live alone, may have just lost their spouse, and are particularly vulnerable to con-artists who act like they are their friends. One of the telemarketers prosecuted by the U.S. attorney of Nevada's office collected obituaries from various newspapers so that he could take advantage of recent widows and widowers.

Typical schemes involve the telemarketer promising thousands of dollars, free vacations, or new cars if the victim buys a fur coat or overpriced vitamins, for example. If a victim receives anything at all in return for the money sent to the telemarketer, the items are generally worth far less than represented; in some cases they are no more than worthless junk.

Not only do we need vigilant law enforcement and tough punishments, but we need to inform people. We have to get the message out to people, especially seniors, to be wary of offerings over the phone and hang up when asked for money. Further, they should report the incident to the U.S. attorney's office. Hopefully, strengthening the punishment for these crimes will deter others from entering the arena, but it is extremely important to follow up on this act with enforcement and information.

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By Mr. AKAKA:

S. 490. A bill to amend the Internal Revenue Code of 1986 to adjust for inflation the dollar limitations on the dependent care credit; to the Committee on Finance.

THE WORKING FAMILIES CHILD CARE TAX RELIEF ACT OF 1997

Mr. AKAKA. Mr. President, today I am reintroducing legislation that I have sponsored in the past two Congresses to provide a measure of tax relief to working families throughout America. My bill would restore value to the child and dependent care credit by allowing an annual adjustment of the credit for inflation.

Mr. President, as the Federal Government and the states work to move people from welfare to work, the problems faced by working Americans seeking affordable, quality child-care services for their children will likely worsen. The availability and affordability of adequate child care are the principal concerns expressed by an increasing number of middle-class working parents. Many parents are forced to patch together a network of child care providers to secure care for their children.

The evidence in support of improving the child and dependent care credit is clear. The number of single mothers working outside the home has dramatically increased in recent years. More than 56 percent of all mothers with children under 6 years work outside the home, and over 70 percent of women with children over age 6 are in the labor market.

The percentage of Hawaii households in which both parents work outside the home is even higher than the national average. According to projections developed by the Bank of Hawaii based on the 1990 Census, 61.8 percent of all Hawaii families have both parents employed, and 71.3 percent of all households have at least two individuals in the workforce.

The increased participation of single mothers in the labor market and the large number of two-parent families in which both parents work outside the home have made the dependent care credit one of the most popular and productive tax incentives ever enacted by Congress. Unfortunately, the value of the credit has declined significantly over the years as inflation has slowly eaten away at the value of this benefit. Measured in constant dollars, the maximum credit of $2,400 has decreased in value by more than 45 percent since 1982.

In 1981, the flat credit for dependent care was replaced with a scale to give the greatest benefit of the credit to lower income working families. Since that time, neither the adjusted gross income figures employed in the scale, nor the limit on the amount of employment-related expenses used to calculate the credit, has been adjusted for inflation. My bill provides a measure of much needed relief to working American families. It would index the child and dependent care credit and restore the full benefit of the credit.

The maximum amount of employment-related child care expenses allowed under current law—$2,400 for a single child and $4,800 for two or more children—has simply failed to keep pace with escalating care costs. Unlike other tax credits and deductions provided taxpayers in the Internal Revenue Code, the dependent care credit is not adjusted for inflation.

Without an adjustment for inflation, we will continue to diminish the purpose of this credit to offset the expense of dependent and child care services incurred by parents working outside the home. While the cost of quality child care has increased as demand exceeds supply, the dependent care credit has failed to keep up with the spiraling costs. My legislation addresses this chronic problem by automatically adjusting the dependent and child care credit for inflation. Under this legislation, both the dollar limit on the amount creditable and the limitation on earned income would be adjusted annually.

Mr. President, the average cost for out of home child care exceeds $3,500 per child, per year. Child care or dependent care expenses can seriously strain a family's budget. This burden can become unbearable for single parents, almost invariably single mothers, who must balance the need to work with their parental responsibilities.

Middle-class Americans are working harder than ever to maintain their standard of living. In many families, parents have been forced to work longer hours, deplete their savings, and go deeper into debt. There is an urgent need to enact changes in our tax code that are pro-family and pro-children. The Working Families Child Care Tax Relief Act meets both of these goals.

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. 490

*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 "Working Families Child Care Tax Relief Act".

**SEC. 2. INFLATION ADJUSTMENT OF DEPENDENT CARE CREDIT.**

(a) IN GENERAL.—Subsection (e) of section 21 of the Internal Revenue Code of 1986 (relating to expenses for household and dependent care services necessary for gainful employment) is amended by adding at the end the following new paragraph:

"(11) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1996, each dollar amount contained in subsections (c) and (d)(2) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1996.

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By Mr. FORD:

S. 491. A bill to amend the National Wildlife Refuge System Administration Act of 1966 to prohibit the United States Fish and Wildlife Service from acquiring land to establish a refuge of the National Wildlife Refuge System unless at least 50 percent of the owners of the land in the proposed refuge favor the acquisition; to the Committee on Environment and Public Works.

THE NATIONAL WILDLIFE REFUGE SYSTEM ADMINISTRATION ACT AMENDMENT ACT OF 1997

Mr. FORD. Mr. President, last month in western Kentucky, about 200 citizens of Marshall County packed a junior high school auditorium, taking time out from their busy schedules, to learn more about the proposed Clarks River Wildlife Refuge. So many people were there because it marked the first time they had an opportunity to voice their opinions on a refuge that would go, literally, through their backyards. Backers of the refuge had crafted a proposal and sought funding without any input from the people who owned the land.

I first called the Senate's attention to this refuge last year, during consideration of the omnibus appropriations bill. I made it clear that I'm not necessarily opposed to the creation of a

wildlife refuge in western Kentucky. What concerned me then and concerns me now is that those who farm about 7,000 acres within the proposed boundaries of the refuge haven't been heard on whether they support the refuge. As one farmer said to me in a letter last year, "no one seems to listen to what the majority of the landowners and farmers, who are directly involved, are saying."

Well, Mr. President, I'm listening. During last month's hearing, one farmer asked for a show of hands, of the landowners present, who supported the refuge. Three hands went up. When he asked how many landowners opposed the refuge, about 60 hands went up. What's worse, when a farmer asked how many landowners had been contacted to determine support for the refuge, the Government officials admitted that not a single landowner had been contacted—despite the fact that the creation of the refuge will depend solely on the number of willing sellers.

Today I am introducing legislation to correct this practice. My bill would require the Fish and Wildlife Service to contact for an independent, non-biased survey of landowners within the boundaries of any proposed refuge. If the survey shows that a majority of the landowners support the refuge, then the Service would be free to proceed with land acquisitions to create it. If not, then the Service would be prohibited from taking additional steps.

Mr. President, my bill is simply common sense: Creating a wildlife refuge depends on the willingness of landowners to sell their property to the Federal Government. We should first determine if there are enough landowners willing to sell enough land to actually create the refuge before we begin to make purchases. It doesn't make sense to draw up plans for a wildlife refuge if there won't be enough land available to create it.

Mr. President, the people of western Kentucky have asked, repeatedly, for their voices to be heard. My legislation will ensure that they will be, and that future refuges respect the wishes of affected communities.

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. 491

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

**SECTION 1. LANDOWNER REFERENDA ON REFUGES.**

(a) IN GENERAL.—Section 4 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd) is amended by adding at the end the following:

"(j) LANDOWNER REFERENDA ON REFUGES.—

"(1) IN GENERAL.—Before acquiring land to establish a refuge of the System or preparing a final environmental assessment or environmental impact statement on the proposed acquisition under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Secretary shall—

"(A) hold a public hearing on the proposed acquisition in the area in which the land proposed to be acquired is located; and

"(B) acting through a private, independent entity, conduct a referendum among owners of the land that will be acquired to establish the refuge to determine whether the owners favor the proposed acquisition.

"(2) APPROVAL OF ACQUISITION.—The Secretary may acquire land to establish a refuge of the System only if a majority of owners of the land voting in the referendum favor the proposed acquisition.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 1996.

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By Mr. SARBANES:

S. 492. A bill to amend certain provisions of title 5, United States Code, in order to ensure equality between Federal firefighters and other employees in the civil service and other public sector firefighters, and for other purposes; to the Committee on Governmental Affairs.

THE FIREFIGHER PAY FAIRNESS ACT

Mr. SARBANES. Mr. President, today I am introducing legislation to improve the pay system used for Federal firefighters. This bill has three broad purposes: First, to improve pay equality with municipal and other public section firefighters; second, to enhance recruitment and retention of firefighters in order to maintain the highest quality Federal fire service; and third, to encourage Federal firefighters to pursue career advancement and training opportunities.

Fire protection is clearly a major concern at Federal facilities and on Federal lands throughout the Nation. From fighting wildland fires in our national parks and forests to protecting military families from fires in their base housing, Federal firefighters play a vital role in preserving lives and property. One only needs to recall the terrible tragedies in Colorado two summers ago to understand the vital importance of our Federal firefighters.

The Department of Agriculture, the Coast Guard, the Department of Commerce, the Department of Defense, the General Services Administration, the Department of the Interior, and the Department of Veterans Affairs are among the Federal agencies which rely on Federal firefighters to protect their vast holdings of land and structures. Just like their municipal counterparts, these firefighters are the first line of defense against threats to life and property.

Mr. President, the current system used to pay our Federal firefighters is at best confusing and at worst unfair. These men and women work longer hours than any other public sector firefighters—yet are paid substantially less. The current pay system, which consists of three tiers, is overly complex and, more importantly, is hurting Federal efforts to attract and retain top-quality employees.

Currently, most Federal firefighters work an average 72-hour week under exceptionally demanding conditions. The typical workweek consists of a one-day-off schedule which results in three 24-hours shifts during the remainder of each week. Despite this unusual schedule, firefighters are paid under a modified version of the same General Schedule pay system used for full-time, 40-hour-per-week Federal workers.

The result of the pay modification is that Federal firefighters make less per hour than any other Federal employee at their same grade level. For example: a firefighter who is a GS–5, Step 5 makes $7.21 per hour while other employees at the same grade and step earn $10.34 per hour. Some have tried to justify this by noting that part of a firefighter's day is downtime. However, I must note that all firefighters have substantial duties beyond those at the site of a fire. Adding to this discrepancy is the fact that the average municipal firefighter makes $12.87 per hour.

Mr. President, this has caused the Federal fire service to become a training ground for young men and women who then leave for higher pay elsewhere in the public sector. Continually training new employees is, as my colleagues know, very expensive for any employer.

The Office of Personnel Management is well aware of these problems. In fact, section 102 of the Federal Employees Pay Comparability Act of 1990 [FEPCA], title V of Public Law 101–509, authorizes the establishment of special pay systems for certain Federal occupations. The origin of this provision was a recognition that the current pay classification system did not account for the unique and distinctive employment conditions of Federal protective occupations including the Federal fire service.

In May 1991, I wrote to OPM urging the establishment of a separate pay scale for firefighters under the authority provided for in FEPCA. Subsequently, OPM established an Advisory Committee on Law Enforcement and Protective Occupations consisting of agency personnel and representatives from Federal fire and law enforcement organizations. Beginning in August of 1991, representatives from the Federal fire community began working with OPM and other administration officials to identify and address the problems of paying Federal firefighters under the General Schedule. The committee completed its work in June of 1992 and in December of that year issued a staff report setting forth recommendations to correct the most serious problems with the current pay system.

Mr. President, I regret that since the release of the OPM recommendations,

there has been no effort to implement any of the proposals of the advisory task force. In fact, OPM has communicated quite clearly that it has no plans to pursue any solution to the serious pay deficiencies that have been so widely identified and acknowledged.

It would not be necessary to introduce this legislation today had OPM taken the corrective action that, in my view, is so clearly warranted. However, I have determined that legislation appears to be the only vehicle to achieve the necessary changes in the pay system for Federal firefighters.

Mr. President, the Firefighter Pay Fairness Act would improve Federal firefighter pay in several important and straightforward ways. Perhaps most importantly, the bill draws from existing provisions in title V to calculate a true hourly rate for firefighters. This would alleviate the current problem of firefighters being paid considerably less than other General Schedule employees at the same GS level. It would also account for the varying length in the tour of duty for Federal firefighters stationed at different locations.

In addition, the bill would use this hourly rate to ensure that firefighters receive true time and one-half overtime for hours worked over 106 in a biweekly pay period. This is designed to correct the problem, under the current system, where the overtime rate is calculated based on an hourly rate considerably less than base pay.

The Firefighter Pay Fairness Act would also extend these pay provisions to so-called wildland firefighters when they are engaged in firefighting duties. Currently, wildland firefighters are often not compensated for all the time spent responding to a fire event. This legislation would ensure that these protectors of our parks and forests would be paid fairly for ensuring the safety of these invaluable national resources.

It also ensures that firefighters promoted to supervisory positions would be paid at a rate of pay at least equal to what they received before the promotion. This would address a situation, under the current pay system, which discourages employees from accepting promotions because of the significant loss of pay which often accompanies a move to a supervisory position.

Similarly, the bill would encourage employees to get the necessary training in hazardous materials, emergency medicine, and other critical areas by ensuring they do not receive a pay cut while engaged in these training activities.

Mr. President, this legislation is based upon a bill I authorized in the 103d Congress. A bipartisan group of more than 150 Members cosponsored the measure in the Senate and the House last year. The legislation I am introducing today reflects several modifications that were suggested to the bill following substantial discussions with various Members. However, it is identical to the so-called compromise measure that has been discussed with the authorizing as well as the appropriations committees in previous years and received widespread support.

To reduce initial costs and allow oversight of the effectiveness of the legislation, the bill I am introducing today would implement the new pay system and other provisions beginning October 1, 1997. However, the new rate of pay would be phased in over a 4-year period ending October 1, 2002.

Mr. President, I consulted many of the affected groups in developing my legislation. I am very pleased that this bill has been endorsed by the American Federation of Government Employees, the International Association of Fire Chiefs, the International Association of Fire Fighters, the National Association of Government Employees, and the National Federation of Federal Employees.

As I have said before, Mr. President, fairness is the key word. There is no reason why Federal firefighters should be paid dramatically less that their municipal counterparts. As a cochairman of the Congressional Fire Services Caucus, I want to urge all members of the caucus and, indeed, all Members of the Senate to join in cosponsoring this important piece of legislation.

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By Mr. KYL (for himself and Mr. GORTON):

S. 493. A bill to amend section 1029 of title 18, United States Code, with respect to cellular telephone cloning paraphernalia; to the Committee on the Judiciary.

THE CELLULAR TELEPHONE PROTECTION ACT

Mr. KYL. Mr. President, I rise to introduce the Cellular Telephone Protection Act, which would improve the ability of law enforcement to investigate and prosecute individuals engaged in the activity of cloning cellular phones. Law enforcement officials and wireless carriers support the bill as an important tool to stem this kind of telecommunications fraud.

Cell phones are manufactured with an embedded electronic serial number [ESN], which is transmitted to gain access to the telecommunications network. Those involved in cloning cell phones sit in parked cars outside of airports or along busy roadways to harvest ESN's from legitimate cell phone users and, in a process known as cloning, use software and equipment to insert the stolen numbers into other cell phones, the clones. A single ESN can be implanted into several cloned phones. The cloned phones charge to the account of the lawful, unsuspecting user. Cellular phone carriers must absorb these losses, which, according to the Cellular Telecommunication Industry Association, amounted to about $650 million in 1995, up from $480 million in 1994. The cellular industry is expanding by about 40 percent a year; efforts to combat fraud are imperative to ensure the integrity of our communications network.

Cloning is more than an inconvenience to the 36 million Americans who currently use cellular phone services, and an expense to wireless communication companies who pay for the fraudulent calls. According to the Secret Service, which is the primary Federal agency responsible for investigating telecommunications fraud, cloning abets organized criminal enterprises that use cellular telephones as their preferred method of communication. Cloned phones are extremely popular among drug traffickers and gang members, who oftentimes employ several cloned phones to evade detection by law enforcement. When not selling cloned phones to drug dealers and ruthless street gangs, cloners set up corner-side calling shops where individuals pay a nominal fee to call anywhere in the world on a replicated phone, or simply purchase the illegal phone for a flat amount.

The cellular telephone protection bill clarifies that there is no lawful purpose to posses, produce or sell hardware, known as copycat boxes, or software used for cloning a cellular phone or its ESN. Such equipment and software are easy to obtain—advertisements hawking cloning equipment appear in computer magazines and on the Internet. There is no legitimate purpose for cloning software and equipment, save for law enforcement and telecommunication service providers using it to improve fraud detection. The bill strikes at the heart of the cloning paraphernalia market by eliminating the requirement for prosecutors to prove that the person selling copycat boxes or cloning software programs intended to defraud. The bill retains an exception for law enforcement to possess otherwise unlawful cloning software, and adds a similar exception for telecommunications service providers.

Moreover, the Cellular Phone Protection Act expands the definition of "scanning receivers," equipment which, unlike cloning software and devices, does have legitimate uses if not used to scan frequencies assigned to wireless communications. The bill clarifies that the definition of scanning receivers encompasses devices that can be used to intercept ESN's even if they are not capable of receiving the voice channel. As mentioned above, criminals harvest ESN's by employing scanners near busy thoroughfares. The revised definition of scanning receiver will ensure that these devices are unlawful when used with an intent to defraud just like scanners that intercept voice.

Finally, the bill increases penalties for those engaged in cloning. A new

paradigm is needed for penalizing cloning offenses. Currently, penalties for cloning crimes are based on the monetary loss a carrier suffers, not the potential loss. First-time offenders oftentimes do not face any jail time, which makes these cases unattractive for prosecution. Carriers and law enforcement are forced to choose between keeping the cloner on the telecommunications network to rack up high losses to ensure jail time, or stemming the losses sooner only to have the cloner back on the streets in days. The penalty scheme should be revised to track another indicator of cloning fraud—the number of electronic serial numbers stolen.

Cloning offenses are serious crimes, and the penalties should reflect this. We know that cloned phones are used to facilitate other crimes—particularly drug trafficking. Additionally, cloning offenses are serious economic crimes in themselves that threaten the integrity of the public communications network. In August, two individuals in New York were arrested for allegedly possessing 80,000 electronic serial numbers. Each of the 80,000 ESN's could be implanted into several cloned phones. I look forward to working with the U.S. Sentencing Commission to achieve a more appropriate sentencing structure for cloning fraud.

The cellular phone protection initiative will help to reduce telecommunications fraud. In the process, other criminal activity will be made more difficult to conduct—cloned phones, now a staple of criminal syndicates, would not be so readily available. I urge my colleagues to support this legislation.

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. 493

*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 "Cellular Telephone Protection Act".

**SEC. 2. FRAUD AND RELATED ACTIVITY IN CONNECTION WITH COUNTERFEIT ACCESS DEVICES.**

(a) UNLAWFUL ACTS.—Section 1029(a) of title 18, United States Code, is amended—

(1) in paragraph (7), by striking "use of" and inserting "access to";

(2) by redesignating paragraph (9) as paragraph (10); and

(3) by striking paragraph (8) and inserting the following:

"(8) knowingly and with intent to defraud uses, produces, traffics in, has control or custody of, or possesses a scanning receiver;

"(9) knowingly uses, produces, traffics in, has control or custody of, or possesses hardware or software that may be used for—

"(A) modifying or copying an electronic serial number; or

"(B) altering or modifying a telecommunications instrument so that the instrument may be used to obtain unauthorized access to telecommunications services; or".

(b) PENALTIES.—Section 1029(c) of title 18, United States Code, is amended to read as follows:

"(c) PENALTIES.—The punishment for an offense under subsection (a) or (b)(1) is—

"(1) in the case of an offense that does not occur after a conviction for another offense under subsection (a) or (b)(1), or an attempt to commit an offense punishable under subsection (a) or (b)(1), a fine under this title or twice the value obtained by the offense, whichever is greater, imprisonment for not more than 15 years, or both; and

"(2) in the case of an offense that occurs after a conviction for another offense under subsection (a) or (b)(1), or an attempt to commit an offense punishable under subsection (a) or (b)(1), a fine under this title or twice the value obtained by the offense, whichever is greater, imprisonment for not more than 20 years, or both.".

(c) DEFINITION OF SCANNING RECEIVER.—Section 1029(e)(8) of title 18, United States Code, is amended by inserting before the period at the end the following: "or any electronic serial number, mobile identification number, personal identification number, or other identifier of any telecommunications service, equipment, or instrument".

(d) EXCEPTION FOR CERTAIN TELECOMMUNICATIONS SERVICES PROVIDERS.—Section 1029 of title 18, United States Code, is amended by adding at the end the following:

"(g) EXCEPTION FOR CERTAIN TELECOMMUNICATIONS SERVICES PROVIDERS.—

"(1) DEFINITIONS.—In this subsection, the term 'telecommunications carrier' has the same meaning as in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

"(2) PERMISSIBLE ACTIVITIES.—This section does not prohibit any telecommunications carrier, or an officer, agent, or employee of, or a person under contract with a telecommunications carrier, engaged in protecting any property or legal right of the telecommunications carrier, from sending through the mail, sending or carrying in interstate or foreign commerce, having control or custody of, or possessing, manufacturing, assembling, or producing any otherwise unlawful—

"(A) device-making equipment, scanning receiver, or access device; or

"(B) hardware or software used for—

"(i) modifying or altering an electronic serial number; or

"(ii) altering or modifying a telecommunications instrument so that the instrument may be used to obtain unauthorized access to telecommunications services.".

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By Mr. KYL (for himself, Mr. ABRAHAM, and Mr. REID):

S. 494. A bill to combat the overutilization of prison health care services and control rising prisoner health care costs; to the Committee on the Judiciary.

THE FEDERAL PRISON HEALTH CARE COPAYMENT ACT

Mr. KYL. Mr. President, I introduce the Federal Prisoner Health Care Copayment Act, which would require Federal prisoners to pay a nominal fee when they initiate a visit for medical attention. The fee would be deposited in the Federal Crime Victims' Fund. Each time a prisoner pays to heal himself, he will be paying to heal a victim.

Most working, law-abiding Americans are required to pay a copayment fee when they seek medical care. It is time to impose this requirement on Federal prisoners.

To date, at least 20 States—including my home State of Arizona—have implemented statewide prisoner health care copayment programs. In addition to Arizona, the following States have enacted this reform: California, Colorado, Florida, Georgia, Indiana, Kansas, Kentucky, Louisiana, Oklahoma, Maryland, Minnesota, Mississippi, Nevada, Hew Hampshire, New Jersey, Utah, Virginia, Tennessee, and Wisconsin. Several other States are expected to soon institute a copayment system, including, Alaska, Connecticut, Maine, Montana, Michigan, North Carolina, Oregon, South Carolina, Washington, and Wyoming.

Moreover, according to the National Sheriffs' Association, at least 25 States—some of which have not adopted medical copayment reform on a statewide basis—have jail systems that impose a copayment.

In June, the National Commission on Correctional Health Care held a conference that examined the statewide fee-for-service programs. At the conference, Dr. Ron Waldron of the Federal Bureau of Prisons provided a survey of some of the States that have adopted inmate medical copayment programs and concluded that "Inmate user fees programs appear to reduce utilization, and do generate modest revenues."

Dr. Waldron reported that prison copayment laws resulted in the reduction of medical utilization of: between 16 and 29 percent in Florida; between 30 and 50 percent in Kansas; 40 percent in Maryland; 50 percent in Nevada; and between 10 and 18 percent in Oklahoma. Terry Stewart, director of the Arizona Department of Corrections, notes that, "Over the life of the [Arizona copayment] program, there has been an overall reduction of about 31 percent in the number of requests for health care services. This strongly suggests that inmates are being more discreet about, and giving more considered thought to, their need for medical attention." I will have his letter placed in the CONGRESSIONAL RECORD.

Reducing frivolous medical visits saves taxpayers money. A December 28, 1996, New York Post editorial, "Toward Healthier Prison Budgets," which I will also include in the RECORD, reported that the copayment law in New Jersey allowed the State to cut its prison health care budget by $17 million.

As to generating revenue, Dr. Waldron reported that California collects about $60,000 per month in prisoner-copayment fees. In my home State of Arizona, the State has collected about $400,000 since the inception of the program in October 1994.

Not only are inmate copayment plans working well on the statewide level, they are achieving success in jail systems across the United States. In the

January-February edition of Sheriff, the National Sheriffs' Association President reported that copayment plans—which, as mentioned above, are operational in jail systems in at least 25 States—have: First, discouraged overuse of service; and second, freed health care staff to provide better care to inmates who truly need medical attention. Yavapai County sheriff, G.C. "Buck" Buchanan, in a letter that I will include in the RECORD, writes: "Prior to the institution of [copayment reform], many inmates in custody were taking advantage of the health care which, or course, must be provided to them. This could be construed as frivolous requests if you will, and took up the valuable time of our health care providers * * *. Since this policy has been in effect, we have realized a reduction in inmate requests for medical services between 45 to 50 percent."

The success of the prison and jail fee-for-service initiatives should come as no surprise. Common sense says that inmates will be less likely to seek unnecessary medical attention if they are required to pick up part of the tab.

I believe that Congress should follow the lead of the States and provide the Federal Bureau of Prisons with the authority to charge Federal inmates a nominal fee for elective health care visits. The Federal system is particularly ripe for reform. According to the 1996 Corrections Yearbook, the system spends more per inmate on health care than any State except Vermont. Federal inmate health care totaled $327 million in fiscal year 1996, up from $138 million in fiscal year 1990. Average cost per inmate has increased over 60 percent during this period, from $2,204 to $3,549.

The Prisoner Health Care Copayment Act provides that the Director of the Bureau of Prisons shall assess and collect a fee of not less than $3 and not more than $5 for each qualified health care visit. The term "qualified health care visit" does not include any health care visit that is: Conducted during the intake process; an annual examination; initiated by the health care staff of the Bureau of Prisons; the direct result of a referral made by a prison official; or an emergency visit. Prisoners who are pregnant or determined to be seriously mentally ill are exempted from the copayment requirement altogether. No prisoner shall be denied treatment on the basis of insolvency.

The act also gives the Director of the Bureau of Prisons the authority to set by regulation a reasonable fee, not to exceed $5, for prescriptions, emergency visits, and juvenile visits. And the legislation permits the Director to charge an inmate's account for medical treatment for injuries an inmate inflicts on himself or others.

As I mentioned above, all fees will be deposited in the Federal Crime Victims' Fund.

Before I conclude, I would like to thank the Arizona Department of Corrections for its assistance in helping me draft this reform. Additionally, I appreciate the assistance that Sheriff Buchanan and his office provided me.

I look forward to working with the Department of Justice, the Bureau of Prisons, and my colleagues on both sides of the aisle, to implement a fee-for-medical-services program—a sensible and overdue reform—for Federal prisoners.

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:

S. 494

*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 "Federal Prisoner Health Care Copayment Act".

**SEC. 2. PRISONER COPAYMENTS FOR HEALTH CARE SERVICES.**

(a) IN GENERAL.—Chapter 303 of title 18, United States Code, is amended by adding at the end the following:

**"§ 4048. Prisoner copayments for health care services**

"(a) DEFINITIONS.—In this section—

"(1) the term 'account' means the trust fund account (or institutional equivalent) of a prisoner;

"(2) the term 'Director' means the Director of the Bureau of Prisons;

"(3) the term 'health care provider' means any person and who is licensed or certified under State law to provide health care services who is operating within the scope of such license;

"(4) the term 'health care visit' means any visit by a prisoner to an institutional or non-institutional health care provider, if the visit is made at the request of the prisoner;

"(5) the term 'prisoner' means any person subject to incarceration, detention, or admission to any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program; and

"(6) the term 'qualified health care visit' means any health care visit except a health care visit

"(A) that—

"(i) is conducted during the incarceration intake process;

"(ii) is an annual examination;

"(iii) is determined by the health care provider to be an emergency visit;

"(iv) is an immunization;

"(v) is initiated by the health care staff of the Bureau of Prisons; or

"(vi) is the direct result of a referral made by a prison official; or

"(B) by a prisoner who is—

"(i) less than 18 years of age;

"(ii) pregnant; or

"(iii) determined by the appropriate official of the Bureau of Prisons to be seriously mentally ill, or permanently disabled.

"(b) COPAYMENTS FOR HEALTH CARE SERVICES.—The Director shall assess and collect a fee in accordance with this section—

"(1) in an amount equal to not less than $3 and not more than $5, for each qualified health care visit;

"(2) in an amount not to exceed $5, which shall be established by the Director by regulation, for—

"(A) each prescription medication provided to the prisoner by a health care provider; and

"(B) each health care visit described in subparagraph (A)(iii) or (B)(i) of subsection (a)(6); and

"(3) in an amount established by the Director by regulation, for each health care visit occurring as a result of an injury inflicted on a prisoner by another prisoner.

"(c) RESPONSIBILITY FOR PAYMENT.—Each fee assessed under subsection (b) shall be collected by the Director from the account of—

"(1) the prisoner making the health care visit or receiving the prescription medication; or

"(2) in the case of a health care visit described in subsection (b)(3), the prisoner who is determined by the Director to have inflicted the injury.

"(d) TIMING.—Each fee assessed under this section shall be collected from the appropriate account under subsection (c)—

"(1) on the date on which the qualified health care visit occurs; or

"(2) in the case of a prisoner whose account balance is determined by the Director to be insufficient for collection of the fee in accordance with paragraph (1), in accordance with an installment payment plan, which shall be established by the Director by regulation.

"(e) NO REFUSAL OF TREATMENT FOR FINANCIAL REASONS.—Nothing in this section shall be construed to permit any refusal of treatment to a prisoner on the basis that—

"(1) account of the prisoner is insolvent; or

"(2) the prisoner is otherwise unable to pay a fee assessed under this section in accordance with subsection (d)(1).

"(f) USE OF AMOUNTS.—Any amounts collected by the Director under this section shall be deposited in the Crime Victims' Fund established under section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601).

"(g) REPORTS TO CONGRESS.—Not later than 1 year after the date of enactment of the Federal Prisoner Health Care Copayment Act and annually thereafter, the Director shall submit to Congress a report, which shall include—

"(1) a description of the amounts collected under this section during the preceding 12-month period; and

"(2) an analysis of the effects of the implementation of this section, if any, on the nature and extent of health care visits by prisoners.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 303 of title 18, United States Code, is amended by adding at the end the following:

"4048. Prisoner copayments for health care services.".

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ARIZONA DEPARTMENT OF CORRECTIONS,
*Phoenix, AZ, March 7, 1997.*

Hon. JON KYL,
*U.S. Senate, Senate Hart Office Building, Washington, DC.*

Re: Inmate Health Care—Fee for Service

DEAR SENATOR KYL: On October 15, 1994, the Arizona Department of Corrections began its fee for service program for inmate health care. The program was intended to reduce inmate abuse of the health care delivery system, to place on the inmate some responsibility for his/her own health care, and to offset the increasing costs of inmate health care. This program has proven itself

effective in accomplishing the purposes intended.

There has been a noticeable decrease in the number of requests for health care services. For example, upon implementation of the program, and depending upon the facility, we experienced an initial reduction of between 40% and 60% in the number of health care requests. Over the life of the program, there has been an overall reduction of about 31% in the number of requests for health care services. This strongly suggests that inmates are being more discreet about, and giving more considered thought to, their need for medical attention.

The program has also proven a great benefit to Arizona's taxpayers. From October 15, 1994 through December 31, 1996, the Arizona Department of Corrections has collected $392,843.59 for health care services provided to its inmates. This money is returned to Arizona's general fund, where it can be utilized to fund other State programs. This means that fewer taxpayer dollars are required to fund State programs.

In light of the results achieved by this program in Arizona, I highly recommend that similar programs be adopted by prison and jail systems nationwide, and I support and greatly appreciate your efforts to this end.

Sincerely,

TERRY L. STEWART,
*Director.*

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YAVAPAI COUNTY SHERIFF'S OFFICE,
*Prescott, AZ, March 4, 1997.*

Senator JON KYL,
*2240 Rayburn House Office Building, Washington, DC.*

DEAR SENATOR KYL: As you have requested, a copy of the current Yavapai County Sheriff's Office Detention Services Procedure Manual with respect to Inmate Health Care Co-Payment policy, has been attached. This policy is sanctioned under Arizona Revised Statute 31-151 and has been in existence since November 1995.

Prior to the institution of this policy, many inmates in custody were taking advantage of the health care which, of course, must be provided to them. This could be construed as frivolous requests if you will, and took up the valuable time of our health care providers. Time was not being utilized to full potential including any request for psychological analysis and treatment.

Since this policy has been in effect, we have realized a reduction in inmate requests for medical services between 45% to 50%. Consequently, when an inmate is given the choice of how to best spend his money, the preference is not for unnecessary medical care. Those in custody have nothing better to do than take advantage of the system for just a change in the daily routine. This has ceased. There is no denial of medical services, it just becomes a matter of priority for the inmate.

Over the past eleven months, in the special account in which the co-payment fee is retained, approximately $3500.00 has been placed into deposit. Although this is not a large amount of revenue, the savings which have been noticed are that of a reduction in staff time and an increase in the quality of care the physician provides for this service delivery. One could only imagine the magnitude of budget savings if a program such as this were initiated on the federal inmate population.

In Yavapai County this policy has proven to be a success and it is through this success that you have my full support in this proposed legislation.

In matters of mutual concern I remain,

G.C. "BUCK" BUCHANAN,
*Yavapai County Sheriff.*

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[From the New York Post, Dec. 28, 1996]

TOWARD HEALTHIER PRISON BUDGETS

Since April, New Jersey has experienced a 60 percent drop in the number of prison inmates seeking medical attention. Have prisoners suddenly begun pursuing a healthier lifestyle? Perhaps—but we prefer to think it has something to do with the fact that inmates must now ante up $5 every time they demand to see a doctor.

New Jersey prison officials are extremely pleased with the new system. The fee deters prisoners with vague or minor complaints or whose primary motivation appears to be simply, to get out of their cells for a few hours.

Result: The state has been able to cut its prison health-care budget by $17 million. Fewer inmates being escorted to and from the infirmary also enhances security within prison walls.

Predictably, the American Civil Liberties Union (ACLU) isn't pleased. It claims the $5 fee—equal to about two days' prison wages—is preventing some chronically ill inmates from seeking proper care. Naturally, a lawsuit has been filed. In May, a judge ruled in favor of the prison system (the decision is being appealed).

Charging prisoners a fee for medical services, however, is nothing new, nor is it unique to New Jersey. Prisons and jails in at least 18 states now charge for health care, up from just nine in 1995. New Jersey has allowed such fees since 1995. In fact, the Bergen County jail charges inmates $10 per doctor visit.

State prison officials dismiss the ACLU's concerns as "highly speculative." Inmates diagnosed with chronic illnesses, the officials point out, are not charged for all visits. One diabetic inmate, interviewed by The New York Times, complained that the fee was a "burden" because it meant he could no longer buy "toothpaste and stuff." He admitted, however, that he'd had to pay only "three or four times" since April 1.

This isn't exactly Black Hole of Calcutta stuff. New Jersey appears to be making good use of a sound prison-management technique.

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By Mr. KYL (for himself, Mr. LOTT, Mr. NICKLES, Mr. MACK, Mr. COVERDELL, Mr. HELMS, Mr. SHELBY, and Mrs. HUTCHISON):

S. 495. A bill to provide criminal and civil penalties for the unlawful acquisition, transfer, or use of any chemical weapon or biological weapon, and to reduce the threat of acts of terrorism or armed aggression involving the use of any such weapon against the United States, its citizens, or Armed Forces, or those of any allied country, and for other purposes.

THE CHEMICAL AND BIOLOGICAL WEAPONS THREAT REDUCTION ACT OF 1997

Mr. KYL. 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. 495

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

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Chemical and Biological Weapons Threat Reduction Act of 1997".

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Policy.
Sec. 4. Definitions.
TITLE I—PENALTIES FOR UNLAWFUL ACTIVITIES WITHIN THE UNITED STATES OR BY UNITED STATES NATIONALS ABROAD
Subtitle A—Criminal Penalties
Sec. 101. Criminal provisions.
Subtitle B—Civil Penalties
Sec. 111. Designation of lead agency.
Sec. 112. Prohibitions on chemical and biological weapons-related activities.
Sec. 113. Civil penalties.
Sec. 114. Regulatory authority; application of other laws.
Subtitle C—Other Penalties
Sec. 121. Revocations of export privileges.
Sec. 122. Suspension of patent rights.
TITLE II—FOREIGN RELATIONS AND DEFENSE-RELATED PROVISIONS
Sec. 201. Sanctions for use of chemical or biological weapons.
Sec. 202. Continuation and enhancement of multilateral control regimes.
Sec. 203. Criteria for United States assistance to Russia.
Sec. 204. Report on the state of chemical and biological weapons proliferation.
Sec. 205. International conference to strengthen the 1925 Geneva Protocol.
Sec. 206. Restriction on use of funds for the Organization for the Prohibition of Chemical Weapons.
Sec. 207. Enhancements to robust chemical and biological defenses.
Sec. 208. Negative security assurances.
Sec. 209. Riot control agents.

**SEC. 2. FINDINGS.**

The Congress finds that—

(1) the United States eliminated its stockpile of biological weapons pursuant to the 1972 Biological Weapons Convention and has pledged to destroy its entire inventory of chemical weapons by 2004, independent of the Chemical Weapons Convention entering into force;

(2) the use of chemical or biological weapons in contravention of international law is abhorrent and should trigger immediate and effective sanctions;

(3) United Nations Security Council Resolution 620, adopted on August 26, 1988, states the intention of the Security Council to consider immediately "appropriate and effective" sanctions against any nation using chemical and biological weapons in violation of international law;

(4) the General Agreement on Tariffs and Trade recognizes that national security concerns may serve as legitimate grounds for limiting trade; title XXI of the General Agreement on Tariffs and Trade states that "nothing in this Agreement shall be construed . . . to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests. . .";

(5) on September 30, 1993, the President declared by Executive Order No. 12868 a national emergency to deal with "the unusual

and extraordinary threat to the national security, foreign policy, and economy of the United States" posed by the proliferation of nuclear, biological and chemical weapons, and of the means for delivering such weapons;

(6) Russia has not implemented the 1990 United States-Russian Bilateral Agreement on Destruction and Non-Production of Chemical Weapons and on Measures to Facilitate the Multilateral Convention on Banning Chemical Weapons, known as the "BDA", nor has the United States and Russia resolved, to the satisfaction of the United States, the outstanding compliance issues under the Memorandum of Understanding Between the United States of America and the Government of the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related To Prohibition on Chemical Weapons, known as the "1989 Wyoming MOU";

(7) the Intelligence Community has stated that a number of countries, among them China, Egypt, Iran, Iraq, Libya, North Korea, Syria, and Russia, possess chemical and biological weapons and the means to deliver them;

(8) four countries in the Middle East—Iran, Iraq, Libya, and Syria—have, as a national policy, supported international terrorism;

(9) chemical and biological weapons have been used by states in the past for intimidation and military aggression, most recently during the Iran-Iraq war and by Iraq against its Kurdish minority;

(10) the grave new threat of chemical and biological terrorism has been demonstrated by the 1995 nerve gas attack on the Tokyo subway by the Japanese cult Aum Shinrikyo;

(11) the urgent need to improve domestic preparedness to protect against chemical and biological threats was underscored by enactment of the 1997 Defense Against Weapons of Mass Destruction Act;

(12) the Department of Defense, in light of growing chemical and biological threats in regions of key concern, including Northeast Asia, and the Middle East, has stated that United States forces must be properly trained and equipped for all missions, including those in which opponents might threaten use of chemical or biological weapons; and

(13) Australia Group controls on the exports of chemical and biological agents, and related equipment, and the Missile Technology Control Regime, together provide an indispensable foundation for international and national efforts to curb the spread of chemical and biological weapons, and their delivery means.

**SEC. 3. POLICY.**

It should be the policy of the United States to take all appropriate measures to—

(1) prevent and deter the threat or use of chemical and biological weapons against the citizens, Armed Forces, and territory of the United States and its allies, and to protect against, and manage the consequences of, such use should it occur;

(2) discourage the proliferation of chemical and biological weapons, their means of delivery, and related equipment, material, and technology;

(3) prohibit within the United States the development, production, acquisition, stockpiling, and transfer to third parties of chemical or biological weapons, their precursors and related technology; and

(4) impose unilateral sanctions, and seek immediately international sanctions, against any nation using chemical and biological weapons in violation of international law.

**SEC. 4. DEFINITIONS.**

In this Act:

(1) AUSTRALIA GROUP.—The term "Australia Group" refers to the informal forum of countries, formed in 1984 and chaired by Australia, whose goal is to discourage and impede chemical and biological weapons proliferation by harmonizing national export controls on precursor chemicals for chemical weapons, biological weapons pathogens, and dual-use equipment, sharing information on target countries, and seeking other ways to curb the use of chemical weapons and biological weapons.

(2) BIOLOGICAL WEAPON.—The term "biological weapon" means the following, together or separately:

(A) Any micro-organism (including bacteria, viruses, fungi, rickettsiae or protozoa), pathogen, or infectious substance, or any naturally occurring, bio-engineered or synthesized component of any such micro-organism, pathogen, or infectious substance, whatever its origin or method of production, capable of causing—

(i) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

(ii) deterioration of food, water, equipment, supplies, or materials of any kind; or

(iii) deleterious alteration of the environment.

(B) Any munition or device specifically designed to cause death or other harm through the toxic properties of those biological weapons specified in subparagraph (A), which would be released as a result of the employment of such munition or device.

(C) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in this section.

(D) Any living organism specifically designed to carry a biological weapon specified in subparagraph (A) to a host.

(3) CHEMICAL WEAPON.—The term "chemical weapon" means the following, together or separately:

(A) Any of the following chemical agents: tabun, Sarin, Soman, GF, VX, sulfur mustard, nitrogen mustard, phosgene oxime, lewisite, phenyldichloroarsine, ethyldiDchloroarsine, methyldichloroarsine, phosgene, diphosgene, hydrogen cyanide, cyanogen chloride, and arsine.

(B) Any of the 54 chemicals other than a riot control agent that is controlled by the Australia Group as of the date of the enactment of this Act.

(C) Any munition or device specifically designed to cause death or other harm through the toxic properties of a chemical weapon specified in subparagraph (A) or (B), which would be released as a result of the employment of such munition or device.

(D) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in this section.

(4) KNOWINGLY.—The term "knowingly" is used within the meaning of "knows" as that term is defined in section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2) and includes situations in which a person has reason to know.

(5) NATIONAL OF THE UNITED STATES.—The term "national of the United States" has the same meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(6) PERSON.—The term "person" means any individual, corporation, partnership, firm, association, or other legal entity.

(7) PURPOSE NOT PROHIBITED UNDER THIS ACT.—The term "purpose not prohibited under this Act" means—

(A) any industrial, agricultural, research, medical, pharmaceutical, or other peaceful purpose;

(B) any protective purpose, namely any purpose directly related to protection against a chemical or biological weapon;

(C) any military purpose that is not connected with the use of a chemical or biological weapon or that is not dependent on the use of the toxic properties of the chemical or biological weapon to cause death or other harm; or

(D) any law enforcement purpose, including any domestic riot control purpose.

(8) RIOT CONTROL AGENT.—The term "riot control agent" means any substance, including diphenylchloroarsine, diphenylDcyanoarsine, adamsite, chloroacetophenone, chloropicrin, bromobenzyl cyanide, 0-chlorobenzylidene malononitrile, or 3-Quinuclidinyl benzilate, that is designed or used to produce rapidly in humans any nonlethal sensory irritation or disabling physical effect that disappears within a short time following termination of exposure.

(9) UNITED STATES.—The term "United States" means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States and includes all places under the jurisdiction or control of the United States, including—

(A) any of the places within the provisions of section 101(41) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. sec. 1301(41));

(B) any public aircraft or civil aircraft of the United States, as such terms are defined in sections 101 (36) and (18) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. secs. 1301(36) and 1301(18)); and

(C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Enforcement Act, as amended (46 U.S.C., App. sec. 1903(b)).

## TITLE I—PENALTIES FOR UNLAWFUL ACTIVITIES WITHIN THE UNITED STATES OR BY UNITED STATES NATIONALS ABROAD

### Subtitle A—Criminal Penalties

**SEC. 101. CRIMINAL PROVISIONS.**

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 11A the following new chapter:

**"CHAPTER 11B—CHEMICAL AND BIOLOGICAL WEAPONS**

"Sec.
"229. Penalties and prohibitions with respect to chemical and biological weapons.
"229A. Seizure, forfeiture, and destruction.
"229B. Other prohibitions.
"229C. Injunctions.
"229D. Requests for military assistance to enforce prohibition in certain emergencies.
"229E. Definitions.

**"§ 229. Penalties and prohibitions with respect to chemical and biological weapons**

"(a) IN GENERAL.—Except as provided in subsection (c), whoever knowingly develops, produces, otherwise acquires, receives from any person located outside the territory of the United States, stockpiles, retains, directly or indirectly transfers, uses, owns, or

possesses any chemical weapon or any biological weapon, or knowingly assists, encourages or induces, in any way, any person to do so, or attempt or conspire to do so, shall be fined under this title or imprisoned for life or any term of years or both, unless—

"(1) the chemical weapon or biological weapon is intended for a purpose not prohibited under this Act;

"(2) the types and quantities of chemical weapons or biological weapons are strictly limited to those that can be justified for such purposes; and

"(3) the amount of such chemical weapons or biological weapons per person at any given time does not exceed a quantity that under the circumstances is inconsistent with the purposes not prohibited under this Act.

"(b) DEATH PENALTY.—Any person who knowingly uses chemical or biological weapons in violation of subsection (a) and by whose action the death of another person is the result shall be punished by death or imprisoned for life.

"(c) EXCLUSION.—

"(1) IN GENERAL.—Subsection (a) does not apply to the retention, ownership, or possession of a chemical weapon or a biological weapon by an agency of the United States or a person described in paragraph (2) pending destruction of the weapon.

"(2) COVERED PERSONS.—A person referred to in paragraph (1) is a member of the Armed Forces of the United States or any other person if the person is authorized by the head of an agency of the United States to retain, own, or possess the chemical or biological weapon.

"(d) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if the prohibited conduct—

"(1) takes place in the United States; or

"(2) takes place outside of the United States and is committed by a national of the United States.

"(e) REIMBURSEMENT OF COSTS.—The court shall order any person convicted of an offense under this section to reimburse the United States for any expenses incurred by the United States incident to the seizure, storage, handling, transportation, and destruction or other disposition of any property that was seized in connection with an investigation of the commission of the offense by that person. A person ordered to reimburse the United States for expenses under this subsection shall be jointly and severally liable for such expenses with each other person, if any, who is ordered under this subsection to reimburse the United States for the same expenses.

**"§ 229A. Seizure, forfeiture, and destruction**

"(a) SEIZURE.—

"(1) SEIZURES ON WARRANTS.—The Attorney General may request the issuance, in the same manner as provided for a search warrant, of a warrant authorizing the seizure of any chemical weapon or any biological weapon that is of a type or quantity that, under the circumstances, is inconsistent with the purposes not prohibited under this Act.

"(2) WARRANTLESS SEIZURES.—In exigent circumstances, seizure and destruction of any such chemical weapon or biological weapon described in paragraph (1) may be made by the Attorney General upon probable cause without the necessity for a warrant.

"(b) PROCEDURE FOR FORFEITURE AND DESTRUCTION.—

"(1) IN GENERAL.—Except as provided in subsection (a)(2), property seized pursuant to subsection (a) shall be forfeited to the United States after notice to potential claimants and an opportunity for a hearing.

"(2) BURDEN OF PERSUASION.—At such a hearing, the United States shall bear the burden of persuasion by a preponderance of the evidence.

"(3) PROCEDURES.—The provisions of chapter 46 of this title relating to civil forfeitures shall apply to a seizure or forfeiture under this section except to the extent (if any) that such provisions are inconsistent with this section.

"(4) DESTRUCTION OR OTHER DISPOSITION.—The Attorney General shall provide for the destruction or other appropriate disposition of any chemical or biological weapon seized and forfeited pursuant to this section.

"(c) OTHER SEIZURE, FORFEITURE, AND DESTRUCTION.—

"(1) SEIZURES ON WARRANT.—The Attorney General may request the issuance, in the same manner as provided for a search warrant, of a warrant authorizing the seizure of any chemical weapon or biological weapon that exists by reason of conduct prohibited under section 229 of this title.

"(2) WARRANTLESS SEIZURES.—In exigent circumstances, seizure and destruction of any such chemical weapon or biological weapon described in paragraph (1) may be made by the Attorney General upon probable cause without the necessity for a warrant.

"(3) FORFEITURE AND DESTRUCTION.—Property seized pursuant to this subsection shall be summarily forfeited (within the meaning of section 609(b) of the Tariff Act of 1930) to the United States and destroyed.

"(d) ASSISTANCE.—The Attorney General may request the head of any agency of the United States to assist in the handling, storage, transportation, or destruction of property seized under this section.

"(e) OWNER OR POSSESSOR LIABILITY.—The owner or possessor of any property seized under this section shall be jointly and severally liable to the United States in an action for money damages for any expenses incurred by the United States incident to the seizure, including any expenses relating to the handling, storage, transportation, destruction or other disposition of the seized property.

**"§ 229B. Other prohibitions**

"(a) IN GENERAL.—Whoever knowingly uses riot control agents as an act of terrorism, or knowingly assists any person to do so, shall be fined under this title or imprisoned for a term of not more than 10 years, or both.

"(b) JURISDICTION.—Conduct prohibited by this section is within the jurisdiction of the United States if the prohibited conduct—

"(1) takes place in the United States; or

"(2) takes place outside of the United States and is committed by a national of the United States.

**"§ 229C. Injunctions**

"The United States may obtain in a civil action an injunction against—

"(1) the conduct prohibited under section 229 of this title; or

"(2) the preparation or solicitation to engage in conduct prohibited under section 229 of this title.

**"§ 229D. Requests for military assistance to enforce prohibition in certain emergencies**

"The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 229 of this title in an emergency situation involving a biological weapon or chemical weapon. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.

**"§ 229E. Definitions**

"In this chapter:

"(1) AUSTRALIA GROUP.—The term 'Australia Group' refers to the informal forum of countries, formed in 1984 and chaired by Australia, whose goal is to discourage and impede chemical and biological weapons proliferation by harmonizing national export controls on precursor chemicals for chemical weapons, biological weapons pathogens, and dual-use equipment, sharing information on target countries, and seeking other ways to curb the use of chemical and biological weapons.

"(2) BIOLOGICAL WEAPON.—The term 'biological weapon' means the following, together or separately:

"(A) Any micro-organism (including bacteria, viruses, fungi, rickettsiae or protozoa), pathogen, or infectious substance, or any naturally occurring, bio-engineered or synthesized component of any such micro-organism, pathogen, or infectious substance, whatever its origin or method of production, capable of causing—

"(i) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

"(ii) deterioration of food, water, equipment, supplies, or materials of any kind; or

"(iii) deleterious alteration of the environment.

"(B) Any munition or device specifically designed to cause death or other harm through the toxic properties of those biological weapons specified in subparagraph (A), which would be released as a result of the employment of such munition or device.

"(C) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in this section.

"(D) Any living organism specifically designed to carry a biological weapon specified in subparagraph (A) to a host.

"(3) CHEMICAL WEAPON.—The term 'chemical weapon' means the following, together or separately:

"(A) Any of the following chemical agents: tabun, Sarin, Soman, GF, VX, sulfur mustard, nitrogen mustard, phosgene oxime, lewisite, phenyldichloroarsine, ethyldichloroarsine, methyldichloroarsine, phosgene, diphosgene, hydrogen cyanide, cyanogen chloride, and arsine.

"(B) Any of the 54 chemicals, other than a riot control agent, controlled by the Australia Group as of the date of the enactment of this Act.

"(C) Any munition or device specifically designed to cause death or other harm through the toxic properties of a chemical weapon specified in subparagraph (A) or (B), which would be released as a result of the employment of such munition or device.

"(D) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in this section.

"(4) KNOWINGLY.—The term 'knowingly' is used within the meaning of 'knows' as that term is defined in section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2) and includes situations in which a person has reason to know.

"(5) NATIONAL OF THE UNITED STATES.—The term 'national of the United States' has the same meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"(6) PERSON.—The term 'person' means any individual, corporation, partnership, firm, association, or other legal entity.

"(7) PURPOSE NOT PROHIBITED UNDER THE ACT.—The term 'purpose not prohibited under this Act' means—

"(A) any industrial, agricultural, research, medical, pharmaceutical, or other peaceful purpose;

"(B) any protective purpose, namely any purpose directly related to protection against a chemical or biological weapon;

"(C) any military purpose that is not connected with the use of a chemical or biological weapon or that is not dependent on the use of the toxic properties of the chemical or biological weapon to cause death or other harm; or

"(D) any law enforcement purpose, including any domestic riot control purpose.

"(8) RIOT CONTROL AGENT.—The term 'riot control agent' means any substance, including diphenylchloroarsine, diphenylcyanoarsine, adamsite, chloroacetophenone, chloropicrin, bromobenzyl cyanide, 0-chlorobenzylidene malononitrile, or 3-Quinuclidinyl benzilate that is designed or used to produce rapidly in humans any nonlethal sensory irritation or disabling physical effect that disappears within a short time following termination of exposure.

"(9) TERRORISM.—The term 'terrorism' means activities that—

"(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; and

"(B) appear to be intended—

"(i) to intimidate or coerce a civilian population;

"(ii) to influence the policy of a government by intimidation or coercion; or

"(iii) to affect the conduct of a government by assassination or kidnapping.

"(10) UNITED STATES.—The term 'United States' means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States and includes all places under the jurisdiction or control of the United States, including—

"(A) any of the places within the provisions of section 40102(41) of title 49, United States Code;

"(B) any civil aircraft or public aircraft of the United States, as such terms are defined in paragraphs (16) and (37), respectively, of section 40102 of title 49, United States Code; and

"(C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(b)).".

(b) CONFORMING AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended—

(1) by striking the item relating to chapter 10; and

(2) by inserting after the item for chapter 11A the following new item:

**"11B. Chemical and Biological Weapons ..... 229".**

(c) REPEALS.—The following provisions of law are repealed:

(1) Chapter 10 of title 18, United States Code, relating to biological weapons.

(2) Section 2332c of title 18, United States Code, relating to chemical weapons.

(3) In the table of sections for chapter 113B of title 18, United States Code, the item relating to section 2332c.

## Subtitle B—Civil Penalties

**SEC. 111. DESIGNATION OF LEAD AGENCY.**

The President shall designate the Federal Bureau of Investigation as the agency primarily responsible for implementing the provisions of this subtitle (in this subtitle referred to as the "Lead Agency").

**SEC. 112. PROHIBITIONS ON CHEMICAL AND BIOLOGICAL WEAPONS-RELATED ACTIVITIES.**

(a) CHEMICAL AND BIOLOGICAL WEAPONS ACTIVITIES.—Except as provided in subsection (b), it shall be unlawful for any person located in the United States, or any national of the United States located outside the United States, to develop, produce, otherwise acquire, receive from any person located outside the territory of the United States, stockpile, retain, directly or indirectly transfer, use, own, or possess any chemical weapon or any biological weapon, or to assist, encourage or induce, in any way, any person to do so, or attempt or conspire to do so, unless—

(1) the chemical weapon or biological weapon is intended for a purpose not prohibited under this Act;

(2) the types and quantities of the chemical weapon or biological weapon are strictly limited to those that can be justified for such purpose; and

(3) the amount of the chemical weapon or biological weapon per person at any given time does not exceed a quantity that under the circumstances is inconsistent with the purposes not prohibited under this Act.

(b) EXCLUSION.—

(1) IN GENERAL.—Subsection (a) does not apply to the retention, ownership, or possession of a chemical weapon or a biological weapon by an agency of the United States or a person described in paragraph (2) pending destruction of the weapon.

(2) COVERED PERSONS.—A person referred to in paragraph (1) is a member of the Armed Forces of the United States or any other person if the person is authorized by the head of an agency of the United States to retain, own, or possess the chemical weapon.

(c) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if the prohibited conduct—

(1) takes place in the United States; or

(2) takes place outside of the United States and is committed by a national of the United States.

**SEC. 113. CIVIL PENALTIES.**

(a) PENALTY AMOUNT.—Any person that is determined, in accordance with subsection (b), to have violated section 112(a) of this Act shall be required by order to pay a civil penalty in an amount not to exceed $100,000 for each such violation.

(b) HEARING.—

(1) IN GENERAL.—Before imposing an order described in subsection (a) against a person under this subsection for a violation of section 112(a), the head of the Lead Agency shall provide the person or entity with notice and, upon request made within 15 days of the date of the notice, a hearing respecting the violation.

(2) CONDUCT OF HEARING.—Any hearing so requested shall be conducted before an administrative law judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code. If no hearing is so requested, the Attorney General's imposition of the order shall constitute a final and unappealable order.

(3) ISSUANCE OF ORDERS.—If the administrative law judge determines, upon the preponderance of the evidence received, that a person named in the complaint has violated section 102, the administrative law judge shall state his findings of fact and issue and cause to be served on such person an order described in subsection (a).

(4) FACTORS FOR DETERMINATION OF PENALTY AMOUNTS.—In determining the amount of any civil penalty, the administrative law judge shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, the ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, the existence of an internal compliance program, and such other matters as justice may require.

(c) ADMINISTRATIVE APPELLATE REVIEW.—The decision and order of an administrative law judge shall become the final agency decision and order of the head of the Lead Agency unless, within 30 days, the head of the Lead Agency modifies or vacates the decision and order, with or without conditions, in which case the decision and order of the head of the Lead Agency shall become a final order under this subsection. The head of the Lead Agency may not delegate his authority under this paragraph.

(d) OFFSETS.—The amount of the civil penalty under a final order of the Lead Agency may be deducted from any sums owed by the United States to the person.

(e) JUDICIAL REVIEW.—A person adversely affected by a final order respecting an assessment may, within 30 days after the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

(f) ENFORCEMENT OF ORDERS.—If a person fails to comply with a final order issued under this subsection against the person and if the person does not file a petition for judicial review under subsection (e), the Attorney General shall file a suit to seek compliance with the order in any appropriate district court of the United States, plus interest at currently prevailing rates calculated from the date of expiration of the 30-day period referred to in subsection (e) or the date of such final judgment, as the case may be. In any such suit, the validity and appropriateness of the final order shall not be subject to review.

**SEC. 114. REGULATORY AUTHORITY; APPLICATION OF OTHER LAWS.**

(a) REGULATIONS.—The Lead Agency may issue such regulations as are necessary to implement and enforce this subtitle and to amend or revise such regulations as necessary if such Executive orders, directives, or regulations do not require any person to submit information or data on any plant site, plant, chemical weapon, or biological weapon that such person produces, processes, or consumes for purposes not prohibited by this Act.

(b) ENFORCEMENT.—The Lead Agency may designate its officers or employees to conduct investigations pursuant to this Act. In conducting such investigations, those officers or employees may, to the extent necessary or appropriate for the enforcement of this subtitle, or for the imposition of any penalty or liability arising under this subtitle, exercise such authorities as are conferred upon them by other laws of the United States.

## Subtitle C—Other Penalties

**SEC. 121. REVOCATIONS OF EXPORT PRIVILEGES.**

(a) IN GENERAL.—If the President determines, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, that any person

within the United States, or any national of the United States located outside the United States, has committed any violation of section 112, the President may issue an order for the suspension or revocation of the authority of the person to export from the United States any goods or technology (as such terms are defined in section 16 of the Export Administration Act of 1979 (50 U.S.C. app. 2415)).

(b) REPEAL.—Section 11C of the Export Administration Act of 1979 (50 U.S.C. app. 2410c), relating to chemical and biological weapons proliferation sanctions, is repealed.

**SEC. 122. SUSPENSION OF PATENT RIGHTS.**

(a) SUSPENSION.—The term of any patent granted pursuant to title 35, United States Code, held by any person, including any subsidiary of such person, who knowingly violates any provision of section 112 of this Act shall be suspended for a period of three years.

(b) EFFECT ON PATENT RIGHTS.—

(1) PROHIBITION.—No rights under title 35, United States Code, shall be derived from any patent described in subsection (a) during the period of any such suspension.

(2) NO EXTENSION OF PATENT TERM.—Any suspension of patent rights imposed pursuant to the provisions of this section shall not extend the term of any such patent.

(c) PROCEDURES.—

(1) DETERMINATION BY THE COMMISSIONER.—Within 30 days after the date of enactment of this Act, the Commissioner of Patents, after a determination has been made regarding which person or persons have violated section 112 of this Act, shall recommend the suspension of the appropriate patents.

(2) NOTICES OF VIOLATIONS.—The Commissioner shall notify the holder of such patent within 30 days after the date of such determination and shall publish in the Federal Register a notice of such determination, together with the factual and legal basis for such determination.

(3) HEARINGS.—Any interested person may request, within the 60-day period beginning on the date of publication of a determination, that the Commissioner making the determination hold a hearing on such determination. Such a hearing shall be an informal hearing which is not subject to section 554, 556, or 557 of title 5, United States Code. If such a request is made within such period, the Commissioner shall hold such hearing not later than 30 days after the date of the request, or at the request of the person making the request, not later than 60 days after such date. The Commissioner who is holding the hearing shall provide notice of the hearing to the person involved and to any interested person and provide the owner of record of the patent and any interested person an opportunity to participate in the hearing.

(4) FINAL DETERMINATIONS.—Within 30 days after the completion of the hearing, the Commissioner shall affirm or revise the determination that was the subject of the hearing and shall publish such affirmation or revision in the Federal Register.

(d) FEES.—The Commissioner may establish such fees as are appropriate to cover the costs of carrying out his duties and functions under this section.

(e) CERTIFICATE OF SUSPENSION.—The Commissioner shall make the determination that a patent is suspended and that the requirements of subsection (c) have been complied with. If the Commissioner determines that the patent is suspended, the Commissioner shall issue to the owner of record of the patent a certificate of suspension, under seal, stating the length of the suspension, and identifying the product and the statute under which regulatory review occurred. Such certificate shall be recorded in the official file of the patent and shall be considered as part of the original patent. The Commissioner shall publish in the Official Gazette of the Patent and Trademark Office a notice of such suspension.

## TITLE II—FOREIGN RELATIONS AND DEFENSE-RELATED PROVISIONS

**SEC. 201. SANCTIONS FOR USE OF CHEMICAL OR BIOLOGICAL WEAPONS.**

(a) IN GENERAL.—The Arms Export Control Act (22 U.S.C. 2751 et seq.) is amended by striking chapter 8 and inserting the following:

### "CHAPTER 8—SANCTIONS AGAINST USE OF CHEMICAL OR BIOLOGICAL WEAPONS

**"SEC. 81. PURPOSE.**

"The purpose of this chapter is—

"(1) to provide for the imposition of sanctions against any foreign government—

"(A) that uses chemical or biological weapons in violation of international law; or

"(B) that has used chemical or biological weapons against its own nationals; and

"(2) to ensure that the victims of the use of chemical or biological weapons shall be compensated and awarded punitive damages, as may be determined by courts in the United States.

**"SEC. 82. PRESIDENTIAL DETERMINATION.**

"(a) BILATERAL SANCTIONS.—Except as provided in subsections (c) and (d), the President shall, after the consultation with Congress, impose the sanctions described in subsections (a) and (b) of section 83 if the President determines that any foreign government—

"(1) has used a chemical weapon or biological weapon in violation of international law; or

"(2) has used a chemical weapon or biological weapon against its own nationals.

"(b) MULTILATERAL SANCTIONS.—The sanctions imposed pursuant to subsection (a) are in addition to any multilateral sanction or measure that may be otherwise agreed.

"(c) PRESIDENTIAL WAIVER.—The President may waive the application of any of the sanctions imposed pursuant to subsection (a) if the President determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that implementing such measures would have a substantial negative impact upon the supreme national interests of the United States.

"(d) SANCTIONS NOT APPLIED TO CERTAIN EXISTING CONTRACTS.—A sanction described in section 83 shall not apply to any activity pursuant to a contract or international agreement entered into before the date of the Presidential determination under subsection (a) if the President determines that performance of the activity would reduce the potential for the use of a chemical weapon or biological weapon by the sanctioned country.

**"SEC. 83. MANDATORY SANCTIONS.**

"(a) MINIMUM NUMBER OF SANCTIONS.—After consultation with Congress and making a determination under section 82 with respect to the actions of a foreign government, the President shall impose not less than 5 of the following sanctions against that government for a period of three years:

"(1) FOREIGN ASSISTANCE.—The United States Government shall terminate assistance under the Foreign Assistance Act of 1961, except for urgent humanitarian assistance and food or other agricultural commodities or products.

"(2) ARMS SALES.—The United States Government shall not sell any item on the United States Munitions List and shall terminate sales to that country under this Act of any defense articles, defense services, or design and construction services. Licenses shall not be issued for the export to the sanctioned country of any item on the United States Munitions List, or for commercial satellites.

"(3) ARMS SALE FINANCING.—The United States Government shall terminate all foreign military financing under this Act.

"(4) DENIAL OF UNITED STATES GOVERNMENT CREDIT OR OTHER FINANCIAL ASSISTANCE.—The United States Government shall deny any credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, including the Export-Import Bank of the United States.

"(5) EXPORT CONTROLS.—The authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit the export of any goods or technology on that part of the control list established under section 5(c)(1) of that Act, and all other goods and technology under this Act (excluding food and other agricultural commodities and products) as the President may determine to be appropriate.

"(6) IMPORT RESTRICTIONS.—The President shall issue an order imposing restrictions on the importation into the United States of any service, good, or commodity that is the growth, product, or manufacture of that country.

"(7) MULTILATERAL BANK ASSISTANCE.—The United States shall oppose, in accordance with section 701 of the International Financial Institutions Act, the extension of any loan or financial or technical assistance by international financial institutions.

"(8) BANK LOANS.—The United States Government shall prohibit any United States bank from making any loan or providing any credit, including to any agency or instrumentality of the government, except for loans or credits for the purpose of purchasing food or other agricultural commodities or products.

"(9) AVIATION RIGHTS.—

"(A) IN GENERAL.—

"(i) NOTIFICATION.—The President is authorized to notify the government of a country with respect to which the President has made a determination pursuant to section 82(a) of his intention to suspend the authority of foreign air carriers owned or controlled by the government of that country to engage in foreign air transportation to or from the United States.

"(ii) SUSPENSION OF AVIATION RIGHTS.—Within 10 days after the date of notification of a government under subclause (I), the Secretary of Transportation shall take all steps necessary to suspend at the earliest possible date the authority of any foreign air carrier owned or controlled, directly or indirectly, by that government to engage in foreign air transportation to or from the United States, notwithstanding any agreement relating to air services.

"(B) TERMINATION OF AIR SERVICE AGREEMENTS.—

"(i) IN GENERAL.—The President may direct the Secretary of State to terminate any air service agreement between the United States and a country with respect to which the President has made a determination pursuant to section 82(a), in accordance with the provisions of that agreement.

"(ii) TERMINATION OF AVIATION RIGHTS.—Upon termination of an agreement under this clause, the Secretary of Transportation shall take such steps as may be necessary to

revoke at the earliest possible date the right of any foreign air carrier owned, or controlled, directly or indirectly, by the government of that country to engage in foreign air transportation to or from the United States.

"(C) EXCEPTION.—The Secretary of Transportation may provide for such exceptions from the sanction contained in subparagraph (A) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

"(D) DEFINITIONS.—For purposes of this paragraph, the terms 'aircraft', 'air transportation', and 'foreign air carrier' have the meanings given those terms in section 40102 of title 49, United States Code.

"(10) DIPLOMATIC RELATIONS.—The President shall use his constitutional authorities to downgrade or suspend diplomatic privileges between the United States and that country.

"(b) BLOCKING OF ASSETS.—Upon making a determination under section 82, the President shall take all steps necessary to block any transactions in any property subject to the jurisdiction of the United States in which the foreign country or any national thereof has any interest whatsoever, for the purpose of compensating the victims of the chemical or biological weapons use and for punitive damages as may be assessed.

"(c) STATUTORY CONSTRUCTION.—Nothing in this section limits the authority of the President to impose a sanction that is not specified in this section.

**"SEC. 84. REMOVAL OF SANCTIONS.**

"(a) CERTIFICATION REQUIREMENT.—The President shall remove the sanctions imposed with respect to a foreign government pursuant to this section if the President determines and so certifies to the Congress, after the end of the three-year period beginning on the date on which sanctions were initially imposed on that country pursuant to section 82, that—

"(1) the government of that country has provided reliable assurances that it will not use any chemical weapon or biological weapon in violation of international law and will not use any chemical weapon or biological weapon against its own nationals;

"(2) the government of the country is willing to accept onsite inspections or other reliable measures to verify that the government is not making preparations to use any chemical weapon or biological weapon in violation of international law or to use any chemical weapon or biological weapon against its own nationals; and

"(3) the government of the country is making restitution to those affected by any use of any chemical weapon or biological weapon in violation of international law or against its own nationals.

"(b) REASONS FOR DETERMINATION.—The certification made under this subsection shall set forth the reasons supporting such determination in each particular case.

"(c) EFFECTIVE DATE.—The certification made under this subsection shall take effect on the date on which the certification is received by the Congress.

**"SEC. 85. NOTIFICATIONS AND REPORTS OF CHEMICAL OR BIOLOGICAL WEAPONS USE AND APPLICATION OF SANCTIONS.**

"(a) NOTIFICATION.—Not later than 30 days after persuasive information becomes available to the executive branch of Government indicating the substantial possibility of the use of chemical or biological weapons by any person or government, the President shall so notify in writing Congress.

"(b) REPORT.—Not later than 60 days after making a notification under subsection (a), the President shall submit a report to Congress that contains—

"(1) an assessment by the President in both classified and unclassified form of the circumstances of the suspected use of chemical or biological weapons, including any determination by the President made under section 82 with respect to a foreign government; and

"(2) a description of the actions the President intends to take pursuant to the assessment, including the imposition of any sanctions or other measures pursuant to section 82.

"(c) PROGRESS REPORT.—Not later than 60 days after submission of a report under subsection (b), the President shall submit a progress report to Congress describing actions undertaken by the President under this chapter, including the imposition of unilateral and multilateral sanctions and other punitive measures, in response to the use of any chemical weapon or biological weapon described in the report.

"(d) RECIPIENTS OF NOTIFICATIONS AND REPORTS.—Any notification or report required by this section shall be submitted to the following:

"(1) The Majority Leader of the Senate and the Speaker of the House of Representatives.

"(2) The Committee on Foreign Relations and the Select Committee on Intelligence of the Senate.

"(3) The Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives.

**"SEC. 86. DEFINITIONS.**

"In this chapter:

"(1) BIOLOGICAL WEAPON.—The term 'biological weapon' means the following, together or separately:

"(A) Any micro-organism (including bacteria, viruses, fungi, rickettsiae or protozoa), pathogen, or infectious substance, or any naturally occurring, bio-engineered or synthesized component of any such micro-organism, pathogen, or infectious substance, whatever its origin or method of production, capable of causing—

"(i) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

"(ii) deterioration of food, water, equipment, supplies, or materials of any kind; or

"(iii) deleterious alteration of the environment.

"(B) Any munition or device specifically designed to cause death or other harm through the toxic properties of those biological weapons specified in subparagraph (A), which would be released as a result of the employment of such munition or device.

"(C) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in this section.

"(D) Any living organism specifically designed to carry a biological weapon specified in subparagraph (A) to a host.

"(2) CHEMICAL WEAPON.—The term 'chemical weapon' means the following, together or separately:

"(A) Any of the following chemical agents: tabun, Sarin, Soman, GF, VX, sulfur mustard, nitrogen mustard, phosgene oxime, lewisite, phenyldichloroarsine, ethyldichloroarsine, methyldichloroarsine, phosgene, diphosgene, hydrogen cyanide, cyanogen chloride, and arsine.

"(B) Any of the 54 chemicals, other than a riot control agent, controlled by the Australia Group as of the date of the enactment of this Act.

"(C) Any munition or device specifically designed to cause death or other harm through the toxic properties of a chemical weapon specified in subparagraph (A) or (B), which would be released as a result of the employment of such munition or device.

"(D) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in this section.

"(3) PERSON.—The term 'person' means any individual, corporation, partnership, firm, association, or other legal entity.".

(b) REPEAL.—Sections 306 through 308 of the Act of December 4, 1991 (Public Law 102-182) are repealed.

**SEC. 202. CONTINUATION AND ENHANCEMENT OF MULTILATERAL CONTROL REGIMES.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that any collapse of the informal forum of states known as the "Australia Group", either through changes in membership or lack of compliance with common export controls, or any substantial weakening of common Australia Group export controls and nonproliferation measures in force as of the date of enactment of this Act, would seriously undermine international and national efforts to curb the spread of chemical and biological weapons and related equipment.

(b) POLICY.—It shall be the policy of the United States—

(1) to continue close cooperation with other countries in the Australia Group in support of its current efforts and in devising additional means to monitor and control the supply of chemicals and biological agents applicable to weapons production;

(2) to maintain an equivalent or more comprehensive level of control over the export of toxic chemicals and their precursors, dual-use processing equipment, human, animal and plant pathogens and toxins with potential biological weapons application, and dual-use biological equipment, as that afforded by the Australia Group as of the date of enactment of this Act;

(3) to block any effort by any Australia Group member to achieve Australia Group consensus on any action that would substantially weaken existing common Australia Group export controls and nonproliferation measures or otherwise undermine the effectiveness of the Australia Group; and

(4) to work closely with other countries also capable of supplying equipment, materials, and technology with particular applicability to the production of chemical or biological weapons in order to devise and harmonize the most effective national controls possible on the transfer of such materials, equipment, and technology.

(c) CERTIFICATION.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the President shall determine and certify to Congress whether—

(1) the Australia Group continues to maintain an equivalent or more comprehensive level of control over the export of toxic chemicals and their precursors, dual-use processing equipment, human, animal, and plant pathogens and toxins with potential biological weapons application, and dual-use biological equipment, as that afforded by the Australia Group as of the date of the last certification under this subsection, or, in the case of the first certification, the level of control maintained as of the date of enactment of this Act; and

(2) the Australia Group remains a viable mechanism for curtailing the spread of

chemical and biological weapons-related materials and technology, and whether the effectiveness of the Australia Group has been undermined by changes in membership, lack of compliance with common export controls, or any weakening of common controls and measures that are in effect as of the date of enactment of this Act.

(d) CONSULTATIONS.—

(1) IN GENERAL.—The President shall consult periodically, but not less frequently than twice a year, with the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives, on Australia Group export controls and nonproliferation measures.

(2) RESULTING FROM PRESIDENTIAL CERTIFICATION.—If the President certifies that either of the conditions in subsection (c) are not met, the President shall consult within 60 days of such certification with the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives on steps the United States should take to maintain effective international controls on chemical and biological weapons-related materials and technology.

**SEC. 203. CRITERIA FOR UNITED STATES ASSISTANCE TO RUSSIA.**

(a) IN GENERAL.—Notwithstanding any other provision of law, United States assistance described in subsection (b) may not be provided to Russia unless the President determines and certifies to Congress not later than 180 days after the date of the enactment of this Act, and on an annual basis thereafter, that—

(1) Russia is making reasonable progress in the implementation of the Bilateral Destruction Agreement;

(2) the United States and Russia have resolved, to the satisfaction of the United States, outstanding compliance issues under the Wyoming Memorandum of Understanding and the Bilateral Destruction Agreement;

(3) Russia has fully and accurately declared all information regarding its unitary and binary chemical weapons, chemical weapons production facilities, other facilities associated with the development of chemical weapons, and riot control agents; and

(4) Russia is in compliance with its obligations under the Biological Weapons Convention.

(b) UNITED STATES ASSISTANCE COVERED.—United States assistance described in this subsection is United States assistance provided only for the purposes of—

(1) facilitating the transport, storage, safeguarding, and elimination of any chemical weapon or biological weapon or its delivery vehicle;

(2) preventing the proliferation of any chemical weapon or biological weapon, any component or technology of such a weapon, or any technology or expertise related to such a weapon;

(3) planning, designing, or construction of any destruction facility for a chemical weapon or biological weapon; or

(4) supporting any international science and technology center.

(c) DEFINITIONS.—

(1) BILATERAL DESTRUCTION AGREEMENT.—The term "Bilateral Destruction Agreement" means Agreement Between the United States of America and the Union of Soviet Socialist Republics on Destruction and Nonproduction of Chemical Weapons and on Measures to Facilitate the Multilateral Convention on Banning Chemical Weapons, signed on June 1, 1990.

(2) BIOLOGICAL WEAPONS CONVENTION.—The term "Biological Weapons Convention" means the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, done at Washington, London, and Moscow on April 10, 1972.

(3) WYOMING MEMORANDUM OF UNDERSTANDING.—The term "Wyoming Memorandum of Understanding" means the Memorandum of Understanding Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related to Prohibition on Chemical Weapons, signed at Jackson Hole, Wyoming, on September 23, 1989.

(4) UNITED STATES ASSISTANCE.—The term "United States assistance" has the meaning given the term in section 481(e)(4) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(4)).

**SEC. 204. REPORT ON THE STATE OF CHEMICAL AND BIOLOGICAL WEAPONS PROLIFERATION.**

Not later than 180 days after the date of enactment of this Act, and every year thereafter, the President shall submit to the Speaker of the House of Representatives and the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate a report containing the following:

(1) PROLIFERATION BY FOREIGN COUNTRIES.—A description of any efforts by China, Egypt, India, Iran, Iraq, Libya, North Korea, Pakistan, Russia, and Syria, and any country that has, during the five years prior to submission of the report, used any chemical weapon or biological weapon or attempted to acquire the material and technology to produce and deliver chemical or biological agents, together with an assessment of the present and future capability of the country to produce and deliver such agents.

(2) FOREIGN PERSONS ASSISTING IN PROLIFERATION.—An identification of—

(A) those persons that in the past have assisted the government of any country described in paragraph (1) in that effort; and

(B) those persons that continue to assist the government of the country described in paragraph (1) in that effort as of the date of the report.

(3) THIRD COUNTRY ASSISTANCE IN PROLIFERATION.—An assessment of whether and to what degree other countries have assisted any government or country described in paragraph (1) in its effort to acquire the material and technology described in that paragraph.

(4) INTELLIGENCE INFORMATION ON THIRD COUNTRY ASSISTANCE.—A description of any confirmed or credible intelligence or other information that any country has assisted the government of any country described in paragraph (1) in that effort, either directly or by facilitating the activities of the persons identified in subparagraph (A) or (B) of paragraph (3) or had knowledge of the activities of the persons identified in subparagraph (A) or (B) of paragraph (3), but took no action to halt or discourage such activities.

(5) INTELLIGENCE INFORMATION ON SUBNATIONAL GROUPS.—A description of any confirmed or credible intelligence or other information of the development, production, stockpiling, or use, of any chemical weapon or biological weapon by subnational groups, including any terrorist or paramilitary organization.

(6) FUNDING PRIORITIES FOR DETECTION AND MONITORING CAPABILITIES.—An identification of the priorities of the executive branch of Government for the development of new resources relating to detection and monitoring capabilities with respect to chemical weapons and biological weapons.

**SEC. 205. INTERNATIONAL CONFERENCE TO STRENGTHEN THE 1925 GENEVA PROTOCOL.**

(a) DEFINITION.—In this section, the term "1925 Geneva Protocol" means the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, done at Geneva June 17, 1925 (26 UST 71; TIAS 8061).

(b) POLICY.—It shall be the policy of the United States—

(1) to work to obtain multilateral agreement to effective, international enforcement mechanisms to existing international agreements that prohibit the use of chemical and biological weapons, to which the United States is a state party; and

(2) pursuant to paragraph (1), to work to obtain multilateral agreement regarding the collective imposition of sanctions and other measures described in chapter 8 of the Arms Export Control Act, as amended by this Act.

(c) RESPONSIBILITY.—The Secretary of State shall, as a priority matter, take steps necessary to achieve United States objectives, as set forth in this section.

(d) SENSE OF THE SENATE.—The Senate urges and directs the Secretary of State to work to convene an international negotiating forum for the purpose of concluding an international agreement on enforcement of the 1925 Geneva Protocol.

(e) ALLOCATION OF FUNDS.—Of the amount authorized to be appropriated to the Department of State for fiscal year 1998 under the appropriations account entitled "International Conferences and Contingencies", $5,000,000 shall be available only for payment of salaries and expenses in connection with efforts of the Secretary of State to conclude an international agreement described in subsection (d).

**SEC. 206. RESTRICTION ON USE OF FUNDS FOR THE ORGANIZATION FOR THE PROHIBITION OF CHEMICAL WEAPONS.**

None of the funds appropriated pursuant to any provision of law, including previously appropriated funds, may be available to make any voluntary or assessed contribution to the Organization for the Prohibition of Chemical Weapons, or to reimburse any account for the transfer of in-kind items to the Organization, unless or until the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature at Paris January 13, 1993, enters into force for the United States.

**SEC. 207. ENHANCEMENTS TO ROBUST CHEMICAL AND BIOLOGICAL DEFENSES.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the threats posed by chemical and biological weapons to United States Armed Forces deployed in regions of concern will continue to grow and will undermine United States strategies for the projection of United States military power and the forward deployment of United States Armed Forces;

(2) the use of chemical or biological weapons will be a likely condition of future conflicts in regions of concern;

(3) it is essential for the United States and key regional allies of the United States to preserve and further develop robust chemical and biological defenses;

(4) the United States Armed Forces, both active and nonactive duty, are inadequately

equipped, organized, trained, and exercised for operations in chemically and biologically contaminated environments;

(5) the lack of readiness stems from a deemphasis by the executive branch of Government and the United States Armed Forces on chemical and biological defense;

(6) the armed forces of key regional allies and likely coalition partners, as well as civilians necessary to support United States military operations, are inadequately prepared and equipped to carry out essential missions in chemically and biologically contaminated environments;

(7) congressional direction contained in the 1997 Defense Against Weapons of Mass Destruction Act is intended to lead to enhanced domestic preparedness to protect against the use of chemical and biological weapons; and

(8) the United States Armed Forces should place increased emphasis on potential threats to deployed United States Armed Forces and, in particular, should make countering the use of chemical and biological weapons an organizing principle for United States defense strategy and for the development of force structure, doctrine, planning, training, and exercising policies of the United States Armed Forces.

(b) DEFENSE READINESS TRAINING.—The Secretary of Defense shall take those actions that are necessary to ensure that the United States Armed Forces are capable of carrying out required military missions in United States regional contingency plans despite the threat or use of chemical or biological weapons. In particular, the Secretary of Defense shall ensure that the United States Armed Forces are effectively equipped, organized, trained, and exercised (including at the large unit and theater level) to conduct operations in chemically and biologically contaminated environments that are critical to the success of United States military plans in regional conflicts, including—

(1) deployment, logistics, and reinforcement operations at key ports and airfields;

(2) sustained combat aircraft sortie generation at critical regional airbases; and

(3) ground force maneuvers of large units and divisions.

(c) DISCUSSIONS WITH ALLIED COUNTRIES ON READINESS.—

(1) HIGH-PRIORITY JOINT RESPONSIBILITY OF SECRETARIES OF DEFENSE AND STATE.—The Secretary of Defense and the Secretary of State shall give a high priority to discussions with key regional allies and likely regional coalition partners, including those countries where the United States currently deploys forces, where United States forces would likely operate during regional conflicts, or which would provide civilians necessary to support United States military operations, to determine what steps are necessary to ensure that allied and coalition forces and other critical civilians are adequately equipped and prepared to operate in chemically and biologically contaminated environments.

(2) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense and the Secretary of State shall jointly submit to the Committee on Foreign Relations and the Committee on Armed Services of the Senate and to the Speaker of the House of Representatives a report describing—

(A) the results of the discussions held under paragraph (1) and plans for future discussions;

(B) the measures agreed to improve the preparedness of foreign armed forces and civilians; and

(C) any proposals for increased military assistance, including assistance provided through—

(i) the sale of defense articles and defense services under the Arms Export Control Act;

(ii) the Foreign Military Financing program under section 23 of that Act; and

(iii) chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training).

(d) UNITED STATES ARMY CHEMICAL SCHOOL.—

(1) COMMAND OF SCHOOL.—The Secretary of Defense shall take those actions that are necessary to ensure that the United States Army Chemical School remains under the oversight of a general officer of the United States Army.

(2) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) the transfer, consolidation, and reorganization of the United States Army Chemical School should not disrupt or diminish the training and readiness of the United States Armed Forces to fight in a chemical-biological warfare environment; and

(B) the Army should continue to operate the Chemical Defense Training Facility at Fort McClellan until such time as the replacement facility at Fort Leonard Wood is functional.

(e) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and on January 1 every year thereafter, the President shall submit a report to the Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Appropriations of the Senate and the Committee on International Relations, the Committee on National Security, and the Committee on Appropriations of the House of Representatives, and the Speaker of the House of Representatives on previous, current, and planned chemical and biological weapons defense activities of the United States Armed Forces.

(2) CONTENT OF REPORT.—Each report required by paragraph (1) shall include the following information for the previous fiscal year and for the next three fiscal years:

(A) ENHANCEMENT OF DEFENSE AND READINESS.—Proposed solutions to each of the deficiencies in chemical and biological warfare defenses identified in the March 1996 General Accounting Office Report, titled "Chemical and Biological Defense: Emphasis Remains Insufficient to Resolve Continuing Problems", and steps being taken pursuant to subsection (b) to ensure that the United States Armed Forces are capable of conducting required military operations to ensure the success of United States regional contingency plans despite the threat or use of chemical or biological weapons.

(B) PRIORITIES.—An identification of priorities of the executive branch of Government in the development of both active and passive defenses against the use of chemical and biological weapons.

(C) RDT&E AND PROCUREMENT OF DEFENSES.—A detailed summary of all budget activities associated with the research, development, testing, and evaluation, and procurement of chemical and biological defenses, set forth by fiscal year, program, department, and agency.

(D) VACCINE PRODUCTION AND STOCKS.—A detailed assessment of current and projected vaccine production capabilities and vaccine stocks, including progress in researching and developing a multivalent vaccine.

(E) DECONTAMINATION OF INFRASTRUCTURE AND INSTALLATIONS.—A detailed assessment of procedures and capabilities necessary to protect and decontaminate infrastructure and installations that support the ability of the United States to project power through the use of its Armed Forces, including progress in developing a nonaqueous chemical decontamination capability.

(F) PROTECTIVE GEAR.—A description of the progress made in procuring lightweight personal protective gear and steps being taken to ensure that programmed procurement quantities are sufficient to replace expiring battledress overgarments and chemical protective overgarments to maintain required wartime inventory levels.

(G) DETECTION AND IDENTIFICATION CAPABILITIES.—A description of the progress made in developing long-range standoff detection and identification capabilities and other battlefield surveillance capabilities for biological and chemical weapons, including progress on developing a multichemical agent detector, unmanned aerial vehicles, and unmanned ground sensors.

(H) THEATER MISSILE DEFENSES.—A description of the progress made in developing and deploying layered theater missile defenses for deployed United States Armed Forces which will provide greater geographic coverage against current and expected ballistic missile threats and will assist the mitigation of chemical and biological contamination through higher altitude intercepts and boost-phase intercepts.

(I) TRAINING AND READINESS.—An assessment of the training and readiness of the United States Armed Forces to operate in chemically and biologically contaminated environments and actions taken to sustain training and readiness, including at national combat training centers.

(J) MILITARY EXERCISES.—A description of the progress made in incorporating consideration about the threat or use of chemical and biological weapons into service and joint exercises as well as simulations, models, and wargames, together with the conclusions drawn from these efforts about the United States capability to carry out required missions, including with coalition partners, in military contingencies.

(K) MILITARY DOCTRINE.—A description of the progress made in developing and implementing service and joint doctrine for combat and noncombat operations involving adversaries armed with chemical or biological weapons, including efforts to update the range of service and joint doctrine to better address the wide range of military activities, including deployment, reinforcement, and logistics operations in support of combat operations, and for the conduct of such operations in concert with coalition forces.

(L) DEFENSE OF CIVILIAN POPULATION.—A description of the progress made in resolving issues relating to the protection of United States population centers from chemical and biological attack and from the consequences of such an attack, including plans for inoculation of populations, consequence management, and progress made in developing and deploying effective cruise missile defenses and a national ballistic missile defense.

**SEC. 208. NEGATIVE SECURITY ASSURANCES.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that in order to achieve an effective deterrence against attacks of the United States and United States Armed Forces by chemical weapons, the President should reevaluate the extension of negative security assurances by the United States to nonnuclear-weapon states in the context of the Treaty on the Non-Proliferation of Nuclear Weapons.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and to the Speaker of the House of Representatives a report, both in classified and unclassified forms, setting forth—

(1) the findings of a detailed review of United States policy on negative security assurances as a deterrence strategy; and

(2) a determination by the President of the appropriate range of nuclear and conventional responses to the use of chemical or biological weapons against the United States Armed Forces, United States citizens, allies, and third parties.

(c) DEFINITIONS.—In this section:

(1) NEGATIVE SECURITY ASSURANCES.—The term "negative security assurances" means the assurances provided by the United States to nonnuclear-weapon states in the context of the Treaty on the Non-Proliferation of Nuclear Weapons (21 UST 483) that the United States will forswear the use of certain weapons unless the United States is attacked by that nonnuclear-weapon state in alliance with a nuclear-weapon state.

(2) NONNUCLEAR-WEAPON STATES.—The term "nonnuclear-weapon states" means states that are not nuclear-weapon states (as defined in Article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968 (21 UST 483).

**SEC. 209. RIOT CONTROL AGENTS.**

(a) PROHIBITION.—The President shall not issue any order or directive that diminishes, abridges, or alters the right of the United States to use riot control agents—

(1) in any circumstance not involving international armed conflict; or

(2) in a defensive military mode to save lives in an international armed conflict, as provided for in Executive Order No. 11850 of April 9, 1975.

(b) CIRCUMSTANCES NOT INVOLVING INTERNATIONAL ARMED CONFLICT.—The use of riot control agents under subsection (a)(1) includes the use of such agents in—

(1) peacekeeping or peace support operations;

(2) humanitarian or disaster relief operations;

(3) noncombatant evacuation operations;

(4) counterterrorist operations and the rescue of hostages; and

(5) law enforcement operations and other internal conflicts.

(c) DEFENSIVE MILITARY MODE.—The use of riot control agents under subsection (a)(2) may include the use of such agents—

(1) in areas under direct and distinct United States military control, including the use of such agents for the purposes of controlling rioting or escaping enemy prisoners of war;

(2) to protect personnel or material from civil disturbances, terrorists, and paramilitary organizations;

(3) to minimize casualties during rescue missions of downed air crews and passengers, prisoners of war, or hostages;

(4) in situations where combatants and noncombatants are intermingled; and

(5) in support of base defense, rear area operations, noncombatant evacuation operations, and operations to protect or recover nuclear weapons.

(d) SENSE OF CONGRESS.—It is the sense of Congress that international law permits the United States to use herbicides, under regulations applicable to their domestic use, for control of vegetation within United States bases and installations or around their immediate defensive perimeters.

(e) AUTHORITY OF THE PRESIDENT.—The President shall take all necessary measures, and prescribe such rules and regulations as may be necessary, to ensure that the policy contained in this section is observed by the Armed Forces of the United States.

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By Mr. CHAFEE (for himself, Mr. GRAHAM, and Mr. JEFFORDS):

S. 496. A bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence; to the Committee on Finance.

THE HISTORIC HOMEOWNERSHIP ASSISTANCE ACT

Mr. CHAFEE. Mr. President, all across America, in the small towns and great cities of this country, our heritage as a nation—the physical evidence of our past—is at risk. In virtually every corner of this land, homes in which grandparents and parents grew up, communities and neighborhoods that nurtured vibrant families, schools that were good places to learn and churches and synagogues that were filled on days of prayer, have suffered the ravages of abandonment and decay.

In the decade from 1980 to 1990, Chicago lost 41,000 housing units through abandonment, Philadelphia 10,000, and St. Louis 7,000. The story in our older small communities has been the same, and the trend continues. It is important to understand that it is not just buildings that we are losing. It is the sense of our past, the vitality of our communities, and the shared values of those precious places.

We need not stand hopelessly by as passive witnesses to the loss of these irreplaceable historic resources. We can act, and to that end I am introducing today the Historic Homeownership Assistance Act along with my distinguished colleagues, Senator GRAHAM of Florida and Senator JEFFORDS.

This legislation is patterned after the existing historic rehabilitation investment tax credit. That legislation has been enormously successful in stimulating private investment in the rehabilitation of buildings of historic importance all across the country. Through its use we have been able to save and reuse a rich and diverse array of historic buildings: landmarks such as Union Station right here in Washington, DC, the Fox River Mills, a mixed use project that was once a derelict paper mill in Appleton, WI, and the Rosa True School, an eight-unit low- and moderate-income rental project in a historic school building in Portland, ME.

In my own State of Rhode Island, Federal tax incentives stimulated the rehabilitation and commercial reuse of more than 300 historic properties. The properties saved include the Hotel Manisses on Block Island, the former Valley Falls Mills complex in Central Falls, and the Honan Block in Woonsocket.

The legislation that I am introducing builds on the familiar structure of the existing tax credit, but with a different focus and a more modest scope and cost. It is designed to empower the one major constituency that has been barred from using the existing credit—homeowners. Only those persons who rehabilitate or purchase a newly rehabilitated home and occupy it as their principal residence would be entitled to this new credit. There would be no passive losses, no tax shelters and no syndications under this bill.

Like the existing investment credit, the bill would provide a credit to homeowners equal to 20 percent of the qualified rehabilitation expenditures made on an eligible building which is used as a principal residence by the owner. Eligible buildings are those individually listed on the National Register of Historic Places or on a nationally certified State or local historic register, or are contributing buildings in national, State or local historic districts. As is the case with the existing credit, the rehabilitation work would have to be performed in compliance with the Secretary of the Interior's Standards for Rehabilitation, although the bill clarifies that such Standards should be interpreted in a manner that takes into consideration economic and technical feasibility.

The bill allows lower-income homebuyers, who may not have sufficient Federal income tax liability to use a tax credit, to convert the credit to mortgage assistance. The legislation would permit such persons to receive an Historic Rehabilitation Mortgage Credit Certificate which they can use with their bank to obtain a lower interest rate on their mortgage or to lower the amount of their downpayment.

The credit would be available to condominiums and co-ops, as well as single-family buildings. If a building is rehabilitated by a developer for resale, the credit would pass through to the homeowner.

One goal of the bill is to provide incentives for middle- and upper-income families to return to older towns and cities. Therefore, the bill does not limit the tax benefits on the basis of income. However, it does impose a cap of $50,000 on the amount of credit which may be taken for a principal residence.

The Historic Homeownership Assistance Act will make ownership of a rehabilitated older home more affordable for homebuyers of modest incomes. It will encourage more affluent families to claim a stake in older towns and neighborhoods. It affords fiscally stressed cities and towns a way to put abandoned buildings back on the tax rolls, while strengthening their income

and sales tax bases. It offers developers, realtors and homebuilders a new realm of economic opportunity in revitalizing decaying buildings.

In addition to preserving our heritage, extending this credit will provide an important supplemental benefit—it will boost the economy. Every dollar of Federal investment in historic rehabilitation leverages many more from the private sector. Rhode Island, for example, has used the credit to leverage 252 million dollars in private investment. This investment has created more than 10,000 jobs and 187 million dollars in wages.

The American dream of owning one's own home is a powerful force. This bill can help it come true for those who are prepared to make a personnel commitment to join in the rescue of our priceless heritage. By their actions they can help to revitalize decaying resources of historic importance, create jobs and stimulate economic development, and restore to our older towns and cities a lost sense of purpose and community.

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:

S. 496

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Historic Homeownership Assistance Act".

**SEC. 2. HISTORIC HOMEOWNERSHIP REHABILITATION CREDIT.**

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 23 the following new section:

**"SEC. 24. HISTORIC HOMEOWNERSHIP REHABILITATION CREDIT.**

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the qualified rehabilitation expenditures made by the taxpayer with respect to a qualified historic home.

"(b) DOLLAR LIMITATION.—

"(1) IN GENERAL.—The credit allowed by subsection (a) with respect to any residence of a taxpayer shall not exceed $50,000 ($25,000 in the case of a married individual filing a separate return).

"(2) CARRYFORWARD OF CREDIT UNUSED BY REASON OF LIMITATION BASED ON TAX LIABILITY.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(c) QUALIFIED REHABILITATION EXPENDITURE.—For purposes of this section:

"(1) IN GENERAL.—The term 'qualified rehabilitation expenditure' means any amount properly chargeable to capital account—

"(A) in connection with the certified rehabilitation of a qualified historic home, and

"(B) for property for which depreciation would be allowable under section 168 if the qualified historic home were used in a trade or business.

"(2) CERTAIN EXPENDITURES NOT INCLUDED.—

"(A) EXTERIOR.—Such term shall not include any expenditure in connection with the rehabilitation of a building unless at least 5 percent of the total expenditures made in the rehabilitation process are allocable to the rehabilitation of the exterior of such building.

"(B) OTHER RULES TO APPLY.—Rules similar to the rules of clauses (ii) and (iii) of section 47(c)(2)(B) shall apply.

"(3) MIXED USE OR MULTIFAMILY BUILDING.—If only a portion of a building is used as the principal residence of the taxpayer, only qualified rehabilitation expenditures which are properly allocable to such portion shall be taken into account under this section.

"(d) CERTIFIED REHABILITATION.—For purposes of this section:

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'certified rehabilitation' has the meaning given such term by section 47(c)(2)(C).

"(2) FACTORS TO BE CONSIDERED IN THE CASE OF TARGETED AREA RESIDENCES, ETC.—

"(A) IN GENERAL.—For purposes of applying section 47(c)(2)(C) under this section with respect to the rehabilitation of a building to which this paragraph applies, consideration shall be given to—

"(i) the feasibility of preserving existing architectural and design elements of the interior of such building,

"(ii) the risk of further deterioration or demolition of such building in the event that certification is denied because of the failure to preserve such interior elements, and

"(iii) the effects of such deterioration or demolition on neighboring historic properties.

"(B) BUILDINGS TO WHICH THIS PARAGRAPH APPLIES.—This paragraph shall apply with respect to any building—

"(i) any part of which is a targeted area residence within the meaning of section 143(j)(1), or

"(ii) which is located within an enterprise or empowerment zone,

but shall not apply with respect to any building which is listed in the National Register.

"(3) APPROVED STATE PROGRAM.—The term 'certified rehabilitation' includes a certification made by—

"(A) a State Historic Preservation Officer who administers a State Historic Preservation Program approved by the Secretary of the Interior pursuant to section 101(b)(1) of the National Historic Preservation Act, or

"(B) a local government, certified pursuant to section 101(c)(1) of the National Historic Preservation Act and authorized by a State Historic Preservation Officer, or the Secretary of the Interior where there is no approved State program),

subject to such terms and conditions as may be specified by the Secretary of the Interior for the rehabilitation of buildings within the jurisdiction of such officer (or local government) for purposes of this section.

"(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

"(1) QUALIFIED HISTORIC HOME.—The term 'qualified historic home' means a certified historic structure—

"(A) which has been substantially rehabilitated, and

"(B) which (or any portion of which)—

"(i) is owned by the taxpayer, and

"(ii) is used (or will, within a reasonable period, be used) by such taxpayer as his principal residence.

"(2) SUBSTANTIALLY REHABILITATED.—The term 'substantially rehabilitated' has the meaning given such term by section 47(c)(1)(C); except that, in the case of any building described in subsection (d)(2), clause (i)(I) thereof shall not apply.

"(3) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(4) CERTIFIED HISTORIC STRUCTURE.—

"(A) IN GENERAL.—The term 'certified historic structure' has the meaning given such term by section 47(c)(3).

"(B) CERTAIN STRUCTURES INCLUDED.—Such term includes any building (and its structural components) which is designated as being of historic significance under a statute of a State or local government, if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance.

"(5) ENTERPRISE OR EMPOWERMENT ZONE.—The term 'enterprise or empowerment zone' means any area designated under section 1391 as an enterprise community or an empowerment zone.

"(6) REHABILITATION NOT COMPLETE BEFORE CERTIFICATION.—A rehabilitation shall not be treated as complete before the date of the certification referred to in subsection (d).

"(7) LESSEES.—A taxpayer who leases his principal residence shall, for purposes of this section, be treated as the owner thereof if the remaining term of the lease (as of the date determined under regulations prescribed by the Secretary) is not less than such minimum period as the regulations require.

"(8) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—If the taxpayer holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such stockholder shall be treated as owning the house or apartment which the taxpayer is entitled to occupy as such stockholder.

"(f) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—In the case of a building other than a building to which subsection (g) applies, qualified rehabilitation expenditures shall be treated for purposes of this section as made—

"(1) on the date the rehabilitation is completed, or

"(2) to the extent provided by the Secretary by regulation, when such expenditures are properly chargeable to capital account.

Regulations under paragraph (2) shall include a rule similar to the rule under section 50(a)(2) (relating to recapture if property ceases to qualify for progress expenditures).

"(g) ALLOWANCE OF CREDIT FOR PURCHASE OF REHABILITATED HISTORIC HOME.—

"(1) IN GENERAL.—In the case of a qualified purchased historic home, the taxpayer shall be treated as having made (on the date of purchase) the qualified rehabilitation expenditures made by the seller of such home.

"(2) QUALIFIED PURCHASED HISTORIC HOME.—For purposes of this subsection, the term 'qualified purchased historic home' means any substantially rehabilitated certified historic structure purchased by the taxpayer if—

"(A) the taxpayer is the first purchaser of such structure after the date rehabilitation

is completed, and the purchase occurs within 5 years after such date,

"(B) the structure (or a portion thereof) will, within a reasonable period, be the principal residence of the taxpayer,

"(C) no credit was allowed to the seller under this section or section 47 with respect to such rehabilitation, and

"(D) the taxpayer is furnished with such information as the Secretary determines is necessary to determine the credit under this subsection.

"(h) HISTORIC REHABILITATION MORTGAGE CREDIT CERTIFICATE.—

"(1) IN GENERAL.—The taxpayer may elect, in lieu of the credit otherwise allowable under this section, to receive a historic rehabilitation mortgage credit certificate. An election under this paragraph shall be made—

"(A) in the case of a building to which subsection (g) applies, at the time of purchase, or

"(B) in any other case, at the time rehabilitation is completed.

"(2) HISTORIC REHABILITATION MORTGAGE CREDIT CERTIFICATE.—For purposes of this subsection, the term 'historic rehabilitation mortgage credit certificate' means a certificate—

"(A) issued to the taxpayer, in accordance with procedures prescribed by the Secretary, with respect to a certified rehabilitation,

"(B) the face amount of which shall be equal to the credit which would (but for this subsection) be allowable under subsection (a) to the taxpayer with respect to such rehabilitation,

"(C) which may only be transferred by the taxpayer to a lending institution in connection with a loan—

"(i) that is secured by the building with respect to which the credit relates, and

"(ii) the proceeds of which may not be used for any purpose other than the acquisition or rehabilitation of such building, and

"(D) in exchange for which such lending institution provides the taxpayer—

"(i) a reduction in the rate of interest on the loan which results in interest payment reductions which are substantially equivalent on a present value basis to the face amount of such certificate, or

"(ii) if the taxpayer so elects with respect to a specified amount of the face amount of such a certificate relating to a building—

"(I) which is a targeted area residence within the meaning of section 143(j)(1), or

"(II) which is located in an enterprise or empowerment zone,

a payment which is substantially equivalent to such specified amount to be used to reduce the taxpayer's cost of purchasing the building (and only the remainder of such face amount shall be taken into account under clause (i)).

"(3) USE OF CERTIFICATE BY LENDER.—The amount of the credit specified in the certificate shall be allowed to the lender only to offset the regular tax (as defined in section 55(c)) of such lender. The lender may carry forward all unused amounts under this subsection until exhausted.

"(i) RECAPTURE.—

"(1) IN GENERAL.—If, before the end of the 5-year period beginning on the date on which the rehabilitation of the building is completed (or, if subsection (g) applies, the date of purchase of such building by the taxpayer)—

"(A) the taxpayer disposes of such taxpayer's interest in such building, or

"(B) such building ceases to be used as the principal residence of the taxpayer,

the taxpayer's tax imposed by this chapter for the taxable year in which such disposition or cessation occurs shall be increased by the recapture percentage of the credit allowed under this section for all prior taxable years with respect to such rehabilitation.

"(2) RECAPTURE PERCENTAGE.—For purposes of paragraph (1), the recapture percentage shall be determined in accordance with the table under section 50(a)(1)(B), deeming such table to be amended—

"(A) by striking 'If the property ceases to be investment credit property within—' and inserting 'If the disposition or cessation occurs within—', and

"(B) in clause (i) by striking 'One full year after placed in service' and inserting 'One full year after the taxpayer becomes entitled to the credit'.

"(j) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property (including any purchase under subsection (g) and any transfer under subsection (h)), the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(k) PROCESSING FEES.—Any State may impose a fee for the processing of applications for the certification of any rehabilitation under this section provided that the amount of such fee is used only to defray expenses associated with the processing of such applications.

"(l) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any amount for which credit is allowed under section 47.

"(m) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations where less than all of a building is used as a principal residence and where more than 1 taxpayer use the same dwelling unit as their principal residence."

(b) CONFORMING AMENDMENT.—Subsection (a) of section 1016 of such Code is amended by striking "and" at the end of paragraph (25), by striking the period at the end of paragraph (26) and inserting ", and", and by adding at the end the following new item:

"(27) to the extent provided in section 24(j)."

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. Historic homeownership rehabilitation credit."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to rehabilitations the physical work on which begins after the date of enactment of this Act.

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SUMMARY OF THE HISTORIC HOMEOWNERSHIP ASSISTANCE ACT

Purpose. To provide homeownership incentives and opportunities through the rehabilitation of older buildings in historic districts. To stimulate the revival of decaying neighborhoods and communities, and the preservation of historic buildings and districts through homeownership.

Rate of Credit: Eligible Buildings. The existing Historic Rehabilitation Tax Credit, which provides a credit of 20 percent of qualified rehabilitation expenditures to investors in commercial and rental buildings, is extended to homeowners who rehabilitate or purchase a newly-rehabilitated eligible home and occupy it as a principal residence. In the case of buildings rehabilitated by developers and sold to homeowners, the credit is passed through to the home purchaser. Eligible buildings are those listed individually on the National Register of Historic Places or on a nationally certified state or local register, and contributing buildings in national, state or local historic districts.

Both single-family and multifamily residences, through condominiums and cooperatives, qualify for the credit. In the case of buildings where one section of the structure is slated for residential use and another for commercial use, such as in two- or three-story buildings in downtown areas, purchasers could utilize the historic homeowner tax credit against the rehabilitation expenditures of the residential portion, and the existing commercial rehabilitation tax credit for the remaining portion.

Maximum Credit: Minimum Expenditures. The amount of the homeownership credit is limited to $50,000 for each principal residence. The amount of qualified rehabilitation expenditures must exceed the greater of $5,000 or the adjusted tax basis of the building (excluding the land) within a 24-month period. For buildings in census tracts targeted as distressed for Mortgage Revenue Bond purposes and those in Enterprise and Empowerment Zones, the minimum expenditure is $5,000. At least five percent of the qualified rehabilitation expenditures must be spent on the exterior of the building.

Pass-Through of Credit: Carry-Forward: Recapture. In the event that the rehabilitation is performed by a developer, the credit accrues to the homeowner. The credit cannot be used to offset the developer's tax liability, but instead must be passed through to the home purchaser. The entire amount of the credit is available to reduce federal income tax liability, subject to Alternative Minimum Tax limitations. The credit is available in the year in which the expenditures are made by the taxpayer or a rehabilitated property is purchased by the homeowner. Any unused credit would be carried forward until fully exhausted. In the event the taxpayer fails to maintain the home as a principal residence for five years, the credit is subject to recapture.

No "Passive Loss"; No Income Limit. The credit is not subject to the "passive loss" limitations. Further, since the legislation is intended to promote economic diversity among residents and increase local property, income and sales tax revenues, taxpayers are eligible for the credit without regard to income.

Standards for Historic Rehabilitation. To qualify for the credit, the rehabilitation must be performed in accordance with the Secretary of the Interior's Standards for Rehabilitation, which guide eligibility of expenditures under the existing commercial rehabilitation tax credit. The intent of the Standards is to assist the long-term preservation of a property's significance through the preservation of historic materials and features. The Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility. The proposed legislation clarifies this directive.

State-Level Certifications. As under the existing commercial rehabilitation tax credit program, State Historic Preservation Officers and Certified Local Governments are given the authority to certify the rehabilitation of buildings within their respective jurisdictions. States are given the authority to

levy fees for processing applications for certification of the rehabilitation expenditures, provided that the proceeds of such fees are used solely to defray expenses associated with processing the application.

Historic Rehabilitation Mortgage Credit Certificates. Lower income taxpayers may not have sufficient income tax liability to take full use of the credit. The legislation permits anyone eligible for the income tax credit to convert it into a mortgage credit certificate which could be used either to reduce the interest rate on a home mortgage loan or to lower the down payment required to purchase the property.

Under this option, the taxpayer transfers the certificate to the mortgage lender in exchange for a reduced interest rate on a home mortgage loan. The mortgage lender then uses the credit to reduce its federal income tax liability, subject to Alternative Minimum Tax limitations. The credit claimed by the mortgage lender is not subject to recapture.

In many distressed neighborhoods, the cost of rehabilitating a home and bringing it to market significantly exceeds the value at which the property is appraised by the mortgage lender. This gap imposes a significant burden on a potential homeowner because the required downpayment exceeds his or her means. The legislation permits the mortgage credit certificate to be used to reduce the buyer's downpayment, rather than to reduce the interest rate, in order to close this gap. This provision is limited to historic districts which qualify as targeted under the existing Mortgage Revenue Bond program or are located in enterprise or empowerment zones.

Although the right to receive an Historic Rehabilitation Mortgage Credit Certificate is available to all persons entitled to the tax credit, the certificate may not be used by a person who would be precluded from using the income tax credit because of the Alternative Minimum Tax limitation.

Mr. GRAHAM. Mr. President, today I join my colleague Senator CHAFEE in support of the Historic Homeownership Assistance Act. This bill would spur growth and preservation of historic neighborhoods across the country by providing a limited tax credit for qualified rehabilitation expenditures to historic homes.

An understanding of the history of the United States serves as one of the cornerstones supporting this great nation. We find American history reflected not only in books, films, and stories, but also in physical structures, including schools, churches, county courthouses, mills, factories, and personal residences.

The bill that Senator CHAFEE and I are cosponsoring focuses on the preservation of historic residences. The bill will assist Americans who want to safeguard, maintain, and reside in these homes which chronicle America's past.

The Historic Homeownership Assistance Act will stimulate rehabilitation of historic homes while contributing to the revitalization of urban communities. The Federal tax credit provided in the legislation is modeled after the existing Federal commercial historic rehabilitation tax credit. Since 1981, this commercial tax credit has facilitated the preservation of many historic structures across this great land. For example in the last two decades, in my home State of Florida, $238 million in private capital was invested in over 325 historic rehabilitation projects. These investments helped preserve Ybor City in Tampa and the Springfield Historic District in Jacksonville.

The tax credit, however, has never applied to personal residences. It is time to provide an incentive to individuals to restore and preserve homes in America's historic communities.

The Historic Homeownership Assistance Act targets Americans at all economic levels. The bill provides lower income Americans with the option to elect a Mortgage Credit Certificate in lieu of the tax credit. This certificate allows Americans who cannot take advantage of the tax credit to reduce the interest rate on their mortgage that secures the purchase and rehabilitation of a historic home.

For example, if a lower-income family were to purchase a $35,000 home which included $25,000 worth of qualified rehabilitation expenditures, it would be entitled to a $5,000 Historic Rehabilitation Mortgage Credit Certificate which could be used to reduce interest payments on the mortgage. This provision would enable families to obtain a home and preserve historic neighborhoods when they would be unable to do so otherwise.

Mr. President, the time has come for Congress to get serious about urban renewal. For too long, we have sat on the sidelines watching idly as our citizens slowly abandoned entire homes and neighborhoods in urban settings, leaving cities like Miami in Florida and others around the nation in financial jeopardy. For example, according to U.S. Census data, in the decade from 1980 to 1990, Chicago lost 41,000 housing units, Philadelphia 10,000, and St. Louis 7,000. The erosion of a sense of community and culture once shared by our urban neighborhoods and towns further magnifies the loss.

By addressing years of neglect and a general decline in investment in our older neighborhoods, this bill will empower families and individuals with the financial incentives needed to revitalize historic housing in our urban communities.

Recognizing that the States can best administer laws affecting unique communities, the act gives power to the Secretary of the Interior to work with states to implement a number of the provisions.

The Historic Homeownership Assistance Act does not, however, reflect an untried proposal. In addition to the existing commercial historic rehabilitation credit, the proposed bill incorporates features from several state tax incentives for the preservation of historic homes. Colorado, Maryland, New Mexico, Rhode Island, Wisconsin, and Utah have pioneered their own successful versions of a historic preservation tax incentive for homeownership.

At the Federal level, this legislation would promote historic home preservation nationwide, allowing future generations of Americans to visit and reside in homes that tell the unique history of our communities. The Historic Homeownership Assistance Act will offer enormous potential for saving historic homes and bringing entire neighborhoods back to life.

I urge my colleagues to support this bill for the preservation of history.

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By Mr. COVERDELL (for himself and Mr. FAIRCLOTH):

S. 497. A bill to amend the National Labor Relations Act and the Railway Labor Act to repeal the provisions of the Acts that require employees to pay union dues or fees as a condition of employment; to the Committee on Labor and Human Resources.

THE NATIONAL RIGHT TO WORK ACT OF 1997

Mr. COVERDELL. Mr. President, I am pleased to introduce the Coverdell-Faircloth National Right to Work Act of 1997. As many of you know, my esteemed colleague from North Carolina, Senator LAUCH FAIRCLOTH, introduced this language last Congress and I commend Senator FAIRCLOTH for his outstanding leadership on this issue.

This bill does not add a single word to Federal law. Rather, it would repeal those sections of the National Labor Relations Act and Railway Labor Act that authorize the imposition of forced-dues contracts on working Americans. I believe that every worker must have the right to join or support a labor union. This bill protects that right. But no worker should ever be forced to join a union.

I am happy to say that my own state, Georgia, is among one of the 21 states that is a "Right to Work" state and has been since 1947. According to U.S. News and World Report, 7 of the strongest 10 State economies in the nation have Right to Work laws. Workers who have the freedom to choose whether or not to join a union have a higher standard of living than their counterparts in non-Right to Work States. According to Dr. James Bennett, an economist with the highly respected economics department at George Mason University, on average, urban families in Right to Work States have approximately $2,852 more annual purchasing power than urban families in non-Right to Work States when the lower taxes, housing and food costs of Right to Work States are taken into consideration.

According to a poll by the respected Marketing Research Institute, 77 percent of Americans support Right to Work, and over 50 percent of union households believe workers should have the right to choose whether or not to join or pay dues to a labor union. That should be no surprise. Because what

this is all about is freedom. And right to work expands every working American's personal freedom.

Mr. President, I urge my colleagues to support this legislation that expands the freedom of hard working Americans and gives them the freedom to choose whether to accept or reject union representation and union dues without facing coercion, violence, and work-place harassment by union officials.

Mr. FAIRCLOTH. Mr. President, today I join with my good friend, Senator COVERDELL to introduce the National Right to Work Act of 1997. This is the same legislation that I introduced during the 104th Congress, and I am delighted to have Senator COVERDELL as a partner in this effort during the 105th Congress.

As I have said before, and continue to believe strongly, compulsory unionism violates the fundamental principle of individual liberty—the very principle upon which this Nation was founded. Compulsory unionism basically says that workers cannot and should not decide for themselves what is in their best interest. I can think of nothing more offensive to the core American principles of liberty and freedom.

The National Right to Work Act will address this most fundamental problem of federal labor policy: does America believe that working men and women should be forced, as a condition of employment, to pay dues or fees to a labor union? I believe, as does my colleague, Senator COVERDELL and many others, that no one should be forced to pay union dues just to get or keep a job.

The National Right to Work Act would not change a single word of Federal law. Rather, the measure would repeal those sections of the National Labor Relations Act and Railway Labor Act that authorize the imposition of forced-dues contracts on working Americans. I believe that every worker must have the right to join or support a labor union. This bill protects that right. However, no worker should be forced to join a union.

In 1965, Senator Everett Dirksen said of compulsory unionism, "Is there a more fundamental right than to make a living for one's family without being compelled to join a labor organization?" I could not agree more.

Mr. President, again let me say that I am pleased to introduce today with Senator COVERDELL the National Right to Work Act of 1977.

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By Mr. CHAFEE (for himself and Mr. MOYNIHAN):

S. 498. A bill to amend the Internal Revenue Code of 1986 to allow an employee to elect to receive taxable cash compensation on lieu of nontaxable parking benefits, and for other purposes; to the Committee on Finance.

THE COMMUTER CHOICE ACT OF 1997

Mr. CHAFEE. Mr. President, one of the greatest challenges facing metropolitan areas in our Nation is finding a way to reduce traffic congestion. Commuters in cities across the country spend countless hours on the road traveling to and from work. This traffic places tremendous pressure on our highway infrastructure and causes monumental environmental problems. More than 100 cities fail to meet today's clean air standards. The best way to clean up our air is to reduce the number of automobiles which are driven on a daily basis.

Unfortunately, our current tax laws actually encourage commuters to travel to work in single occupant automobiles. Today, employers can provide parking to their employees as a tax-free fringe benefit. As part of the Energy Policy Act of 1992, the value of parking that qualifies for this benefit is limited to $170 per month. By comparison, tax-free transit or van-pool benefits are limited to only $65 per month.

There is another aspect of this benefit that makes the tax-free parking an even greater incentive for employees to drive to work. The fringe benefit must be offered by employers on a take-it-or-leave-it basis. In other words, the employee has the option of accepting the employer-paid parking or nothing at all. The tax-exempt status of the employer-provided parking is lost if employees are offered a choice between the parking fringe benefit and taxable salary.

Let me illustrate the problem this creates. Suppose an employer has two employees, Sally and Jim. Under current law, the employer can pay for a parking space at a garage next door. This fringe benefit will not be taxable to Sally and Jim so long as the cost does not exceed $170 per month. But, let's assume that Sally would prefer to receive cash instead of a parking space, because she can commute to work with her husband or take public transportation. The way the law is currently written, Sally's employer cannot offer her cash instead of the parking fringe benefit, because it would cause Jim's parking fringe benefit to become taxable.

The Commuter Choice Act of 1997, which I am introducing today along with my colleague Senator MOYNIHAN, corrects this bias in the Tax Code by allowing employers to offer their employees the choice of tax-free parking or taxable cash compensation. This proposal is completely voluntary. Employers are not required to offer cash in lieu of parking. Furthermore, it has absolutely no affect on employees wishing to continue receiving tax-free parking. That fringe benefit would remain exempt from income and payroll taxes. However, my proposal would allow employees not interested in the parking fringe benefit to opt instead for taxable cash compensation.

Intuitively, I believe Voluntary Cash Out will have positive revenue consequences for the Federal Government. Some individuals who currently receive tax-free parking will instead opt for taxable cash compensation. For example, trading in a parking space in many cities could be worth almost $2,000 in pretax salary annually, a powerful incentive to consider alternative ways of getting to work. An overwhelming majority of employees receive tax-free parking from their employers—95 percent who drive to work, according to the National Personal Transportation Survey. So, even if only a small portion of this population chooses the taxable cash it should lead to a substantial revenue windfall.

In 1992, the State of California enacted legislation that required employers with 50 or more employees to offer cash in lieu of parking if the employer subsidized commuter parking. A recent study of eight employers who complied with this law provides some evidence of how businesses and their employees might react to Commuter Choice. For the nearly 1,700 employees of the eight firms, the solo driver share fell from 76 to 63 percent; to carpool share increased from 14 to 23 percent. More importantly, because many employees voluntarily chose taxable cash over tax-exempt parking, State and Federal income tax revenues increased by $56 per employee per year.

Finally, employer interest in programs like Commuter Choice will increase as pressure builds to reduce traffic congestion and air pollution in our Nation's cities. Many urban areas that are in nonattainment for national air quality standards have incorporated employee commute option programs as part of their State implementation plans. These programs are hampered, however, by the current tax rules, which prohibit employees from trading in tax-free parking for cash and utilizing alternative commute options. The Commuter Choice Act removes that prohibition.

I encourage my colleagues to cosponsor this legislation, which offers greater flexibility to employers and employees, and which will have a substantial positive effect on our air quality.

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. 498

*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 "Commuter Choice Act of 1997".

**SEC. 2. ELECTION TO RECEIVE TAXABLE CASH COMPENSATION IN LIEU OF NONTAXABLE PARKING BENEFITS.**

(a) IN GENERAL.—Section 132(f)(4) of the Internal Revenue Code of 1986 (relating to benefits not in lieu of compensation) is amended by adding at the end the following new sentence: "This paragraph shall not apply to

any qualified parking provided in lieu of compensation which otherwise would have been includible in gross income of the employee."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to qualified parking provided after December 31, 1997.

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By Mr. CHAFEE (for himself, Mr. BAUCUS, and Mr. GREGG):

S. 499. A bill to amend the Internal Revenue Code of 1986 to provide an election to exclude from the gross estate of a decedent the value of certain land subject to a qualified conservation easement, and to make technical changes to alternative valuation rules; to the Committee on Finance.

THE AMERICAN FARM AND RANCH PROTECTION ACT OF 1997

Mr. CHAFEE. Mr. President, a serious environmental problem facing the country today is the loss of open space to development. All across the country, farms, ranches, forests, and wetlands are forced to give way to the pressures for new office buildings, shopping malls, and housing developments.

America is losing over 4 square miles of land to development every day. In Rhode Island, over 11 thousand acres of farmland have been lost to development since 1974. In many instances, this is simply the natural outgrowth of urbanization of our society. Other times it is the direct result of improper planning at the State and local levels.

But frequently, the pressure comes from the need to raise funds to pay estate taxes. For those families where undeveloped land represents a significant portion of the estate's total value, the need to pay the tax creates powerful pressure to develop or sell off part or all of the land or to liquidate the timber resources of the land. Because land is appraised by the Internal Revenue Service according to its highest and best use, and such use is often its development value, the effect of the tax is to make retention of undeveloped land impossible.

In addition, our current estate tax policy results in complicated valuation disputes between the donor's estate and the Internal Revenue Service. In many cases, the additional costs incurred as a result of these disagreements cause a potential donor of a conservation easement to decide not to make the contribution.

These open spaces improve the quality of life for Americans throughout this great Nation and provide important habitat for fish and wildlife. The question is how do we conserve our most valuable resource during this time of significant budget constraints.

Mr. President, I think we need to restructure the Nation's estate tax laws to remove the disincentive for private property owners to conserve environmentally significant land. The American Farm and Ranch Protection Act, which I am introducing today along with Senators BAUCUS and GREGG, will help to achieve this goal by providing an exemption from the estate tax for the value of land that is subject to a qualified, permanent conservation easement.

This bill is similar to legislation that we introduced during the 104th Congress and was included in the Balanced Budget Act of 1995. It excludes land subject to a conservation easement from the estate and gift taxes. Development rights retained by the family—most frequently the ability to use the property for a commercial purpose—remain subject to the estate tax.

In order to target the incentives under this bill to those areas that are truly at risk for development, the bill is limited to land that falls within a 50-mile radius of a metropolitan area, a national park or a national wilderness area, or an urban national forest.

Conservation easements, which are entirely voluntary, are agreements negotiated by landowners in which a restriction upon the future use of land is imposed in order to conserve those aspects of the land that are publicly significant. To qualify for the estate tax exemption under this bill, such easements must be perpetual and must be made to preserve open space, to protect the natural habitat of fish, wildlife, or plants, to meet a governmental conservation policy, or to preserve a historically important land area.

I urge my colleagues to join me in this effort to save environmentally sensitive open spaces.

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:

S. 499

*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 "American Farm and Ranch Protection Act of 1997".

**SEC. 2. TREATMENT OF LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.**

(a) ESTATE TAX WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—Section 2031 of the Internal Revenue Code of 1986 (relating to the definition of gross estate) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) ESTATE TAX WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—

"(1) IN GENERAL.—If the executor makes the election described in paragraph (4), then, except as otherwise provided in this subsection, there shall be excluded from the gross estate the value of land subject to a qualified conservation easement.

"(2) TREATMENT OF CERTAIN INDEBTEDNESS.—

"(A) IN GENERAL.—The exclusion provided in paragraph (1) shall not apply to the extent that the land is debt-financed property.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) DEBT-FINANCED PROPERTY.—The term 'debt-financed property' means any property with respect to which there is an acquisition indebtedness (as defined in clause (ii)) on the date of the decedent's death.

"(ii) ACQUISITION INDEBTEDNESS.—The term 'acquisition indebtedness' means, with respect to debt-financed property, the unpaid amount of—

"(I) the indebtedness incurred by the donor in acquiring such property,

"(II) the indebtedness incurred before the acquisition of such property if such indebtedness would not have been incurred but for such acquisition.

"(III) the indebtedness incurred after the acquisition of such property if such indebtedness would not have been incurred but for such acquisition and the incurrence of such indebtedness was reasonably foreseeable at the time of such acquisition, except that indebtedness incurred after the acquisition of such property is not acquisition indebtedness if incurred to carry on activities directly related to farming, ranching, forestry, horticulture, or viticulture, and

"(IV) the extension, renewal, or refinancing of an acquisition indebtedness.

"(3) TREATMENT OF RETAINED DEVELOPMENT RIGHT.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to the value of any development right retained by the donor in the conveyance of a qualified conservation easement.

"(B) TERMINATION OF RETAINED DEVELOPMENT RIGHT.—If every person in being who has an interest (whether or not in possession) in such land shall execute an agreement to extinguish permanently some or all of any development rights (as defined in subparagraph (D)) retained by the donor on or before the date for filing the return of the tax imposed by section 2001, then any tax imposed by section 2001 shall be reduced accordingly. Such agreement shall be filed with the return of the tax imposed by section 2001. The agreement shall be in such form as the Secretary shall prescribe.

"(C) ADDITIONAL TAX.—Failure to implement the agreement described in subparagraph (B) within 2 years of the decedent's death shall result in the imposition of an additional tax in the amount of tax which would have been due on the retained development rights subject to such agreement. Such additional tax shall be due and payable on the last day of the 6th month following the end of the 2-year period.

"(D) DEVELOPMENT RIGHT DEFINED.—For purposes of this paragraph, the term 'development right' means the right to establish or use any structure and the land immediately surrounding it for sale (other than the sale of the structure as part of a sale of the entire tract of land subject to the qualified conservation easement), or other commercial purpose which is not subordinate to and directly supportive of the activity of farming, forestry, ranching, horticulture, or viticulture conducted on land subject to the qualified conservation easement in which such right is retained.

"(4) ELECTION.—The election under this subsection shall be made on the return of the tax imposed by section 2001. Such an election, once made, shall be irrevocable.

"(5) CALCULATION OF ESTATE TAX DUE.—An executor making the election described in paragraph (4) shall, for purposes of calculating the amount of tax imposed by section 2001, include the value of any development right (as defined in paragraph (3)) retained by the donor in the conveyance of such qualified conservation easement. The computation of tax on any retained development

right prescribed in this paragraph shall be done in such manner and on such forms as the Secretary shall prescribe.

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—The term 'land subject to a qualified conservation easement' means land—

"(i) which is located in or within 50 miles of an area which, on the date of the decedent's death—

"(I) is a metropolitan area (as defined by the Office of Management and Budget),

"(II) is a National Park or wilderness area designated as part of the National Wilderness Preservation System (unless it is determined by the Secretary that land in or within 50 miles of such a park or wilderness area is not under significant development pressure), or

"(III) is an Urban National Forest (as designated by the Forest Service),

"(ii) which was owned by the decedent or a member of the decedent's family at all times during the 3-year period ending on the date of the decedent's death, and

"(iii) with respect to which a qualified conservation easement is or has been made by the decedent or a member of the decedent's family.

"(B) QUALIFIED CONSERVATION EASEMENT.—The term 'qualified conservation easement' means a qualified conservation contribution (as defined in section 170(h)(1)) of a qualified real property interest (as defined in section 170(h)(2)(C)), except that for this purpose the term 'qualified real property interest' shall not include any structure or building constituting 'a certified historic structure' as defined in section 170(h)(4)(B), and the restriction on the use of such interest described in section 170(h)(2)(C) shall include a prohibition on commercial recreational activity, except that the leasing of fishing and hunting rights shall not be considered commercial recreational activity when such leasing is subordinate to the activities of farming, ranching, forestry, horticulture or viticulture.

"(C) MEMBER OF FAMILY.—The term 'member of the decedent's family' means any member of the family (as defined in section 2032A(e)(2)) of the decedent."

"(7) APPLICATION OF THIS SECTION TO INTERESTS IN PARTNERSHIPS, CORPORATIONS, AND TRUSTS.—The Secretary shall prescribe regulations applying this section to an interest in a partnership, corporation, or trust which, with respect to the decedent, is an interest in a closely held business (within the meaning of paragraph (1) of section 6166(b))."

(b) CARRYOVER BASIS.—Section 1014(a) of such Code (relating to basis of property acquired from a decedent) is amended by striking the period at the end of paragraph (3) and inserting ", or" and by adding after paragraph (3) the following new paragraph:

"(4) to the extent of the applicability of the exclusion described in section 2031(c), the basis in the hands of the decedent."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1996.

**SEC. 3. GIFT TAX ON LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.**

(a) GIFT TAX WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—Section 2503 of the Internal Revenue Code of 1986 (relating to taxable gifts) is amended by adding at the end the following new subsection:

"(h) GIFT TAX WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—The transfer by gift of land subject to a qualified conservation easement shall not be treated as a transfer of property by gift for purposes of this chapter. For purposes of this subsection, the term 'land subject to a qualified conservation easement' has the meaning given to such term by section 2031(c); except that references to the decedent shall be treated as references to the donor and references to the date of the decedent's death shall be treated as references to the date of the transfer by the donor."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to gifts made after December 31, 1996.

**SEC. 4. QUALIFIED CONSERVATION CONTRIBUTION IS NOT A DISPOSITION.**

(a) QUALIFIED CONSERVATION CONTRIBUTION IS NOT A DISPOSITION.—Subsection (c) of section 2032A of the Internal Revenue Code of 1986 (relating to alternative valuation method) is amended by adding at the end the following new paragraphs:

"(8) QUALIFIED CONSERVATION CONTRIBUTION IS NOT A DISPOSITION.—A qualified conservation contribution (as defined in section 170(h)) by gift or otherwise shall not be deemed a disposition under subsection (c)(1)(A).

"(9) EXCEPTION FOR REAL PROPERTY IS LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—If qualified real property is land subject to a qualified conservation easement (as defined in section 2031(c)), the preceding paragraphs of this subsection shall not apply."

(b) LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT IS NOT DISQUALIFIED.—Subsection (b) of section 2032A of such Code (relating to alternative valuation method) is amended by adding at the end the following paragraph:

"(E) If property is otherwise qualified real property, the fact that it is land subject to a qualified conservation easement (as defined in section 2031(c)) shall not disqualify it under this section."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contributions made, and easements granted, after December 31, 1996.

**SEC. 5. QUALIFIED CONSERVATION CONTRIBUTION WHERE SURFACE AND MINERAL RIGHTS ARE SEPARATED.**

(a) IN GENERAL.—Section 170(h)(5)(B)(ii) of the Internal Revenue Code of 1986 (relating to special rule) is amended to read as follows:

"(ii) SPECIAL RULE.—With respect to any contribution of property in which the ownership of the surface estate and mineral interests has been and remains separated, subparagraph (A) shall be treated as met if the probability of surface mining occurring on such property is so remote as to be negligible."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to contributions made after December 31, 1992, in taxable years ending after such date.

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SUMMARY OF THE AMERICAN FARM AND RANCH PROTECTION ACT OF 1997

The American Farm and Ranch Protection Act protects family lands and encourages the voluntary conservation of farmland, ranches, forest land, wetlands, wildlife habitat, open space and other environmentally sensitive property. It enables farmers and ranchers to continue to own and work their land by eliminating the estate and gift tax burden that threatens the current generation of owners. The bill does this in the following ways:

By excluding from estate and gift taxes the value of land on which a qualified conservation easement has been granted if the land is located in or within a 50-mile radius of a metropolitan area, a National Park, or a wilderness area that is part of the National Wilderness Area System, or an Urban National Forest; and,

By clarifying that land subject to a qualified conservation easement can also qualify for special use valuation under Code section 2032A.

The bill also contains a number of safeguards to ensure that the benefits of the exclusion are not abused. These safeguards include the following:

The easement must be perpetual and meet the requirements of Code Section 170(h), governing deductions for charitable contributions of easements;

Easements retaining the right to develop the property for commercial recreational use would not be eligible, while other retained development rights would be taxed;

Land excluded from the estate tax would receive a carryover, rather than stepped-up, basis for purposes of calculating gain on a subsequent sale;

The land must have been owned by the decedent or a member of the decedent's family for at least three years immediately prior to the decedent's death; and,

The easement must have been donated by the decedent or a member of the decedent's family.

Under Section 170(h) easements will qualify only if they are made to a federal, state or local governmental unit or certain nonprofit groups. In addition, they must be made: To preserve land areas for outdoor recreation by the general public; to protect the natural habitat of fish, wildlife, or plants; or, to preserve open space (including farmland and forest land).

The bill is effective for decedents dying, or gifts made, after December 31, 1996.

Mr. BAUCUS. Mr. President, I am very pleased to join my colleague Senator CHAFEE in introducing the American Farm and Ranch Protection Act today. This bill represents a bipartisan effort to help protect the open lands of our great country.

Montana is known as Big Sky country for a reason, our expansive open areas dedicated to farming, ranching, and forestry rather than building and development. Our open lands represent a way of life in Montana, they are part of our environmental and cultural heritage. And they are rapidly disappearing as ranches and farms make way for houses and building complexes.

America is losing over 4 square miles of land to development every day. In Montana alone, since 1987 over 560,000 acres of farmland have been taken out of farm use. Since 1974 the number of acres of land taken our of farm use exceeds 2.5 million.

Frequently, the pressure to abandon the farm use of land comes from the need to raise funds to pay estate taxes. For those families where undeveloped land represents a significant portion of the estate's total value, often the heirs must develop or sell off part or all of the land merely in order to pay the tax. Because land is typically appraised by the Internal Revenue Service according to its highest and best use,

which usually assumes development on the property, retention of undeveloped land is very difficult.

I have attempted to resolve this problem through changes in the estate tax itself by my sponsorship of the bipartisan Estate Tax Relief for the American Family Act of 1997. That bill will make it easier for all family-owned businesses, including farms and ranches, to be passed on to succeeding generations. At the same time, however, I believe it is important to provide an incentive for the permanent preservation of environmentally significant land, so that our legacy to our children will include Montana's open lands. The American Farm and Ranch Protection Act, which Senator CHAFEE and I are introducing today, will help to achieve this goal by providing an exemption from the estate tax for the value of land that is subject to a qualified, permanent conservation easement.

Conservation easements, which are entirely voluntary, are agreements negotiated by landowners in which a restriction upon the future use of land is imposed in order to conserve those aspects of the land that are publicly significant. To qualify for the estate tax exemption under this bill, the easements must be perpetual and must be made to preserve open space, to protect the natural habitat of fish, wildlife or plants, to meet a government conservation policy, or to preserve a important historical heritage area.

Title 5 of this bill represents an effort to clarify an area of the law that is of particular importance in Montana. Under current law, when mineral rights have been severed from the surface rights in a piece of property, and a qualified conservation easement is created by the owner of the surface rights for the benefit of a nonprofit entity, that owner is unable to take a charitable deduction unless two conditions are met: the probability of surface mining occurring on the property must be so remote as to be negligible, and the severance of the mineral rights must have occurred before June 13, 1976. In Montana, severance of mineral rights for many properties occurred many generations earlier, and they have often been disbursed to farflung relatives in very small portions. So the probability that mining will occur is, indeed, very remote. The Internal Revenue Service, however, has asserted that some uncertainty exists about the congressional intent behind the term "ownership of the surface estate and mineral interest first separated after June 12, 1976."

I was the original authority of the language in question, and I have communicated with the IRS regarding my intention when the language was drafted. However, IRS has been unwilling to issue a favorable letter ruling which would clarify this issue, and as a consequence, it is impossible for many Western landowners to make voluntary charitable contributions of conservation easements in order to protect important Western land. In light of the confusion that this date has caused, and because it has no policy justification, our legislation would eliminate the 1976 date from the statute.

I believe this bill can be an important tool for America's farm and ranch families to utilize in preserving their homesteads. At the same time, it makes a significant contribution to the larger public good of conserving America's increasingly threatened rural lands. I urge my colleagues to join on the bill as cosponsors, and encourage the administration to support the legislation.

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By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 500. A bill to authorize emergency appropriations for cleanup and repair of damages to facilities of Yosemite National Park and other California national parks caused by heavy rains and flooding in December 1996 and January 1997, and for other purposes; to the Committee on Energy and Natural Resources.

THE YOSEMITE EMERGENCY RESTORATION AND CONSTRUCTION ACT

Mrs. BOXER. Mr. President, I am today introducing a bill that will authorize emergency appropriations for cleanup and repair of damages to facilities of Yosemite National Park and other National Park Service areas in California caused by heavy rains and flooding in December 1996 and January 1997.

I expect most of the issues regarding emergency cleanup and repair due to floods in California to be addressed through the appropriations process. I do not therefore expect this bill to be taken up by the appropriate Senate committee and passed by the Senate. The primary purpose of introducing this bill is to set a benchmark for recovery and cleanup efforts at Yosemite National Park.

My bill takes several steps beyond the bill that was introduced last month by Congressman DOOLITTLE and RADANOVICH:

First, it authorizes emergency funding. Second, it authorizes a specific amount—$200 million in emergency funds in fiscal year 1997. Third, it specifies that funds shall only be spent in a manner that is consistent with the Yosemite general management plan, the concession services plan, and when adopted, the Yosemite Valley housing plan, and the valley implementation plan. Fourth, it specifies that funds spent on repair and rebuilding of concessions facilities shall be recovered by the Secretary of the Interior to the greatest extent practicable according to the Department of the Interior's contract with the concessioner. Fifth, it authorizes emergency grants to satellite communities around Yosemite to provide mass transit visitor transportation into the park during repair and restoration activities on access roads. Sixth, it authorizes emergency appropriations for other California parks that suffered flood damage including Redwood National Park, Sequoia-Kings Canyon National Park, and others. Seventh, it authorizes $7 million to be appropriated in fiscal year 1998 and such sums as may be necessary for each fiscal year thereafter for a mass transit system for Yosemite.

Mr. President, the primary goal of the emergency restoration and construction activities authorized in this bill is to reopen Yosemite National Park and restore services to Park visitors as quickly and safely as possible.

The importance of emergency funding for Yosemite cannot be overstated. It is a unique national treasure, recognized all over the world for its spectacular natural beauty. Over 1.4 million people visit the park every year including tens of thousands of international visitors who travel to California for the sole purpose of staying in the park to experience nature. John Muir—one of our Nation's founding leaders of environmental conservation—first encountered the majestic Yosemite Valley in 1864 and immediately realized the importance of preserving its natural wonders. Muir's foresight and passion resulted in the establishment of Yosemite National Park in October 1890. At its onset, the park included 60,000 acres miles of scenic wild lands. Today, some 106 years later, the park embraces over 761,236 acres of granite peaks, broad meadows, glacially carved domes, giant sequoias, secluded tarns, and breathtaking waterfalls.

This winter, tropical storms with heavy rain caused serious flooding in the park. Yosemite's major rivers and tributaries flooded many park areas and caused severe damage to infrastructure. Over 350 damage assessments have been completed by engineers, architects, resource specialists, and other technical experts. Their first damage assessment report shows serious damage to the four main routes leading into the park, major electrical and sewer systems, 224 units of employee housing, over 500 guest lodging units, over 350 campsites, 17 restoration projects, and over 10 archeological sites.

According to the National Park Service, full recovery will take years. We now begin the recovery period during which, interim solutions will be put in place such as temporary housing and lodging while permanent construction is being completed.

The Yosemite Emergency Restoration and Reconstruction Act would authorize $200 million in emergency funds to be appropriated to the Secretary of Interior for cleanup and repair of flood

damages to the facilities of Yosemite National Park caused by heavy rains and flooding in December 1996 and January 1997, and other national parks in the State of California. The funds are authorized to remain available until expended.

The authorization requires that any emergency funds spent at Yosemite be consistent with the Yosemite General Management Plan, the Concession Services Plan, and when adopted, the Yosemite Valley Housing Plan, and the Valley Implementation Plan.

Funds are authorized to be spent on repair, restoration, and relocation, where appropriate, of infrastructure vital to Yosemite National Park operations, including but not limited to roads, trails, utilities, buildings, grounds—including campgrounds—natural resources, cultural resources, and lost and damaged property, both within the park boundaries and at the El Portal administrative site servicing the park.

Also, funds are authorized to repair and relocation of park employee housing and the Resource Management Office; repair, maintenance, and opening of Tioga Pass Road within the boundaries of the park; and repair and expeditious opening of highways 120, 140, and 41 within the boundaries of the park.

The bill requires that funds spent on repair and relocation of concession-operated rental cabins, motel rooms, rental structures, and concession employee housing and facilities be recovered by the Department of the Interior to the greatest extent practicable, within the provisions of the concession contract between the Department of the Interior and the Yosemite Concession Services.

Mr. President, a key aspect to the bill is the authorization of $2.5 million in emergency grants to satellite communities around Yosemite National Park for the purpose of providing mass transit visitor transportation into the park during repair and restoration activities on access roads to the park.

Other California parks suffered flood damage. My bill would authorize emergency funds for Redwood National Park, Sequoia-Kings Canyon National Park, Lassen Volcanic National Park, Whiskeytown National Recreation Area, Devils Postpile National Monument, and Lava Beds National Monument.

Last, Mr. President, my bill authorizes $7 million to be appropriated in fiscal year 1998 and such sums as may be necessary for each fiscal year thereafter to the Secretary of Interior for the purpose of helping establish a mass transit system for Yosemite National Park—specifically for the purchase of electric buses and alternative-fueled buses.

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. 500

*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 "Yosemite Emergency Restoration and Construction Act of 1997".

**SEC. 2. AUTHORIZATION OF EMERGENCY APPROPRIATIONS FOR CLEANUP AND REPAIR OF YOSEMITE NATIONAL PARK.**

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $200,000,000 for fiscal year 1997, to remain available until expended.

(b) USE OF FUNDS.—

(1) IN GENERAL.—The Secretary of the Interior (referred to in this Act as the "Secretary") shall use amounts made available under subsection (a) for cleanup and repair of flood damage to the facilities of Yosemite National Park and other national parks in the State of California caused by heavy rains and flooding in December 1996 and January 1997.

(2) INCLUDED ACTIVITIES.—Activities by the Secretary under paragraph (1) shall include—

(A) repair, restoration, and, if appropriate, relocation of infrastructure vital to operations at Yosemite National Park, including roads, trails, utilities, buildings, grounds (including campgrounds), natural resources, cultural resources, and lost and damaged property in the park and at the El Portal administrative site servicing the park;

(B) repair and, if appropriate, relocation of Yosemite National Park employee housing and the Resource Management Office;

(C) repair and, if appropriate, relocation of concession-operated rental cabins, motel rooms, rental structures, and concession employee housing and facilities;

(D) repair, maintenance, and opening of Tioga Pass Road in Yosemite National Park;

(E) repair and expeditious opening of Highways 120, 140, and 41 in Yosemite National Park;

(F) any other repair and restoration that is necessary for the expeditious and complete opening of Yosemite National Park;

(G) making emergency grants to satellite communities around Yosemite National Park to provide mass transit visitor transportation into the park during repair and restoration activities on access roads to the park; and

(H) repair and restoration of damage caused by heavy rains and flooding in December 1996 and January 1997 at Redwood National Park, Sequoia-Kings Canyon National Park, Lassen Volcanic National Park, Whiskeytown National Recreation Area, Devils Postpile National Monument, and Lava Beds National Monument.

**SEC. 3. EMERGENCY FUNDING FOR YOSEMITE SATELLITE COMMUNITIES.**

Of any amounts made available under section 2(a), the Secretary shall make available not less than $2,500,000 to make grants described in section 2(b)(2)(G).

**SEC. 4. CAPITAL RECOVERY FROM CONCESSIONAIRES.**

To the extent practicable under the concession contract between the Secretary and Yosemite Concession Services, the Secretary shall recover from Yosemite Concession Services any amount used under section 2(b)(2)(C).

**SEC. 5. AUTHORIZATION OF APPROPRIATIONS FOR MASS TRANSIT SYSTEM FOR YOSEMITE NATIONAL PARK.**

(a) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $7,000,000 for fiscal year 1998 and such sums as are necessary for each fiscal year thereafter.

(b) USE OF FUNDS.—

(1) IN GENERAL.—The Secretary shall use amounts made available under subsection (a) to establish a mass transit system at Yosemite National Park.

(2) INCLUDED ACTIVITIES.—Activities by the Secretary under paragraph (1) shall include—

(A) using not more than $1,500,000 for the purchase of electric buses; and

(B) using not more than $5,500,000 for the purchase of alternative-fueled buses.

**SEC. 6. CONSISTENCY WITH PLANS.**

Activities at Yosemite National Park by the Secretary under this Act shall be consistent with the Yosemite General Management Plan, the Concession Services Plan, the Yosemite Valley Housing Plan, and the Valley Implementation Plan.

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By Mr. MACK (for himself, Mr. SHELBY, Mr. COCHRAN, Mr. D'AMATO, and Mr. HAGEL):

S. 501. A bill to amend the Internal Revenue Code of 1986 to provide all taxpayers with a 50-percent deduction for capital gains, to increase the exclusion for gain on qualified small business stock, to index the basis of certain capital assets, to allow the capital loss deduction for losses on the sale or exchange of an individual's principal residence, and for other purposes; to the Committee on Finance.

THE RETURN CAPITAL TO THE AMERICAN PEOPLE ACT

Mr. MACK. Mr. President, today I am introducing legislation, along with Senator SHELBY, which provides real cuts in the capital gains rate and indexes capital gains to account for inflation. As we work to achieve a balanced budget, it is our belief that a real reduction in the capital gains rate is essential to ensure greater growth, innovation, and prosperity. Accordingly, the legislation we have proposed offers the best elements of existing capital gains proposals.

Perhaps most importantly, this proposal ensures that homeowners, family farms, and small businesses are not penalized for inflationary—phantom—gains by providing for the indexation of capital gains. The importance of indexation is made clear in the accompanying report recently prepared by the Joint Economic Committee.

Additionally, our bill will offer a 50-percent rate reduction for individuals and corporations, and allow the deduction for a loss on the sale of a principal residence.

Finally, this legislation encourages investment in small businesses by increasing the exclusion from gains for small business stock from 50 to 75 percent; reducing the requirement for

holding stock from 5 to 3 years; increasing the eligibility size to $100 million, and providing a 60-day grace period for the rollover of stock between small businesses.

Again, I want to restate the importance of a reduced capital gains rate, which benefits all Americans by stimulating economic growth and prosperity and leading to innovation in biomedical research and other life-enhancing technologies. I look forward to my colleagues joining me in this effort to ensure that a real capital gains rate reduction is included in any balanced budget package the Congress puts together in the coming months.

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:

INDEXING CAPITAL GAINS

(Prepared by Robert Stein)

The case for cutting the capital gains tax is simple and straightforward: It is a win-win situation for all involved—for taxpayers, workers and government revenue.

Everyone who invests would get more bang for their buck. This includes people who start small businesses, workers who have pension money in stocks and those who save for life's goals, like a downpayment on a home, a college education or retirement. More than 40% percent of families own stocks, either directly or indirectly, including more than 25% of the families making between $10,000 and $25,000 per year.[1] And contrary to conventional wisdom, cutting the capital gains tax will increase government revenue, making it easier to balance the budget.

One way to cut the capital gains tax is to limit the tax to real increases in the prices of assets, over and above inflation. This is called indexing. Without indexing, effective tax rates can be much higher than the government's official rate. Consider a couple that buys $10,000 worth of stocks in 1966, to help pay for their retirement. In 1996, they would have about $79,000 worth of stocks.[2] Cashing-in these stocks could require a tax of about $19,000.[3] But much of their gain—the difference between their initial investment and the $79,000 they end up with—was due to inflation, not real increases in purchasing power. In fact, the couple only had about $30,000 in real gains, over and above inflation.[4] And a tax of $19,000 or $30,000 in gains is an effective tax rate of 63%.

Chart 1 shows a history of the difference between the top official tax rate on capital gains and the top effective tax rate, taking inflation into account.[5] As Chart 1 shows, the effective tax rate on capital gains can greatly exceed the official rate, even going well above 100%. In fact, if an investor sells an asset that increased in price, but which didn't keep pace with inflation, she would have to pay taxes without enjoying any real gain at all! It doesn't take much of an imagination to see how the fear of such taxes could deter investment.

(Chart not reproductible in RECORD.)

Would cutting taxes on capital gains reduce government revenue, making it tougher to balance the budget? Certainly not. In fact, cutting the effective tax rate on capital gains should boost revenue. As the following table shows, government revenue from the capital gains tax has grown much more quickly when the effective tax rate has been low or falling than when it's been high or rising.

FIVE PHASES OF THE CAPITAL GAINS TAX

| Years | Effective tax rates (in percent) | Capital gains revenue[6] (percent per year) |
|---|---|---|
| 1954–1967 | Low (30 to 40) | +10 |
| 1968–1980 | Rising/Very High (37 to 126) | +2 |
| 1981–1986 | Falling (97 to 39) | [7]+10 |
| 1987–1991 | Rising (39 to 61) | [8]−5 |
| 1992–1994 | Falling (61 to 50) | +10 |

Put simply, reducing the effective tax rate on capital gains would kill two birds with one stone: It would both ease the tax burden and make it easier to balance the budget. Case in point: The last time the government cut the official tax rate on capital gains, revenue from the capital gains tax rose from $22 billion to $36 billion in only five years.[9]

QUESTIONS AND ANSWERS

Q: Wouldn't indexation complicate the tax code, as taxpayers would have to keep track of not only the cost of their assets but also the inflation adjustment for each?

A: No. People would have the option of indexing, but could still use the non-indexed cost of their assets when figuring out the amount of their gains. This would mostly happen when inflation was low and the asset wasn't held very long.

Q: If we index capital gains for inflation, don't we have to index debts too? And since it's too difficult to index debts for tax purposes, shouldn't we leave the system the way it is?

A: No. This argument confuses key differences between equity and debt. Theoretically, the tax code could let lenders index their interest income, so they only have to pay taxes on the interest they earn over and above inflation. But for every $1 that lenders reduce their taxable income, borrowers would have to reduce the amount of interest they deduct. Overall, debt transactions would still feel the same tax bite. Only the distribution of the taxes would change: Lenders would pay less; borrowers would pay more. But lenders and borrowers already apportion the tax burden between themselves. It's factored into the interest rate. This interest rate also reflects the inflation the two parties expect, as well as the risk that inflation will differ in either party's favor.

By contrast, bargaining over tax costs doesn't happen with equity. Unlike with debts, nobody deducts capital gains as a cost. Indexing gains would not simply shift the tax burden from one party to another. It would reduce the total tax burden placed on investments in equity, to reflect the erosion of capital gains by inflation.

ENDNOTES

[1] Family Finances in the U.S.: Recent Evidence from the Survey of Consumer Finances, Federal Reserve Bulletin, January 1997. Indirect stock ownership includes owned through mutual funds or retirement accounts.

[2] Between 1966 and 1996 the Standard and Poor's 500 stock index rose from 85.26 to 670.81.

[3] Twenty-eight percent of the capital gain.

[4] The consumer price index for urban worker rose from 32.5 in 1966 to 157 in 1996. This makes the real basis about $48,000 in 1996.

[5] To calculate the effective capital gains tax rate I assumed people hold their assets for five years and use the consumer price index for urban workers as my price index. To avoid a result where people get taxed on zero or negative real gains (which implies a tax rate of infinity!) I assume people earned a 5% real return per year. This method has the added benefit of giving us a view of the expected capital gain tax rate, as almost all people invest with the expectation that they will get a positive return. The expected tax rate should drive investment decisions more than any other tax rate.

[6] Changes in real revenue, with nominal revenue figures adjusted by the consumer price index for urban workers.

[7] This annual rate of changes does not include the huge increase in government revenue in 1986, as people cashed in their gains to avoid an oncoming tax hike in 1987. In other words, as favorable as the data in the table looks for keeping capital gains taxes low, it could have made the table even more favorable, if 1986 were used as the end point. Instead, the increase in gains during this era of lower taxes is cut off in 1985, at a much lower point than the 1986 point.

[8] This calculation does not use the 1986 peak as the starting point. It uses 1985. Had it used 1986 as the starting point the data would have been even more favorable for keeping capital gains tax low.

[9] From 1980, the year before the tax cut, to 1985, the year before the huge surge in revenue that anticipated the hike in rates in 1986. Money figures are in constant 1994 dollars.

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By Mr. GRASSLEY:

S. 502. A bill to amend title XIX of the Social Security Act to provide post-eligibility treatment of certain payments received under a Department of Veterans Affairs pension or compensation program; to the Committee on Finance.

STATE VETERANS' HOME LEGISLATION

Mr. GRASSLEY. Mr. President, today I am introducing legislation which, when enacted, will modify the treatment of certain veterans benefits received by veterans who reside in State veterans homes and whose care and treatment is paid for by the Medicaid program. I am joined in introducing this bill by Senator GRAHAM.

Veterans residing in State veterans homes, who are eligible for aid and attendance [AA] and unusual medical expense [UME] benefits, veterans benefits provided under title 38 of the United States Code, who are also eligible for Medicaid, are the only veterans in nursing homes who receive, and who are able to keep, the entire AA and UME benefit amounts. This can be as much as $1,000 per month.

Other veterans, who reside in other types of nursing homes are receiving Medicaid, and who are also eligible for AA/UME can receive only 90 per month from the VA.

Yet, other veterans who reside in State veterans homes but who are not eligible for the AA/UME benefits must contribute all but $90 of their income to the cost of their care.

So, even though veterans residing in State veterans homes who are eligible for AA and UME benefits and who qualify for Medicaid have all of their treatment and living expense paid by the State Medicaid program, they nevertheless may keep as much as $1,000 per month of the AA and UME benefits.

It might be useful for me to review how this state of affairs came to be.

In 1990, legislation was enacted, Public Law 101–508, November 5, 1990, which

[1] Footnotes at end of article.

modified title 38, the veterans benefits title of the United States Code, to stipulate that veterans with no dependents, on title XIX, residing in nursing homes, and eligible for AA and UME, could receive only a $90 per month personal expense allowance from the VA, rather than the full UME and AA amounts.

State veterans homes were subsequently exempted from the definition of nursing homes which had been contained in those earlier provisions of Public Law 101-508 by legislation enacted in 1991, Public Law 102-40, May 7, 1991.

The result was that veterans on title XIX and residing in State nursing homes continued to receive UME and AA. Until recently, the State veterans homes followed a policy of requiring that all but $90 per month of these allowances be used to defray the cost of care in the Home.

Then, a series of Federal court decisions held that neither UME nor AA could be considered income. The court decisions appeared to focus on the definition of income used in pre- and post-eligibility income determinations for Medicaid. The court decisions essentially held that UME and AA payments to veterans did not constitute income for the purpose of post-eligibility income determination. The reasoning was that, since these monies typically were used by veterans to defray the cost of certain series they were receiving, the payments constituted a "wash" for purposes of income gain by the veterans.

However, the frame of reference for the courts' decisions was not a nursing home environment in which a veteran receiving Medicaid benefits might find himself or herself. In other words, the UME and AA payment received by a veteran on Medicaid are provided to a veteran for services for which the State is already paying through the Medicaid program. The veteran is not paying for these services with their own income. So, as a consequence of the court decisions, these payments to the veteran in State veterans homes represent a net gain in income to the veteran; they are not paid out by the veteran to defray the cost of services the veteran is receiving.

VA does not pay AA or UME to veterans who are also on title XIX and residing in non-State veterans home nursing homes. Those veterans get only a $90 per month personal allowance.

And non-Medicaid eligible veterans who reside in State veterans homes must pay for services with their own funds. If they get UME and AA payments, the State veterans homes will take all but $90 of those sums to help defray the cost of the nursing home care.

Although the written record does not document this, I believe that the purpose of exempting the State veterans homes was to allow the Homes to continue to collect all but $90 of the UME and AA paid to the eligible veteran so as to enable State veterans homes to provide service to more veterans than they otherwise would be able to provide.

In any case, it seems highly unlikely that the purpose of exempting State veterans homes would have been to allow these veterans, and only these among similarly situated veterans, to retain the entire UME and A&A amounts.

The legislation I am introducing today modifies section 1902(r)(1) of the Social Security Act to stipulate that, for purposes of the post-eligibility treatment of income of individuals who are institutionalized, and on title 19, the payments received under a Department of Veterans Affairs pension or compensation program, including aid and attendance and unusual medical expense payments, may be taken into account.

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By Mr. NICKLES:

S. 503. A bill to prevent the transmission of the human immunodeficiency virus (commonly known as HIV), and for other purposes; to the Committee on Labor and Human Resources.

THE HIV PREVENTION ACT OF 1997

Mr. NICKLES. Mr. President, I rise today to introduce the HIV Prevention Act of 1997. This legislation appropriately refocuses public health efforts on HIV prevention by using proven public health techniques designed for communicable diseases. The public health initiatives in this bill, which result in early detection of HIV infection, are now more important than ever in light of the tremendous advances that medical science has made.

This bill will balance the needs of HIV-infected patients with the prevention needs of those who are uninfected. The HIV Prevention Act of 1997 establishes a confidential, national HIV reporting effort as already exists for end stage HIV and AIDS; requires partner notification; mandates testing for indicted sexual offenders; protects health care patients and professionals from inadvertent exposure to HIV; provides access to insurance-required HIV test results; and allows adoptive parents to learn the HIV status of a child. In addition, this legislation includes Sense of the Senate language which expresses that the States should criminalize the intentional transmission of HIV; and also expresses the Sense of the Senate that strict confidentiality must be observed at all times in carrying out all of the provisions of the act.

The Senate is on record supporting the provisions of this bill in a 1990 amendment which was adopted by voice vote. The primary sponsors of the amendment were Senators KENNEDY and MIKULSKI. During debate on the amendment, Senator KENNEDY argued, "In a case in which there is a clear and present danger, there is a duty to warn." That is the purpose of the HIV Prevention Act of 1997. The best ways to warn for the prevention of further spread of HIV and AIDS are reporting and partner notification, methods which are currently in use and proven to be effective.

This bill has received overwhelming support from groups including the Independent Women's Forum, Americans for a Sound AIDS/HIV Policy, the Family Research Council, Women Against Violence, the Christian Coalition, and the American Medical Association. I quote from a letter written by the AMA in support of this legislation:

"These public health initiatives which result in early detection of HIV infection are now more important because of the tremendous advances that medical science has made. Early intervention combined with effective treatments will enable those with HIV and AIDS to live longer, healthier lives."

The HIV Prevention Act adds HIV to 52 other notifiable contagious diseases such as gonorrhea, hepatitis A, B, and C, syphilis, tuberculosis, and AIDS that must be reported to the Centers for Disease Control. In terms of partner notification, 26 states, including, I might add, Oklahoma, already require notification. It is time that these policies that are already in practice in some states are applied around the country in order to track and prevent further spread of HIV.

Mr. President, this legislation will greatly increase public health HIV prevention efforts that until now have focused only on AIDS. The HIV Prevention Act of 1997 is a sensible, common sense approach toward containing the spread of AIDS. By using proven, public health techniques and sound medical practices, this bill will curtail the spread of HIV. I thank the chair and encourage my colleagues to support this commonsense legislation.

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. 503

*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 "HIV Prevention Act of 1997".

**SEC. 2. FINDINGS.**

The Congress finds as follows:

(1) The States should recognize that the terms "acquired immune deficiency syndrome" and "AIDS" are obsolete. In the case of individuals who are infected with the human immunodeficiency virus (commonly known as HIV), the more important medical

fact for the individuals and for the protection of the public health is the fact of infection, and not just the later development of AIDS (the stage at which the infection causes symptoms). The term "HIV disease", meaning infection with HIV regardless of whether the infection has progressed to AIDS, more correctly defines the medical condition.

(2) The medical, public health, political, and community leadership must focus on the full course of HIV disease rather than concentrating on later stages of the disease. Continual focus on AIDS rather than the entire spectrum of HIV disease has left our Nation unable to deal adequately with the epidemic. Federal and State data collection efforts should focus on obtaining data as early as possible after infection occurs, while continuing to collect data on the symptomatic stage of the disease.

(3) Recent medical breakthroughs may enable doctors to treat HIV disease as a chronic disease rather than as a terminal disease. Early intervention in the progression of the infection is imperative to prolonging and improving the lives of individuals with the disease.

(4) The Centers for Disease Control and Prevention has recommended partner notification as a primary prevention service. The health needs of the general public, and the care and protection of those who do not have the disease, should be balanced with the needs of individuals with the disease in a manner that allows for the infected individuals to receive optimal medical care and for public health services to protect the uninfected.

(5) Individuals with HIV disease have an obligation to protect others from being exposed to HIV by avoiding behaviors that place others at risk of becoming infected. The States should have in effect laws providing that intentionally infecting others with HIV is a felony.

**SEC. 3. PREVENTION OF TRANSMISSION OF HIV.**

(a) REQUIREMENTS FOR STATES.—A State shall demonstrate to the satisfaction of the Secretary that the law or regulations of the State are in accordance with the following:

(1) REPORTING OF CASES.—The State requires that, in the case of a health professional or other entity that provides for the performance of a test for HIV on an individual, the entity confidentially report positive test results to the State public health officer, together with any additional necessary information, in order to carry out the following purposes:

(A) The performance of statistical and epidemiological analyses of the incidence in the State of cases of such disease.

(B) The performance of statistical and epidemiological analyses of the demographic characteristics of the population of individuals in the State who have the disease.

(C) The assessment of the adequacy of preventive services in the State with respect to the disease.

(D) The performance of the functions required in paragraph (2).

(2) FUNCTIONS.—The functions described in this paragraph are the following:

(A) PARTNER NOTIFICATION.—

(i) IN GENERAL.—The State requires that the public health officer of the State carry out a program of partner notification to inform individuals that the individuals may have been exposed to HIV.

(ii) DEFINITION.—For purposes of this paragraph, the term "partner" includes—

(I) the sexual partners of individuals with HIV disease;

(II) the partners of such individuals in the sharing of hypodermic needles for the intravenous injection of drugs; and

(III) the partners of such individuals in the sharing of any drug-related paraphernalia determined by the Secretary to place such partners at risk of HIV infection.

(B) COLLECTION OF INFORMATION.—The State requires that any information collected for purposes of partner notification be sufficient for the following purposes:

(i) To provide the partners of the individual with HIV disease with an appropriate opportunity to learn that the partners have been exposed to HIV.

(ii) To provide the partners with counseling and testing for HIV disease.

(iii) To provide the individual who has the disease with information regarding therapeutic measures for preventing and treating the deterioration of the immune system and conditions arising from the disease, and to provide the individual with other preventive information.

(iv) With respect to an individual who undergoes testing for HIV disease but does not seek the results of the testing, and who has positive test results for the disease, to recall and provide the individual with counseling, therapeutic information, and other information regarding preventative health services appropriate for the individual.

(C) COOPERATION IN NATIONAL PROGRAM.—The State cooperates with the Director of the Centers for Disease Control and Prevention in carrying out a national program of partner notification, including the sharing of information between the public health officers of the States.

(3) TESTING OF CERTAIN INDICTED INDIVIDUAL.—With respect to a defendant against whom an information or indictment is presented for a crime in which by force or threat of force the perpetrator compels the victim to engage in sexual activity, the State requires the following:

(A) IN GENERAL.—That the defendant be tested for HIV disease if—

(i) the nature of the alleged crime is such that the sexual activity would have placed the victim at risk of becoming infected with HIV; or

(ii) the victim requests that the defendant be so tested.

(B) TIMING.—That if the conditions specified in subparagraph (A) are met, the defendant undergo the test not later than 48 hours after the date on which the information or indictment is presented, and that as soon thereafter as is practicable the results of the test be made available to—

(i) the victim;

(ii) the defendant (or if the defendant is a minor, to the legal guardian of the defendant);

(iii) the attorneys of the victim;

(iv) the attorneys of the defendant;

(v) the prosecuting attorneys;

(vi) the judge presiding at the trial, if any; and

(vii) the principal public health official for the local governmental jurisdiction in which the crime is alleged to have occurred.

(C) FOLLOW-UP TESTING.—That if the defendant has been tested pursuant to subparagraph (B), the defendant, upon request of the victim, undergo such follow-up tests for HIV as may be medically appropriate, and that as soon as is practicable after each such test the results of the test be made available in accordance with subparagraph (B) (except that this subparagraph applies only to the extent that the individual involved continues to be a defendant in the judicial proceedings involved, or is convicted in the proceedings).

(D) CONSIDERATION OF RESULTS.—That, if the results of a test conducted pursuant to subparagraph (B) or (C) indicate that the defendant has HIV disease, such fact may, as relevant, be considered in the judicial proceedings conducted with respect to the alleged crime.

(4) TESTING OF CERTAIN INDIVIDUALS.—

(A) PATIENTS.—With respect to a patient who is to undergo a medical procedure that would place the health professionals involved at risk of becoming infected with HIV, the State—

(i) authorizes such health professionals in their discretion to provide that the procedure will not be performed unless the patient undergoes a test for HIV disease and the health professionals are notified of the results of the test; and

(ii) requires that, if such test is performed and the patient has positive test results, the patient be informed of the results.

(B) FUNERAL-RELATED SERVICES.—The State authorizes funeral-services practitioners in their discretion to provide that funeral procedures will not be performed unless the body involved undergoes a test for HIV disease and the practitioners are notified of the results of the test.

(5) INFORMING OF FUNERAL-SERVICE PRACTITIONERS.—The State requires that, if a health care entity (including a hospital) transfers a body to a funeral-services practitioner and such entity knows that the body is infected with HIV, the entity notify the funeral-services practitioner of such fact.

(6) HEALTH INSURANCE ISSUERS.—

(A) IN GENERAL.—The State requires that, if a health insurance issuer requires an applicant for such insurance to be tested for HIV disease as a condition of issuing such insurance, the applicant be afforded an opportunity by the health insurance issuer to be informed, upon request, of the HIV status of the applicant.

(B) DEFINITION.—For purposes of this paragraph, the term "health insurance issuer" means an insurance company, insurance service, or insurance organization (including a health maintenance organization) which is licensed to engage in the business of insurance in the State and which is subject to State law which regulates insurance.

(C) RULE OF CONSTRUCTION.—This paragraph may not be construed as affecting the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1154) with respect to group health plans.

(7) ADOPTION.—The State requires that, if an adoption agency is giving significant consideration to approving an individual as an adoptive parent of a child and the agency knows whether the child has HIV disease, such prospective adoptive parent be afforded an opportunity by the agency to be informed, upon request, of the HIV status of the child.

(b) SENSE OF CONGRESS REGARDING HEALTH PROFESSIONALS WITH HIV DISEASE.—It is the sense of Congress that, with respect to health professionals who have HIV disease—

(1) the health professionals should notify their patients that the health professionals have the disease in medical circumstances that place the patients at risk of being infected with HIV by the health professionals; and

(2) the States should encourage the medical profession to develop guidelines to assist the health professionals in so notifying patients.

(c) APPLICABILITY OF REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply to States upon the expiration of the 120-day period beginning on the date of the enactment of this Act.

(2) DELAYED APPLICABILITY FOR CERTAIN STATES.—In the case of the State involved, if the Secretary determines that a requirement established by subsection (a) cannot be implemented in the State without the enactment of State legislation, then such requirement applies to the State on and after the first day of the first calendar quarter that begins after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session is deemed to be a separate regular session of the State legislature.

(d) DEFINITIONS.—In this section:

(1) HIV.—The term "HIV" means the human immunodeficiency virus.

(2) HIV DISEASE.—The term "HIV disease" means infection with HIV and includes any condition arising from such infection.

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

(e) RULE OF CONSTRUCTION.—Part D of title XXVI of the Public Health Service Act (42 U.S.C. 300ff-71 et seq.) is amended by inserting after section 2675 the following section:

**"SEC. 2675A. RULE OF CONSTRUCTION.**

"With respect to an entity that is an applicant for or a recipient of financial assistance under this title, compliance by the entity with any State law or regulation that is consistent with section 3 of the HIV Prevention Act of 1997 may not be considered to constitute a violation of any condition under this title for the receipt of such assistance.".

**SEC. 4. SENSE OF CONGRESS REGARDING INTENTIONAL TRANSMISSION OF HIV.**

It is the sense of Congress that the States should have in effect laws providing that, in the case of an individual who knows that he or she has HIV disease, it is a felony for the individual to infect another with HIV if the individual engages in the behaviors involved with the intent of so infecting the other individual.

**SEC. 5. SENSE OF CONGRESS REGARDING CONFIDENTIALITY.**

It is the sense of the Congress that strict confidentiality should be maintained in carrying out the provisions of section 3 of the this Act.

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By Mrs. FEINSTEIN (for herself, Mrs. BOXER and Ms. SNOWE):

S. 504. A bill to amend title 18, United States Code, to prohibit the sale of personal information about children without their parent's consent, and for other purposes; to the Committee on the Judiciary.

THE CHILDREN'S PRIVACY PROTECITON AND PARENTAL EMPOWERMENT ACT OF 1997

Mrs. FEINSTEIN. Mr. President, I rise to urge my colleagues to support this simple but strong legislation to protect our children.

This bill, sponsored by myself, Senator BOXER, and Senator SNOWE, would provide three simple protections:

First, the bill would prohibit list brokers from selling personal information about children under 16 to anyone, without first getting the parent's consent.

All kinds of information about our children—more facts than most of us might think or hope for—is rapidly becoming available through these list brokers. It is only a matter of time before this information begins to fall into the wrong hands.

Last year, a reporter in Los Angeles was easily able to purchase parents' names, birth months and addresses for 5,500 children aged 1–12 in a particular neighborhood. The reporter used the name of a fictitious company, gave a non-working telephone number, had no credit card or check, and identified herself as Richard Allen Davis, the notorious murderer of Polly Klaas. When ordering the list, the company representative simply told her "Oh, you have a famous name," and sent her the information C.O.D. This is simply unacceptable.

Second, the bill would give parents the authority to demand information from the list brokers who traffic in the personal data of their children—brokers will be required to provide parents with a list of all those to whom they sold information about the child, and must also tell the parent precisely what kind of information was sold.

If this personal information is out there, and brokers are buying and selling it back and forth, it is only reasonable that we allow parents to find out what information has been sold and to whom that information has been given.

Finally, this bill would prohibit list brokers from using prison labor to input personal information. This seems like common sense to most of us, but unfortunately the use of prison labor is not currently prohibited.

Last year when I introduced this bill, I spoke of the plight of Beverly Dennis, an Ohio grandmother who filled out a detailed marketing questionnaire about her buying habits for a mail in survey. She filled out the questionnaire when she was told that she might receive free product samples and helpful information. Rather than receiving product information, however, she soon began to receive sexually explicit, fact-specific letters from a convicted rapist serving time.

The rapist, writing from his prison cell, had learned the very private, intimate details about her life because he was keypunching her personal questionnaire data into a computer for a subcontractor. Ms. Dennis received letters with elaborate sexual fantasies, weaved around personal facts provided by her in the questionnaire. This bill would have prevented the situation from ever occurring.

Finally, Mr. President, this year I have included in the bill exemptions for sales to law enforcement organizations, the Center for Missing and Exploited Children, and to accredited colleges and universities. We received a great deal of input since we introduced the bill last June, and I believe we have addressed most of the concerns about our bill with these exemptions.

Schools will be able to get information about prospective students, law enforcement will be able to get the lists to help them find missing kids, and the Center for Missing and Exploited Children will be able to do likewise.

This bill is really very simple. Some marketing companies may be unhappy that the government is trying to legislate how they do business, but we have to weigh the safety and well-being of our children against the small inconvenience of requiring parental consent in these cases. Given the rapidly changing nature of the marketing business and the ways in which child molesters and other criminals operate, this bill is an important step in protecting our kids from those who would do them harm.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 504

*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 "Children's Privacy Protection and Parental Empowerment Act of 1997".

**SEC. 2. PROHIBITION OF CERTAIN ACTIVITIES RELATING TO PERSONAL INFORMATION ABOUT CHILDREN.**

(a) IN GENERAL.—Chapter 89 of title 18, United States Code, is amended by adding at the end the following:

**"§ 1822. Sale of personal information about children**

"(a) PROHIBITION.—Whoever, in or affecting interstate or foreign commerce—

"(1) being a list broker, knowingly—

"(A) sells, purchases, or receives remuneration for providing personal information about a child knowing that such information pertains to a child without the consent of a parent of that child;

"(B) conditions any sale or service to a child or to that child's parent on the granting of such a consent; or

"(C) fails to comply with the request of a parent—

"(i) to disclose the source of personal information about that parent's child;

"(ii) to disclose all information that has been sold or otherwise disclosed by that list broker about that child; or

"(iii) to disclose the identity of all persons to whom the list broker has sold or otherwise disclosed personal information about that child;

"(2) being a person who, using any personal information about a child in the course of commerce that was obtained for commercial purposes, has directly contacted that child or a parent of that child to offer a commercial product or service to that child, knowingly fails to comply with the request of a parent—

"(A) to disclose to the parent the source of personal information about that parent's child;

"(B) to disclose all information that has been sold or otherwise disclosed by that person about that child; or

"(C) to disclose the identity of all persons to whom such a person has sold or otherwise disclosed personal information about that child;

"(3) knowingly uses prison inmate labor, or any worker who is registered pursuant to title XVII of the Violent Crime Control and Law Enforcement Act of 1994, for data processing of personal information about children; or

"(4) knowingly distributes or receives any personal information about a child, knowing or having reason to believe that the information will be used to abuse the child or physically to harm the child;

shall be fined under this title, imprisoned not more than 1 year, or both.

"(b) CIVIL ACTIONS.—A child or the parent of that child with respect to whom a violation of this section occurs may in a civil action obtain appropriate relief, including monetary damages of not less than $1,000. The court shall award a prevailing plaintiff in a civil action under this subsection a reasonable attorney's fee as a part of the costs.

"(c) LIMITATION.—Nothing in this section shall be construed to affect the sale of lists to—

"(1) any Federal, State, or local government agency or law enforcement organization;

"(2) the National Center for Missing and Exploited Children; or

"(3) any institution of higher education (as that term is defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(d) DEFINITIONS.—In this section—

"(1) the term 'child' means a person who has not attained the age of 16 years;

"(2) the term 'parent' includes a legal guardian;

"(3) the term 'personal information' means information (including name, address, telephone number, social security number, and physical description) about an individual identified as a child, that would suffice to physically locate and contact that individual; and

"(4) the term 'list broker' means a person who, in the course of business, provides mailing lists, computerized or telephone reference services, or the like containing personal information of children.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 89 of title 18, United States Code, is amended by adding at the end the following:

"1822. Sale of personal information about children.".

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By Mr. HATCH (for himself, Mr. LEAHY, Mr. D'AMATO, Mr. THOMPSON, Mr. ABRAHAM, and Mrs. FEINSTEIN):

S. 505. A bill to amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for other purposes; to the Committee on the Judiciary.

THE COPYRIGHT TERM EXTENSION ACT OF 1997

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By Mr. HATCH:

S. 506. A bill to clarify certain copyright provisions, and for other purposes; to the Committee on the Judiciary.

THE COPYRIGHT CLARIFICATIONS ACT OF 1997

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By Mr. HATCH:

S. 507. A bill to establish the United States Patent and Trademark Organization as a Government corporation, to amend the provisions of title 35, United States Code, relating to procedures for patent applications, commercial use of patents, reexamination reform, and for other purposes; to the Committee on the Judiciary.

THE OMNIBUS PATENT ACT OF 1997

Mr. HATCH. Mr. President, intellectual property is vitally important to sustaining the high level of creativity that America enjoys, which not only adds to the fund of human knowledge and the progress of science and technology, but also results in the more tangible benefits of a strong economy and a favorable balance of trade.

For example, in 1994, copyright-related industries contributed more than $385 billion to the American economy, or more than 5 percent of the total gross domestic product. This represents more than $50 billion in foreign sales, which exceeds every other leading industry sector except automotive and agriculture in contributions to a favorable trade balance. From 1977 to 1994, these same industries grew at a rate that was twice the rate of growth of the national economy, and the rate of job growth in these industries since 1987 has outpaced that of the overall economy by more than 100 percent.

Mr. President, this is impressive to say the least. And these figures don't begin to take into account the contributions of other intellectual property sectors, including trade in patented technologies and the economic value of famous marks. Clearly intellectual property has become one of our Nation's most valuable resources.

As you know, the Judiciary Committee, is charged with monitoring the effectiveness of our intellectual property laws and with proposing to the Senate changes that are called for to meet new challenges. Because of the digital age and the global economy, we've had our hands full. Let me just go through a few highlights.

In the 104th Congress, we passed the Digital Performance Right in Sound Recordings Act, which, as its name signifies, adjusts the existing performance right in the Copyright Act to the demands of the new digital media. I also introduced, with Senator LEAHY, the National Information Infrastructure (NII) Copyright Protection Act of 1995 to begin to lay down the rules of the road for the information highway. The Committee held two hearings on this bill, but not enough time was left in the 104th to complete our deliberations.

In response to the challenges of the global economy, I introduced the Copyright Term Extension Act of 1995, along with Senator THOMPSON and Senator FEINSTEIN, to give U.S. copyright owners parity of term in the European Union. The EU has issued a directive to increase the minimum basic copyright term from life-plus-50 years to life-plus-70. If we do not follow suit, U.S. works in potentially all EU countries will receive 20 years less protection than the works of the nationals of the host country.

The Copyright Term Extension Act was approved by the Judiciary Committee. I am confident that the bill would have been approved by the Senate as well with little or no opposition, but unfortunately this important legislation was held hostage by advocates of music licensing reform—a totally unrelated issue.

In patents, too, we were very active. The Biotechnology Process Patents Act was passed. Also, I introduced the Omnibus Patent Act of 1996, which remade the Patent and Trademark Office into a government corporation. The corporate form would allow the Patent and Trademark Office to escape the micromanagement that it currently endures from the Commerce Department, although my bill preserved a policy link with the Department. The bill also made several very important substantive changes to the Patent Act.

After some tough negotiations, the Clinton administration ended up supporting the final version of the bill. The Judiciary Committee had a hearing on the bill, but Committee action was held hostage to yet another, totally unrelated issue—judicial nominations.

In addition to improving the efficiency of the patent and trademark systems, I have worked tirelessly for a number of years to rectify the injustice of making American inventors bear a heavier burden in deficit reduction than the ordinary citizen through the withholding of patent surcharge funds. Again last year I led an ultimately unsuccessful effort to ease this tax on American ingenuity.

Now no one has demonstrated more zeal for a balanced budget than I have. As you know, Mr. President, I was on the Senate floor for 3 weeks trying to get this body to discipline itself through the Balanced Budget Amendment. But I do not believe that inventors ought to pay a surcharge on their patent applications only to see that surcharge used for the general revenue rather than to improve the service they receive from the PTO. The PTO, after all, is a self-sustaining agency, not receiving a penny from taxpayer dollars. What they charge, they ought to keep. I am currently looking at a legislative solution to this problem.

I have also been looking into the special patent restoration rules that apply to pharmaceutical products. In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act. Essentially, this law—commonly

known as, I am proud to say, the Hatch-Waxman Act—allowed generic drug manufacturers to rely on the costly safety and efficacy data of pioneer drug manufacturers and provided for partial patent restoration for pioneer products to offset a portion of the patent term lost due to FDA regulatory review.

I know that many are interested in revisiting particular provisions of the Hatch-Waxman Act now that we have had a decade-plus experience under the new system. In my view, to be successful, any Hatch-Waxman reform must be balanced in a manner that the American public, generic drug firms, and the R&D manufacturers are all able to realize benefits. Toward this end, my staff and I have been meeting with representatives of both segments of the pharmaceutical industry to identify areas of concern.

It is my hope that these discussions will result in proposals to create new incentives in our intellectual property protection system and efficiency in our regulatory processes that will increase the long-term strength of both segments of the industry. Our bottom line goal is clear: We want a climate that produces both innovative new medicines and lower-cost generic copies of off-patent products.

I do not guarantee success in this endeavor, I can only commit that I will listen to all parties involved and see if we can work together to forge a compromise on Hatch-Waxman reform. I would like to do it if we can, but I will not support any approach that is not balanced.

Let me just add that my willingness to work with all parties should not be construed as giving a veto to any particular party. Ultimately, the test I use will be: Will the American public be better off if a particular legislative proposal is adopted? If, and only if, this test can be met, will I ask others in this body to join me in moving legislation.

Mr. President, let me now turn to trademark legislation, an area in which we have had a lot of success. Both the Federal Trademark Dilution Act and the Anticounterfeiting Consumer Protection Act became law in the 104th Congress. The Federal Trademark Dilution Act was significant in that it established the first-ever Federal anti-dilution statute to provide nationwide protection against the whittling away of famous marks. The Anticounterfeiting Consumer Protection Act brought our Nation's anticounterfeiting laws up to speed with the quickly evolving counterfeiting trade by providing stiffer civil and criminal penalties and increasing the tools available to law enforcement to give them the upper hand in this fight.

As you can see though, Mr. President, we have a lot of unfinished business, so today I'm introducing two bills from the last Congress, the Omnibus Patent Act, and the Copyright Term Extension Act. In addition, I'm introducing the Copyright Clarification Act, which is a series of truly technical amendments to the Copyright Act. I am pleased that Senator LEAHY, the distinguished ranking member of the Judiciary Committee, Senator D'AMATO, the distinguished junior Senator from New York, Senator ABRAHAM, the distinguished junior Senator from Michigan, and Senator FEINSTEIN, the distinguished senior Senator from California, are joining me as cosponsors of the Copyright Term Extension Act of 1997.

Of course, Mr. President, these three bills do not comprise my entire intellectual property agenda. For example, at my request, the Copyright Office is taking a look at sui generis protection of databases and at amendments to the Satellite Home Viewer Act. The Copyright Office may very well have recommendations for legislation in this area, and I may introduce such legislation before the end of this session. However, because the three bills I am introducing today have widespread support and have been thoroughly discussed in the last Congress, it is appropriate that they be the first to be considered—old business before new business.

THE OMNIBUS PATENT ACT OF 1997

Mr. President, the Omnibus Patent Act of 1997 is identical to the latest version of a bill I introduced last Congress, S. 1961, except for a few technical changes. Last Congress, S. 1961 gained bipartisan support in the Senate, its counterpart, H.R. 3460 gained bipartisan support in the House, and the Clinton administration also supported this bill. Further, a large, broad coalition of representatives of the patent industry were strongly supportive of the bill. Additionally, the National Treasury Employees Union and the AFL-CIO both supported the provisions that affect their membership. I am fully confident that this far-reaching, bipartisan support will continue this Congress.

I have no doubt that had a vote been taken on S. 1961, it would have passed the Senate by an overwhelming vote. Unfortunately, we did not take up S. 1961 until later in the 104th Congress, and time ran out before we were able to reach a vote on this important measure.

In order to be certain that such a problem is not repeated, I am beginning this process early in the 105th Congress. The House is already acting to move through this important and needed measure without delay. The House counterpart to my bill, H.R. 400, was introduced by Congressman COBLE, the chairman of the House Judiciary Subcommittee on Courts and Intellectual Property. Chairman COBLE has held a hearing on H.R. 400, and the bill was subsequently favorably reported by the subcommittee and the full House Judiciary Committee. I look forward to the consideration of H.R. 400 by the full House of Representatives.

During the last Congress this bill was the subject of multiple hearings in both Houses of Congress. But, this is a new Congress, so I would like to review, once again, the purposes and goals of the Omnibus Patent Act of 1997.

The purposes of this bill are: (1) to provide for more efficient administration of the patent and trademark systems; (2) to discourage "gaming" the patent system while ensuring against loss of patent term and theft of American inventiveness; (3) to protect the rights of prior users of inventions which are later patented by another; (4) to increase the reliability of patents by allowing third parties more meaningful participation in the reexamination process; (5) to make certain that American provisional applications are given the same weight as other countries' provisional applications in other countries' courts; (6) to close a loophole in the plant patent provisions of the Patent Act; and (7) to allow for the filing of patent and trademark documents by electronic medium.

THE UNITED STATES PATENT AND TRADEMARK OFFICE

The United States leads the world in innovation. That leadership is a direct result of our long-standing commitment to strong patent protection. The strong protection of patents and trademarks are of vital importance not only to continued progress in science, but also to the economy. A vast array of industries depend on patents. From the chemical, electrical, biotechnological, and manufacturing industries to computer software and hardware. And trademark is important to all businesses, period.

I believe that we must not only keep our intellectual property laws current and strong, but we must do everything we can to make sure that the offices responsible for the administration of those laws are properly equipped and able to do their job as efficiently as possible.

Thus, the first provision of this bill makes the Patent and Trademark Office a government corporation, called the U.S. Patent and Trademark Organization. Basically, the effect of this provision is to separate the administration of the patent and trademark systems from micromanagement by the Department of Commerce, while maintaining a policy link to that Department. The current PTO has been hampered by burdensome red tape regarding personnel matters, and the office has also been held back from reaching its full potential by the repeated siphoning off of its user fees for other, unrelated expenditures.

The government corporation proposal was the subject of much discussion last Congress. The Administration, various union representatives, representatives of the users of the Patent and Trademark Office, and, of course, the officers of the PTO itself were all involved in helping me to craft this consensus legislation. I am confident that the product of these negotiations will enhance the efficiency of the USPTO while protecting the interests of the Commerce Department and the employees of the USPTO.

The structure of the USPTO under my bill vests primary responsibility for patent and trademark policy in the head of the USPTO, the Director, and primary responsibility for administration of the patent and trademark systems in the respective Commissioners of Patents and Trademarks. The corporate form of the USPTO inoculates the Patent and Trademark Offices as much as possible from the bureaucratic sclerosis that infects many federal agencies. Further, by subdividing the organization into separate patent and trademark offices, the bill will help raise the prominence of trademarks, an important part of intellectual property but long seen as the poor stepchild of the more prominent patent field.

The parties interested in patents and trademarks support having close access to the President by having the chief intellectual policy advisor directly linked to a cabinet officer. The Secretary of Commerce is a logical choice. As a result, while this bill would make the day-to-day functioning of the USPTO independent of the Commerce Department, the policy portion of the new organization will still be under the policy direction of the Secretary of Commerce. Further, as a government corporation, as opposed to a private corporation, the USPTO will remain subject to congressional oversight.

Mr. President, although the creation of the USPTO may be the most dramatic part of this bill, it also contains several important changes to substantive patent law that will, taken as a whole, dramatically improve our patent system.

With the adoption of the GATT provisions in 1994, the United States changed the manner in which it calculated the duration of patent terms. Under the old rule, patents lasted for seventeen years after the grant of the patent. The new rule under the legislation implementing GATT is that these patents last for twenty years from the time the patent application is filed.

In addition to harmonizing American patent terms with those of our major trading partners, this change solved the problem of "submarine patents". A submarine patent is not a military secret. Rather, it is a colloquial way to describe a legal but unscrupulous strategy to game the system and unfairly extend a patent term.

Submarine patenting is when an applicant purposefully delays the final granting of his patent by filing a series of amendments and delaying motions. Since, under the old system, the term did not start until the patent was granted, no patent term was lost. And since patent applications are secret in the United States until a patent is actually granted, no one knows that the patent application is pending. Thus, competitors continued to spend precious research and development dollars on technology that has already been developed.

When a competitor finally did develop the same technology, the submarine applicant sprang his trap. He would cease delaying his application and it would finally be approved. Then, he sued his competitor for infringing on his patent. Thus, he maximized his own patent term while tricking his competitors into wasting their money.

Mr. President, submarine patents are terribly inefficient. Because of them, the availability of new technology is delayed and instead of moving to new and better research, companies are fooled into throwing away time and money on technology that already exists.

By adopting GATT, and changing the manner in which we calculate the patent term to twenty years from filing, we eliminated the submarine problem. Under the current rule, if an applicant delays his own application, it simply shortens the time he will have after the actual granting of the patent. Thus, we have eliminated this unscrupulous, inefficient practice by removing its benefits.

Unfortunately, the change in term calculation potentially creates a new problem. Under the current law, if the Patent Office takes a long time to approve a patent, the delay comes out of the patent term, thus punishing the patent holder for the PTO's delay. This is not right.

The question we face now, Mr. President, is how to fix this new problem. Some have suggested combining the old seventeen years from granting system with the new twenty years from filing and giving the patent holder whichever is longer. But that approach leads to uncertainty in the length of a patent term and even worse, resurrects the submarine patent problem by giving benefits to an applicant who purposefully delays his own application. I believe that Titles II and III of the Omnibus Patent Act of 1997 solve the administrative delay dilemma without recreating old problems.

EARLY PUBLICATION

Title II of the bill provides for the early publication of patent applications. It would require the Patent Office to publish pending applications eighteen months after the application was filed. An exception to this rule is made for applications filed only in the United States. Those applications will be published 18 months after filing or 3 months after the office issues its first response on the application, whichever is later. By publishing early, competitors are put on notice that someone has already beaten them to the invention, thus allowing them to stop spending money researching that same art.

The claims that early publication will allow foreign competitors to steal American technology are simply not true. To start with, between 75 and 80 percent of patent applications filed in the United States are also filed abroad where 18-month publication is already the rule. Further, I have provided in my bill for delayed publication of applications only submitted in the United States to protect them from competitors. Additionally, once an application is published, Title II grants the applicant "provisional rights," that is, legal protection for his invention. Thus, while it is true that someone could break the law and steal the invention, that is true under current law and will always be true, and it will subject them to liability for their illegal actions.

PATENT TERM RESTORATION

Title III deals directly with the administrative delay problem by restoring to the patent holder any part of the term that is lost due to undue administrative delay. To prevent any possible confusion over what undue delay means, the bill sets specific deadlines for the Patent Office to act. The office has fourteen months to issue a first office action and four months to respond to subsequent applicant filings. Any delay beyond those deadlines is considered undue delay and will be restored to the patent term. Thus, Title III solves the administrative delay problem in a clear, predictable, and objective manner.

PRIOR DOMESTIC COMMERCIAL USE

Title IV deals with people who independently invent new art, and use it in commercial sale, but who never patent their invention. Specifically, this title provides rights to a person who has commercially sold an invention more than 1 year before another person files an application for a patent on the same subject matter. Anyone in this situation will be permitted to continue to sell his product without being required to pay a royalty to the patent holder. This basic fairness measure is aimed at protecting the innocent inventor who chooses to use trade secret protection instead of pursuing a patent and who has expended enough time and money to begin commercial sale of the invention. It also serves as an incentive for those who wish to seek a patent to seek it quickly, thus reducing the time during which others may acquire prior user rights. The incentives of this title will improve the efficiency of our patent system by protecting ongoing business concerns and encouraging swift prosecution of patent applications.

PATENT REEXAMINATION REFORM

Title V provides for a greater role for third parties in patent re-examination proceedings. Nothing is more basic to an effective system of patent protection than a reliable examination process. Without the high level of faith that the PTO has earned, respect for existing patents would fall away and innovation would be discouraged for fear of a lack of protection for new inventions.

In the information age, however, it is increasingly difficult for the PTO to keep track of all the prior art that exists. The examiners do the best job they can, but inevitably someone misses something and grants a patent that should not be granted. This is the problem that title V addresses.

Title V amends the existing reexamination process to allow third-parties to raise a challenge to an existing patent and to participate in the reexamination process in a meaningful way. Thus, the expertise of the patent examiner is supplemented by the knowledge and resources of third-parties who may have information not known to the patent examiner. Through this joint effort, we maximize the flow of information, increase the reliability of patents, and thereby increase the strength of the American patent system.

There are also safeguards to prevent this process from being abused by those who merely seek to harass a patentholder. First, if a third-party requestor loses an appeal of his reexamination request, he may not subsequently raise any issue he could have raised during the examination proceeding in any forum. Second, a party that loses a civil action where that party failed to show the invalidity of the patent, the party may not subsequently seek a reexamination of such patent on any grounds that could have been raised in the civil action. Third, the burden of reexamination on the patent-holder is minimized by the fact that a reexamination is not like a court review, and that the patent holder need not submit any documentation in order to prevail.

PROVISIONAL APPLICATIONS FOR PATENTS

Title VI is comprised of miscellaneous provisions. First, it fixes a matter of a rather technical nature. Some foreign courts have interpreted American provisional applications in a way that would not preserve their filing priority. This title amends section 115 of Title 35 of the U.S. Code to clarify that if a provisional application is converted into a non-provisional application within 12 months of filing, that it stands as a full patent application, with the date of filing of the provisional application as the date of priority. If no request is made within 12 months, the provisional application is considered abandoned. This clarification will make certain that American provisional applications are given the same weight as other countries' provisional applications in other countries' courts.

PLANT PATENTS

Title VI also makes two corrections to the plant patent statute. First, the ban on tuber propagated plants is removed. This depression-era ban was included for fear of limiting the food supply. Obviously, this is no longer a concern. Second, the plant patent statute is amended to provide protection to parts of plants, as well as the whole plant. This closes a loophole that foreign growers have used to import the fruit or flowers of patented plants without paying a royalty because the entire plant was not being sold.

ELECTRONIC FILING

Lastly, this title also allows for the filing of patent and trademark documents by electronic medium. It is high time that the government office that is, by definition, always on the cutting edge of technology, be permitting to enter the age of computers.

Mr. President, this bill is an important, and necessary measure that enjoys overwhelming support. I am confident that it will be enacted into law this Congress.

THE COPYRIGHT TERM EXTENSION ACT OF 1997

Mr. President, the purpose of the Copyright Term Extension Act of 1997 is to ensure adequate copyright protection for American works abroad by extending the U

S. term of copyright protection for an additional 20 years. It also includes a provision reversing the Ninth Circuit decision in *La Cienega Music Co.* v. *ZZ Top* that calls into question the copyrights of thousands of musical works first distributed on sound recordings.

Except for the *La Cienega* provision, the substance of this bill is identical to S. 483, the Copyright Term Extension Act, which was passed by the Judiciary Committee on May 23, 1996, with overwhelming bipartisan support. This legislation also has the strong support of the Administration, as expressed by both the Commissioner of Patents and Trademarks, Bruce Lehman, and the Register of Copyrights, Marybeth Peters, in their testimony before the Judiciary Committee in the last Congress.

Twenty years ago, Mr. President, Congress fundamentally altered the way in which the U.S. calculates its term of copyright protection by abandoning a fixed-year term of protection and adopting a basic term of protection based on the life of the author. In adopting the life-plus-50 term, Congress cited three primary justifications for the change. 1) the need to conform the U.S. copyright term with the prevailing worldwide standard; 2) the insufficiency of the U.S. copyright term to provide a fair economic return for authors and their dependents; and, 3) the failure of the U.S. copyright term to keep pace with the substantially increased commercial life of copyrighted works resulting from the rapid growth in communications media.

Developments over the past 20 years have led to a widespread reconsideration of the adequacy of the life-plus-50-year term based on these same reasons. Among the main developments is the effect of demographic trends, such as increasing longevity and the trend toward rearing children later in life, on the effectiveness of the life-plus-50 term to provide adequate protection for American creators and their heirs. In addition, unprecedented growth in technology over the last 20 years, including the advent of digital media and the development of the National Information Infrastructure and the Internet, have dramatically enhanced the marketable lives of creative works. Most importantly, though, is the growing international movement toward the adoption the longer term of life-plus-70.

Thirty-five years ago, the Permanent Committee of the Berne Union began to reexamine the sufficiency of the life-plus-50-year term. Since then, a growing consensus of the inadequacy of the life-plus-50 term to protect creators in an increasingly competitive global marketplace has led to actions by several nations to increase the duration of copyright. Of particular importance is the 1993 directive issued by the European Union, which requires its member countries to implement a term of protection equal to the life of the author plus 70 years by July 1, 1995.

According to the Copyright Office, Belgium, Denmark, Finland, Germany, Greece, Ireland, Spain, and Sweden have all notified their laws to the European Commission and the Commission has found them to be in compliance with the EU Directive. Luxembourg, The Netherlands, Portugal, the United Kingdom, and Austria have each notified their implementing laws to the Commission and are awaiting certification. Other countries are currently in the process of bringing their laws into compliance. And, as the Register of Copyrights has stated, those countries that are seeking to join the European Union, including Poland, Hungary, Turkey, the Czech Republic, and Bulgaria, are likely to amend their copyright laws to conform with the life-plus-70 standard.

The reason this is of such importance to the United States is that the EU Directive also mandates the application of what is referred to as the rule of the shorter term. This rule may also be applied by adherents to the Berne Convention and the Universal Copyright Convention. In short, this rule permits those countries with longer copyright terms to limit protection of foreign works to the shorter term of protection granted in the country of origin. Thus, in those countries that adopt the longer term of life-plus-70, American

works will forfeit 20 years of available protection and be protected instead for only the duration of the life-plus-50 term afforded under U.S. law.

Mr. President, I've already cited some statistics about the importance of copyright to our national economy. The fact is that America exports more copyrighted intellectual property than any country in the world, a huge percentage of it to nations of the European Union. In fact, intellectual property is our third largest export. And, according to 1994 estimates, copyright industries account for some 5.7 percent of the total gross domestic product. Furthermore, copyright industries are creating American jobs at twice the rate of other industries, with the number of U.S. workers employed by core copyright industries more than doubling between 1977 and 1994. Today, these industries contribute more to the economy and employ more workers than any single manufacturing sector, accounting for nearly 5 percent of the total U.S. workforce. In fact, in 1994, the core copyright industries employed more workers than the four leading noncopyright manufacturing sectors combined.

Clearly, Mr. President, America stands to lose a significant part of its international trading advantage if our copyright laws do not keep pace with emerging international standards. Given the mandated application of the rule of the shorter term under the EU Directive, American works will fall into the public domain 20 years before those of our European trading partners, undercutting our international trading position and depriving copyright owners of two decades of income they might otherwise have. Similar consequences will follow in those nations outside the EU that choose to exercise the rule of the shorter term under the Berne Convention and the Universal Copyright Convention.

Mr. President, adoption of the Copyright Term Extension Act will ensure fair compensation for the American creators whose efforts fuel the intellectual property sector of our economy by allowing American copyright owners to benefit to the fullest extent from foreign uses and will, at the same time, ensure that our trading partners do not get a free ride from their use of our intellectual property. And, as stated very simply by the Register of Copyrights in her testimony before the Judiciary Committee in the last Congress: "[i]t does appear that at some point in the future the standard will be life plus 70. The question is at what point does the United States move to this term * * *. As a leading creator and exporter of copyrighted works, the United States should not wait until it is forced to increase the term, rather it should set an example for other countries."

Mr. President, this bill is of crucial importance to our Nation's copyright owners and to our economy. It is also a balanced approach. It contains a provision, allowing the actual creators of copyrighted works in certain circumstances to bargain for the extra 20 years, except in the case of works made for hire. The libraries and archives, too, will be pleased to see that the bill provides them with additional latitude to reproduce and distribute material during the extension term, and it does not extend the copyright term for certain works that were unpublished at the time of the effective date of the 1976 act. This latter provision means that libraries and archives will be able to go forward with their plans to publish those unpublished works in 2003, the year after the current guaranteed term for unpublished works expires.

LA CIENEGA V. ZZ TOP

Mr. President, the Copyright Term Extension Act of 1997 also includes a provision to overturn the decision in *La Cienega Music Co* v. *ZZ Top*, 53 F.3d 950 (9th Cir. 1995), cert denied, 116 S. Ct. 331 (1995). In general, *La Cienega* held that distributing a sound recording to the public—for example by sale—is a "publication" of the music recorded on it under the 1909 Copyright Act. Under the 1909 act, publication without copyright notice caused loss of copyright protection. Almost all music that was first published on recordings did not contain copyright notice, because publishers believed that it was not technically a publication. The Copyright Office also considered these musical compositions to be unpublished. The effect of *La Cienega*, however, is that virtually all music before 1978 that was first distributed to the public on recordings has no copyright protection—at least in the 9th Circuit.

By contrast, the Second Circuit in *Rosette* v. *Rainbo Record Manufacturing Corp.*, 546 F.2d 461 (2d Cir. 1975), *aff'd per curiam*, 546 F.2d 461 (2d Cir. 1976) has held the opposite—that public distribution of recordings was not a publication of the music contained on them. As I have noted, *Rosette* comports with the nearly universal understanding of the music and sound recording industries and of the Copyright Office.

Since the Supreme Court has denied cert in *La Cienega*, whether one has copyright in thousands of musical compositions depends on whether the case is brought in the Second or Ninth Circuits. This situation is intolerable. Overturning the *La Cienega* decision will restore national uniformity on this important issue by confirming the wisdom of the custom and usage of the affected industries and of the Copyright Office for nearly 100 years. My bill, however, also contains a provision to ensure that Congress' affirmation of this view will not retroactively upset the disposition of previously adjudicated or pending cases.

THE COPYRIGHT CLARIFICATION ACT OF 1997

Finally, Mr. President, I am introducing the Copyright Clarification Act of 1997 to make a series of truly technical amendments to the Copyright Act. The need for these technical corrections was brought to my attention in the last Congress by the Register of Copyrights, Ms. Marybeth Peters. This bill was passed by the House of Representatives in similar form in the 104th Congress. Unfortunately time ran short on our efforts to enact the same bill in the Senate. The version I am introducing today is identical to H.R. 672, which passed the House under suspension of the rules just yesterday. I hope the Senate will follow suit and act expeditiously to make these important technical amendments.

CONCLUSION

Mr. President, each of the three bills I am introducing today is tremendously important

For the information of my colleagues I am submitting a brief summary of the Omnibus Patent Act of 1997, a section-by-section analysis of the Copyright Term Extension Act of 1997, and a summary of provisions of the Copyright Clarification Act of 1997. I ask unanimous consent that they be printed in the RECORD, along with the text of the Copyright Term Extension Act of 1997 and the text of the Copyright Clarification Act of 1997.

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

S. 505

*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 "Copyright Term Extension Act of 1997".

**SEC. 2. DURATION OF COPYRIGHT PROVISIONS.**

(a) PREEMPTION WITH RESPECT TO OTHER LAWS.—Section 301(c) of title 17, United States Code, is amended by striking "February 15, 2047" each place it appears and inserting "February 15, 2067".

(b) DURATION OF COPYRIGHT: WORKS CREATED ON OR AFTER JANUARY 1, 1978.—Section 302 of title 17, United States Code, is amended—

(1) in subsection (a) by striking "fifty" and inserting "70";

(2) in subsection (b) by striking "fifty" and inserting "70";

(3) in subsection (c) in the first sentence—

(A) by striking "seventy-five" and inserting "95"; and

(B) by striking "one hundred" and inserting "120"; and

(4) in subsection (e) in the first sentence—

(A) by striking "seventy-five" and inserting "95";

(B) by striking "one hundred" and inserting "120"; and

(C) by striking "fifty" each place it appears and inserting "70".

(c) DURATION OF COPYRIGHT: WORKS CREATED BUT NOT PUBLISHED OR COPYRIGHTED BEFORE JANUARY 1, 1978.—Section 303 of title 17, United States Code, is amended in the second sentence by striking "December 31, 2027" and inserting "December 31, 2047".

(d) DURATION OF COPYRIGHT: SUBSISTING COPYRIGHTS.—

(1) IN GENERAL.—Section 304 of title 17, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) in subparagraph (B) by striking "47" and inserting "67"; and

(II) in subparagraph (C) by striking "47" and inserting "67";

(ii) in paragraph (2)—

(I) in subparagraph (A) by striking "47" and inserting "67"; and

(II) in subparagraph (B) by striking "47" and inserting "67"; and

(iii) in paragraph (3)—

(I) in subparagraph (A)(i) by striking "47" and inserting "67"; and

(II) in subparagraph (B) by striking "47" and inserting "67";

(B) by amending subsection (b) to read as follows:

"(b) COPYRIGHTS IN THEIR RENEWAL TERM AT THE TIME OF THE EFFECTIVE DATE OF THE COPYRIGHT TERM EXTENSION ACT OF 1997.—Any copyright still in its renewal term at the time that the Copyright Term Extension Act of 1997 becomes effective shall have a copyright term of 95 years from the date copyright was originally secured.";

(C) in subsection (c)(4)(A) in the first sentence by inserting "or, in the case of a termination under subsection (d), within the five-year period specified by subsection (d)(2)," after "specified by clause (3) of this subsection,"; and

(D) by adding at the end the following new subsection:

"(d) TERMINATION RIGHTS PROVIDED IN SUBSECTION (c) WHICH HAVE EXPIRED ON OR BEFORE THE EFFECTIVE DATE OF THE COPYRIGHT TERM EXTENSION ACT OF 1997.—In the case of any copyright other than a work made for hire, subsisting in its renewal term on the effective date of the Copyright Term Extension Act of 1997 for which the termination right provided in subsection (c) has expired by such date, where the author or owner of the termination right has not previously exercised such termination right, the exclusive or nonexclusive grant of a transfer or license of the renewal copyright or any right under it, executed before January 1, 1978, by any of the persons designated in subsection (a)(1)(C) of this section, other than by will, is subject to termination under the following conditions:

"(1) The conditions specified in subsection (c) (1), (2), (4), (5), and (6) of this section apply to terminations of the last 20 years of copyright term as provided by the amendments made by the Copyright Term Extension Act of 1997.

"(2) Termination of the grant may be effected at any time during a period of 5 years beginning at the end of 75 years from the date copyright was originally secured.".

(2) COPYRIGHT RENEWAL ACT OF 1992.—Section 102 of the Copyright Renewal Act of 1992 (Public Law 102-307; 106 Stat. 266; 17 U.S.C. 304 note) is amended—

(A) in subsection (c)—

(i) by striking "47" and inserting "67";

(ii) by striking "(as amended by subsection (a) of this section)"; and

(iii) by striking "effective date of this section" each place it appears and inserting "effective date of the Copyright Term Extension Act of 1997"; and

(B) in subsection (g)(2) in the second sentence by inserting before the period the following: ", except each reference to forty-seven years in such provisions shall be deemed to be 67 years".

**SEC. 3. REPRODUCTION BY LIBRARIES AND ARCHIVES.**

Section 108 of title 17, United States Code, is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following:

"(h)(1) For purposes of this section, during the last 20 years of any term of copyright of a published work, a library or archives, including a nonprofit educational institution that functions as such, may reproduce, distribute, display, or perform in facsimile or digital form a copy or phonorecord of such work, or portions thereof, for purposes of preservation, scholarship, or research, if such library or archives has first determined, on the basis of a reasonable investigation, that none of the conditions set forth in subparagraphs (A), (B), and (C) of paragraph (2) apply.

"(2) No reproduction, distribution, display, or performance is authorized under this subsection if—

"(A) the work is subject to normal commercial exploitation;

"(B) a copy or phonorecord of the work can be obtained at a reasonable price; or

"(C) the copyright owner or its agent provides notice pursuant to regulations promulgated by the Register of Copyrights that either of the conditions set forth in subparagraphs (A) and (B) applies.

"(3) The exemption provided in this subsection does not apply to any subsequent uses by users other than such library or archives.".

**SEC. 4. DISTRIBUTION OF PHONORECORDS.**

Section 303 of title 17, United States Code, is amended—

(1) in the first sentence by striking "Copyright" and inserting "(a) Copyright"; and

(2) by adding at the end the following:

"(b) The distribution before January 1, 1978, of phonorecords shall not constitute publication of the musical work embodied therein for purposes of the Copyright Act of 1909.".

**SEC. 5. EFFECTIVE DATES.**

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

(b) DISTRIBUTION OF PHONORECORDS.—The amendment made by section 4 shall not be a basis to reopen an action nor to commence a subsequent action for copyright infringement if an action in which such claim was raised was dismissed by final judgment before the date of enactment of this Act. The amendment made by section 4 shall not apply to any action pending on the date of enactment in any court in which a party, prior to the date of enactment, sought dismissal of, judgment on, or declaratory relief regarding a claim of infringement by arguing that the adverse party had no valid copyright in a musical work by virtue of the distribution of phonorecords embodying it.

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THE COPYRIGHT TERM EXTENSION ACT OF 1997 (S. 505)—SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

The proposed legislation is entitled the Copyright Term Extension Act of 1997.

SECTION 2. DURATION OF COPYRIGHT PROVISIONS

*Section 2(a)—Preemption with Respect to Other Laws*

This subsection amends §301(c) of the Copyright Act to extend for an additional 20 years the application of common law and state statutory protection for sound recordings fixed before February 15, 1972. Under §301, the federal law generally preempts all state and common law protection of copyright with several exceptions, including one for sound recordings fixed before February 15, 1972 (the effective date of the statute extending federal copyright protection to sound recordings). Because federal copyright protection applies only to sound recordings fixed on or after that date, federal preemption of state statutory and common law protection of sound recordings fixed before February 15, 1972, would result in all of these works falling into the public domain. The §301 exception was enacted to ensure a 75-year minimum term of copyright protection for these works. By delaying the date of federal Copyright Act preemption of state statutory and common law protection of pre-February 15, 1972, sound recordings until February 15, 2067, this subsection extends the minimum term of protection for these works by 20 years.

*Section 2(b)—Duration of Copyright: Works Created on or After January 1, 1978*

This subsection amends §302 of the Copyright Act to extend the U.S. term of copyright protection by 20 years for all works created on or after January 1, 1978. For works in general, which currently enjoy protection for the life of the author plus 50 additional years under §301(a), this section creates a term equal to the life of the author plus 70 years. Likewise, for joint works under §302(b), this section extends the current term of protection to the life of the last surviving author plus 70 years. For anonymous works, pseudonymous works, and works made for hire, which are protected the shorter of 75 years from publication or 100 years from creation under §302(c), this subsection extends the term to the shorter of 95 years from publication or 120 years from the date the work is created.

This subsection also amends §302(e) of the Copyright Act to extend by 20 years the various dates relating to the presumptive death of the author as a complete defense against copyright infringement. Whereas current copyright protection is generally tied to the life of the author, it is sometimes not possible to ascertain whether the author of a work is still living, or even to identify the year of death if the author is deceased. §302(e) provides a complete defense against copyright infringement when the work is used more than 75 years after publication or 100 years after creation, whichever is less, provided the user obtains a certificate from the Copyright Office indicating that it has no record to indicate whether that person is living or died less than 50 years before. This subsection would extend protection of such works for an additional 20 years—95 years from publication and 120 years from creation—as well as base the presumptive death of the author on certification by the Copyright Office that is has no record to indicate whether the person is living or died less than 70 years before, which is 20 years longer than the 50 years currently provided for in §302(e).

*Section 2(c)—Duration of Copyright: Works Created But Not Published or Copyrighted Before January 1, 1978*

This subsection amends §303 of the Copyright Act to extend the minimum term of copyright protection by 20 years for works created but not copyrighted before January 1, 1978, provided they are published prior to December 31, 2002. Prior to 1978, unpublished works enjoyed perpetual copyright protection. Beginning in 1978, however, copyright protection for unpublished works was limited to the life of the author plus 50 years, or 100 years from creation for anonymous works, pseudonymous works, and works

made for hire. Under §303, however, works created but not published before January 1, 1978, are guaranteed protection until at least December 31, 2002. Works subsequently published before that date are guaranteed further protection until December 31, 2027. This subsection provides an additional 20 years of protection for these subsequently published works by ensuring that copyright protection will not expire before December 31, 1047.

*Section 2(d)(1)(A)—Duration of Copyright: Copyrights in Their First Term on January 1, 1978*

This subsection amends §304(a) of the Copyright Act to extend the term of protection for works in their first term on January 1, 1978, by extending the renewal term from 47 years to 67 years. The effect of this amendment is to provide a composite term of protection of 95 years from the date of publication.

*Section 2(d)(1)(B)—Duration of Copyright: Copyright in Their Renewal Term or Registered for Renewal Before January 1, 1978*

This subsection amends §304(b) of the Copyright Act to extend the copyright term of pre-1978 works currently in their renewal term from 75 years to 95 years. As amended, this section clarifies that the extension applies only to works that are currently under copyright protection and is not intended to restore copyright protection to works already in the public domain.

*Section 2(d)(1)(C) & (D)—Termination of Transfers and Licenses*

These subsections amend §340(c) of the Copyright Act and create a new subsection (d) to provide a revived power of termination for individual authors whose right to terminate prior transfers and licenses of copyright under §304(c) has expired, provided the author has not previously exercised that right. Under §304(c), an author may terminate a prior transfer or license of copyright for any work, other than a work made for hire, by serving advance written notice upon the grantee or the grantee's successor at least 2, but not more than 10, years prior to the effective date of the termination. Such termination may be effected at any time within 5 years beginning at the end of 56 years from the date of publication. The purpose of this termination provision was to afford the individual creator the opportunity to bargain for the benefit of the 19-year extension provided by the 1976 Copyright Act.

For most individual creators, the existing power of termination under §304(c) will allow them to terminate prior transfers and to bargain for the benefit of both the extension under the 1976 Copyright Act and the extension under the Copyright Term Extension Act of 1997. For a much smaller group of individuals, the five-year window in which to terminate prior transfers under §304(c) has already expired. Thus, these creators are denied the opportunity to reap the benefits of the extended term, while the current copyright owners are given a 20-year windfall. This subsection amends the existing termination provisions under §304(c) of Copyright Act to create a revived window, beginning at the end of the current 75-year copyright term, in which individual creators or their heirs who did not terminate previous transfers or grants prior to the expiration of their right of termination under §304(c) may bargain for the benefit of the extended term.

*Section 2(d)(2)—Copyright Renewal Act revisions*

This subsection makes corresponding amendments to §102 of the Copyright Renewal Act of 1992 (P.L. 102-307, 106 Stat. 266) to reflect the changes made by the Copyright Term Extension Act.

*Section 3—Clarification of Library Exemption of Exclusive Rights*

This subsection amends §108 of the Copyright Act, governing limited exemptions from copyright infringement for libraries and archives, including nonprofit educational institutions that function as such, by redesignating subsection (h) as subsection (i) and inserting a new subsection (h). The new subsection (h)(1) will allow libraries, archives, and nonprofit educational institutions to reproduce and distribute copies of works for preservation, scholarship, or research during the last 20 years of copyright, if the works are not being commercially exploited and cannot be obtained at a reasonable price. The new subsection (h)(2) provides that the limited exemption does not apply where the copyright owner provides notice to the Copyright Office that the conditions regarding commercial exploitation and reasonable availability have not been met. The new subsection (h)(3) provides that the exemption does not apply to subsequent users other than the libraries or archives.

SECTION 4. DISTRIBUTION OF PHONORECORDS

Section 4 affirms the longstanding view that the public distribution of phonorecords prior to 1978, did not constitute publication of the musical composition embodied therein under the 1909 Copyright Act. This section overturns the decision in *LaCienega Music Co. v. Z.Z. Top.*, 53 F.3d 950 (9th Cir. 1995), *cert. denied*, 116 S.Ct. 331 (1995), which held that the sale of records constituted "publication" of the musical composition under the 1909 Act, and implicitly ruled that unless such a copy contained a copyright notice, the composition entered the public domain immediately upon the first sale. The result of such a view is that potentially thousands of musical compositions will be stripped of their presumed copyright protection as unpublished works under the 1909 Act. Section 13 adopts the view of the Second Circuit that the pre-1978 sale or distribution of recordings to the public did not constitute a publication for copyright purposes. *Rosette v. Rainbo Record Mfg. Corp.*, 354 F.Supp. 1183 (S.D.N.Y.), *aff'd per curiam*, 546 F.2d 461 (2d. Cir. 1976). This same view is adopted by the Copyright Office, which for years has refused to accept registrations for such phonorecords as published works.

SECTION 5. EFFECTIVE DATE

Subsection (a) provides that this Act and the amendments made thereby shall be effective on the date of enactment. Subsection (b) provides, however, that the overturning of the *LaCienega* decision will not retroactively upset the disposition of previously adjudicated or pending cases.

Mr. LEAHY. Mr. President, I am glad to be working with Senator HATCH as original cosponsors of this, the Copyright Term Extension Act of 1997. We worked together on this matter last Congress to craft a bill that was reported by the Judiciary Committee to the Senate by a vote of 15 to 3.

I raised a number of questions and concerns during our Judiciary Committee hearing on this issue back in September 1995. I spoke of a letter I had received from Prof. Karen Burke Lefevre of Vermont and the Rensselaer Polytechnic Institute. She expressed reservations, as a researcher and author, that Congress not extend the term for unpublished works beyond the term set by the 1976 Act. This category of materials is set to have its copyrights expire in 2002. They include anonymous works and unpublished works of interest to scholars. In section 2(c) of the bill we introduce today, we accommodate these interests and preserve the public availability of these materials in 2003, if they remain unpublished on December 31, 2002.

I want to thank Marybeth Peters, our Register of Copyrights, for supporting this improvement in the bill, and Senator HATCH for working with me on it.

I am concerned about libraries, educational institutions and nonprofits being able to access materials and provide access in turn for research, archival, preservation and other purposes. We have also made progress in this area as reflected in section 3 of the bill. Copyright industry and library representatives have narrowed their differences. I ask for their continued help in crafting the best balance possible to create public access for noncommercial purposes during the extension period without undercutting the value of copyrights.

At our hearing I also raised the notion of a new right of termination for works where the period of termination in current law has already passed and the 20-year extension inures to the benefit of a copyright transferee. This bill creates such a right of termination in section 2(d) of the bill.

At our hearing, I was still considering whether there was sufficient justification for extending the copyright term for an additional 20 years. At that time we were considering the European Union Directive to its member countries to provide copyright protection for a term of life plus 70 years by July 1, 1995. While many of our trading partners had not extended their terms by July 1995, they have acted to do so in the past 2 years.

I received a letter from Bruce A. Lehman, the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, in which he reported that Austria, Germany, Greece, France, Denmark, Belgium, Ireland, Spain, Italy and the United Kingdom had complied with the EU Directive on Copyright Term. Sweden, Portugal, Finland and the Netherlands were reported to have legislation to do so pending, as well. With so many of our trading partners moving to the longer term but preparing to recognize American works for only the shorter term, I believe it is time for us to act.

This bill also now includes a revised version of legislation that passed the House last Congress but was stalled in the Senate to clarify the Copyright Act of 1909 with regard to whether the distribution of phonorecords may be held to be a divesting publication of the copyright in the musical composition

embodied therein. The revision is intended to clarify the law while not affecting cases in which parties have litigated or are litigating this issue.

Finally, I feel strongly that the extension of the copyright term should include public benefit, such as the creation of new works or benefit to public arts. Senator DODD, Senator KENNEDY, and I have been concerned about finding an appropriate way to benefit the public from this extension and continue to do so. Along these lines, the Copyright Office is examining how the extension in this bill will benefit copyright industries, authors and the public.

Given the changes made to meet the concerns that I raised with an earlier bill and in light of the international developments that are disadvantaging American copyrighted works, I cosponsored the Committee substitute at our Judiciary Committee executive business session last Congress and pressed for its consideration by the Senate. Unfortunately, this bill was not considered by the Senate during the 104th Congress.

Accordingly, I join with Senator HATCH to reintroduce this copyright term extension legislation this Congress and look forward to working with him to see to its enactment, without further delay.

Mrs. FEINSTEIN. Mr. President, I want to express my support for the Copyright Term Extension Act of 1997. I believe that extending the basic term of copyright protection by 20 years is a step in the right direction.

Perhaps the most compelling reason for this legislation is the need for greater international reciprocity in honoring copyright terms. The European Union has formally adopted a life plus 70 copyright term, and countries currently awaiting admission to the Union will adopt this standard in the future. Several countries outside of the European Union also have turned to the life plus 70 term, and many expect it to become the international standard.

By extending to life plus 70 years, Congress will help ensure that American creators receive comparable protection in other countries. If we do not act, other nations will not be required to provide American authors and artists with any more protection than we offer them at home.

And, before the United States is the world's leader in the production of intellectual property, and because the State of California is home to many of the leading copyright industries, this issue is of great importance to me. We could be the net losers if we do not move toward greater harmonization.

Intellectual property—the collective creative output of America's makers of movies, music, art, and other works—is an enormous asset to the Nation's economy and balance of trade.

The International Intellectual Property Alliance estimates that copyright-related industries contributed more than $385 billion to the U.S. economy in 1994, with more than $50 billion in foreign sales.

Many other countries have preferred to appropriate and re-sell American films, music, and computer programs—some of the great exports of my State of California—rather than license American works.

The United States suffers greatly from illegal duplication of our work. Why, then, should we sit back and allow European companies to legally profit from the use of our works, without paying us in return?

As Prof. Arthur Miller of Harvard Law School aptly, albeit bluntly, put it: "Unless Congress matches the copyright extension adopted by the European Union, we will lose 20 years of valuable protection against rip-off artists." Since America is the world's principal exporter of popular culture, extension of the basic copyright term is an important step in the right direction.

Reciprocity in copyright protection becomes even more necessary in today's global information society, where computer networks span the continents, and intellectual property is shuttled around the world in seconds.

The world has changed dramatically since 1976, when Congress established the present copyright terms. Many copyrighted works have a much longer commercial life than they used to have.

Videocassettes, cable television, and new satellite delivery systems have extended the commercial life of movies and television series. New technologies not only have extended but also have expanded the market for creative content. Cable television, which promises hundreds of different channels, has vastly expanded this market. Networked computers add to the demand for content. Interactive television promises to do the same.

The Copyright Term Extension Act will go far to address the global developments I have mentioned.

After introduction, I recommend that my colleagues and I further develop the language of the act to ensure that all contributors to the creative process receive benefits from the extended copyright term.

I urge my colleagues to support this bill.

S. 506

*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 "Copyright Clarifications Act of 1997".

**SEC. 2. SATELLITE HOME VIEWER ACT OF 1994.**

The Satellite Home Viewer Act of 1994 (Public Law 103-369) is amended as follows:

(1) Section 2(3)(A) is amended to read as follows:

"(A) in clause (i) by striking '12 cents' and inserting '17.5 cents per subscriber in the case of superstations that as retransmitted by the satellite carrier include any program which, if delivered by any cable system in the United States, would be subject to the syndicated exclusivity rules of the Federal Communications Commission, and 14 cents per subscriber in the case of superstations that are syndex-proof as defined in section 258.2 of title 37, Code of Federal Regulations'; and".

(2) Section 2(4) is amended to read as follows:

"(4) Subsection (c) is amended—

"(A) in paragraph (1)—

"(i) by striking 'until December 31, 1992,';

"(ii) by striking '(2), (3) or (4)' and inserting '(2) or (3)'; and

"(iii) by striking the second sentence;

"(B) in paragraph (2)—

"(i) in subparagraph (A) by striking 'July 1, 1991' and inserting 'July 1, 1996'; and

"(ii) in subparagraph (D) by striking 'December 31, 1994' and inserting 'December 31, 1999, or in accordance with the terms of the agreement, whichever is later'; and

"(C) in paragraph (3)—

"(i) in subparagraph (A) by striking 'December 31, 1991' and inserting 'January 1, 1997';

"(ii) by amending subparagraph (B) to read as follows:

'(B) ESTABLISHMENT OF ROYALTY FEES.—In determining royalty fees under this paragraph, the copyright arbitration royalty panel appointed under chapter 8 shall establish fees for the retransmission of network stations and superstations that most clearly represent the fair market value of secondary transmissions. In determining the fair market value, the panel shall base its decision on economic, competitive, and programming information presented by the parties, including—

'(i) the competitive environment in which such programming is distributed, the cost of similar signals in similar private and compulsory license marketplaces, and any special features and conditions of the retransmission marketplace;

'(ii) the economic impact of such fees on copyright owners and satellite carriers; and

'(iii) the impact on the continued availability of secondary transmissions to the public.'; and

"(iii) in subparagraph (C), by inserting 'or July 1, 1997, whichever is later' after 'section 802(g)'.".

(3) Section 2(5)(A) is amended to read as follows:

"(A) in paragraph (5)(C) by striking 'the date of the enactment of the Satellite Home Viewer Act of 1988' and inserting 'November 16, 1988'; and".

**SEC. 3. COPYRIGHT IN RESTORED WORKS.**

Section 104A of title 17, United States Code, is amended as follows:

(1) Subsection (d)(3)(A) is amended to read as follows:

"(3) EXISTING DERIVATIVE WORKS.—(A) In the case of a derivative work that is based upon a restored work and is created—

"(i) before the date of the enactment of the Uruguay Round Agreements Act, if the source country of the restored work is an eligible country on such date, or

"(ii) before the date on which the source country of the restored work becomes an eligible country, if that country is not an eligible country on such date of enactment,

a reliance party may continue to exploit that derivative work for the duration of the restored copyright if the reliance party pays

to the owner of the restored copyright reasonable compensation for conduct which would be subject to a remedy for infringement but for the provisions of this paragraph.".

(2) Subsection (e)(1)(B)(ii) is amended by striking the last sentence.

(3) Subsection (h)(2) is amended to read as follows:

"(2) The 'date of restoration' of a restored copyright is—

"(A) January 1, 1996, if the source country of the restored work is a nation adhering to the Berne Convention or a WTO member country on such date; or

"(B) the date of adherence or proclamation, in the case of any other source country of the restored work.".

(4) Subsection (h)(3) is amended to read as follows:

"(3) The term 'eligible country' means a nation, other than the United States, that—

"(A) becomes a WTO member country after the date of the enactment of the Uruguay Round Agreements Act;

"(B) on such date of enactment is, or after such date of enactment becomes, a member of the Berne Convention; or

"(C) after such date of enactment becomes subject to a proclamation under subsection (g).

For purposes of this paragraph, a nation that is a member of the Berne Convention on the date of the enactment of the Uruguay Round Agreements Act shall be construed to become an eligible country on such date of enactment.".

**SEC. 4. LICENSES FOR NONEXEMPT SUBSCRIPTION TRANSMISSIONS.**

Section 114(f) of title 17, United States Code, is amended—

(1) in paragraph (1), by inserting ", or, if a copyright arbitration royalty panel is convened, ending 30 days after the Librarian issues and publishes in the Federal Register an order adopting the determination of the copyright arbitration royalty panel or an order setting the terms and rates (if the Librarian rejects the panel's determination)" after "December 31, 2000"; and

(2) in paragraph (2), by striking "and publish in the Federal Register".

**SEC. 5. ROYALTY PAYABLE UNDER COMPULSORY LICENSE.**

Section 115(c)(3)(D) of title 17, United States Code, is amended by striking "and publish in the Federal Register".

**SEC. 6. NEGOTIATED LICENSE FOR JUKEBOXES.**

Section 116 of title 17, United States Code, is amended—

(1) by amending subsection (b)(2) to read as follows:

"(2) ARBITRATION.—Parties not subject to such a negotiation may determine, by arbitration in accordance with the provisions of chapter 8, the terms and rates and the division of fees described in paragraph (1)."; and

(2) by adding at the end the following new subsection:

"(d) DEFINITIONS.—As used in this section, the following terms mean the following:

"(1) A 'coin-operated phonorecord player' is a machine or device that—

"(A) is employed solely for the performance of nondramatic musical works by means of phonorecords upon being activated by the insertion of coins, currency, tokens, or other monetary units or their equivalent;

"(B) is located in an establishment making no direct or indirect charge for admission;

"(C) is accompanied by a list which is comprised of the titles of all the musical works available for performance on it, and is affixed to the phonorecord player or posted in the establishment in a prominent position where it can be readily examined by the public; and

"(D) affords a choice of works available for performance and permits the choice to be made by the patrons of the establishment in which it is located.

"(2) An 'operator' is any person who, alone or jointly with others—

"(A) owns a coin-operated phonorecord player;

"(B) has the power to make a coin-operated phonorecord player available for placement in an establishment for purposes of public performance; or

"(C) has the power to exercise primary control over the selection of the musical works made available for public performance on a coin-operated phonorecord player.".

**SEC. 7. REGISTRATION AND INFRINGEMENT ACTIONS.**

Section 411(b)(1) of title 17, United States Code, is amended to read as follows:

"(1) serves notice upon the infringer, not less than 48 hours before such fixation, identifying the work and the specific time and source of its first transmission, and declaring an intention to secure copyright in the work; and".

**SEC. 8. COPYRIGHT OFFICE FEES.**

(a) FEE INCREASES.—Section 708(b) of title 17, United States Code, is amended to read as follows:

"(b) In calendar year 1997 and in any subsequent calendar year, the Register of Copyrights, by regulation, may increase the fees specified in subsection (a) in the following manner:

"(1) The Register shall conduct a study of the costs incurred by the Copyright Office for the registration of claims, the recordation of documents, and the provision of services. The study shall also consider the timing of any increase in fees and the authority to use such fees consistent with the budget.

"(2) The Register may, on the basis of the study under paragraph (1), and subject to paragraph (5), increase fees to not more than that necessary to cover the reasonable costs incurred by the Copyright Office for the services described in paragraph (1), plus a reasonable inflation adjustment to account for any estimated increase in costs.

"(3) Any newly established fee under paragraph (2) shall be rounded off to the nearest dollar, or for a fee less than $12, rounded off to the nearest 50 cents.

"(4) The fees established under this subsection shall be fair and equitable and give due consideration to the objectives of the copyright system.

"(5) If the Register determines under paragraph (2) that fees should be increased, the Register shall prepare a proposed fee schedule and submit the schedule with the accompanying economic analysis to the Congress. The fees proposed by the Register may be instituted after the end of 120 days after the schedule is submitted to the Congress unless, within that 120-day period, a law is enacted stating in substance that the Congress does not approve the schedule.".

(b) DEPOSIT OF FEES.—Section 708(d) of such title is amended to read as follows:

"(d)(1) Except as provided in paragraph (2), all fees received under this section shall be deposited by the Register of Copyrights in the Treasury of the United States and shall be credited to the appropriations for necessary expenses of the Copyright Office. Such fees that are collected shall remain available until expended. The Register may, in accordance with regulations that he or she shall prescribe, refund any sum paid by mistake or in excess of the fee required by this section.

"(2) In the case of fees deposited against future services, the Register of Copyrights shall request the Secretary of the Treasury to invest in interest-bearing securities in the United States Treasury any portion of the fees that, as determined by the Register, is not required to meet current deposit account demands. Funds from such portion of fees shall be invested in securities that permit funds to be available to the Copyright Office at all times if they are determined to be necessary to meet current deposit account demands. Such investments shall be in public debt securities with maturities suitable to the needs of the Copyright Office, as determined by the Register of Copyrights, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

"(3) The income on such investments shall be deposited in the Treasury of the United States and shall be credited to the appropriations for necessary expenses of the Copyright Office.".

**SEC. 9. COPYRIGHT ARBITRATION ROYALTY PANELS.**

(a) ESTABLISHMENT AND PURPOSE.—Section 801 of title 17, United States Code, is amended—

(1) in subsection (b)(1) by striking "and 116" in the first sentence and inserting "116, and 119";

(2) in subsection (c) by inserting after "panel" at the end of the sentence the following:

", including—

"(1) authorizing the distribution of those royalty fees collected under sections 111, 119, and 1005 that the Librarian has found are not subject to controversy; and

"(2) accepting or rejecting royalty claims filed under sections 111, 119, and 1007 on the basis of timeliness or the failure to establish the basis for a claim"; and

(3) by amending subsection (d) to read as follows:

"(d) SUPPORT AND REIMBURSEMENT OF ARBITRATION PANELS.—The Librarian of Congress, upon the recommendation of the Register of Copyrights, shall provide the copyright arbitration royalty panels with the necessary administrative services related to proceedings under this chapter, and shall reimburse the arbitrators presiding in distribution proceedings at such intervals and in such manner as the Librarian shall provide by regulation. Each such arbitrator is an independent contractor acting on behalf of the United States, and shall be hired pursuant to a signed agreement between the Library of Congress and the arbitrator. Payments to the arbitrators shall be considered costs incurred by the Library of Congress and the Copyright Office for purposes of section 802(h)(1).".

(b) PROCEEDINGS.—Section 802 of title 17, United States Code, is amended—

(1) in subsection (c) by striking the last sentence; and

(2) in subsection (h) by amending paragraph (1) to read as follows:

"(1) DEDUCTION OF COSTS OF LIBRARY OF CONGRESS AND COPYRIGHT OFFICE FROM ROYALTY FEES.—The Librarian of Congress and the Register of Copyrights may, to the extent not otherwise provided under this title, deduct from royalty fees deposited or collected under this title the reasonable costs incurred by the Library of Congress and the

Copyright Office under this chapter. Such deduction may be made before the fees are distributed to any copyright claimants. In addition, all funds made available by an appropriations Act as offsetting collections and available for deductions under this subsection shall remain available until expended. In ratemaking proceedings, the Librarian of Congress and the Copyright Office may assess their reasonable costs directly to the parties to the most recent relevant arbitration proceeding, 50 percent of the costs to the parties who would receive royalties from the royalty rate adopted in the proceeding and 50 percent of the costs to the parties who would pay the royalty rate so adopted.".

**SEC. 10. DIGITAL AUDIO RECORDING DEVICES AND MEDIA.**

Section 1007(b) of title 17, United States Code, is amended by striking "Within 30 days after" in the first sentence and inserting "After".

**SEC. 11. CONFORMING AMENDMENT.**

Section 4 of the Digital Performance Right in Sound Recordings Act of 1995 (Public Law 104-39) is amended by redesignating paragraph (5) as paragraph (4).

**SEC. 12. MISCELLANEOUS TECHNICAL AMENDMENTS.**

(a) AMENDMENTS TO TITLE 17, UNITED STATES CODE.—Title 17, United States Code, is amended as follows:

(1) The table of chapters at the beginning of title 17, United States Code, is amended—

(A) in the item relating to chapter 6, by striking "**Requirement**" and inserting "**Requirements**";

(B) in the item relating to chapter 8, by striking "**Royalty Tribunal**" and inserting "**Arbitration Royalty Panels**";

(C) in the item relating to chapter 9, by striking "**semiconductor chip products**" and inserting "**Semiconductor Chip Products**"; and

(D) by inserting after the item relating to chapter 9 the following:

"**10. Digital Audio Recording Devices and Media ..... 1001**".

(2) The item relating to section 117 in the table of sections at the beginning of chapter 1 is amended to read as follows:

"117. Limitations on exclusive rights: Computer programs.".

(3) Section 101 is amended in the definition of to perform or display a work "publicly" by striking "processs" and inserting "process".

(4) Section 108(e) is amended by striking "pair" and inserting "fair".

(5) Section 109(a)(2)(B) is amended by striking "Copyright" and inserting "Copyrights".

(6) Section 110 is amended—

(A) in paragraph (8) by striking the period at the end and inserting a semicolon;

(B) in paragraph (9) by striking the period at the end and inserting "; and"; and

(C) in paragraph (10) by striking "4 above" and inserting "(4)".

(7) Section 115(c)(3)(E) is amended—

(A) in clause (i) by striking "section 106(1) and (3)" each place it appears and inserting "paragraphs (1) and (3) of section 106"; and

(B) in clause (ii)(II) by striking "sections 106(1) and 106(3)" and inserting "paragraphs (1) and (3) of section 106".

(8) Section 119(c)(1) is amended by striking "unless until" and inserting "unless".

(9) Section 304(c) is amended in the matter preceding paragraph (1) by striking "the subsection (a)(1)(C)" and inserting "subsection (a)(1)(C)".

(10) Section 405(b) is amended by striking "condition or" and inserting "condition for".

(11) Section 407(d)(2) is amended by striking "cost of" and inserting "cost to".

(12) The item relating to section 504 in the table of sections at the beginning of chapter 5 is amended by striking "Damage" and inserting "Damages".

(13) Section 504(c)(2) is amended by striking "court it" and inserting "court in".

(14) Section 509(b) is amended by striking "merchandise; and baggage" and inserting "merchandise, and baggage".

(15) Section 601(a) is amended by striking "nondramtic" and inserting "nondramatic".

(16) Section 601(b)(1) is amended by striking "subsustantial" and inserting "substantial".

(17) The item relating to section 710 in the table of sections at the beginning of chapter 7 is amended by striking "Reproductions" and inserting "Reproduction".

(18) The item relating to section 801 in the table of sections at the beginning of chapter 8 is amended by striking "establishment" and inserting "Establishment".

(19) Section 801(b) is amended—

(A) by striking "shal be—" and inserting "shall be as follows:";

(B) in paragraph (1) by striking "to make" and inserting "To make";

(C) in paragraph (2)—

(i) by striking "to make" and inserting "To make"; and

(ii) in subparagraph (D) by striking "adjustment; and" and inserting "adjustment."; and

(D) in paragraph (3) by striking "to distribute" and inserting "To distribute".

(20) Section 803(b) is amended in the second sentence by striking "subsection subsection" and inserting "subsection".

(21) The item relating to section 903 in the table of sections at the beginning of chapter 9 is amended to read as follows:

"903. Ownership, transfer, licensure, and recordation.".

(22) Section 909(b)(1) is amended—

(A) by striking "force" and inserting "work"; and

(B) by striking "sumbol" and inserting "symbol".

(23) Section 910(a) is amended in the second sentence by striking "as used" and inserting "As used".

(24) Section 1006(b)(1) is amended by striking "Federation Television" and inserting "Federation of Television".

(25) Section 1007 is amended—

(A) in subsection (a)(1) by striking "The calendar year in which this chapter takes effect" and inserting "calendar year 1992"; and

(B) in subsection (b) by striking "the year in which this section takes effect" and inserting "1992".

(b) RELATED PROVISIONS.—

(1) Section 1(a)(1) of the Act entitled "An Act to amend chapter 9 of title 17, United States Code, regarding protection extended to semiconductor chip products of foreign entities", approved November 9, 1987 (17 U.S.C. 914 note), is amended by striking "orginating" and inserting "originating".

(2) Section 2319(b)(1) of title 18, United States Code, is amended by striking "last 10" and inserting "least 10".

**SEC. 13. EFFECTIVE DATES.**

(a) IN GENERAL.—Except as provided in subsections (b) and (c), the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) SATELLITE HOME VIEWER ACT OF 1994.—The amendments made by section 2 shall be effective as if enacted as part of the Satellite Home Viewer Act of 1994 (Public Law 103-369).

(c) TECHNICAL AMENDMENT.—The amendment made by section 12(b)(1) shall be effective as if enacted on November 9, 1987.

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SUMMARY OF PROVISIONS—COPYRIGHT CLARIFICATION ACT OF 1997 (S. 506)

The Copyright Clarification Act is intended to make several technical, yet important, changes to Copyright law, as suggested by the U.S. Copyright Office. The following is a brief summary of its provisions.

Satellite Home Viewer Act Technical Amendments. Section 2 makes technical corrections to the Satellite Home Viewer Act of 1994 (SHVA), as recommended by the Copyright Office. First, the bill corrects the dollar figures specified in the Act for royalties to be paid by satellite carriers—the 1994 SHVA amendments mistakenly reversed the rates set by arbitration in 1992 for signals subject to FCC syndicated exclusivity blackout rules vs. those that are not subject to such rules. Second, the bill corrects errors in section numbers and references resulting from the failure of the 1994 SHVA amendments to account for changes made to Title 17 by the Copyright Royalty Tribunal Act of 1993. Third, the bill replaces references to "the effective date of the Satellite Home Viewer Act of 1988" with the actual calendar date so as to avoid confusion caused by the two Acts bearing the same name.

Copyright Restoration. Section 3 clarifies ambiguities and corrects drafting errors in the Copyright Restoration Act, which was enacted as part of the 1994 Uruguay Round Agreements Act to restore copyright protection in the U.S. for certain works from WTO member countries that had fallen into the public domain. First, the bill corrects a drafting error that precludes U.S. creators of derivative works from continuing to exploit those works if copyright protection in the underlying foreign work is restored under GATT. Second, the bill eliminates a duplicative reporting requirement. Third, the bill clarifies Congress' intent that the effective date of restoration is January 1, 1996 (not 1995 as interpreted by some commentators). Fourth, the bill clarifies the definition of "eligible country" as it pertains to limited rights of continued exploitation for those who rely on public domain works that were restored under GATT. An ambiguous reference in the original bill left open the possible interpretation that a party would not qualify as a "reliance party" where reliance had not predated adherence to the Berne Convention for the country of origin—a date that goes as far back as 1886 for many countries.

Digital Performance Right in Sound Recordings. Section 4 ensures that the effective rates under the 1995 digital performance rights bill will not lapse. That bill requires new rates to be established during 2000, and the 1996 rates are to expire at the end of 2000. In the case where the copyright arbitration royalty panel (CARP) does not complete its work by the end of the year, or where the Librarian of Congress does not complete its review of the CARP's report by the end of the year, this section provides that the 1996 rates will continue beyond the December 31, 2000, expiration date until 30 days after the Librarian publishes a decision to adopt or reject the CARP's rate adjustment. This section (as well as provisions in Section 5) also eliminates authorization for a CARP to publish its report in the Federal Register since only federal agencies are permitted to do so. Instead, CARP decisions will be published by the Librarian. Section 11 corrects a numbering mistake in the 1995 Digital Performance Right bill.

Negotiated Jukebox License. Section 6 restores the definitions of a "jukebox" and a "jukebox operator" to §116A of Title 17. These definitions were mistakenly eliminated from the old §116 jukebox compulsory license when that section was replaced by the current §116A negotiated jukebox license in the 1988 Berne Convention implementing legislation. This section also clarifies that all jukebox negotiated licenses that require arbitration are CARP proceedings.

Advance Notice of Intent to Copyright Live Performances. Section 7 changes the current 10-days advanced notice requirement for a copyright owner who intends to copyright the fixation of a live performance to a 48-hours advanced notice requirement. The current provision has proven unworkable for sporting events, in particular, where the teams and times of the event may not be known 10 days in advance.

Copyright Office Fees. Section 8 responds to ambiguities in the Copyright Fees and Technical Amendments Act of 1989. That bill allows the Copyright Office to increase fees in 1995, and every fifth year thereafter to reflect changes in the Consumer Price Index (CPI). The Copyright Office did not raise its fees in 1995, because it determined that the costs associated with the increase would be greater than the resulting revenue. Uncertainty has arisen as to whether the failure to increase fees in 1995 precludes the Copyright Office from increasing its fees again until 2000 and whether the increase in the CPI to be used in calculating the fee increase is the increase since the last fee settlement (1990) or only that since 1995. The bill clarifies that the Copyright Office may increase its fees in any given year, provided it has not done so within the last five years, and that the fees may be increased up to the amount required to cover the reasonable costs incurred by the Copyright Office plus a reasonable inflation adjustment to account for future increases in costs. The bill also allows the Register of Copyrights to invest funds from the prepaid fees in interest bearing securities in the U.S. Treasury and to use the income from those investments for Copyright Office expenses. It is expected that the proceeds will be used for the development of the Copyright Office's new electronic registration, recordation, and deposit system.

Copyright Arbitration Royalty Panels (CARPs). Section 9 clarifies administrative issues regarding the operation of the CARPs. First, it gives the Librarian of Congress express authority to pay panel members directly in ratemaking and distribution proceedings and clarifies that these arbitrators are independent contractors acting on behalf of the U.S. (thus subject to laws governing the conduct of government employees). Second, it clarifies that copyright owners and users are responsible for equal shares of the costs of ratemaking proceedings. Third, it clarifies by way of example the procedural and evidentiary rulings the Librarian of Congress can issue with respect to CARP proceedings. Fourth, it clarifies that the 1997 ratemaking proceeding for the satellite carrier compulsory license is a CARP proceeding.

Digital Audio Recording Devices. Section 10 provides added flexibility for the Librarian of Congress in setting the negotiation period for the distribution of digital audio recording technology (DART) royalties, with the intention of promoting settlements and timely distribution of royalties. The current March 30 annual deadline for determining whether there exist controversies among claimants has proven unworkable and is eliminated by this section.

Miscellaneous Technical Amendments. Section 12 makes various technical corrections, such as spelling, grammatical, capitalization, and other corrections, to title 17.

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S. 507

*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 "Omnibus Patent Act of 1997".

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## TITLE I—UNITED STATES PATENT AND TRADEMARK ORGANIZATION

**SEC. 101. SHORT TITLE.**

This title may be cited as the "United States Patent and Trademark Organization Act of 1997".

### Subtitle A—Establishment of the United States Patent and Trademark Organization

**SEC. 111. ESTABLISHMENT OF THE UNITED STATES PATENT AND TRADEMARK ORGANIZATION AS A GOVERNMENT CORPORATION.**

(a) ESTABLISHMENT.—The United States Patent and Trademark Organization is established as a wholly owned Government corporation subject to chapter 91 of title 31, separate from any department, and shall be an agency of the United States under the policy direction of the Secretary of Commerce.

(b) OFFICES.—The United States Patent and Trademark Organization shall maintain its principal office in the District of Columbia, or the metropolitan area thereof, for the service of process and papers and for the purpose of carrying out its powers, duties, and obligations under this title. The United States Patent and Trademark Organization shall be deemed, for purposes of venue in civil actions, to be a resident of the district in which its principal office is located except where jurisdiction is otherwise provided by law. The United States Patent and Trademark Organization may establish satellite offices in such places as it considers necessary and appropriate in the conduct of its business.

(c) REFERENCE.—For purposes of this title, a reference to the "Organization" shall be a reference to the United States Patent and Trademark Organization, unless the context provides otherwise.

**SEC. 112. POWERS AND DUTIES.**

(a) IN GENERAL.—The United States Patent and Trademark Organization, under the policy direction of the Secretary of Commerce, shall be responsible for—

(1) the granting and issuing of patents and the registration of trademarks;

(2) conducting studies, programs, or exchanges of items or services regarding domestic and international patent and trademark law, the administration of the Organization, or any other function vested in the Organization by law, including programs to recognize, identify, assess, and forecast the technology of patented inventions and their utility to industry;

(3)(A) authorizing or conducting studies and programs cooperatively with foreign patent and trademark offices and international organizations, in connection with the granting and issuing of patents and the registration of trademarks; and

(B) with the concurrence of the Secretary of State, authorizing the transfer of not to exceed $100,000 in any year to the Department of State for the purpose of making special payments to international intergovernmental organizations for studies and programs for advancing international cooperation concerning patents, trademarks, and related matters; and

(4) disseminating to the public information with respect to patents and trademarks.

(b) SPECIAL PAYMENTS.—The special payments under subsection (a)(3)(B) may be in addition to any other payments or contributions to international organizations and shall not be subject to any limitations imposed by law on the amounts of such other payments or contributions by the United States Government.

(c) SPECIFIC POWERS.—The Organization—

(1) shall have perpetual succession;

(2) shall adopt and use a corporate seal, which shall be judicially noticed and with which letters patent, certificates of trademark registrations, and papers issued by the Organization shall be authenticated;

(3) may sue and be sued in its corporate name and be represented by its own attorneys in all judicial and administrative proceedings, subject to the provisions of section 116;

(4) may indemnify the Director of the United States Patent and Trademark Organization, the Commissioner of Patents, the Commissioner of Trademarks, and other officers, attorneys, agents, and employees (including members of the Management Advisory Boards of the Patent Office and the Trademark Office) of the Organization for liabilities and expenses incurred within the scope of their employment;

(5) may adopt, amend, and repeal bylaws, rules, regulations, and determinations, which—

(A) shall govern the manner in which its business will be conducted and the powers granted to it by law will be exercised; and

(B) shall be made after notice and opportunity for full participation by interested public and private parties;

(6) may acquire, construct, purchase, lease, hold, manage, operate, improve, alter, and renovate any real, personal, or mixed property, or any interest therein, as it considers necessary to carry out its functions;

(7)(A) may make such purchases, contracts for the construction, maintenance, or management and operation of facilities, and contracts for supplies or services, without regard to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Public Buildings Act (40 U.S.C. 601 et seq.), and the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.); and

(B) may enter into and perform such purchases and contracts for printing services, including the process of composition, platemaking, presswork, silk screen processes, binding, microform, and the products of such processes, as it considers necessary to carry out the functions of the Organization, without regard to sections 501 through 517 and 1101 through 1123 of title 44, United States Code;

(8) may use, with their consent, services, equipment, personnel, and facilities of other departments, agencies, and instrumentalities of the Federal Government, on a reimbursable basis, and cooperate with such other departments, agencies, and instrumentalities in the establishment and use of services, equipment, and facilities of the Organization;

(9) may obtain from the Administrator of General Services such services as the Administrator is authorized to provide to other agencies of the United States, on the same basis as those services are provided to other agencies of the United States;

(10) may use, with the consent of the United States and the agency, government, or international organization concerned, the services, records, facilities, or personnel of any State or local government agency or instrumentality or foreign government or international organization to perform functions on its behalf;

(11) may determine the character of, and the necessity for, its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of title 35, United States Code and the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946);

(12) may retain and use all of its revenues and receipts, including revenues from the sale, lease, or disposal of any real, personal, or mixed property, or any interest therein, of the Organization, including for research and development and capital investment, subject to the provisions of section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note);

(13) shall have the priority of the United States with respect to the payment of debts from bankrupt, insolvent, and decedents' estates;

(14) may accept monetary gifts or donations of services, or of real, personal, or mixed property, in order to carry out the functions of the Organization;

(15) may execute, in accordance with its bylaws, rules, and regulations, all instruments necessary and appropriate in the exercise of any of its powers; and

(16) may provide for liability insurance and insurance against any loss in connection with its property, other assets, or operations either by contract or by self-insurance.

(d) CONSTRUCTION.—Nothing in this section shall be construed to nullify, void, cancel, or interrupt any pending request-for-proposal let or contract issued by the General Services Administration for the specific purpose of relocating or leasing space to the United States Patent and Trademark Organization.

**SEC. 113. ORGANIZATION AND MANAGEMENT.**

(a) OFFICES.—The United States Patent and Trademark Organization shall consist of—

(1) the Office of the Director;

(2) the United States Patent Office; and

(3) the United States Trademark Office.

(b) DIRECTOR.—

(1) IN GENERAL.—The management of the United States Patent and Trademark Organization shall be vested in a Director of the United States Patent and Trademark Organization (hereafter in this title referred to as the "Director", unless the context provides otherwise), who shall be a citizen of the United States and who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be a person who, by reason of professional background and experience in patent or trademark law, is especially qualified to manage the Organization.

(2) DUTIES.—(A) The Director shall—

(i) be responsible for the Management and direction of the Organization and shall perform this duty in a fair, impartial, and equitable manner; and

(ii) strive to meet the goals set forth in the performance agreement described under paragraph (4).

(B) The Director shall advise the President, through and under the policy direction of the Secretary of Commerce, of all activities of the Organization undertaken in response to obligations of the United States under treaties and executive agreements, or which relate to cooperative programs with those authorities of foreign governments that are responsible for granting patents or registering trademarks. The Director shall also recommend to the President, through and under the policy direction of the Secretary of Commerce, changes in law or policy which may improve the ability of United States citizens to secure and enforce patent and trademark rights in the United States or in foreign countries.

(C)(i) At the direction of the President, the Director may represent the United States in international negotiations on matters of patents or trademarks, or may designate an officer or officers of the Organization to participate in such negotiations.

(ii) Nothing in this subparagraph shall be construed to alter any statutory responsibility of the Secretary of State or the United States Trade Representative.

(D) The Director, in consultation with the Director of the Office of Personnel Management, shall maintain a program for identifying national security positions and providing for appropriate security clearances.

(E) The Director may perform such personnel, procurement, and other functions, with respect to the United States Patent Office and the United States Trademark Office, where a centralized administration of such functions would improve the efficiency of the Offices, as determined by agreement of the Director, the Commissioner of Patents, and the Commissioner of Trademarks.

(F) Except as otherwise provided in this title, the Director shall ensure that—

(i) the United States Patent Office and the United States Trademark Office, respectively, shall—

(I) prepare all appropriation requests under section 1108 of title 31, United States Code, for each office for submission by the Director;

(II) adjust fees to provide sufficient revenues to cover the expenses of such office; and

(III) expend funds derived from such fees for only the functions of such office; and

(ii) each such office is not involved in the management of any other office.

(3) OATH.—The Director shall, before taking office, take an oath to discharge faithfully the duties of the Organization.

(4) COMPENSATION.—The Director shall receive compensation at the rate of pay in effect for level III of the Executive Schedule under section 5314 of title 5, United States Code and, in addition, may receive as a bonus, an amount which would raise total compensation to the equivalent of the level of the rate of pay in effect for level II of the Executive Schedule under section 5313 of title 5, based upon an evaluation by the Secretary of Commerce of the Director's performance as defined in an annual performance agreement between the Director and the Secretary. The annual performance agreement shall incorporate measurable goals as delineated in an annual performance plan agreed to by the Director and the Secretary.

(5) REMOVAL.—The Director shall serve at the pleasure of the President.

(6) DESIGNEE OF DIRECTOR.—The Director shall designate an officer of the Organization who shall be vested with the authority to act in the capacity of the Director in the event of the absence or incapacity of the Director.

(c) OFFICERS AND EMPLOYEES OF THE ORGANIZATION.—

(1) COMMISSIONERS OF PATENTS AND TRADEMARKS.—The Director shall appoint a Commissioner of Patents and a Commissioner of Trademarks under section 3 of title 35, United States Code and section 53 of the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946), respectively, as amended by this Act.

(2) OTHER OFFICERS AND EMPLOYEES.—The Director shall—

(A) appoint officers, employees (including attorneys), and agents of the Organization as the Director considers necessary to carry out its functions;

(B) fix the compensation of such officers and employees, except as provided in subsection (e); and

(C) define the authority and duties of such officers and employees and delegate to them such of the powers vested in the Organization as the Director may determine.

(3) PERSONNEL LIMITATIONS.—The Organization shall not be subject to any administratively or statutorily imposed limitation on positions or personnel, and no positions or personnel of the Organization shall be taken into account for purposes of applying any such limitation.

(d) LIMITS ON COMPENSATION.—Except as otherwise provided by law, the annual rate of basic pay of an officer or employee of the Organization may not be fixed at a rate that exceeds, and total compensation payable to any such officer or employee for any year may not exceed, the annual rate of basic pay in effect for level II of the Executive Schedule under section 5313 of title 5, United States Code. The Director shall prescribe such regulations as may be necessary to carry out this subsection.

(e) INAPPLICABILITY OF TITLE 5, UNITED STATES CODE, GENERALLY.—Except as otherwise provided in this section, officers and employees of the Organization shall not be subject to the provisions of title 5, United States Code, relating to Federal employees.

(f) CONTINUED APPLICABILITY OF CERTAIN PROVISION OF TITLE 5, UNITED STATES CODE.—

(1) IN GENERAL.—The following provisions of title 5, United States Code, shall apply to the Organization and its officers and employees:

(A) Section 3110 (relating to employment of relatives; restrictions).

(B) Subchapter II of chapter 55 (relating to withholding pay).

(C) Subchapters II and III of chapter 73 (relating to employment limitations and political activities, respectively).

(D) Chapter 71 (relating to labor-management relations), subject to paragraph (2) and subsection (g).

(E) Section 3303 (relating to political recommendations).

(F) Subchapter II of chapter 61 (relating to flexible and compressed work schedules).

(G) Section 21302(b)(8) (relating to whistleblower protection) and whistleblower related provisions of chapter 12 (covering the role of the Office of Special Counsel).

(2) COMPENSATION SUBJECT TO COLLECTIVE BARGAINING.—

(A) IN GENERAL.—Notwithstanding any other provision of law, for purposes of applying chapter 71 of title 5, United States Code, pursuant to paragraph (1)(D), basic pay and other forms of compensation shall be considered to be among the matters as to which the duty to bargain in good faith extends under such chapter.

(B) EXCEPTIONS.—The duty to bargain in good faith shall not, by reason of subparagraph (A), be considered to extend to any benefit under title 5, United States Code, which is afforded by paragraph (1), (2), (3), or (4) of subsection (g).

(C) LIMITATIONS APPLY.—Nothing in this subsection shall be considered to allow any limitation under subsection (d) to be exceeded.

(g) PROVISIONS OF TITLE 5, UNITED STATES CODE, THAT CONTINUE TO APPLY, SUBJECT TO CERTAIN REQUIREMENTS.—

(1) RETIREMENT.—(A) The provisions of subchapter III of chapter 83 and chapter 84 of title 5, United States Code, shall apply to the Organization and its officers and employees, subject to subparagraph (B).

(B)(i) The amount required of the Organization under the second sentence of section 8334(a)(1) of title 5, United States Code, with respect to any particular individual shall, instead of the amount which would otherwise apply, be equal to the normal-cost percentage (determined with respect to officers and employees of the Organization using dynamic assumptions, as defined by section 8401(9) of such title) of the individual's basic pay, minus the amount required to be withheld from such pay under such section 8334(a)(1).

(ii) The amount required of the Organization under section 8334(k)(1)(B) of title 5, United States Code, with respect to any particular individual shall be equal to an amount computed in a manner similar to that specified in clause (i), as determined in accordance with clause (iii).

(iii) Any regulations necessary to carry out this subparagraph shall be prescribed by the Office of Personnel Management.

(C) The United States Patent and Trademark Organization may supplement the benefits provided under the preceding provisions of this paragraph.

(2) HEALTH BENEFITS.—(A) The provisions of chapter 89 of title 5, United States Code, shall apply to the Organization and its officers and employees, subject to subparagraph (B).

(B)(i) With respect to any individual who becomes an officer or employee of the Organization pursuant to subsection (i), the eligibility of such individual to participate in such program as an annuitant (or of any other person to participate in such program as an annuitant based on the death of such individual) shall be determined disregarding the requirements of section 8905(b) of title 5, United States Code. The preceding sentence shall not apply if the individual ceases to be an officer or employee of the Organization for any period of time after becoming an officer or employee of the Organization pursuant to subsection (i) and before separation.

(ii) The Government contributions authorized by section 8906 of title 5, United States Code, for health benefits for anyone participating in the health benefits program pursuant to this subparagraph shall be made by the Organization in the same manner as provided under section 8906(g)(2) of such title with respect to the United States Postal Service for individuals associated therewith.

(iii) For purposes of this subparagraph, the term "annuitant" has the meaning given such term by section 8901(3) of title 5, United States Code.

(C) The Organization may supplement the benefits provided under the preceding provisions of this paragraph.

(3) LIFE INSURANCE.—(A) The provisions of chapter 87 of title 5, United States Code, shall apply to the Organization and its officers and employees, subject to subparagraph (B).

(B)(i) Eligibility for life insurance coverage after retirement or while in receipt of compensation under subchapter I of chapter 81 of title 5, United States Code, shall be determined, in the case of any individual who becomes an officer or employee of the Organization pursuant to subsection (i), without regard to the requirements of section 8706(b)(1) or (2) of such title, but subject to the condition specified in the last sentence of paragraph (2)(B)(i) of this subsection.

(ii) Government contributions under section 8708(d) of such title on behalf of any such individual shall be made by the Organization in the same manner as provided under paragraph (3) thereof with respect to the United States Postal Service for individuals associated therewith.

(C) The Organization may supplement the benefits provided under the preceding provisions of this paragraph.

(4) EMPLOYEES' COMPENSATION FUND.—(A) Officers and employees of the Organization shall not become ineligible to participate in the program under chapter 81 of title 5, United States Code, relating to compensation for work injuries, by reason of subsection (e).

(B) The Organization shall remain responsible for reimbursing the Employees' Compensation Fund, pursuant to section 8147 of title 5, United States Code, for compensation paid or payable after the effective date of this title in accordance with chapter 81 of title 5, United States Code, with regard to any injury, disability, or death due to events arising before such date, whether or not a claim has been filed or is final on such date.

(h) LABOR-MANAGEMENT RELATIONS.—

(1) LABOR RELATIONS AND EMPLOYEE RELATIONS PROGRAMS.—The Organization shall develop hiring practices, labor relations and employee relations programs with the objective of improving productivity and efficiency, incorporating the following principles:

(A) Such programs shall be consistent with the merit principles in section 2301(b) of title 5, United States Code.

(B) Such programs shall provide veterans preference protections equivalent to those established by sections 2108, 3308 through 3318, 3320, 3502, and 3504 of title 5, United States Code.

(C)(i) The right to work shall not be subject to undue restraint or coercion. The right to work shall not be infringed or restricted in any way based on membership in, affiliation with, or financial support of a labor organization.

(ii) No person shall be required, as a condition of employment or continuation of employment—

(I) to resign or refrain from voluntary membership in, voluntary affiliation with, or voluntary financial support of a labor organization;

(II) to become or remain a member of a labor organization;

(III) to pay any dues, fees, assessments, or other charges of any kind or amount to a labor organization;

(IV) to pay to any charity or other third party, in lieu of such payments, any amount equivalent to or a pro rata portion of dues, fees, assessments, or other charges regularly required of members of a labor organization; or

(V) to be recommended, approved, referred, or cleared by or through a labor organization.

(iii) This subparagraph shall not apply to a person described in section 7103(a)(2)(v) of title 5, United States Code, or a "supervisor", "management official", or "confidential employee" as those terms are defined in 7103(a) (10), (11), and (13) of such title. .

(iv) Any labor organization recognized by the Organization as the exclusive representative of a unit of employees of the Organization shall represent the interests of all employees in that unit without discrimination and without regard to labor organization membership.

(2) ADOPTION OF EXISTING LABOR AGREEMENTS.—The Organization shall adopt all

labor agreements which are in effect, as of the day before the effective date of this title, with respect to such Organization (as then in effect).

(i) CARRYOVER OF PERSONNEL.—

(1) FROM PTO.—Effective as of the effective date of this title, all officers and employees of the Patent and Trademark Office on the day before such effective date shall become officers and employees of the Organization, without a break in service.

(2) OTHER PERSONNEL.—(A) Any individual who, on the day before the effective date of this title, is an officer or employee of the Department of Commerce (other than an officer or employee under paragraph (1)) shall be transferred to the Organization if—

(i) such individual serves in a position for which a major function is the performance of work reimbursed by the Patent and Trademark Office, as determined by the Secretary of Commerce;

(ii) such individual serves in a position that performed work in support of the Patent and Trademark Office during at least half of the incumbent's work time, as determined by the Secretary of Commerce; or

(iii) such transfer would be in the interest of the Organization, as determined by the Secretary of Commerce in consultation with the Director.

(B) Any transfer under this paragraph shall be effective as of the same effective date as referred to in paragraph (1), and shall be made without a break in service.

(3) ACCUMULATED LEAVE.—The amount of sick and annual leave and compensatory time accumulated under title 5, United States Code, before the effective date described in paragraph (1), by any individual who becomes an officer or employee of the Organization under this subsection, are obligations of the Organization.

(4) TERMINATION RIGHTS.—Any employee referred to in paragraph (1) or (2) of this subsection whose employment with the Organization is terminated during the 1-year period beginning on the effective date of this title shall be entitled to rights and benefits, to be afforded by the Organization, similar to those such employee would have had under Federal law if termination had occurred immediately before such date. An employee who would have been entitled to appeal any such termination to the Merit Systems Protection Board, if such termination had occurred immediately before such effective date, may appeal any such termination occurring within such 1-year period to the Board under such procedures as it may prescribe.

(5) TRANSITION PROVISIONS.—(A)(i) On or after the effective date of this title, the President shall appoint a Director of the United States Patent and Trademark Organization who shall serve until the earlier of—

(I) the date on which a Director qualifies under subsection (a); or

(II) the date occurring 1 year after the effective date of this title.

(ii) The President shall not make more than 1 appointment under this subparagraph.

(B) The individual serving as the Assistant Commissioner of Patents on the day before the effective date of this title shall serve as the Commissioner of Patents until the date on which a Commissioner of Patents is appointed under section 3 of title 35, United States Code, as amended by this Act.

(C) The individual serving as the Assistant Commissioner of Trademarks on the day before the effective date of this title shall serve as the Commissioner of Trademarks until the date on which a Commissioner of Trademarks is appointed under section 53 of the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946), as amended by this Act.

(j) COMPETITIVE STATUS.—For purposes of appointment to a position in the competitive service for which an officer or employee of the Organization is qualified, such officer or employee shall not forfeit any competitive status, acquired by such officer or employee before the effective date of this title, by reason of becoming an officer or employee of the Organization under subsection (i).

(k) SAVINGS PROVISIONS.—Compensation, benefits, and other terms and conditions of employment in effect immediately before the effective date of this title, whether provided by statute or by rules and regulations of the former Patent and Trademark Office or the executive branch of the Government of the United States, shall continue to apply to officers and employees of the Organization, until changed in accordance with this section (whether by action of the Director or otherwise).

(l) REMOVAL OF QUASI-JUDICIAL EXAMINERS.—The Organization may remove a patent examiner or examiner-in-chief, or a trademark examiner or member of a Trademark Trial and Appeal Board only for such cause as will promote the efficiency of the Organization.

**SEC. 114. UNITED STATES PATENT OFFICE.**

(a) ESTABLISHMENT OF THE PATENT OFFICE AS A SEPARATE ADMINISTRATIVE UNIT.—Section 1 of title 35, United States Code, is amended to read as follows:

**"§ 1. Establishment**

"(a) ESTABLISHMENT.—The United States Patent Office is established as a separate administrative unit of the United States Patent and Trademark Organization, where records, books, drawings, specifications, and other papers and things pertaining to patents shall be kept and preserved, except as otherwise provided by law.

"(b) REFERENCE.—For purposes of this title, the United States Patent Office shall also be referred to as the 'Office' and the 'Patent Office'.".

(b) POWERS AND DUTIES.—Section 2 of title 35, United States Code, is amended to read as follows:

**"§ 2. Powers and duties**

"The United States Patent Office, under the policy direction of the Secretary of Commerce through the Director of the United States Patent and Trademark Organization, shall be responsible for—

"(1) granting and issuing patents;

"(2) conducting studies, programs, or exchanges of items or services regarding domestic and international patent law, the administration of the Organization, or any other function vested in the Organization by law, including programs to recognize, identify, assess, and forecast the technology of patented inventions and their utility to industry;

"(3) authorizing or conducting studies and programs cooperatively with foreign patent offices and international organizations, in connection with the granting and issuing of patents; and

"(4) disseminating to the public information with respect to patents.

(c) ORGANIZATION AND MANAGEMENT.—Section 3 of title 35, United States Code, is amended to read as follows:

**"§ 3. Officers and employees**

"(a) COMMISSIONER.—

"(1) IN GENERAL.—The management of the United States Patent Office shall be vested in a Commissioner of Patents, who shall be a citizen of the United States and who shall be appointed by the Director of the United States Patent and Trademark Organization and shall serve at the pleasure of the Director of the United States Patent and Trademark Organization. The Commissioner of Patents shall be a person who, by reason of professional background and experience in patent law, is especially qualified to manage the Office.

"(2) DUTIES.—

"(A) IN GENERAL.—The Commissioner shall be responsible for all aspects of the management, administration, and operation of the Office, including the granting and issuing of patents, and shall perform these duties in a fair, impartial, and equitable manner.

"(B) ADVISING THE DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK ORGANIZATION.—The Commissioner of Patents shall advise the Director of the United States Patent and Trademark Organization of all activities of the Office undertaken in response to obligations of the United States under treaties and executive agreements, or which relate to cooperative programs with those authorities of foreign governments that are responsible for granting patents. The Commissioner of Patents shall advise the Director of the United States Patent and Trademark Organization on matters of patent law and shall recommend to the Director of the United States Patent and Trademark Organization changes in law or policy which may improve the ability of United States citizens to secure and enforce patent rights in the United States or in foreign countries.

"(C) REGULATIONS.—The Commissioner may establish regulations, not inconsistent with law, for the conduct of proceedings in the Patent Office. The Director of the United States Patent and Trademark Organization shall determine whether such regulations are consistent with the policy direction of the Secretary of Commerce.

"(D) CONSULTATION WITH THE MANAGEMENT ADVISORY BOARD.—(i) The Commissioner shall consult with the Management Advisory Board established in section 5—

"(I) on a regular basis on matters relating to the operation of the Office; and

"(II) before submitting budgetary proposals to the Director of the United States Patent and Trademark Organization for submission to the Office of Management and Budget or changing or proposing to change patent user fees or patent regulations.

"(ii) The Director of the United States Patent and Trademark Organization shall determine whether such fees or regulations are consistent with the policy direction of the Secretary of Commerce.

"(3) OATH.—The Commissioner shall, before taking office, take an oath to discharge faithfully the duties of the Office.

"(4) COMPENSATION.—

"(A) IN GENERAL.—The Commissioner shall receive compensation at the rate of pay in effect for level IV of the Executive Schedule under section 5315 of title 5.

"(B) BONUS.—In addition to compensation under subparagraph (A), the Commissioner may, at the discretion of the Director of the United States Patent and Trademark Organization, receive as a bonus, an amount which would raise total compensation to the equivalent of the rate of pay in effect for level III of the Executive Schedule under section 5314 of title 5.

"(b) OFFICERS AND EMPLOYEES.—The Commissioner shall appoint a Deputy Commissioner of Patents who shall be vested with the authority to act in the capacity of the

Commissioner in the event of the absence or incapacity of the Commissioner. In the event of a vacancy in the office of Commissioner, the Deputy Commissioner shall fill the office of Commissioner until a new Commissioner is appointed and takes office. Other officers, attorneys, employees, and agents shall be selected and appointed by the Commissioner, and shall be vested with such powers and duties as the Commissioner may determine.".

(d) MANAGEMENT ADVISORY BOARD.—Chapter 1 of part I of title 35, United States Code, is amended by inserting after section 4 the following:

**"§ 5. Patent Office Management Advisory Board**

"(a) ESTABLISHMENT OF MANAGEMENT ADVISORY BOARD.—

"(1) APPOINTMENT.—The United States Patent Office shall have a Management Advisory Board (hereafter in this title referred to as the 'Advisory Board') of 5 members, who shall be appointed by the President and shall serve at the pleasure of the President. Not more than 3 of the 5 members shall be members of the same political party.

"(2) CHAIR.—The President shall designate a Chair of the Advisory Board, whose term as chair shall be for 3 years.

"(3) TIMING OF APPOINTMENTS.—Initial appointments to the Advisory Board shall be made within 3 months after the effective date of the United States Patent and Trademark Organization Act of 1997. Vacancies shall be filled in the manner in which the original appointment was made under this subsection within 3 months after they occur.

"(b) BASIS FOR APPOINTMENTS.—Members of the Advisory Board shall be citizens of the United States who shall be chosen so as to represent the interests of diverse users of the United States Patent Office, and shall include individuals with substantial background and achievement in corporate finance and management.

"(c) MEETINGS.—The Advisory Board shall meet at the call of the Chair to consider an agenda set by the Chair.

"(d) DUTIES.—The Advisory Board shall—

"(1) review the policies, goals, performance, budget, and user fees of the United States Patent Office, and advise the Commissioner on these matters;

"(2) within 60 days after the end of each fiscal year—

"(A) prepare an annual report on the matters referred to in paragraph (1);

"(B) transmit the report to the Director of the United States Patent and Trademark Organization, the President, and the Committees on the Judiciary of the Senate and the House of Representatives; and

"(C) publish the report in the Patent Office Official Gazette.

"(f) COMPENSATION.—Each member of the Advisory Board shall be compensated for each day (including travel time) during which such member is attending meetings or conferences of the Advisory Board or otherwise engaged in the business of the Advisory Board, at the rate which is the daily equivalent of the annual rate of basic pay in effect for level III of the Executive Schedule under section 5314 of title 5, and while away from such member's home or regular place of business such member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

"(g) ACCESS TO INFORMATION.—Members of the Advisory Board shall be provided access to records and information in the United States Patent Office, except for personnel or other privileged information and information concerning patent applications required to be kept in confidence by section 122.".

(e) CONFORMING AMENDMENTS.—Section 6 of title 35, United States Code, and the item relating to such section in the table of contents for chapter 1 of title 35, United States Code, are repealed.

(f) BOARD OF PATENT APPEALS AND INTERFERENCES.—Section 7 of title 35, United States Code, is amended to read as follows:

**"§ 7. Board of Patent Appeals and Interferences**

"(a) ESTABLISHMENT AND COMPOSITION.—There shall be in the United States Patent Office a Board of Patent Appeals and Interferences. The Commissioner, the Deputy Commissioner, and the examiners-in-chief shall constitute the Board. The examiners-in-chief shall be persons of competent legal knowledge and scientific ability.

"(b) DUTIES.—

"(1) IN GENERAL.—The Board of Patent Appeals and Interferences shall, on written appeal of an applicant, a patent owner, or a third-party requester in a reexamination proceeding—

"(A) review adverse decisions of examiners—

"(i) upon applications for patents; and

"(ii) in reexamination proceedings; and

"(B) determine priority and patentability of invention in interferences declared under section 135(a).

"(2) HEARINGS.—Each appeal and interference shall be heard by at least 3 members of the Board, who shall be designated by the Deputy Commissioner. Only the Board of Patent Appeals and Interferences may grant rehearings.".

(g) ANNUAL REPORT OF COMMISSIONER.—Section 14 of title 35, United States Code, is amended to read as follows:

**"§ 14. Annual report to Congress**

"The Commissioner shall report to the Director of the United States Patent and Trademark Organization such information as the Director is required to submit to Congress annually under chapter 91 of title 31, including—

"(1) the total of the moneys received and expended by the Office;

"(2) the purposes for which the moneys were spent;

"(3) the quality and quantity of the work of the Office; and

"(4) other information relating to the Office.".

(h) PRACTICE BEFORE PATENT OFFICE.—

(1) IN GENERAL.—Section 31 of title 35, United States Code, is amended to read as follows:

**"§ 31. Regulations for agents and attorneys**

"The Commissioner may prescribe regulations governing the recognition and conduct of agents, attorneys, or other persons representing applicants or other parties before the Office. The regulations may require such persons, before being recognized as representatives of applicants or other persons, to show that they are of good moral character and reputation and are possessed of the necessary qualifications to render to applicants or other persons valuable service, advice, and assistance in the presentation or prosecution of their applications or other business before the Office.".

(2) DESIGNATION OF ATTORNEY TO CONDUCT HEARING.—Section 32 of title 35, United States Code, is amended in the first sentence by striking "Patent and Trademark Office" and inserting "Patent Office" and by inserting before the last sentence the following: "The Commissioner shall have the discretion to designate any attorney who is an officer or employee of the United States Patent Office to conduct the hearing required by this section.".

(i) FUNDING.—

(1) ADJUSTMENT OF FEES.—Section 41(f) of title 35, United States Code, is amended to read as follows:

"(f) The Commissioner, after consulting with the Patent Office Management Advisory Board pursuant to section 3(a)(2)(C) of this title and after notice and opportunity for full participation by interested public and private parties, may, by regulation, adjust the fees established in this section. The Director of the United States Patent and Trademark Organization shall determine whether such fees are consistent with the policy direction of the Secretary of Commerce.".

(2) PATENT OFFICE FUNDING.—Section 42 of title 35, United States Code, is amended to read as follows:

**"§ 42. Patent Office funding**

"(a) FEES PAYABLE TO THE OFFICE.—All fees for services performed by or materials furnished by the United States Patent Office shall be payable to the Office.

"(b) USE OF MONEYS.—Moneys from fees shall be available to the United States Patent Office to carry out, to the extent provided in appropriations Acts, the functions of the Office. Moneys of the Office not otherwise used to carry out the functions of the Office shall be kept in cash on hand or on deposit, or invested in obligations of the United States or guaranteed by the United States, or in obligations or other instruments which are lawful investments for fiduciary, trust, or public funds. Fees available to the Commissioner under this title shall be used only for the processing of patent applications and for other services and materials relating to patents.

"(c) CONTRIBUTION TO THE OFFICE OF THE DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK ORGANIZATION.—The Patent Office shall contribute 50 percent of the annual budget of the Office of the Director of the United States Patent and Trademark Organization.".

**SEC. 115. UNITED STATES TRADEMARK OFFICE.**

(a) ESTABLISHMENT OF THE UNITED STATES TRADEMARK OFFICE AS A SEPARATE ADMINISTRATIVE UNIT.—The Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946) is amended—

(1) by redesignating titles X and XI as titles XI and XII, respectively;

(2) by redesignating sections 45, 46, 47, 48, 49, 50, and 51 as sections 61, 71, 72, 73, 74, 75, and 76, respectively; and

(3) by inserting after title IX the following new title:

**"TITLE X—UNITED STATES TRADEMARK OFFICE**

**"SEC. 51. ESTABLISHMENT.**

"(a) ESTABLISHMENT.—The United States Trademark Office is established as a separate administrative unit of the United States Patent and Trademark Organization.

"(b) REFERENCE.—For purposes of this chapter, the United States Trademark Office shall also be referred to as the 'Office' and the 'Trademark Office'.

**"SEC. 52. POWERS AND DUTIES.**

"The United States Trademark Office, under the policy direction of the Secretary of Commerce through the Director of the United States Patent and Trademark Organization, shall be responsible for—

"(1) the registration of trademarks;

"(2) conducting studies, programs, or exchanges of items or services regarding domestic and international trademark law or the administration of the Office;

"(3) authorizing or conducting studies and programs cooperatively with foreign trademark offices and international organizations, in connection with the registration of trademarks; and

"(4) disseminating to the public information with respect to trademarks.

**"SEC. 53. OFFICERS AND EMPLOYEES.**

"(a) COMMISSIONER.—

"(1) IN GENERAL.—The management of the United States Trademark Office shall be vested in a Commissioner of Trademarks, who shall be a citizen of the United States and who shall be appointed by the Director of the United States Patent and Trademark Organization and shall serve at the pleasure of the Director of the United States Patent and Trademark Organization. The Commissioner of Trademarks shall be a person who, by reason of professional background and experience in trademark law, is especially qualified to manage the Office.

"(2) DUTIES.—

"(A) IN GENERAL.—The Commissioner shall be responsible for all aspects of the management, administration, and operation of the Office, including the registration of trademarks, and shall perform these duties in a fair, impartial, and equitable manner.

"(B) ADVISING THE DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK ORGANIZATION.—The Commissioner of Trademarks shall advise the Director of the United States Patent and Trademark Organization of all activities of the Office undertaken in response to obligations of the United States under treaties and executive agreements, or which relate to cooperative programs with those authorities of foreign governments that are responsible for registering trademarks. The Commissioner of Trademarks shall advise the Director of the United States Patent and Trademark Organization on matters of trademark law and shall recommend to the Director of the United States Patent and Trademark Organization changes in law or policy which may improve the ability of United States citizens to secure and enforce trademark rights in the United States or in foreign countries.

"(C) REGULATIONS.—The Commissioner may establish regulations, not inconsistent with law, for the conduct of proceedings in the Trademark Office. The Director of the United States Patent and Trademark Organization shall determine whether such regulations are consistent with the policy direction of the Secretary of Commerce.

"(D) CONSULTATION WITH THE MANAGEMENT ADVISORY BOARD.—(i) The Commissioner shall consult with the Trademark Office Management Advisory Board established under section 54—

"(I) on a regular basis on matters relating to the operation of the Office; and

"(II) before submitting budgetary proposals to the Director of the United States Patent and Trademark Organization for submission to the Office of Management and Budget or changing or proposing to change trademark user fees or trademark regulations.

"(ii) The Director of the United States Patent and Trademark Organization shall determine whether such fees or regulations are consistent with the policy direction of the Secretary of Commerce.

"(E) PUBLICATIONS.—(i) The Commissioner may print, or cause to be printed, the following:

"(I) Certificates of trademark registrations, including statements and drawings, together with copies of the same.

"(II) The Official Gazette of the United States Trademark Office.

"(III) Annual indexes of trademarks and registrants.

"(IV) Annual volumes of decisions in trademark cases.

"(V) Pamphlet copies of laws and rules relating to trademarks and circulars or other publications relating to the business of the Office.

"(ii) The Commissioner may exchange any of the publications specified under clause (i) for publications desirable for the use of the Trademark Office.

"(3) OATH.—The Commissioner shall, before taking office, take an oath to discharge faithfully the duties of the Office.

"(4) COMPENSATION.—

"(A) IN GENERAL.—The Commissioner shall receive compensation at the rate of pay in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(B) BONUS.—In addition to compensation under subparagraph (A), the Commissioner may, at the discretion of the Director of the United States Patent and Trademark Organization, receive as a bonus, an amount which would raise total compensation to the equivalent of the rate of pay in effect for level III of the Executive Schedule under section 5314 of title 5.

"(b) OFFICERS AND EMPLOYEES.—The Commissioner shall appoint a Deputy Commissioner of Trademarks who shall be vested with the authority to act in the capacity of the Commissioner in the event of the absence or incapacity of the Commissioner. In the event of a vacancy in the office of Commissioner, the Deputy Commissioner shall fill the office of Commissioner until a new Commissioner is appointed and takes office. Other officers, attorneys, employees, and agents shall be selected and appointed by the Commissioner, and shall be vested with such powers and duties as the Commissioner may determine.

**"SEC. 54. TRADEMARK OFFICE MANAGEMENT ADVISORY BOARD.**

"(a) ESTABLISHMENT OF MANAGEMENT ADVISORY BOARD.—

"(1) APPOINTMENT.—The United States Trademark Office shall have a Management Advisory Board (hereafter in this title referred to as the 'Advisory Board') of 5 members, who shall be appointed by the President and shall serve at the pleasure of the President. Not more than 3 of the 5 members shall be members of the same political party.

"(2) CHAIR.—The President shall designate a Chair of the Advisory Board, whose term as chair shall be for 3 years.

"(3) TIMING OF APPOINTMENTS.—Initial appointments to the Advisory Board shall be made within 3 months after the effective date of the United States Patent and Trademark Organization Act of 1997. Vacancies shall be filled in the manner in which the original appointment was made under this section within 3 months after they occur.

"(b) BASIS FOR APPOINTMENTS.—Members of the Advisory Board shall be citizens of the United States who shall be chosen so as to represent the interests of diverse users of the United States Trademark Office, and shall include individuals with substantial background and achievement in corporate finance and management.

"(c) MEETINGS.—The Advisory Board shall meet at the call of the Chair to consider an agenda set by the Chair.

"(d) DUTIES.—The Advisory Board shall—

"(1) review the policies, goals, performance, budget, and user fees of the United States Trademark Office, and advise the Commissioner on these matters; and

"(2) within 60 days after the end of each fiscal year—

"(A) prepare an annual report on the matters referred to under paragraph (1);

"(B) transmit the report to the Director of the United States Patent and Trademark Organization, the President, and the Committees on the Judiciary of the Senate and the House of Representatives; and

"(C) publish the report in the Trademark Office Official Gazette.

"(f) COMPENSATION.—Each member of the Advisory Board shall be compensated for each day (including travel time) during which such member is attending meetings or conferences of the Advisory Board or otherwise engaged in the business of the Advisory Board, at the rate which is the daily equivalent of the annual rate of basic pay in effect for level III of the Executive Schedule under section 5314 of title 5, United States Code, and while away from such member's home or regular place of business such member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

"(g) ACCESS TO INFORMATION.—Members of the Advisory Board shall be provided access to records and information in the United States Trademark Office, except for personnel or other privileged information.

**"SEC. 55. ANNUAL REPORT TO CONGRESS.**

"The Commissioner shall report to the Director of the United States Patent and Trademark Organization such information as the Director is required to report to Congress annually under chapter 91 of title 5, including—

"(1) the moneys received and expended by the Office;

"(2) the purposes for which the moneys were spent;

"(3) the quality and quantity of the work of the Office; and

"(4) other information relating to the Office.

**"SEC. 56. TRADEMARK OFFICE FUNDING.**

"(a) FEES PAYABLE TO THE OFFICE.—All fees for services performed by or materials furnished by the United States Trademark Office shall be payable to the Office.

"(b) USE OF MONEYS.—Moneys from fees shall be available to the United States Trademark Office to carry out, to the extent provided in appropriations Acts, the functions of the Office. Moneys of the Office not otherwise used to carry out the functions of the Office shall be kept in cash on hand or on deposit, or invested in obligations of the United States or guaranteed by the United States, or in obligations or other instruments which are lawful investments for fiduciary, trust, or public funds. Fees available to the Commissioner under this chapter shall be used only for the registration of trademarks and for other services and materials relating to trademarks.

"(c) CONTRIBUTION TO THE OFFICE OF THE DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK ORGANIZATION.—The Trademark Office shall contribute 50 percent of the annual budget of the Office of the Director of the United States Patent and Trademark Organization.".

(b) TRADEMARK TRIAL AND APPEAL BOARD.—Section 17 of the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946) (15 U.S.C. 1067) is amended to read as follows:

"SEC. 17. (a) In every case of interference, opposition to registration, application to register as a lawful concurrent user, or application to cancel the registration of a mark,

the Commissioner shall give notice to all parties and shall direct a Trademark Trial and Appeal Board to determine and decide the respective rights of registration.

"(b) The Trademark Trial and Appeal Board shall include the Commissioner of Trademarks, the Deputy Commissioner of Trademarks, and members competent in trademark law who are appointed by the Commissioner.".

(c) DETERMINATION OF FEES.—Section 31(a) of the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946) (15 U.S.C. 1067(a)) is amended by striking the second and third sentences and inserting the following: "Fees established under this subsection may be adjusted by the Commissioner, after consulting with the Trademark Office Management Advisory Board in accordance with section 53(a)(2)(C) of this Act and after notice and opportunity for full participation by interested public and private parties. The Director of the United States Patent and Trademark Organization shall determine whether such fees are consistent with the policy direction of the Secretary of Commerce.".

**SEC. 116. SUITS BY AND AGAINST THE ORGANIZATION.**

(a) ACTIONS UNDER UNITED STATES LAW.—Any civil action or proceeding to which the United States Patent and Trademark Organization is a party is deemed to arise under the laws of the United States. The Federal courts shall have exclusive jurisdiction over all civil actions by or against the Organization.

(b) REPRESENTATION BY THE DEPARTMENT OF JUSTICE.—The United States Patent and Trademark Organization shall be deemed an agency of the United States for purposes of section 516 of title 28, United States Code.

(c) PROHIBITION ON ATTACHMENT, LIENS, OR SIMILAR PROCESS.—No attachment, garnishment, lien, or similar process, intermediate or final, in law or equity, may be issued against property of the Organization.

**SEC. 117. FUNDING.**

(a) IN GENERAL.—The activities of the United States Patent and Trademark Organization and each office of the Organization shall be funded entirely through fees payable to the United States Patent Office (under section 42 of title 35, United States Code) and the United States Trademark Office (under section 56 of the Act of July 5, 1946 (commonly known as the Trademark Act of 1946)), and surcharges appropriated by Congress, to the extent provided in appropriations Acts and subject to the provisions of subsection (b).

(b) BORROWING AUTHORITY.—

(1) IN GENERAL.—The United States Patent and Trademark Organization is authorized to issue from time to time for purchase by the Secretary of the Treasury its debentures, bonds, notes, and other evidences of indebtedness (hereafter in this subsection referred to as "obligations") to assist in financing the activities of the United States Patent Office and the United States Trademark Office. Borrowing under this section shall be subject to prior approval in appropriations Acts. Such borrowing shall not exceed amounts approved in appropriations Acts.

(2) BORROWING AUTHORITY.—Any borrowing under this subsection shall be repaid only from fees paid to the Office for which such obligations were issued and surcharges appropriated by Congress. Such obligations shall be redeemable at the option of the United States Patent and Trademark Organization before maturity in the manner stipulated in such obligations and shall have such maturity as is determined by the United States Patent and Trademark Organization with the approval of the Secretary of the Treasury. Each such obligation issued to the Treasury shall bear interest at a rate not less than the current yield on outstanding marketable obligations of the United States of comparable maturity during the month preceding the issuance of the obligation as determined by the Secretary of the Treasury.

(3) PURCHASE OF OBLIGATIONS.—The Secretary of the Treasury shall purchase any obligations of the United States Patent and Trademark Organization issued under this subsection and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under that chapter are extended to include such purpose.

(4) TREATMENT.—Payment under this subsection of the purchase price of such obligations of the United States Patent and Trademark Organization shall be treated as public debt transactions of the United States.

**SEC. 118. TRANSFERS.**

(a) TRANSFER OF FUNCTIONS.—Except as relates to the direction of patent and trademark policy, there are transferred to, and vested in, the United States Patent and Trademark Organization all functions, powers, and duties vested by law in the Secretary of Commerce or the Department of Commerce or in the officers or components in the Department of Commerce with respect to the authority to grant patents and register trademarks, and in the Patent and Trademark Office, as in effect on the day before the effective date of this title, and in the officers and components of such office.

(b) TRANSFER OF FUNDS AND PROPERTY.—The Secretary of Commerce shall transfer to the United States Patent and Trademark Organization, on the effective date of this title, so much of the assets, liabilities, contracts, property, records, and unexpended and unobligated balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to the Department of Commerce, including funds set aside for accounts receivable which are related to functions, powers, and duties which are vested in the United States Patent and Trademark Office by this title.

**Subtitle B—Effective Date; Technical Amendments**

**SEC. 131. EFFECTIVE DATE.**

This title and the amendments made by this title shall take effect 4 months after the date of the enactment of this Act.

**SEC. 132. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) AMENDMENTS TO TITLE 35.—

(1) TABLE OF PARTS.—The item relating to part I in the table of parts for title 35, United States Code, is amended to read as follows:

"I. United States Patent Office ..... 1.".

(2) HEADING.—The heading for part I of title 35, United States Code, is amended to read as follows:

**"PART I—UNITED STATES PATENT OFFICE".**

(3) TABLE OF CHAPTERS.—The table of chapters for part I of title 35, United States Code, is amended by amending the item relating to chapter 1 to read as follows:

**"1. Establishment, Officers and Employees, Functions ..... 1".**

(4) TABLE OF SECTIONS.—The table of sections for chapter 1 of title 35, United States Code, is amended to read as follows:

**"CHAPTER 1—ESTABLISHMENT, OFFICERS AND EMPLOYEES, FUNCTIONS**

"Sec.
"1. Establishment.
"2. Powers and duties.
"3. Officers and employees.
"4. Restrictions on officers and employees as to interest in patents.
"5. Patent Office Management Advisory Board.
"6. Duties of Commissioner.
"7. Board of Patent Appeals and Interferences.
"8. Library.
"9. Classification of patents.
"10. Certified copies of records.
"11. Publications.
"12. Exchange of copies of patents with foreign countries.
"13. Copies of patents for public libraries.
"14. Annual report to Congress.".

(5) COMMISSIONER OF PATENTS AND TRADEMARKS.—(A) Section 41(h)(1) of title 35, United States Code, is amended by striking "Commissioner of Patents and Trademarks" and inserting "Commissioner".

(B) Section 155 of title 35, United States Code, is amended by striking "Commissioner of Patents and Trademarks" and inserting "Commissioner".

(C) Section 155A(c) of title 35, United States Code, is amended by striking "Commissioner of Patents" and inserting "Commissioner".

(6) PATENT AND TRADEMARK OFFICE.—The provisions of title 35, United States Code, are amended by striking "Patent and Trademark Office" each place it appears and inserting "Patent Office".

(b) AMENDMENTS TO THE TRADEMARK ACT OF 1946.—

(1) REFERENCES.—All amendments in this subsection refer to the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946).

(2) AMENDMENTS RELATING TO COMMISSIONER.—Section 61 (as redesignated by section 115(a)(2) of this Act) is amended by striking the undesignated paragraph relating to the definition of the term "Commissioner" and inserting the following:

"The term 'Commissioner' means the Commissioner of Trademarks.".

(3) AMENDMENTS RELATING TO PATENT AND TRADEMARK OFFICE.—(A) Section 1(a)(1) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(B) Section 1(a)(2) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(C) Section 1(b)(1) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(D) Section 1(b)(2) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(E) Section 1(d)(1) is amended by striking "Patent and Trademark Office" each place such term appears and inserting "Trademark Office".

(F) Section 1(e) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(G) Section 2(d) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(H) Section 7(a) is amended by striking "Patent and Trademark Office" each place such term appears and inserting "Trademark Office".

(I) Section 7(d) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(J) Section 7(e) is amended by striking "Patent and Trademark Office" each place such term appears and inserting "Trademark Office".

(K) Section 7(f) is amended by striking "Patent and Trademark Office" each place such term appears and inserting "Trademark Office".

(L) Section 7(g) is amended by striking "Patent and Trademark Office" each place such term appears and inserting "Trademark Office".

(M) Section 8(a) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(N) Section 8(b) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(O) Section 10 is amended by striking "Patent and Trademark Office" each place such term appears and inserting "Trademark Office".

(P) Section 12(a) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(Q) Section 13(a) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(R) Section 13(b)(1) is amended by striking "Patent and Trademark Office" each place such term appears and inserting "Trademark Office".

(S) Section 15(2) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(T) Section 17 is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(U) Section 21(a)(2) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(V) Section 21(a)(3) is amended by striking "Patent and Trademark Office" each place such term appears and inserting "Trademark Office".

(W) Section 21(a)(4) is amended by striking "Patent and Trademark Office" each place such term appears and inserting "Trademark Office".

(X) Section 21(b)(3) is amended by striking "Patent and Trademark Office" each place such term appears and inserting "Trademark Office".

(Y) Section 21(b)(4) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(Z) Section 24 is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(AA) Section 29 is amended by striking "Patent and Trademark Office" each place such term appears and inserting "Trademark Office".

(BB) Section 30 is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(CC) Section 31(a) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(DD) Section 34(a) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(EE) Section 34(d)(1)(B)(i) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(FF) Section 35(a) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(GG) Section 36 is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(HH) Section 37 is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(II) Section 38 is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(JJ) Section 39(b) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(KK) Section 41 is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(LL) Section 61 (as redesignated under section 115(a)(2) of this Act) is amended in the undesignated paragraph relating to the definition of "registered mark"—

(i) by striking "Patent and Trade Mark Office" and inserting "Trademark Office; and

(ii) by striking "Patent and Trade Office" and inserting "Trademark Office".

(MM) Section 72(a) (as redesignated under section 115(a)(2) of this Act) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(NN) Section 75 (as redesignated under section 115(a)(2) of this Act) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(c) AMENDMENTS TO TITLE 5.—Section 5316 of title 5, United States Code, is amended—

(1) by striking "Commissioner of Patents, Department of Commerce."; and

(2) by striking:

"Deputy Commissioner of Patents and Trademarks.

"Assistant Commissioner for Patents.

"Assistant Commissioner for Trademarks.".

(d) AMENDMENT TO TITLE 31.—Section 9101(3) of title 31, United States Code, is amended by adding at the end the following:

"(O) the United States Patent and Trademark Organization.".

(e) AMENDMENTS TO INSPECTOR GENERAL ACT OF 1978.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1) by striking "or the Commissioner of Social Security, Social Security Administration;" and inserting "the Commissioner of Social Security, Social Security Administration; or the Director of the United States Patent and Trademark Organization, United States Patent and Trademark Organization;"; and

(2) in paragraph (2) by striking "or the Veterans' Administration, or the Social Security Administration;" and inserting "the Veterans' Administration, the Social Security Administration, or the United States Patent and Trademark Organization;".

### Subtitle C—Miscellaneous Provisions

**SEC. 141. REFERENCES.**

Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a department, agency, or office from which a function is transferred by this title—

(1) to the head of such department, agency, or office is deemed to refer to the head of the department, agency, or office to which such function is transferred; or

(2) to such department, agency, or office is deemed to refer to the department, agency, or office to which such function is transferred.

**SEC. 142. EXERCISE OF AUTHORITIES.**

Except as otherwise provided by law, a Federal official to whom a function is transferred by this title may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this title.

**SEC. 143. SAVINGS PROVISIONS.**

(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, certificates, licenses, and privileges that—

(1) have been issued, made, granted, or allowed to become effective by the President, the Secretary of Commerce, any officer or employee of any office transferred by this title, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this title, and

(2) are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date), shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law.

(b) PROCEEDINGS.—This title shall not affect any proceedings or any application for any benefits, service, license, permit, certificate, or financial assistance pending on the effective date of this title before an office transferred by this title, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(c) SUITS.—This title shall not affect suits commenced before the effective date of this title, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Commerce or the Secretary of Commerce, or by or against any individual in the official capacity of such individual as an officer or employee of an office transferred by this title, shall abate by reason of the enactment of this title.

(e) CONTINUANCE OF SUITS.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and under this title such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(f) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred by this title shall apply to the exercise of such function by the head of the Federal agency, and other officers of the agency, to which such function is transferred by this title.

**SEC. 144. TRANSFER OF ASSETS.**

Except as otherwise provided in this title, so much of the personnel, property, records,

and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with a function transferred to an official or agency by this title shall be available to the official or the head of that agency, respectively, at such time or times as the Director of the Office of Management and Budget directs for use in connection with the functions transferred.

**SEC. 145. DELEGATION AND ASSIGNMENT.**

(a) IN GENERAL.—Except as otherwise expressly prohibited by law or otherwise provided in this title, an official to whom functions are transferred under this title (including the head of any office to which functions are transferred under this title) may—

(1) delegate any of the functions so transferred to such officers and employees of the office of the official as the official may designate; and

(2) authorize successive redelegations of such functions as may be necessary or appropriate.

(b) RESPONSIBILITY FOR ADMINISTRATION.—No delegation of functions under this section or under any other provision of this title shall relieve the official to whom a function is transferred under this title of responsibility for the administration of the function.

**SEC. 146. AUTHORITY OF DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET WITH RESPECT TO FUNCTIONS TRANSFERRED.**

(a) DETERMINATIONS.—If necessary, the Director of the Office of Management and Budget shall make any determination of the functions that are transferred under this title.

(b) INCIDENTAL TRANSFERS.—The Director of the Office of Management and Budget, at such time or times as the Director shall provide, may make such determinations as may be necessary with regard to the functions transferred by this title, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this title.

(c) TERMINATION OF AFFAIRS.—The Director shall provide for the termination of the affairs of all entities terminated by this title and for such further measures and dispositions as may be necessary to effectuate the purposes of this title.

**SEC. 147. CERTAIN VESTING OF FUNCTIONS CONSIDERED TRANSFERS.**

For purposes of this title, the vesting of a function in a department, agency, or office pursuant to reestablishment of an office shall be considered to be the transfer of the function.

**SEC. 148. AVAILABILITY OF EXISTING FUNDS.**

Existing appropriations and funds available for the performance of functions, programs, and activities terminated pursuant to this title shall remain available, for the duration of their period of availability, for necessary expenses in connection with the termination and resolution of such functions, programs, and activities.

**SEC. 149. DEFINITIONS.**

For purposes of this title—

(1) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(2) the term "office" includes any office, administration, agency, bureau, institute, council, unit, organizational entity, or component thereof.

## TITLE II—EARLY PUBLICATION OF PATENT APPLICATIONS

**SEC. 201. SHORT TITLE.**

This title may be cited as the "Patent Application Publication Act of 1997".

**SEC. 202. EARLY PUBLICATION.**

Section 122 of title 35, United States Code, is amended to read as follows:

**"§ 122. Confidential status of applications; publication of patent applications**

"(a) CONFIDENTIALITY.—Except as provided in subsection (b), applications for patents shall be kept in confidence by the Patent Office and no information concerning the same given without authority of the applicant or owner unless necessary to carry out the provisions of an Act of Congress or in such special circumstances as may be determined by the Commissioner.

"(b) PUBLICATION.—

"(1) IN GENERAL.—(A) Subject to paragraph (2), each application for patent, except applications for design patents filed under chapter 16 of this title and provisional applications filed under section 111(b) of this title, shall be published, in accordance with procedures determined by the Commissioner, as soon as possible after the expiration of a period of 18 months from the earliest filing date for which a benefit is sought under this title. At the request of the applicant, an application may be published earlier than the end of such 18-month period.

"(B) No information concerning published patent applications shall be made available to the public except as the Commissioner determines.

"(C) Notwithstanding any other provision of law, a determination by the Commissioner to release or not to release information concerning a published patent application shall be final and nonreviewable.

"(2) EXCEPTIONS.—(A) An application that is no longer pending shall not be published.

"(B) An application that is subject to a secrecy order pursuant to section 181 of this title shall not be published.

"(C)(i) Upon the request of the applicant at the time of filing, the application shall not be published in accordance with paragraph (1) until 3 months after the Commissioner makes a notification to the applicant under section 132 of this title.

"(ii) Applications filed pursuant to section 363 of this title, applications asserting priority under section 119 or 365(a) of this title, and applications asserting the benefit of an earlier application under section 120, 121, or 365(c) of this title shall not be eligible for a request pursuant to this subparagraph.

"(iii) In a request under this subparagraph, the applicant shall certify that the invention disclosed in the application was not and will not be the subject of an application filed in a foreign country.

"(iv) The Commissioner may establish appropriate procedures and fees for making a request under this subparagraph.

"(c) PRE-ISSUANCE OPPOSITION.—The provisions of this section shall not operate to create any new opportunity for pre-issuance opposition. The Commissioner may establish appropriate procedures to ensure that this section does not create any new opportunity for pre-issuance opposition that did not exist prior to the adoption of this section.".

**SEC. 203. TIME FOR CLAIMING BENEFIT OF EARLIER FILING DATE.**

(a) IN A FOREIGN COUNTRY.—Section 119(b) of title 35, United States Code, is amended to read as follows:

"(b)(1) No application for patent shall be entitled to this right of priority unless a claim, identifying the foreign application by specifying its application number, country, and the day, month, and year of its filing, is filed in the Patent Office at such time during the pendency of the application as required by the Commissioner.

"(2) The Commissioner may consider the failure of the applicant to file a timely claim for priority as a waiver of any such claim, and may require the payment of a surcharge as a condition of accepting an untimely claim during the pendency of the application.

"(3) The Commissioner may require a certified copy of the original foreign application, specification, and drawings upon which it is based, a translation if not in the English language, and such other information as the Commissioner considers necessary. Any such certification shall be made by the foreign intellectual property authority in which the foreign application was filed and show the date of the application and of the filing of the specification and other papers.".

(b) IN THE UNITED STATES.—Section 120 of title 35, United States Code, is amended by adding at the end the following: "The Commissioner may determine the time period during the pendency of the application within which an amendment containing the specific reference to the earlier filed application is submitted. The Commissioner may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this section. The Commissioner may establish procedures, including the payment of a surcharge, to accept unavoidably late submissions of amendments under this section.".

**SEC. 204. PROVISIONAL RIGHTS.**

Section 154 of title 35, United States Code, is amended—

(1) in the section caption by inserting "; **provisional rights**" after "**patent**"; and

(2) by adding at the end the following new subsection:

"(d) PROVISIONAL RIGHTS.—

"(1) IN GENERAL.—In addition to other rights provided by this section, a patent shall include the right to obtain a reasonable royalty from any person who, during the period beginning on the date of publication of the application for such patent pursuant to section 122(b) of this title, or in the case of an international application filed under the treaty defined in section 351(a) of this title designating the United States under Article 21(2)(a) of such treaty, the date of publication of the application, and ending on the date the patent is issued—

"(A)(i) makes, uses, offers for sale, or sells in the United States the invention as claimed in the published patent application or imports such an invention into the United States; or

"(ii) if the invention as claimed in the published patent application is a process, uses, offers for sale, or sells in the United States or imports into the United States products made by that process as claimed in the published patent application; and

"(B) had actual notice of the published patent application, and where the right arising under this paragraph is based upon an international application designating the United States that is published in a language other than English, a translation of the international application into the English language.

"(2) RIGHT BASED ON SUBSTANTIALLY IDENTICAL INVENTIONS.—The right under paragraph (1) to obtain a reasonable royalty shall not be available under this subsection unless the invention as claimed in the patent is

substantially identical to the invention as claimed in the published patent application.

"(3) TIME LIMITATION ON OBTAINING A REASONABLE ROYALTY.—The right under paragraph (1) to obtain a reasonable royalty shall be available only in an action brought not later than 6 years after the patent is issued. The right under paragraph (1) to obtain a reasonable royalty shall not be affected by the duration of the period described in paragraph (1).

"(4) REQUIREMENTS FOR INTERNATIONAL APPLICATIONS.—

"(A) EFFECTIVE DATE.—The right under paragraph (1) to obtain a reasonable royalty based upon the publication under the treaty of an international application designating the United States shall commence from the date that the Patent Office receives a copy of the publication under the treaty defined in section 351(a) of this title of the international application, or, if the publication under the treaty of the international application is in a language other than English, from the date that the Patent Office receives a translation of the international application in the English language.

"(B) COPIES.—The Commissioner may require the applicant to provide a copy of the international application and a translation thereof.".

**SEC. 205. PRIOR ART EFFECT OF PUBLISHED APPLICATIONS.**

Section 102(e) of title 35, United States Code, is amended to read as follows:

"(e) the invention was described in—

"(1)(A) an application for patent, published pursuant to section 122(b) of this title, by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) of this title shall have the effect under this subsection of a national application published under section 122(b) of this title only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language, or

"(B) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, or".

**SEC. 206. COST RECOVERY FOR PUBLICATION.**

The Commissioner shall recover the cost of early publication required by the amendment made by section 202 by adjusting the filing, issue, and maintenance fees under title 35, United States Code, by charging a separate publication fee, or by any combination of these methods.

**SEC. 207. CONFORMING CHANGES.**

The following provisions of title 35, United States Code, are amended:

(1) Section 11 is amended in paragraph 1 of subsection (a) by inserting "and published applications for patents" after "Patents".

(2) Section 12 is amended—

(A) in the section caption by inserting "**and applications**" after "**patents**"; and

(B) by inserting "and published applications for patents" after "patents".

(3) Section 13 is amended—

(A) in the section caption by inserting "**and applications**" after "**patents**"; and

(B) by inserting "and published applications for patents" after "patents".

(4) The items relating to sections 12 and 13 in the table of sections for chapter 1 are each amended by inserting "and applications" after "patents".

(5) The item relating to section 122 in the table of sections for chapter 11 is amended by inserting "; publication of patent applications" after "applications".

(6) The item relating to section 154 in the table of sections for chapter 14 is amended by inserting "; provisional rights" after "patent".

(7) Section 181 is amended—

(A) in the first undesignated paragraph—

(i) by inserting "by the publication of an application or" after "disclosure"; and

(ii) "the publication of the application or" after "withhold";

(B) in the second undesignated paragraph by inserting "by the publication of an application or" after "disclosure of an invention";

(C) in the third undesignated paragraph—

(i) by inserting "by the publication of the application or" after "disclosure of the invention"; and

(ii) "the publication of the application or" after "withhold"; and

(D) in the fourth undesignated paragraph by inserting "the publication of an application or" after "and" in the first sentence.

(8) Section 252 is amended in the first undesignated paragraph by inserting "substantially" before "identical" each place it appears.

(9) Section 284 is amended by adding at the end of the second undesignated paragraph the following: "Increased damages under this paragraph shall not apply to provisional rights under section 154(d) of this title.".

(10) Section 374 is amended to read as follows:

**"§374. Publication of international application: Effect**

"The publication under the treaty, defined in section 351(a) of this title, of an international application designating the United States shall confer the same rights and shall have the same effect under this title as an application for patent published under section 122(b), except as provided in sections 102(e) and 154(d) of this title.".

**SEC. 208. LAST DAY OF PENDENCY OF PROVISIONAL APPLICATION.**

Section 119(e) of title 35, United States Code, is amended by adding at the end the following:

"(3) If the day that is 12 months after the filing date of a provisional application falls on a Saturday, Sunday, or legal holiday as defined in rule 6(a) of the Federal Rules of Civil Procedure, the period of pendency of the provisional application shall be extended to the next succeeding business day.".

**SEC. 209. EFFECTIVE DATE.**

(a) SECTIONS 202 THROUGH 207.—Sections 202 through 207, and the amendments made by such sections, shall take effect on April 1, 1998, and shall apply to all applications filed under section 111 of title 35, United States Code, on or after that date, and all applications complying with section 371 of title 35, United States Code, that resulted from international applications filed on or after that date. The amendment made by section 204 shall also apply to international applications designating the United States that are filed on or after April 1, 1998.

(b) SECTION 208.—The amendments made by section 208 shall take effect on the date of the enactment of this Act and, except for a design patent application filed under chapter 16 of title 35, United States Code, shall apply to any application filed on or after June 8, 1995.

## TITLE III—PATENT TERM RESTORATION

**SEC. 301. PATENT TERM EXTENSION AUTHORITY.**

Section 154(b) of title 35, United States Code, is amended to read as follows:

"(b) TERM EXTENSION.—

"(1) BASIS FOR PATENT TERM EXTENSION.—

"(A) DELAY.—Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to—

"(i) a proceeding under section 135(a) of this title;

"(ii) the imposition of an order pursuant to section 181 of this title;

"(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court where the patent was issued pursuant to a decision in the review reversing an adverse determination of patentability; or

"(iv) an unusual administrative delay by the Patent Office in issuing the patent,

the term of the patent shall be extended for the period of delay.

"(B) ADMINISTRATIVE DELAY.—For purposes of subparagraph (A)(iv), an unusual administrative delay by the Patent Office is the failure to—

"(i) make a notification of the rejection of any claim for a patent or any objection or argument under section 132 of this title or give or mail a written notice of allowance under section 151 of this title not later than 14 months after the date on which the application was filed;

"(ii) respond to a reply under section 132 of this title or to an appeal taken under section 134 of this title not later than 4 months after the date on which the reply was filed or the appeal was taken;

"(iii) act on an application not later than 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 or 135 of this title or a decision by a Federal court under section 141, 145, or 146 of this title where allowable claims remain in an application; or

"(iv) issue a patent not later than 4 months after the date on which the issue fee was paid under section 151 of this title and all outstanding requirements were satisfied.

"(2) LIMITATIONS.—

"(A) IN GENERAL.—The total duration of any extensions granted pursuant to either subclause (iii) or (iv) of paragraph (1)(A) or both such subclauses shall not exceed 10 years. To the extent that periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any extension granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

"(B) REDUCTION OF EXTENSION.—The period of extension of the term of a patent under this subsection shall be reduced by a period equal to the time in which the applicant failed to engage in reasonable efforts to conclude prosecution of the application. The Commissioner shall prescribe regulations establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application.

"(C) DISCLAIMED TERM.—No patent the term of which has been disclaimed beyond a specified date may be extended under this section beyond the expiration date specified in the disclaimer.

"(3) PROCEDURES.—The Commissioner shall prescribe regulations establishing procedures for the notification of patent term extensions under this subsection and procedures for contesting patent term extensions under this subsection.".

**SEC. 302. EFFECTIVE DATE.**

The amendments made by section 301 shall take effect on the date of the enactment of this Act and, except for a design patent application filed under chapter 16 of title 35, United States Code, shall apply to any application filed on or after June 8, 1995.

## TITLE IV—PRIOR DOMESTIC COMMERCIAL USE

**SEC. 401. SHORT TITLE.**

This title may be cited as the "Prior Domestic Commercial Use Act of 1997".

**SEC. 402. DEFENSE TO PATENT INFRINGEMENT BASED ON PRIOR DOMESTIC COMMERCIAL USE.**

(a) DEFENSE.—Chapter 28 of title 35, United States Code, is amended by adding at the end the following new section:

**"§ 273. Prior domestic commercial use; defense to infringement**

"(a) DEFINITIONS.—For purposes of this section—

"(1) the terms 'commercially used', 'commercially use', and 'commercial use' mean the use in the United States in commerce or the use in the design, testing, or production in the United States of a product or service which is used in commerce, whether or not the subject matter at issue is accessible to or otherwise known to the public;

"(2) the terms 'used in commerce', and 'use in commerce' mean that there has been an actual sale or other commercial transfer of the subject matter at issue or that there has been an actual sale or other commercial transfer of a product or service resulting from the use of the subject matter at issue; and

"(3) the 'effective filing date' of a patent is the earlier of the actual filing date of the application for the patent or the filing date of any earlier United States, foreign, or international application to which the subject matter at issue is entitled under section 119, 120, or 365 of this title.

"(b) DEFENSE TO INFRINGEMENT.—

"(1) IN GENERAL.—A person shall not be liable as an infringer under section 271 of this title with respect to any subject matter that would otherwise infringe one or more claims in the patent being asserted against such person, if such person had, acting in good faith, commercially used the subject matter before the effective filing date of such patent.

"(2) EXHAUSTION OF RIGHT.—The sale or other disposition of the subject matter of a patent by a person entitled to assert a defense under this section with respect to that subject matter shall exhaust the patent owner's rights under the patent to the extent such rights would have been exhausted had such sale or other disposition been made by the patent owner.

"(c) LIMITATIONS AND QUALIFICATIONS OF DEFENSE.—The defense to infringement under this section is subject to the following:

"(1) DERIVATION.—A person may not assert the defense under this section if the subject matter on which the defense is based was derived from the patentee or persons in privity with the patentee.

"(2) NOT A GENERAL LICENSE.—The defense asserted by a person under this section is not a general license under all claims of the patent at issue, but extends only to the subject matter claimed in the patent with respect to which the person can assert a defense under this chapter, except that the defense shall also extend to variations in the quantity or volume of use of the claimed subject matter, and to improvements in the claimed subject matter that do not infringe additional specifically claimed subject matter of the patent.

"(3) EFFECTIVE AND SERIOUS PREPARATION.—With respect to subject matter that cannot be commercialized without a significant investment of time, money, and effort, a person shall be deemed to have commercially used the subject matter if—

"(A) before the effective filing date of the patent, the person reduced the subject matter to practice in the United States, completed a significant portion of the total investment necessary to commercially use the subject matter, and made a commercial transaction in the United States in connection with the preparation to use the subject matter; and

"(B) thereafter the person diligently completed the remainder of the activities and investments necessary to commercially use the subject matter, and promptly began commercial use of the subject matter, even if such activities were conducted after the effective filing date of the patent.

"(4) BURDEN OF PROOF.—A person asserting the defense under this section shall have the burden of establishing the defense.

"(5) ABANDONMENT OF USE.—A person who has abandoned commercial use of subject matter may not rely on activities performed before the date of such abandonment in establishing a defense under subsection (b) with respect to actions taken after the date of such abandonment.

"(6) PERSONAL DEFENSE.—The defense under this section may only be asserted by the person who performed the acts necessary to establish the defense and, except for any transfer to the patent owner, the right to assert the defense shall not be licensed or assigned or transferred to another person except in connection with the good faith assignment or transfer of the entire enterprise or line of business to which the defense relates.

"(7) ONE-YEAR LIMITATION.—A person may not assert a defense under this section unless the subject matter on which the defense is based had been commercially used or reduced to practice more than one year prior to the effective filing date of the patent by the person asserting the defense or someone in privity with that person.

"(d) UNSUCCESSFUL ASSERTION OF DEFENSE.—If the defense under this section is pleaded by a person who is found to infringe the patent and who subsequently fails to demonstrate a reasonable basis for asserting the defense, the court shall find the case exceptional for the purpose of awarding attorney's fees under section 285 of this title.

"(e) INVALIDITY.—A patent shall not be deemed to be invalid under section 102 or 103 of this title solely because a defense is established under this section.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 28 of title 35, United States Code, is amended by adding at the end the following new item:

"Sec. 273. Prior domestic commercial use; defense to infringement.".

**SEC. 403. EFFECTIVE DATE AND APPLICABILITY.**

This title and the amendments made by this title shall take effect on the date of the enactment of this Act, but shall not apply to any action for infringement that is pending on such date of enactment or with respect to any subject matter for which an adjudication of infringement, including a consent judgment, has been made before such date of enactment.

## TITLE V—PATENT REEXAMINATION REFORM

**SEC. 501. SHORT TITLE.**

This title may be cited as the "Patent Reexamination Reform Act of 1997".

**SEC. 502. DEFINITIONS.**

Section 100 of title 35, United States Code, is amended by adding at the end the following new subsection:

"(e) The term 'third-party requester' means a person requesting reexamination under section 302 of this title who is not the patent owner.".

**SEC. 503. REEXAMINATION PROCEDURES.**

(a) REQUEST FOR REEXAMINATION.—Section 302 of title 35, United States Code, is amended to read as follows:

**"§ 302. Request for reexamination**

"(a) IN GENERAL.—Any person at any time may file a request for reexamination by the Office of a patent on the basis of any prior art cited under the provisions of section 301 of this title or on the basis of the requirements of section 112 of this title except for the requirement to set forth the best mode of carrying out the invention.

"(b) REQUIREMENTS.—The request shall—

"(1) be in writing, include the identity of the real party in interest, and be accompanied by payment of a reexamination fee established by the Commissioner of Patents pursuant to the provisions of section 41 of this title; and

"(2) set forth the pertinency and manner of applying cited prior art to every claim for which reexamination is requested or the manner in which the patent specification or claims fail to comply with the requirements of section 112 of this title.

"(c) COPY.—Unless the requesting person is the owner of the patent, the Commissioner promptly shall send a copy of the request to the owner of record of the patent.".

(b) DETERMINATION OF ISSUE BY COMMISSIONER.—Section 303 of title 35, United States Code, is amended to read as follows:

**"§ 303. Determination of issue by Commissioner**

"(a) REEXAMINATION.—Not later than 3 months after the filing of a request for reexamination under the provisions of section 302 of this title, the Commissioner shall determine whether a substantial new question of patentability affecting any claim of the patent concerned is raised by the request, with or without consideration of other patents or printed publications. On the Commissioner's initiative, and any time, the Commissioner may determine whether a substantial new question of patentability is raised by patents and publications or by the failure of the patent specification or claims to comply with the requirements of section 112 of this title except for the best mode requirement described in section 302.

"(b) RECORD.—A record of the Commissioner's determination under subsection (a) shall be placed in the official file of the patent, and a copy shall be promptly given or mailed to the owner of record of the patent and to the third-party requester, if any.

"(c) FINAL DECISION.—A determination by the Commissioner pursuant to subsection (a) shall be final and nonappealable. Upon a determination that no substantial new question of patentability has been raised, the Commissioner may refund a portion of the reexamination fee required under section 302 of this title.".

(c) REEXAMINATION ORDER BY COMMISSIONER.—Section 304 of title 35, United States Code, is amended to read as follows:

**"§ 304. Reexamination order by Commissioner**

"If, in a determination made under the provisions of section 303(a) of this title, the Commissioner finds that a substantial new question of patentability affecting a claim of a patent is raised, the determination shall include an order for reexamination of the patent for resolution of the question. The order may be accompanied by the initial action of the Patent Office on the merits of the reexamination conducted in accordance with section 305 of this title.".

(d) CONDUCT OF REEXAMINATION PROCEEDINGS.—Section 305 of title 35, United States Code, is amended to read as follows:

**"§ 305. Conduct of reexamination proceedings**

"(a) IN GENERAL.—Subject to subsection (b), reexamination shall be conducted according to the procedures established for initial examination under the provisions of sections 132 and 133 of this title. In any reexamination proceeding under this chapter, the patent owner shall be permitted to propose any amendment to the patent and a new claim or claims, except that no proposed amended or new claim enlarging the scope of the claims of the patent shall be permitted.

"(b) RESPONSE.—(1) This subsection shall apply to any reexamination proceeding in which the order for reexamination is based upon a request by a third-party requester.

"(2) With the exception of the reexamination request, any document filed by either the patent owner or the third-party requester shall be served on the other party.

"(3) If the patent owner files a response to any Patent Office action on the merits, the third-party requester shall have 1 opportunity to file written comments within a reasonable period not less than 1 month after the date of service of the patent owner's response. Written comments provided under this paragraph shall be limited to issues covered by the Patent Office action or the patent owner's response.

"(c) SPECIAL DISPATCH.—Unless otherwise provided by the Commissioner for good cause, all reexamination proceedings under this section, including any appeal to the Board of Patent Appeals and Interferences, shall be conducted with special dispatch within the Office.".

(e) APPEAL.—Section 306 of title 35, United States Code, is amended to read as follows:

**"§ 306. Appeal**

"(a) PATENT OWNER.—The patent owner involved in a reexamination proceeding under this chapter—

"(1) may appeal under the provisions of section 134 of this title, and may appeal under the provisions of sections 141 through 144 of this title, with respect to any decision adverse to the patentability of any original or proposed amended or new claim of the patent, and

"(2) may be a party to any appeal taken by a third-party requester pursuant to subsection (b) of this section.

"(b) THIRD-PARTY REQUESTER.—A third-party requester may—

"(1) appeal under the provisions of section 134 of this title, and may appeal under the provisions of sections 141 through 144 of this title, with respect to any final decision favorable to the patentability of any original or proposed amended or new claim of the patent; or

"(2) be a party to any appeal taken by the patent owner, subject to subsection (c) of this section.

"(c) PARTICIPATION AS PARTY.—

"(1) IN GENERAL.—A third-party requester who, under the provisions of sections 141 through 144 of this title, files a notice of appeal or who participates as a party to an appeal by the patent owner is estopped from asserting at a later time, in any forum, the invalidity of any claim determined to be patentable on appeal on any ground which the third-party requester raised or could have raised during the reexamination proceedings.

"(2) ELECTION TO PARTICIPATE.—A third-party requester is deemed not to have participated as a party to an appeal by the patent owner unless, not later than 20 days after the patent owner has filed notice of appeal, the third-party requester files notice with the Commissioner electing to participate.".

(f) REEXAMINATION PROHIBITED.—

(1) IN GENERAL.—Chapter 30 of title 35, United States Code, is amended by adding at the end the following new section:

**"§ 308. Reexamination prohibited**

"(a) ORDER FOR REEXAMINATION.—Notwithstanding any provision of this chapter, once an order for reexamination of a patent has been issued under section 304 of this title, neither the patent owner nor the third-party requester, if any, nor privies of either, may file a subsequent request for reexamination of the patent until a reexamination certificate is issued and published under section 307 of this title, unless authorized by the Commissioner.

"(b) FINAL DECISION.—Once a final decision has been entered against a party in a civil action arising in whole or in part under section 1338 of title 28 that the party has not sustained its burden of proving the invalidity of any patent claim in suit, then neither that party nor its privies may thereafter request reexamination of any such patent claim on the basis of issues which that party or its privies raised or could have raised in such civil action, and a reexamination requested by that party or its privies on the basis of such issues may not thereafter be maintained by the Office, notwithstanding any other provision of this chapter.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 30 of title 35, United States Code, is amended by adding at the end the following:

"308. Reexamination prohibited.".

**SEC. 504. CONFORMING AMENDMENTS.**

(a) PATENT FEES; PATENT SEARCH SYSTEMS.—Section 41(a)(7) of title 35, United States Code, is amended to read as follows:

"(7) On filing each petition for the revival of an unintentionally abandoned application for a patent, for the unintentionally delayed payment of the fee for issuing each patent, or for an unintentionally delayed response by the patent owner in a reexamination proceeding, $1,250, unless the petition is filed under sections 133 or 151 of this title, in which case the fee shall be $110.".

(b) APPEAL TO THE BOARD OF PATENT APPEALS AND INTERFERENCES.—Section 134 of title 35, United States Code, is amended to read as follows:

**"§ 134. Appeal to the Board of Patent Appeals and Interferences**

"(a) PATENT APPLICANT.—An applicant for a patent, any of whose claims has been twice rejected, may appeal from the decision of the primary examiner to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.

"(b) PATENT OWNER.—A patent owner in a reexamination proceeding may appeal from the final rejection of any claim by the primary examiner to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.

"(c) THIRD-PARTY.—A third-party requester may appeal to the Board of Patent Appeals and Interferences from the final decision of the primary examiner favorable to the patentability of any original or proposed amended or new claim of a patent, having once paid the fee for such appeal.".

(d) APPEAL TO COURT OF APPEALS FOR THE FEDERAL CIRCUIT.—Section 141 of title 35, United States Code, is amended by amending the first sentence to read as follows: "An applicant, a patent owner, or a third-party requester, dissatisfied with the final decision in an appeal to the Board of Patent Appeals and Interferences under section 134 of this title, may appeal the decision to the United States Court of Appeals for the Federal Circuit.".

(e) PROCEEDINGS ON APPEAL.—Section 143 of title 35, United States Code, is amended by amending the third sentence to read as follows: "In ex parte and reexamination cases, the Commissioner shall submit to the court in writing the grounds for the decision of the Patent Office, addressing all the issues involved in the appeal.".

(f) CIVIL ACTION TO OBTAIN PATENT.—Section 145 of title 35, United States Code, is amended in the first sentence by inserting "(a)" after "section 134".

**SEC. 505. EFFECTIVE DATE.**

This title and the amendments made by this title shall take effect on the date that is 6 months after the date of the enactment of this Act and shall apply to all reexamination requests filed on or after such date.

## TITLE VI—MISCELLANEOUS PATENT PROVISIONS

**SEC. 601. PROVISIONAL APPLICATIONS.**

(a) ABANDONMENT.—Section 111(b)(5) of title 35, United States Code, is amended to read as follows:

"(5) ABANDONMENT.—Notwithstanding the absence of a claim, upon timely request and as prescribed by the Commissioner, a provisional application may be treated as an application filed under subsection (a). If no such request is made, the provisional application shall be regarded as abandoned 12 months after the filing date of such application and shall not be subject to revival thereafter.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to a provisional application filed on or after June 8, 1995.

**SEC. 602. INTERNATIONAL APPLICATIONS.**

Section 119 of title 35, United States Code, is amended as follows:

(1) In subsection (a), insert "or in a WTO member country" after "or to citizens of the United States,".

(2) At the end of section 119 add the following new subsections:

"(f) Applications for plant breeder's rights filed in a WTO member country (or in a foreign UPOV Contracting Party) shall have the same effect for the purpose of the right of priority under subsections (a) through (c) of this section as applications for patents, subject to the same conditions and requirements of this section as apply to applications for patents.

"(g) As used in this section—

"(1) the term 'WTO member country' has the same meaning as the term is defined in section 104(b)(2) of this title; and

"(2) the term 'UPOV Contracting Party' means a member of the International Convention for the Protection of New Varieties of Plants.".

**SEC. 603. PLANT PATENTS.**

(a) TUBER PROPAGATED PLANTS.—Section 161 of title 35, United States Code, is amended by striking "a tuber propagated plant or".

(b) RIGHTS IN PLANT PATENTS.—The text of section 163 of title 35, United States Code, is amended to read as follows: "In the case of a plant patent, the grant to the patentee, such patentee's heirs or assigns, shall have the right to exclude others from asexually reproducing the plant, and from using, offering for sale, or selling the plant so reproduced, or any of its parts, throughout the United States, or from importing the plant so reproduced, or any parts thereof, into the United States.".

(c) EFFECTIVE DATE.—The amendments by subsection (a) shall apply on the date of enactment of this Act. The amendments made by subsection (b) shall apply to any plant patent issued on or after the date of enactment of this Act.

**SEC. 604. ELECTRONIC FILING.**

Section 22 of title 35, United States Code, is amended by striking "printed or typewritten" and inserting "printed, typewritten, or on an electronic medium".

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OMNIBUS PATENT ACT OF 1997—SUMMARY

TITLE I—THE UNITED STATES PATENT AND TRADEMARK ORGANIZATION

This title establishes the United States Patent and Trademark Organization (USPTO) as a wholly owned government corporation connected for policy-making purposes to the Department of Commerce. Like the existing U.S. Patent and Trademark Office, the USPTO is charged with patent and trademark policy formulation and the administration of the patent and trademark systems. But unlike the present structure, the USPTO will be freed from a heavy-handed federal bureaucracy, which inhibits the ability of the Patent and Trademark Office to meet the demands of those who fully sustain its operation through user fees. Heightened efficiency is also achieved by separating the policymaking functions from the day-to-day operating functions.

The USPTO is headed by a Director of the U.S. Patent and Trademark Office, who is charged with advising the President through the Secretary of Commerce regarding patent and trademark policy. He or she is appointed by the President with Senate confirmation, and he or she serves at the pleasure of the President.

The USPTO has two autonomous subdivisions: the Patent Office and the Trademark Office. Each office is responsible for the administration of its own system. Each office controls its own budget and its management structure and procedures. Each office must generate its own revenue in order to be self-sustaining and to provide for the Office of the Director. The Patent Office and the Trademark Office are headed by the Commissioner of Patents and the Commissioner of Trademarks, respectively. The two Commissioners are appointed by the Director and serve at his or her pleasure.

TITLE II—EARLY PUBLICATION

Title II of the bill provides for the early publication of patent applications. It would require the Patent Office to publish pending applications eighteen months after the application was filed. An exception of this rule is made for applications filed only in the United States. Those applications will be published eighteen months after filing or three months after the office issues its first response on the application, whichever is later. Additionally, once an application is published, Title II grants the applicant "provisional rights," that is, legal protection for his or her invention.

TITLE III—PATENT TERM RESTORATION

Title III deals with the problem of administrative delay in the patent examination process by restoring to the patent holder any part of the term that is lost due to undue administrative delay. Title III gives clear deadlines in which the Patent Office must act. The office has fourteen months to issue a first office action and four months to respond to subsequent applicant filings. Any delay beyond those deadlines is considered undue delay and will be restored to the patent term.

TITLE IV—PRIOR DOMESTIC COMMERCIAL USE

This title provides rights to a person who has commercially sold an invention more than one year before the effective filing date of a patent application by another person. Anyone in this situation will be permitted to continue to sell his or her product without being forced to pay a royalty to the patent holder.

TITLE V—PATENT RE-EXAMINATION REFORM

Title V provides for a greater role for third parties in patent re-examination proceedings by allowing third-parties to raise a challenge to an existing patent and to participate in the reexamination process in a meaningful way.

TITLE VI—MISCELLANEOUS

*Provisional Applications for Patents*

This title amends section 115 of Title 35 of the U.S. Code to clarify that if a provisional application is converted into a non-provisional application within twelve months of filing, that it stands as a full patent application, with the date of filing of the provisional application as the date of priority. If no request is made within twelve months, the provisional application is considered abandoned. This clarification will make certain that American provisional applications are given the same weight as other countries' provisional applications in other countries' courts.

*Plant Patents*

Title VI also makes two corrections to the plant patent statute. First, the ban on tuber propagated plants is removed. This depression-era ban was included for fear of limiting the food supply. This is no longer a concern. Second, the plant patent statute is amended to include parts of plants. This closes a loophole that foreign growers have used to import the fruit or flowers of patented plants without paying a royalty because the entire plant was not being sold.

*Electronic Filing*

Lastly, this title also allows for the filing of patent and trademark documents by electronic medium.

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By Mrs. FEINSTEIN:

S. 508. A bill to provide Mai Hoa "Jasmin" Salehi permanent residency; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

Mrs. FEINSTEIN. Mr. President, this bill grants permanent residency status to Jasmin Salehi, a California constituent who is currently assisting the LA district attorney with the prosecution of her husband's murderer.

Mai Hoa Jasmin Salehi is a Korean immigrant who was denied permanent residency after her husband was violently murdered at a Denny's in Reseda, CA, where he worked as manager. Local INS officials in Los Angeles denied Jasmin's application because the law requires legal immigrants be married for 2 years before they become eligible for permanent resident status. Jasmin and Cyrus Salehi were newlyweds who had been married only 11 months before the murder.

I have previously sought administrative relief for Jasmin by asking the INS if any humanitarian exemptions could be made in Jasmin's case, but the local INS officials in Los Angeles has told my staff that there is nothing they can do.

Jasmin met and married Cyrus Salehi, an American citizen, in March 1995 and has completed all the paperwork necessary to obtain her green card. But now, Jasmin has been told that she can stay in the United States as long as the district attorney needs her to prosecute her husband's murderer. Despite here assistance in the prosecution, Jasmin would be deported once the investigation and subsequent trial are completed.

Jasmin has done everything right in order to become a permanent resident of this country—except for the tragedy of her husband's murder 13 months before she could become a permanent resident. I hope you support this bill so that we can help Jasmin begin to rebuild her life in the United States.

Mr. President, I ask for unanimous consent that the attached news article and the bill be entered into the RECORD.

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

S. 508

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

I. Permanent Residence:

Notwithstanding any other provision of law, for purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Mai Hoa "Jasmin" Salehi, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees.

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[From the Los Angeles Daily News]

WIDOW'S TROUBLES MULTIPLY

(By Jeannette DeSantis)

Things have gotten worse instead of better for Jasmin Salehi.

Alone in a new apartment, half of her belongings still packed in moving boxes, Salehi, 32, surveys her new residence and wonders how it came to this.

When the Korean widow first came to the United States more than a year ago, her life was filled with promise. A loving husband with a steady income, friends and a comfortable home in Sherman Oaks were more that she could ask for.

Then life handed her more.

Her husband of 11 months, Cyrus Salehi, was slain earlier this year. Soon after, the Immigration and Naturalization Service notified Salehi she would be deported because she had not been married to a U.S. citizen long enough to get her green card.

And recently, she was evicted from the only home she has known since arriving in the United States.

"All these things happened at one time," Salehi said. "It is really hard for me, and I get depresses . . . especially during the holidays."

In the midst of her first holiday season as a widow, Salehi can only dream of her husband, Cyrus Salehi, killed in February after two robbers shot him during a holdup at the Reseda Denny's restaurant he owned.

"There are lots of memories of my husband . . . and our Christmases together," she said.

"Now, every Christmas will be a Christmas without him."

But it won't be a holiday season without friends.

Francine and Ralph Myers, who informally adopted Salehi since Cyrus's death, met her through a victim support group. The Myers, whose son was slain, know well how those first holiday seasons can affect a victim of crime.

"It can be a real tough time," Francine Myers said. "It is different for everyone. Jasmin doesn't want to decorate. I remember (after my son died) I would try to change every tradition we had and make new ones."

Myers said Salehi is a survivor, who stood up to the INS and was allowed to stay in the country until her husband's accused killer stands trial. Meanwhile, she has not let her own grief stop her from helping others.

"Although she needs help, she unselfishly helps others," Myers said, adding that Salehi has accompanied her to the trial of the person accused of murdering her own son. "That says something about her."

Salehi contends that she is only returning the support the Myers have given her. "She is a victim too, and all that time she is there for me," Salehi said.

Shellie Samuels, the deputy district attorney handling the Cyrus Salehi murder case, said that although all victims of crime are traumatized by a loved one's death, Salehi's ordeal has been especially nightmarish.

"Besides the emotional trauma she has gone through, the U.S. has not done right by her," Samuels said. "Her American citizen husband gets killed and they treat her like an illegal immigrant."

Cyrus and Jasmin Salehi filed the paperwork for Salehi to receive a green card in early 1995, soon after their March nuptials.

But Salehi was deemed ineligible for residence status because her husband was killed before they had been married two years—an INS time requirement for a spouse sponsorship.

The INS has only offered Salehi a temporary reprieve, allowing her to stay in the country for her husband's murder trial.

As for Salehi, she fears if she is sent back to Korea, she will be a stranger in her own country, a place where stigmas are attached to orphans and widows, of which she is both.

Born Mai Hoa Joo in Seoul, Korea, in 1964, Salehi's parents died within months of each other when she was 14. A college graduate, Salehi visited the United States several times before she immigrated.

During a 1993 visit, Salehi met her husband at a Denny's restaurant in Los Angeles. They continued their relationship even as Salehi returned to Korea.

Once married, Salehi received a work permit after she applied for a green card and began working at a clothing manufacturer in downtown Los Angeles, where she still puts in 10-hour days on a regular basis.

But her salary as a production manager was not enough to cover the mortgage payment on the small house the couple owned, even though she has inherited part ownership of the Denny's restaurant where her husband was killed.

"She has run into a lot of roadblocks, but she is a survivor," said Francine Myers. "She will do all right as long as she feels like she has the support behind her."

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By Mr. BURNS:

S. 509 A bill to provide for the return of certain program and activity fund rejected by States to the Treasury to reduce the Federal deficit, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, as modified by the order of April 11, 1986, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

THE FAIR AND RESPONSIBLE FUND USE ACT

Mr. BURNS. Mr. President, I rise to introduce the Fair and Responsible Fund Use Act. It is a bill that will provide for the return of funds, rejected by a State, to the Treasury. These funds will then be used specifically to reduce the Federal deficit.

Sometimes the Federal Government makes available to Montana, and other States, funds which are inconsistent with State priorities. Usually this money comes with strings attached. In other words, the Federal Government wants us to take X action to get Y dollars. Sometimes, out of fiscal conservatism, or philosophical differences, States will return that money to the Treasury. But what has been the reward for an individual State's refusal to grab the Federal carrot that has been dangled in front of it? That money is returned to the program for use by other States.

That's just not right. California or New York should not be the beneficiaries of Montana's restraint and good judgment. The good people of Montana have asked me to take action to stop this from happening and that's why I am introducing this bill today. The Fair and Responsible Fund Use Act will require that we take those funds returned by the States and use them to pay down our national deficit.

Montana and 48 other States are required by law to balance their budgets. While we came one vote short of making that the standard for this Nation, most of us here in Washington are still determine to balance our books. If a State has the courage and willingness to do without a quick Federal buck, then it's only right that the American people, as a whole, should benefit from that action.

Whatever the States send back may seem like small potatoes to some people, but as the late Senator Everett Dirksen once said, "A billion here, and a billion there, and pretty soon you're talking about real money."

We face the very real danger of being crushed by our national deficit. Some of our mindless spending in the past years has left us with a debt of 5.34 trillion dollars—"trillion" with a capital "T." And it's only going to get worse if we don't do something to help out.

This bill makes good common sense. We all must work together in order to pay off the huge national deficit and this is one step in the right direction. I urge my colleagues to support this legislation.

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By Mr. MOYNIHAN:

S. 510. A bill to authorize the Architect of the Capitol to develop and implement a plan to improve the Capitol grounds through the elimination and modification of space allocated for parking; to the Committee on Rules and Administration.

THE ARC OF PARK CAPITOL GROUNDS IMPROVEMENT ACT OF 1997

Mr. MOYNIHAN. Mr. President, nearly 100 years ago, in March of 1901, the Senate Committee on the District of Columbia was directed by Senate Resolution to "report to the Senate plans for the development and improvement of the entire park system of the District of Columbia * * * (F)or the purpose of preparing such plans the committee * * * may secure the services of such experts as may be necessary for a proper consideration of the subject."

And secure "such experts" the committee assuredly did. The Committee formed what came to be known as the McMillan Commission, named for committee chairman Senator James McMillan of Michigan. The Commission's membership was a "who's who" of late 19th and 20th-century architecture, landscape design, and art: Daniel Burnham, Frederick Law Olmsted Jr., Charles F. McKim, and Augustus St. Gaudens. The Commission traveled that summer to Rome, Venice, Vienna, Budapest, Paris, and London, studying the landscapes, architecture, and public spaces of the grandest cities in the world. The McMillan Commission returned and fashioned the city of Washington as we now know it.

We are particularly indebted today for the Commission's preservation of the Mall. When the members left for Europe, the Congress had just given the Pennsylvania Railroad a 400-foot wide swath of the Mall for a new station and trackage. It is hard to imagine our city without the uninterrupted stretch of greenery from the Capitol to the Washington Monument, but such would have been the result. Fortunately, when in London, Daniel Burnham was able to convince Pennsylvania Railroad president Alexander Cassatt that a site on Massachusetts Avenue would provide a much grander entrance to the city. President Cassatt assented and Daniel Burnham gave us Union Station.

But the focus of the Commission's work was the District's park system. The Commission noted in its report:

Aside from the pleasure and the positive benefits to health that the people derive from public parks, in a capital city like Washington there is a distinct use of public spaces as the indispensable means of giving dignity to Government buildings and of making suitable connections between the great departments * * * [V]istas and axes; sites for monuments and museums; parks and pleasure gardens; fountains and canals; in a word all that goes to make a city a magnificent and consistent work

of art were regarded as essential in the plans made by L'Enfant under the direction of the first President and his Secretary of State.

Washington and Jefferson might be disappointed at the affliction now imposed on much of the Capitol Grounds by the automobile.

Despite the ready and convenient availability of the city's Metrorail system, an extraordinary number of Capitol Hill employees drive to work. No doubt many must. But must we provide free parking? If there is one lesson learned from the Intermodal Surface Transportation Efficiency Act of 1991, it is that free goods are always wasted. Free parking is a powerful incentive to drive to work when the alternative is to pay for public transportation. As we have created parking spaces around the Capitol, such as the scar of angle-parked cars at the foot of Pennsylvania Avenue made available "temporarily" during construction of the Thurgood Marshall Federal Judiciary Building, demand has simply risen to meet the available supply. The result—the Pennsylvania Avenue spaces have become permanent and a portion of the Nation's main street remains an aesthetic disaster.

Today, I am reintroducing legislation to complete the beautification of the Capitol Grounds, as envisioned by the illustrious McMillan Commission in 1901, through the elimination of most surface parking and restoration of the sites as public parks. The Arc of Park Capitol Grounds Improvement Act of 1997 would require the Architect of the Capitol to develop and implement a comprehensive plan to improve the Capitol Grounds through the creation of an "arc of park," sweeping from Second Street, NE to the Capitol Reflecting Pool and back to First Street, SE, with the Capitol Building as its approximate center. Delaware Avenue between Columbus Circle and Constitution Avenue would be closed to traffic and rebuilt as a grand pedestrian walkway from Union Station to the Capitol. The angled parking would be eliminated on Pennsylvania Avenue between First and Third Streets, NW, and the Pennsylvania Avenue tree line would be continued onto the Capitol Grounds.

There is, of course, the matter of parking. This legislation authorizes the Architect of the Capitol to construct underground parking facilities, as needed. These facilities, which will undoubtedly be expensive, will be financed simply by charging for the parking. A legitimate user fee. In the matter of parking, this legislation is an appropriate companion to a bill that my colleague from Rhode Island, Senator CHAFEE, and I introduced earlier today, which will enable employers to provide their employees with cash compensation in lieu of a parking space. This bill, which was also included in the Administration's ISTEA reauthorization proposal, will expand employee options for commuting and reduce auto use.

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By Mr. CHAFEE (for himself, Mr. ROCKEFELLER, Mr. JEFFORDS, Mr. DEWINE, Mr. DODD, Ms. MOSELEY-BRAUN, Mr. KERRY, Mr. KERREY, and Mr. KENNEDY):

S. 511. A bill to require that the health and safety of a child be considered in any foster care or adoption placement, to eliminate barriers to the termination of parental rights in appropriate cases, to promote the adoption of children with special needs, and for other purposes; to the Committee on Finance.

THE SAFE ADOPTIONS AND FAMILY ENVIRONMENTS ACT

Mr. CHAFEE. Mr. President, today I am pleased to introduce legislation to make some critical reforms to the child welfare system. The goals of the legislation are twofold: to ensure that abused and neglected children are in safe settings, and to move children more rapidly out of the foster care system and into permanent placements.

While the goal of reunifying children with their biological families is laudable, we should not be encouraging States to return abused or neglected children to homes that are clearly unsafe; regrettably, this is occurring under current law.

Our legislation would clarify the primacy of safety and health in decisions made about children who have been abused and neglected. The legislation would also push States to identify and enact State laws to address those circumstances in which the rights of the biological parent should be terminated expeditiously (for example, when the parent has been found guilty of felony assault, chronic sexual abuse, or the murder of a sibling).

The legislation also would provide incentives to move children into permanent placements, either by returning them home when reunification is the goal or by removing barriers to adoption.

I would like to thank those who have worked so hard to develop this legislation. In particular, Senator ROCKEFELLER, the lead Democratic cosponsor, with whom I have worked for many years on childrens' issues. I also want to thank Senator DEWINE, who, as a former prosecutor, brings a good deal of legal expertise and personal experience to this issue. We are also grateful for all Senator JEFFORDS has done in the past to lay the groundwork for this important legislation.

My sincere thanks also goes out to the many child advocacy organizations which were so helpful in the development of this legislation.

Finally, it is encouraging that similar legislation has been introduced in the House by Representatives CAMP and KENNELLY. While there are minor differences between our bills, the overall goals of both bills are the same. In that regard, I look forward to working with our House counterparts toward the enactment this year of child welfare reform legislation this year.

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. 511

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

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Safe Adoptions and Family Environments Act".

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

Sec. 1. Short title; table of contents.

TITLE I—REQUIRING CONSIDERATION OF THE HEALTH AND SAFETY OF A CHILD IN FOSTER CARE AND ADOPTION PLACEMENTS

Sec. 101. Improving foster care protection requirements.
Sec. 102. Clarifying State plan requirements.
Sec. 103. Including safety in case plan and case review system requirements.
Sec. 104. Multidisciplinary/multiagency child death review teams.

TITLE II—ENHANCING PUBLIC AGENCY AND COMMUNITY ACCOUNTABILITY FOR THE HEALTH AND SAFETY OF CHILDREN

Sec. 201. Knowledge development and collaboration to prevent and treat substance abuse problems among families known to child protective service agencies.
Sec. 202. Priority in providing substance abuse treatment.
Sec. 203. Foster care payments for children with parents in residential facilities.
Sec. 204. Reimbursement for staff training.
Sec. 205. Criminal records checks for prospective foster and adoptive parents and group care staff.
Sec. 206. Development of State guidelines to ensure safe, quality care to children in out-of-home placements.

TITLE III—INCENTIVES FOR PROVIDING PERMANENT FAMILIES FOR CHILDREN

Sec. 301. Reasonable efforts for adoption or location of a permanent home.
Sec. 302. Permanency planning hearings.
Sec. 303. Promotion of adoption of children with special needs.
Sec. 304. One-year reimbursement for reunification services.
Sec. 305. Adoptions across State and county jurisdictions.

TITLE IV—PROMOTION OF INNOVATION IN ENSURING SAFE AND PERMANENT FAMILIES

Sec. 401. Innovation grants to reduce backlogs of children awaiting adoption and for other purposes.
Sec. 402. Expansion of child welfare demonstration projects.

TITLE V—MISCELLANEOUS

Sec. 501. Effective date.

## TITLE I—REQUIRING CONSIDERATION OF THE HEALTH AND SAFETY OF A CHILD IN FOSTER CARE AND ADOPTION PLACEMENTS

### SEC. 101. IMPROVING FOSTER CARE PROTECTION REQUIREMENTS.

(a) IN GENERAL.—Paragraph (9)(B) of section 422(b) of the Social Security Act (42 U.S.C. 622(b)), as added by section 202(a)(3) of the Social Security Act Amendments of 1994 (Public Law 103–432; 108 Stat. 4453), is amended—

(1) in clause (iii)(I), by inserting "safe and" after "where"; and

(2) in clause (iv), by inserting "safely" after "remain".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—Title IV of the Social Security Act (42 U.S.C. 620–635) is amended—

(1) in section 422(b)—

(A) by striking the period at the end of paragraph (9) (as added by section 554(3) of the Improving America's Schools Act of 1994 (Public Law 103–382; 108 Stat. 4057)) and inserting a semicolon;

(B) by redesignating paragraph (10) as paragraph (11); and

(C) by redesignating paragraph (9), as added by section 202(a)(3) of the Social Security Act Amendments of 1994 (Public Law 103–432, 108 Stat. 4453), as paragraph (10); and

(2) in sections 424(b), 425(a), and 472(d), by striking "422(b)(9)" each place it appears and inserting "422(b)(10)".

### SEC. 102. CLARIFYING STATE PLAN REQUIREMENTS.

(a) IN GENERAL.—Section 471 of the Social Security Act (42 U.S.C. 671) is amended—

(1) in subsection (a), by striking paragraph (15) and inserting the following:

"(15) provides that, in each case—

"(A) in determining reasonable efforts, as described in this section, the child's health and safety shall be the paramount concern; and

"(B) reasonable efforts will be made—

"(i) prior to the placement of a child in foster care, to prevent or eliminate the need for removing the child from the child's home when the child can be cared for at home without endangering the child's health or safety; and

"(ii) to make it possible for the child to return to the child's home, except—

"(I) if the State through legislation has specified the cases in which the State is not required to make efforts at reunification because of circumstances that endanger the child's health or safety, which shall include cases such as those described in subsection (c); or

"(II) if a court determines that returning the child to the child's home, would endanger the child's health or safety;"; and

(2) by adding at the end the following:

"(c) For purposes of subsection (a)(15)(B)(ii)(I), the cases described in this subsection are as follows:

"(1) A case involving a child with a parent who has been found by a court of competent jurisdiction—

"(A) to have committed murder (as defined in section 1111(a) of title 18, United States Code) of another child of such parent;

"(B) to have committed voluntary manslaughter (as defined in section 1112(a) of title 18, United States Code) of another child of such parent;

"(C) to have aided or abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of another child of such parent;

"(D) to have committed a felony assault that results in serious bodily injury to the child or to another child of such parent; or

"(E) to have abandoned, tortured, chronically abused, or sexually abused the child.".

(b) STATE LEGISLATION REQUIRED.—Section 471 of the Social Security Act (42 U.S.C. 671), as amended by subsection (a), is amended by adding at the end the following:

"(d) Not later than October 3, 1999, a State, in order to be eligible for payments under this part, shall have and enforce State laws that specify—

"(1) the cases, such as those described in subsection (c), in which the State is not required to make efforts at reunification of the child with the child's parent; and

"(2) the cases, such as those described in subsection (c), in which there are grounds for expedited termination of parental rights without efforts first being required to reunify the child with the child's parent because of the circumstances that endanger the child's health or safety."

(c) REDESIGNATION OF PARAGRAPH.—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)) is amended—

(1) by striking "and" at the end of paragraph (17);

(2) by striking the period at the end of paragraph (18) (as added by section 1808(a) of the Small Business Job Protection Act of 1996 (Public Law 104–188; 110 Stat. 1903)) and inserting "; and"; and

(3) by redesignating paragraph (18) (as added by section 505(3) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2278)) as paragraph (19).

### SEC. 103. INCLUDING SAFETY IN CASE PLAN AND CASE REVIEW SYSTEM REQUIREMENTS.

Section 475 of the Social Security Act is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting "safety and" after "discussion of the"; and

(B) in subparagraph (B)—

(i) by inserting "safe and" after "child receives"; and

(ii) by inserting "safe" after "return of the child to his own"; and

(2) in paragraph (5)—

(A) in subparagraph (A), in the matter preceding clause (i), by inserting "a safe setting that is" after "placement in"; and

(B) in subparagraph (B)—

(i) by inserting "the safety of the child," after "determine"; and

(ii) by inserting "and safely maintained in" after "returned to".

### SEC. 104. MULTIDISCIPLINARY/MULTIAGENCY CHILD DEATH REVIEW TEAMS.

(a) STATE CHILD DEATH REVIEW TEAMS.—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by section 102(b), is amended by adding at the end the following:

"(e)(1) Not later than 5 years after the date of enactment of the Safe Adoptions and Family Environments Act, a State, in order to be eligible for payments under this part, shall submit to the Secretary a certification that the State has established and is maintaining, a State child death review team, and if necessary in order to cover all counties in the State, child death review teams on the regional or local level, that shall review child deaths, including deaths in which—

"(A) there has been a prior report of child abuse or neglect or there is reason to suspect that the child death was caused by, or related to, child abuse or neglect;

"(B) the child who died was a ward of the State or was otherwise known to the State or local child welfare agency;

"(C) the child death was a suicide; or

"(D) the cause of the child death was otherwise unexplained or unexpected.

"(2) A child death review team established in accordance with this subsection should have a membership that, as defined by the Secretary, will present a range of viewpoints that are independent from any specific agency, and shall include representatives from, at a minimum, specific fields of expertise, such as law enforcement, health, mental health, and substance abuse, and from the community.

"(3) A State child death review team shall—

"(A) provide support to a regional or local child death review team;

"(B) make public an annual summary of case findings;

"(C) provide recommendations for systemwide improvements in services to prevent fatal abuse and neglect; and

"(D) if the State child death review team covers all counties in the State on its own, carry out the duties of a regional or local child death review team described in paragraph (4).

"(4) A regional or local child death review team shall—

"(A) conduct individual case reviews;

"(B) assist with regional or local management of child death cases; and

"(C) suggest followup procedures and systems improvements.".

(b) FEDERAL CHILD DEATH REVIEW TEAM.—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by subsection (a), is amended by adding at the end the following:

"(f)(1) The Secretary shall establish a Federal child death review team that shall consist of at least the following:

"(A) Representatives of the following Federal agencies who have expertise in the prevention or treatment of child abuse and neglect:

"(i) Department of Health and Human Services.

"(ii) Department of Justice.

"(iii) Bureau of Indian Affairs.

"(iv) Department of Defense.

"(v) Bureau of the Census.

"(B) Representatives of national child-serving organizations who have expertise in the prevention or treatment of child abuse and neglect and that, at a minimum, represent the health, child welfare, social services, and law enforcement fields.

"(2) The Federal child death review team established under this subsection shall—

"(A) review reports of child deaths on military installations and other Federal lands, and coordinate with Indian tribal organizations in the review of child deaths on Indian reservations;

"(B) conduct ongoing reviews of the status of State child death review teams and regional or local child death review teams, and of the management of interstate child death cases;

"(C) provide guidance and technical assistance to States and localities seeking to initiate or improve child death review teams and to prevent child fatalities;

"(D) review and analyze relevant aggregate data from State child death review teams and from regional or local child death review teams, in order to identify and track national trends in child fatalities; and

"(E) develop recommendations on related policy and procedural issues for Congress, relevant Federal agencies, and States and localities for the purpose of preventing child fatalities.".

## TITLE II—ENHANCING PUBLIC AGENCY AND COMMUNITY ACCOUNTABILITY FOR THE HEALTH AND SAFETY OF CHILDREN

### SEC. 201. KNOWLEDGE DEVELOPMENT AND COLLABORATION TO PREVENT AND TREAT SUBSTANCE ABUSE PROBLEMS AMONG FAMILIES KNOWN TO CHILD PROTECTIVE SERVICE AGENCIES.

(a) SOURCES OF FEDERAL SUPPORT FOR SUBSTANCE ABUSE PREVENTION AND TREATMENT FOR PARENTS AND CHILDREN.—Not later than 12 months after the date of enactment of this Act, the Secretary of Health and Human Services, acting through the Administrator of the Administration for Children, Youth and Families, and the Director of the Center for Substance Abuse Prevention and the Director of the Center for Substance Abuse Treatment, shall prepare and provide to State child welfare agencies and substance abuse prevention and treatment agencies an inventory of all Federal programs that may provide funds for substance abuse prevention and treatment services for families receiving services directly or through grants or contracts from public child welfare agencies. An inventory prepared under this subsection shall include with respect to each Federal program listed, the amount of Federal funds that are available for that program and the relevant eligibility requirements. The Secretary shall biennially update the inventory required under this subsection.

(b) COLLABORATION BETWEEN FEDERALLY SUPPORTED SUBSTANCE ABUSE AND CHILD PROTECTION AGENCIES.—

(1) SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT.—Section 1932(a) of the Public Health Service Act (42 U.S.C. 300x-32(a)) is amended—

(A) in paragraph (6)(B), by striking "and" at the end;

(B) by redesignating paragraph (7) as paragraph (8); and

(C) by inserting after paragraph (6) the following:

"(7) the application contains an assurance that the State will collect information and prepare the report required under section 201(b)(3) of the Safe Adoptions and Family Environments Act; and".

(2) SOCIAL SECURITY ACT.—Title IV of the Social Security Act is amended—

(A) in section 422(b), as amended by section 101(b) of this Act—

(i) in paragraph (10), by striking "and" at the end;

(ii) in paragraph (11), by striking the period and inserting "; and"; and

(iii) by adding at the end the following:

"(12) provide that the State shall collect information and prepare the report required under section 201(b)(3) of the Safe Adoptions and Family Environments Act."; and

(B) in section 432(a)—

(i) in paragraph (7)(B), by striking "and" at the end;

(ii) in paragraph (8), by striking the period and inserting "; and"; and

(iii) by adding at the end the following:

"(9) provides that the State shall collect information and prepare the report required under section 201(b)(3) of the Safe Adoptions and Family Environments Act.".

(3) REPORT ON JOINT ACTIVITIES.—

(A) IN GENERAL.—In order to be eligible to receive a grant under subpart 2 of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x-21 et seq.) and under subparts 1 and 2 of part B of title IV of the Social Security Act (42 U.S.C. 620 et seq.), the State substance abuse prevention and treatment agency responsible for administering a grant under subpart 2 of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x-21 et seq.), and the State child welfare agency responsible for administering the State plans under subparts 1 and 2 of part B of title IV of the Social Security Act (42 U.S.C. 620 et seq.) shall, not later than 12 months after the date of enactment of this Act, jointly prepare a report containing the information described in subparagraph (B) on the joint prevention and treatment activities conducted by such agencies, and shall submit the report to the Secretary of Health and Human Services who shall forward such report to the Administrator of the Administration for Children, Youth and Families, the Director of the Center for Substance Abuse Prevention, and the Director of the Center for Substance Abuse Treatment.

(B) REQUIRED INFORMATION.—The information described in this subparagraph shall, to the maximum extent practicable, include—

(i) a description of the characteristics of the parents of children, including the aggregate numbers, who are reported to State or local child welfare agencies because of allegations of child abuse or neglect and have substance abuse treatment needs, and the nature of those needs;

(ii) a description of the characteristics of the children of parents who are receiving substance abuse treatment from services administered by the State substance abuse prevention and treatment and medicaid agencies, including the aggregate number and whether they are in their parents' custody;

(iii) a description of the barriers that prevent the substance abuse treatment needs of clients of child welfare agencies from being treated appropriately;

(iv) a description of the manner in which the State child welfare and substance abuse prevention and treatment agencies are collaborating—

(I) to assess the substance abuse treatment needs of families who are known to child welfare agencies;

(II) to remove barriers that prevent the State from meeting the needs of families with substance abuse problems;

(III) to expand substance abuse prevention, including early intervention, and treatment for children and parents who are known to child welfare agencies; and

(IV) to provide for the joint funding of substance abuse treatment and prevention activities, the joint training of staff, and the joint consultations between staff of the 2 State agencies;

(v) a description of the information available on the treatment and cost-effectiveness of, and the annual expenditures for, substance abuse treatment services provided to families who are known to child welfare agencies;

(vi) available data on the number of parents and children served by both the State child welfare and the substance abuse prevention and treatment agencies and the number of the parents ordered by a court to seek such services; and

(vii) any other information determined appropriate by the Secretary of Health and Human Services.

(c) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services, acting through the Administrator of the Administration for Children, Youth and Families, the Director of the Center for Substance Abuse Prevention, and the Director of the Center for Substance Abuse Treatment, shall, using the information reported to the Secretary jointly by State child welfare and substance abuse prevention and treatment agencies, prepare and submit to the appropriate committees of Congress a report containing—

(1) a description of the extent to which clients of child welfare agencies have substance abuse treatment needs, the nature of those needs, and the extent to which those needs are being met;

(2) a description of the barriers that prevent the substance abuse treatment needs of clients of child welfare agencies from being treated appropriately;

(3) a description of the collaborative activities of State child welfare and substance abuse prevention and treatment agencies to jointly assess clients' needs, fund substance abuse prevention and treatment, train and consult with staff, and evaluate the effectiveness of programs serving clients in both agencies' caseloads;

(4) a summary of the available data on the treatment and cost-effectiveness of substance abuse treatment services for clients of child welfare agencies; and

(5) recommendations, including recommendations for Federal legislation, for addressing the needs and barriers, as described in paragraphs (1) and (2), and for promoting further collaboration of the State child welfare and substance abuse prevention and treatment agencies in meeting the substance abuse treatment needs of families.

### SEC. 202. PRIORITY IN PROVIDING SUBSTANCE ABUSE TREATMENT.

Section 1927 of the Public Health Service Act (42 U.S.C. 300x-27) is amended—

(1) in the heading, by inserting "**and caretaker parents**" after "**women**"; and

(2) in subsection (a)—

(A) in paragraph (1)—

(i) by inserting "and all caretaker parents who are referred for treatment by the State or local child welfare agency" after "referred for"; and

(ii) by striking "is given" and inserting "are given"; and

(B) in paragraph (2)—

(i) by striking "such women" and inserting "such pregnant women and caretaker parents"; and

(ii) by striking "the women" and inserting "the pregnant women and caretaker parents".

### SEC. 203. FOSTER CARE PAYMENTS FOR CHILDREN WITH PARENTS IN RESIDENTIAL FACILITIES.

Section 472(b) of the Social Security Act (42 U.S.C. 672(b)) is amended—

(1) in paragraph (1), by striking "or" at the end;

(2) in paragraph (2), by striking the period and inserting ", or"; and

(3) by adding at the end the following:

"(3) placed with the child's parent in a residential program that provides treatment and other necessary services for parents and children, including parenting services, when—

"(A) the parent is attempting to overcome—

"(i) a substance abuse problem and is complying with an approved treatment plan;

"(ii) being a victim of domestic violence;

"(iii) homelessness; or

"(iv) special needs resulting from being a teenage parent;

"(B) the safety of the child can be assured;

"(C) the range of services provided by the program is designed to appropriately address the needs of the parent and child;

"(D) the goal of the case plan for the child is to try to reunify the child with the family within a specified period of time; and

"(E) the parent described in subparagraph (A)(i) has not previously been treated in a residential program serving parents and their children together.".

**SEC. 204. REIMBURSEMENT FOR STAFF TRAINING.**

(a) TRAINING OF PERSONNEL.—Section 474(a) of the Social Security Act (42 U.S.C. 674(a)) is amended—

(1) in paragraph (3)(A)—

(A) by striking "75" and inserting "subject to subsection (e), 75";

(B) by inserting ", and training directed at staff maintenance and retention" after "enrolled in such institutions"; and

(C) by striking "of personnel" and all that follows and inserting the following: "of—

"(i) personnel employed or preparing for employment by the State agency or by the local agency administering the State plan in the political subdivision; and

"(ii) personnel employed by courts and State or local law enforcement agencies, and by State, local, or private nonprofit substance abuse prevention and treatment agencies, mental health providers, domestic violence prevention and treatment agencies, health agencies, child care agencies, schools, and child welfare, family service, and community service agencies that are collaborating with the State or local agency administering the State plan in the political subdivision to keep children safe, support families, and provide permanent families for children, including adoptive families;";

(2) in paragraph (3)(B), by striking "75" and inserting "subject to subsection (e), 75"; and

(3) by adding at the end, the following flush sentence:

"Amounts under subparagraphs (A) and (B) of paragraph (3) shall be paid without regard to the primary provider of the training, and shall be determined without regard to the proportion of children on whose behalf foster care maintenance payments or adoption assistance payments are being made under the State plan under this part.".

(b) REQUIREMENTS FOR RECEIPT OF TRAINING FUNDS.—Section 474 of the Social Security Act (42 U.S.C. 674) is amended by adding at the end the following:

"(e) REQUIREMENTS FOR REIMBURSEMENT OF TRAINING EXPENDITURES.—

"(1) CROSS-AGENCY TRAINING EXPENDITURES.—

"(A) GUIDELINES FOR QUALIFIED EXPENDITURES.—The Secretary shall issue guidelines describing the types of training expenditures that shall qualify for reimbursement under subsection (a)(3)(A)(ii). The guidelines issued under the authority of this subparagraph shall emphasize reimbursement of training expenditures to treat and prevent child abuse and neglect, keep children safe, support families, and provide permanent families for children, including adoptive families.

"(B) DOCUMENTATION.—A State may not receive reimbursement for training expenditures incurred under subsection (a)(3)(A)(ii) unless the State submits to the Secretary, in such form and manner as the Secretary may specify, documentation evidencing that the expenditures conform with the guidelines issued under subparagraph (A).

"(2) MAINTENANCE OF EFFORT.—With respect to a fiscal year, a State may not receive funds under subparagraph (A) or (B) of subsection (a)(3) if the total State expenditures for the previous fiscal year for training under such subparagraphs are less than the total State expenditures under such subparagraphs for fiscal year 1996.".

**SEC. 205. CRIMINAL RECORDS CHECKS FOR PROSPECTIVE FOSTER AND ADOPTIVE PARENTS AND GROUP CARE STAFF.**

Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by section 102(c), is amended—

(1) in paragraph (18), by striking "and" at the end;

(2) in paragraph (19), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(20) provides procedures for criminal records checks and checks of a State's child abuse registry for any prospective foster parent or adoptive parent, and any employee of a child-care institution before the foster parent or adoptive parent, or the child-care institution may be finally approved for placement of a child on whose behalf foster care maintenance payments or adoption assistance payments are to be made under the State plan under this part, including procedures requiring that—

"(A) in any case in which a criminal record check reveals a criminal conviction for child abuse or neglect, or spousal abuse, a criminal conviction for crimes against children, or a criminal conviction for a crime involving violence, including rape, sexual or other assault, or homicide, approval shall not be granted; and

"(B) in any case in which a criminal record check reveals a criminal conviction for a felony or misdemeanor not involving violence, or a check of any State child abuse registry indicates that a substantiated report of abuse or neglect exists, final approval may be granted only after consideration of the nature of the offense or incident, the length of time that has elapsed since the commission of the offense or the occurrence of the incident, the individual's life experiences during the period since the commission of the offense or the occurrence of the incident, and any risk to the child.".

**SEC. 206. DEVELOPMENT OF STATE GUIDELINES TO ENSURE SAFE, QUALITY CARE TO CHILDREN IN OUT-OF-HOME PLACEMENTS.**

Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by section 205, is amended—

(1) in paragraph (19), by striking "and" at the end;

(2) in paragraph (20), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(21) provides that the State shall—

"(A) develop and implement State guidelines to ensure safe, quality care for children residing in out-of-home care settings, such as guidelines issued by a nationally recognized accrediting body, including the Council on Accreditation for Services for Families and Children and the Joint Commission on the Accreditation of Health Care Organizations;

"(B) assist public provider agencies and private provider agencies that contract and subcontract with the State to meet over a time period determined by the State the quality guidelines established under subparagraph (A);

"(C) clearly articulate the guidelines against which an agency's performance will be judged and the conditions under which the guidelines established under subparagraph (A) will be applied;

"(D) regularly monitor progress made by the public and private agencies located in the State in meeting the guidelines established under subparagraph (A); and

"(E) judge agency compliance with the guidelines established under subparagraph (A) through measuring improvement in child and family outcomes, and through such other measures as the State may determine appropriate to judge such compliance.".

## TITLE III—INCENTIVES FOR PROVIDING PERMANENT FAMILIES FOR CHILDREN

**SEC. 301. REASONABLE EFFORTS FOR ADOPTION OR LOCATION OF A PERMANENT HOME.**

(a) STATE PLAN.—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by section 206, is amended—

(1) in paragraph (20), by striking "and" at the end;

(2) in paragraph (21), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(22) provides that, in any case in which the State's goal for the child is adoption or placement in another permanent home, reasonable efforts will be made to place the child in a timely manner with an adoptive family, legal guardian, or in another planned permanent living arrangement and to complete whatever steps are necessary to finalize the adoption or legal guardianship.".

(b) CASE PLAN AND CASE REVIEW SYSTEM.—Section 475 of the Social Security Act (42 U.S.C. 675) is amended—

(1) in paragraph (1)—

(A) in the last sentence—

(i) by striking "the case plan must also include"; and

(ii) by redesignating such sentence as subparagraph (D) and indenting appropriately; and

(B) by adding at the end, the following:

"(E) In the case of a child with respect to whom the State's goal is adoption or placement in another permanent home, documentation of the steps taken by the agency to find an adoptive family or other permanent living arrangement for the child, to place the child with an adoptive family, legal guardian, or in another planned permanent living arrangement, and to finalize the adoption or legal guardianship. At a minimum, such documentation shall include child specific recruitment efforts such as the use of State, regional, and national adoption exchanges including electronic exchange systems."; and

(2) in paragraph (5)(B), by inserting "(including the requirement specified in paragraph (1)(E))" after "case plan".

**SEC. 302. PERMANENCY PLANNING HEARINGS.**

Section 475(5)(C) of the Social Security Act (42 U.S.C. 675(5)(C)) is amended—

(1) by striking "dispositional" and inserting "permanency planning";

(2) by striking "no later than" and all that follows through "12 months" and inserting "not later than 12 months after the original placement (and not less frequently than every 6 months"; and

(3) by striking "future status of" and all that follows through "long term basis)" and inserting "permanency plans for the child (including whether and, if applicable, when, the child will be returned to the parent, referred for termination of parental rights, placed for adoption, or referred for legal guardianship, or other planned permanent living arrangement)".

**SEC. 303. PROMOTION OF ADOPTION OF CHILDREN WITH SPECIAL NEEDS.**

(a) IN GENERAL.—Section 473(a) of the Social Security Act (42 U.S.C. 673(a)) is amended by striking paragraph (2) and inserting the following:

"(2)(A) For purposes of paragraph (1)(B)(ii), a child meets the requirements of this paragraph if such child—

"(i) prior to termination of parental rights and the initiation of adoption proceedings

was in the care of a public or licensed nonprofit private child care agency or Indian tribal organization either pursuant to a voluntary placement agreement (provided the child was in care for not more than 180 days) or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare of such child, or was residing in a foster family home or child care institution with the child's minor parent (either pursuant to such a voluntary placement agreement or as a result of such a judicial determination); and

"(ii) has been determined by the State pursuant to subsection (c) to be a child with special needs.

"(B) Notwithstanding any other provision of law, and except as provided in paragraph (7), a child who is not a citizen or resident of the United States and who meets the requirements of subparagraph (A) and is otherwise determined to be eligible for the receipt of adoption assistance payments, shall be eligible for adoption assistance payments under this part.

"(C) A child who meets the requirements of subparagraph (A) and who is otherwise determined to be eligible for the receipt of adoption assistance payments shall continue to be eligible for such payments in the event that the child's adoptive parent dies or the child's adoption is dissolved, and the child is placed with another family for adoption.".

(b) EXCEPTION.—Section 473(a) of the Social Security Act (42 U.S.C. 673(a)) is amended by adding at the end the following:

"(7)(A) Notwithstanding any other provision of this subsection, no payment may be made to parents with respect to any child that—

"(i) would be considered a child with special needs under subsection (c);

"(ii) is not a citizen or resident of the United States; and

"(iii) the parents adopted outside of the United States or the parents brought into the United States for the purpose of adopting such child.

"(B) Subparagraph (A) shall not be construed as prohibiting payments under this part for a child described in subparagraph (A) that is placed in foster care subsequent to the failure, as determined by the State, of the initial adoption of such child by the parents described in such subparagraph.".

**SEC. 304. ONE-YEAR REIMBURSEMENT FOR REUNIFICATION SERVICES.**

Section 475(4) of the Social Security Act (42 U.S.C. 675(4)) is amended by adding at the end the following:

"(C)(i) In the case of a child that is removed from the child's home and placed in a foster family home or a child care institution, the foster care maintenance payments made with respect to such child may include payments to the State for reimbursement of expenditures for reunification services, but only during the 1-year period that begins on the date that the child is removed from the child's home.

"(ii) For purposes of clause (i), the term 'reunification services' includes services and activities provided to a child described in clause (i) and the parents or primary caregiver of such a child, in order to facilitate the reunification of the child safely and appropriately within a timely fashion, and may only include individual, group, and family counseling, inpatient, residential, or outpatient substance abuse treatment services, mental health services, assistance to address domestic violence, and transportation to or from such services.".

**SEC. 305. ADOPTIONS ACROSS STATE AND COUNTY JURISDICTIONS.**

(a) STUDY OF INTERJURISDICTIONAL ADOPTION ISSUES.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall appoint an advisory panel that shall—

(1) study and consider how to improve procedures and policies to facilitate the timely and permanent adoptions of children across State and county jurisdictions;

(2) examine, at a minimum, interjurisdictional adoption issues—

(A) concerning the recruitment of prospective adoptive families from other States and counties;

(B) concerning the procedures to grant reciprocity to prospective adoptive family home studies from other States and counties;

(C) arising from a review of the comity and full faith and credit provided to adoption decrees and termination of parental rights orders from other States; and

(D) concerning the procedures related to the administration and implementation of the Interstate Compact on the Placement of Children; and

(3) not later than 12 months after the final appointment to the advisory panel, submit to the Secretary the report described in subsection (c).

(b) COMPOSITION OF ADVISORY PANEL.—The advisory panel required under subsection (a) shall, at a minimum, be comprised of representatives of the following:

(1) Adoptive parent organizations.

(2) Public and private child welfare agencies that place children for adoption.

(3) Family court judges' organizations.

(4) Adoption attorneys.

(5) The Association of the Administrators of the Interstate Compact on the Placement of Children and the Association of the Administrators of the Interstate Compact on Adoption and Medical Assistance.

(6) Any other organizations that advocate for adopted children or children awaiting adoption.

(c) CONTENTS OF REPORT.—The report required under subsection (a)(3) shall include the results of the study conducted under paragraphs (1) and (2) of subsection (a) and recommendations on how to improve procedures to facilitate the interjurisdictional adoption of children, including interstate and intercounty adoptions, so that children will be assured timely and permanent placements.

(d) CONGRESS.—The Secretary shall submit a copy of the report required under subsection (a)(3) to the appropriate committees of Congress, and, if relevant, make recommendations for proposed legislation.

## TITLE IV—PROMOTION OF INNOVATION IN ENSURING SAFE AND PERMANENT FAMILIES

**SEC. 401. INNOVATION GRANTS TO REDUCE BACKLOGS OF CHILDREN AWAITING ADOPTION AND FOR OTHER PURPOSES.**

(a) IN GENERAL.—Section 474(a) of the Social Security Act (42 U.S.C. 674) is amended—

(1) in paragraph (4), by striking the period and inserting "; plus"; and

(2) by inserting after paragraph (4), the following:

"(5) an amount equal to the State's innovation grant award, if an award for the State has been approved by the Secretary pursuant to section 478.".

(b) INNOVATION GRANTS.—Part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.) is amended by inserting after section 477, the following:

**"SEC. 478. INNOVATION GRANTS.**

"(a) PAYMENTS.—

"(1) IN GENERAL.—A State that has an application described in paragraph (3) approved by the Secretary, shall be entitled to receive payments, in an amount determined by the Secretary, under section 474(a)(5) for not more than 5 years for the purpose of carrying out the innovation projects described in paragraph (2).

"(2) INNOVATION PROJECTS DESCRIBED.—The innovation projects described in this paragraph are projects that are designed to achieve 1 or more of the following goals:

"(A) Reducing a backlog of children in long-term foster care or awaiting adoption placement.

"(B) Ensuring, not later than 1 year after a child enters foster care, a permanent placement for the child.

"(C) Identifying and addressing barriers that result in delays to permanent placements for children in foster care, including inadequate representation of child welfare agencies in termination of parental rights and adoption proceedings, and other barriers to termination of parental rights.

"(D) Implementing or expanding community-based permanency initiatives, particularly in communities where families reflect the ethnic and racial diversity of children in the State for whom foster and adoptive homes are needed.

"(E) Developing and implementing community-based child protection activities that involve partnerships among State and local governments, multiple child-serving agencies, the schools, and community leaders in an attempt to keep children free from abuse and neglect.

"(F) Establishing new partnerships with businesses and religious organizations to promote safety and permanence for children.

"(G) Assisting in the development and implementation of the State guidelines described in section 471(a)(21).

"(H) Developing new staffing approaches to allow the resources of several States to be used to conduct recruitment, placement, adoption, and post-adoption services on a regional basis.

"(I) Any other goal that the Secretary specifies by regulation.

"(3) APPLICATION.—

"(A) IN GENERAL.—An application for a grant under this section may be submitted for fiscal year 1998 or 1999 and shall contain—

"(i) a plan, in such form and manner as the Secretary may prescribe, for an innovation project described in paragraph (2) that will be implemented by the State for a period of not more than 5 consecutive fiscal years, beginning with fiscal year 1998 or 1999, as applicable;

"(ii) an assurance that no waivers from provisions in law, as in effect at the time of the submission of the application, are required to implement the innovation project; and

"(iii) such other information as the Secretary may require by regulation.

"(4) DURATION.—An innovation project approved under this section shall be conducted for not more than 5 consecutive fiscal years, except that the Secretary may terminate a project before the end of the period originally approved if the Secretary determines that the State conducting the project is not in compliance with the terms of the plan and application approved by the Secretary under this section.

"(5) AMOUNTS.—With respect to a fiscal year, the Secretary shall award State grants under this section, in an aggregate amount

not to exceed $50,000,000 for that fiscal year. A State shall not receive a grant under this section unless, for each year for which a grant is awarded, the State agrees to match the grant with $1 for every $3 received.

"(6) NONSUPPLANTING.—Any amounts payable to a State under paragraph (5) of section 474(a) shall be in addition to the amounts payable under paragraphs (1), (2), (3), and (4) of that section, and shall supplement but not replace any other funds that may be available for the same purpose in the localities involved.

"(7) EVALUATIONS AND REPORTS.—

"(A) STATE EVALUATIONS.—Each State administering an innovation project under this section shall—

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

"(ii) submit to the Secretary such reports, at such times, in such format, and containing such information as the Secretary may require.

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

"(8) REGULATIONS.—Not later than 60 days after the date of enactment of this section, the Secretary shall promulgate final regulations for implementing this section.".

**SEC. 402. EXPANSION OF CHILD WELFARE DEMONSTRATION PROJECTS.**

Section 1130(a) of the Social Security Act (42 U.S.C. 1320a–9(a)) is amended by striking "10" and inserting "15".

**TITLE V—MISCELLANEOUS**

**SEC. 501. EFFECTIVE DATE.**

This Act and the amendments made by this Act take effect on October 1, 1997.

Mr. ROCKEFELLER. Mr. President, children who are at risk of abuse and neglect are among the most vulnerable group in our society, and we have a compelling obligation to do a better job in protecting such children. I am proud to join Senator CHAFEE and others in a bipartisan effort to improve our federal child welfare programs.

Almost a decade ago, I had the opportunity and privilege to serve as the Chairman of the bipartisan National Commission on Children. Our diverse group spent several years traveling the country to meet with families, officials and advocates to delve into the needs of children and families. We issued a unanimous report in 1991 with a comprehensive strategy to help children and strengthen families. One of the chapters of our report was directed toward helping children at risk of abuse and neglect. Since the Children's Commission, I have been working to convert our bipartisan recommendations into policy and programs.

The Children's Commission basic recommendations called for a more comprehensive strategy for child protective services. The panel noted the need for a range of services so that children and families could get what was needed on a case-by-case basis. Our report call for intensive family preservation services when appropriate. If children must be removed from their homes, reunification services need to be available to prepare children and parents for a safe return. There should be better training for foster parents and child welfare staff. Adoption can be the best option for some children so adoption procedures should be streamlined.

The SAFE Act—Safe Adoptions and Family Environments—follows through on the Children's Commission recommendations. Our bill stresses that a child's safety and a child's health must be a primary concern by clarifying current law known as "reasonable efforts." It is designed to encourage states to move children into stable, permanent placements quickly. For some children, this will be adoption. For others, appropriate intervention and support services can enable children to return home safely. This bill will direct states to establish a permanency planning hearing for a child in foster care within 12 months, instead of the current 18 months which will cut by one-third the amount of time a child is without a plan for a stable home. Our bill also offers states incentives to reduce the backlog of children waiting for adoption.

I have fought for children and family programs throughout my career, and will continue to do so. Last Congress, I argued strongly that there is a fundamental difference between welfare reform and child welfare and foster care. I opposed a block grant approach to foster care because abused children should not be placed at further risk or face time-limits. Ultimately, I voted for the block grant of welfare reform.

While I opposed attempts to convert child welfare and foster care into a block grant last year, I acknowledged the problems in the system and pledged to work on ways to strengthen and improve programs for abused and neglected children outside the context of welfare reform. Today, we are delivering on that commitment and working in a bipartisan manner to encourage reform.

Reform is desperately needed. Reports indicate that more than 1 million American children suffered some type of abuse and neglect. Over 450,000 children are in foster care in our country. In my home state of West Virginia, referrals to Child Protective Services are expected to increase from 12,500 reports in 1991 to 17,000 this year. Foster care placements in West Virginia has jumped to 3,113 children in January 1997, up from 2,900 children in January 1996.

Clearly, we must work together with the states to address the complicated needs of abused and neglected children.

While our legislation may seem technical in nature, its goals are focused on protecting children and ensuring that every child moves swiftly into a safe, permanent placement where they can grow up healthy and secure. To achieve such basic goals, we need to invest in a range of services—from prevention of abuse, family reunification, and adoptions.

Protecting children and helping families should be a bipartisan, community based effort. We must forge partnerships with states and advocates. This legislation reflects this spirit and commitment.

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By Mr. KENNEDY (for himself, Mr. DODD, Mr. ROBB, Ms. MOSLEY-BRAUN, Mr. LAUTENBERG, Mr. KERRY, Ms. SNOWE, Mrs. MURRAY, Mr. FEINGOLD, Mr. HARKIN, Mr. CHAFEE, Mr. JEFFORDS, Mr. AKAKA, Mr. BINGAMAN, and Mrs. FEINSTEIN):

S.J. Res. 24. A joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men; to the Committee on the Judiciary.

THE EQUAL RIGHTS AMENDMENT

Mr. KENNEDY. Mr. President, it is an honor to introduce the equal rights amendment on behalf of myself and 14 other Senators. Two days before the 25th anniversary of the first congressional approval of the equal rights amendment, we reaffirm our strong commitment to making the ERA part of the Constitution of the United States. We intend to do all we can to see that it becomes part of the Constitution, which is where it belongs.

In a sense, action now is more important than ever. Women have achieved a great deal during the last two decades. But the statutory route has not been as successful as we had hoped. Too many women and girls still face unfair and discriminatory barriers in their education, careers, sports, and other goals. The glass ceiling, the locked door, the sticky floor, the wage gap, and the occupation gap are very real problems.

Women still earn only 76 cents for each dollar earned by men. After a full day's work, no woman should be forced to take home only three-quarters of a pay-check.

The vast majority of women are still clustered in a narrow range of traditionally low-paying occupations. Too many women continue to be victims of sexual harassment.

We must do more, much more, to guarantee fair treatment in the workplace and in all aspects of society. Existing laws against sex discrimination in all its ugly forms can't get the job done. The need for a constitutional guarantee of equal rights for women is compelling.

Susan B. Anthony said it best over a century ago. When the Constitution says, "We the People," it should mean

all the people. Those words speak to us across the years. And in 1997, we intend to see that "all" means "all"—and making ERA part of the Constitution is the right way to do it.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

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

S.J. RES. 24

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein),* That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE—

"SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"SECTION 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"SECTION 3. This amendment shall take effect two years after the date of ratification.".

## ADDITIONAL COSPONSORS

S. 6

At the request of Mr. INHOFE, his name was added as a cosponsor of S. 6, a bill to amend title 18, United States Code, to ban partial-birth abortions.

S. 75

At the request of Mr. KYL, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 75, a bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 127

At the request of Mr. MOYNIHAN, the names of the Senator from Wyoming [Mr. ENZI], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 127, a bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion for employer-provided educational assistance programs, and for other purposes.

S. 146

At the request of Mr. ROCKEFELLER, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 146, a bill to permit medicare beneficiaries to enroll with qualified provider- sponsored organizations under title XVIII of the Social Security Act, and for other purposes.

S. 169

At the request of Mr. CRAIG, the names of the Senator from Mississippi [Mr. COCHRAN], and the Senator from Washington [Mr. GORTON] were added as cosponsors of S. 169, a bill to amend the Immigration and Nationality Act with respect to the admission of temporary H-2A workers.

S. 185

At the request of Mr. HELMS, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 185, a bill to prohibit the provision of Federal funds to any State or local educational agency that denies or prevents participation in constitutional prayer in schools.

S. 197

At the request of Mr. ROTH, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 197, a bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes.

S. 220

At the request of Mr. GRASSLEY, the names of the Senator from Texas [Mrs. HUTCHISON] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 220, a bill to require the United States Trade Representative to determine whether the European Union has failed to implement satisfactorily its obligations under certain trade agreements relating to United States meat and pork exporting facilities, and for other purposes.

S. 286

At the request of Mr. ABRAHAM, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 286, a bill to provide for a reduction in regulatory costs by maintaining Federal average fuel economy standards applicable to automobiles in effect at current levels until changed by law, and for other purposes.

S. 317

At the request of Mr. CRAIG, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 317, a bill to reauthorize and amend the National Geologic Mapping Act of 1992.

S. 356

At the request of Mr. GRAHAM, the names of the Senator from North Dakota [Mr. DORGAN] and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 356, a bill to amend the Internal Revenue Code of 1986, the Public Health Service Act, the Employee Retirement Income Security Act of 1974, the title XVIII and XIX of the Social Security Act to assure access to emergency medical services under group health plans, health insurance coverage, and the medicare and medicaid programs.

S. 358

At the request of Mr. DEWINE, the names of the Senator from South Dakota [Mr. DASCHLE], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Kentucky [Mr. FORD] were added as cosponsors of S. 358, a bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

S. 365

At the request of Mr. COVERDELL, the names of the Senator from Nebraska [Mr. HAGEL] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 365, a bill to amend the Internal Revenue Code of 1986 to provide for increased accountability by Internal Revenue Service agents and other Federal Government officials in tax collection practices and procedures, and for other purposes.

S. 368

At the request of Mr. BOND, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 368, a bill to prohibit the use of Federal funds for human cloning research.

S. 381

At the request of Mr. ROCKEFELLER, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 381, a bill to establish a demonstration project to study and provide coverage of routine patient care costs for medicare beneficiaries with cancer who are enrolled in an approved clinical trail program.

S. 383

At the request of Mr. D'AMATO, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 383, a bill to require the Director of the Federal Emergency Management Agency to provide funds for compensation for expenses incurred by the State of New York, Nassau County and Suffolk County, New York, and New York City, New York, as a result of the crash of flight 800 of Trans World Airlines.

S. 389

At the request of Mr. ABRAHAM, the names of the Senator from Idaho [Mr. CRAIG] and the Senator from Nebraska [Mr. HAGEL] were added as cosponsors of S. 389, a bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes.

S. 413

At the request of Mrs. HUTCHISON, the name of the Senator from Alabama [Mr. SESSIONS] was added as a cosponsor of S. 413, a bill to amend the Food Stamp Act of 1977 to require States to verify that prisoners are not receiving food stamps.

S. 415

At the request of Mr. BAUCUS, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Michigan [Mr. ABRAHAM] were added as cosponsors of S. 415, a bill to amend the medicare program under title XVIII of the Social Security Act to improve rural health services, and for other purposes.

S. 425

At the request of Mr. ROTH, the names of the Senator from Indiana [Mr. LUGAR] and the Senator from Nebraska [Mr. KERREY] were added as cosponsors of S. 425, a bill to provide for

an accurate determination of the cost of living.

S. 460

At the request of Mr. BOND, the names of the Senator from New Hampshire [Mr. GREGG], the Senator from Nebraska [Mr. HAGEL], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 460, a bill to amend the Internal Revenue Code of 1986 to increase the deduction for health insurance costs of self-employed individuals, to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home, to clarify the standards used for determining that certain individuals are not employees, and for other purposes.

S. 479

At the request of Mr. GRASSLEY, the names of the Senator from Washington [Mrs. MURRAY] and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 479, a bill to amend the Internal Revenue Code of 1986 to provide estate tax relief, and for other purposes.

SENATE CONCURRENT RESOLUTION 7

At the request of Mr. SARBANES, the names of the Senator from Iowa [Mr. HARKIN], the Senator from Nevada [Mr. REID], the Senator from Oregon [Mr. WYDEN], the Senator from Arkansas [Mr. HUTCHINSON], and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of Senate Concurrent Resolution 7, a concurrent resolution expressing the sense of Congress that Federal retirement cost-of-living adjustments should not be delayed.

SENATE CONCURRENT RESOLUTION 11

At the request of Mr. GREGG, the names of the Senator from Kentucky [Mr. FORD], the Senator from Washington [Mrs. MURRAY], the Senator from Montana [Mr. BURNS], the Senator from Mississippi [Mr. COCHRAN], the Senator from Georgia [Mr. CLELAND], the Senator from Arkansas [Mr. HUTCHINSON], the Senator from Ohio [Mr. DEWINE], the Senator from Tennessee [Mr. FRIST], and the Senator from Oregon [Mr. SMITH of Oregon] were added as cosponsors of Senate Concurrent Resolution 11, a concurrent resolution recognizing the 25th anniversary of the establishment of the first nutrition program for the elderly under the Older Americans Act of 1965.

SENATE RESOLUTION 63

At the request of Mr. DOMENICI, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from Nebraska [Mr. HAGEL], the Senator from New York [Mr. D'AMATO], the Senator from New Hampshire [Mr. GREGG], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of Senate Resolution 63, a resolution proclaiming the week of October 19 through October 25, 1997, as "National Character Counts Week."

## SENATE CONCURRENT RESOLUTION 14—PROVIDING FOR A CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE AND THE HOUSE OF REPRESENTATIVES

Mr. LOTT submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 14

*Resolved by the Senate (the House of Representatives concurring),* That when the Senate recesses or adjourns at the close of business on Thursday, March 20, 1997, Friday, March 21, 1997, or Saturday, March 22, 1997, pursuant to a motion made by the Majority Leader or his designee in accordance with this resolution, it stand recessed or adjourned until noon on Monday, April 7, 1997, or until such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Thursday, March 20, 1997, Friday, March 21, 1997, or Saturday, March 22, 1997, it stand adjourned until 12:30 p.m. on Tuesday, April 8, 1997, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble whenever, in this opinion, the public interest shall warrant it.

## SENATE CONCURRENT RESOLUTION 15—RELATIVE TO TAIWAN

Mr. TORRICELLI submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 15

Whereas the people of the United States and the people of Taiwan have long enjoyed extensive ties;

Whereas Taiwan, a democracy of 21,000,000 people, is currently the eighth largest trading partner of the United States, and United States exports to Taiwan total more than $18,000,000,000 annually, far exceeding the $12,000,000,000 the United States exports to the People's Republic of China;

Whereas the current administration has committed publicly to support Taiwan's bid to join the world Trade Organization (referred to in this resolution as the "WTO") and has declared that the United States will not oppose that bid solely on the grounds that the People's Republic of China, which also seeks WTO membership, is not yet eligible because of the People's Republic of China's unacceptable trade practices;

Whereas the United States and Taiwan have concluded discussions on virtually all outstanding trade issues necessary for Taiwan to be eligible to join the WTO;

Whereas reversion of control over Hong Kong to Beijing, scheduled to occur on July 1, 1997, will, in most respects afford the People's Republic of China WTO treatment for the bulk of its trade goods, despite the fact that the people's Republic of China's trade practices currently fall far short of qualifying for WTO membership;

Whereas the American people's fundamental sense of fairness warrants support by the United States Government for Taiwan's bid for WTO membership, and

Whereas it is in the economic interests of United States consumers and exporters for Taiwan to accede to the WTO at the earliest possible moment: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That it is the sense of Congress that negotiations between the United States and Taiwan be concluded promptly and that the United States Government publicly support the prompt accession of Taiwan to the WTO.

Mr. TORRICELLI. Mr. President, the months ahead will require a number of important decisions regarding the continuing evolution of U.S. policy in the region of the Taiwan Straits.

Today, I am submitting a concurrent resolution to help clarify long-standing U.S. commitments in this regard.

While the Clinton Administration and Congress attempt to improve relations with the communist authorities in Beijing, it is important for Congress to make clear the depth of the bipartisan commitment to the burgeoning democratic forces on Taiwan. Any improvement in U.S. relations with Taiwan, does not and should not come at the expense of our ties with the people of Taiwan.

The U.S. must renew our past commitments to the people of Taiwan. For example, as a result of the Taiwan Policy Review throughout 1993 and 1994 and the balance of 1994, the Clinton Administration publicly pledged to support Taiwan's membership in appropriate international organizations. In this regard, few are as important as the World Trade Organization.

Taiwan is currently the U.S.'s fifth largest trading partner and U.S. exports to Taiwan total more than $17 billion annually. This sum is almost twice as much as U.S. exports to the P.R.C. Our trade with the People's Republic has produced a crushing $39 billion deficit last year.

The Clinton Administration is publicly committed to supporting Taiwan's bid to join the World Trade Organization. It has already declared that the U.S. will not oppose the bid solely on the grounds that the P.R.C., which is also seeking WTO membership, is not yet eligible because of its unacceptable trade practices.

The U.S. and Taiwan have concluded discussions on virtually all outstanding trade issues necessary for Taiwan's W.T.O. eligibility. All that is left is for the U.S. to make clear that it is prepared to support Taiwan's membership and for Taiwan and the U.S. to work out the few remaining details governing trade in a few specific sectors.

In the weeks ahead, we will be called upon to vote to renew Most Favored Nation Status for China and analyzing China's actions as they take control of

Hong Kong. As we do all of this, we cannot forget about our commitments to the people of Taiwan.

Congress should reaffirm our support for Taiwan's bid to join the W.T.O. and make clear that our decision regarding Taiwan's bid will not be held hostage to U.S. negotiations with Beijing.

Today, I am submitting a Sense of the Congress concurrent resolution which affirms our support for Taiwan's membership in the W.T.O.. I am pleased that a similar concurrent resolution is being submitted with bi-partisan support in the other body.

## SENATE CONCURRENT RESOLUTION 16—SETTING FORTH THE CONGRESSIONAL BUDGET FOR THE UNITED STATES

Mr. DOMENICI submitted the following concurrent resolution; which was referred to the Committee on the Budget:

S. CON. RES. 16

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

**SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1998.**

(a) DECLARATION.—The Congress determines and declares that this resolution is the concurrent resolution on the budget for fiscal year 1998 including the appropriate budgetary levels for fiscal years 1999, 2000, 2001, and 2002 as required by section 301 of the Congressional Budget Act of 1974.

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

Sec. 1. Concurrent Resolution on the Budget for Fiscal Year 1998.
Sec. 2. Recommended levels and amounts.
Sec. 3. Social Security.
Sec. 4. Major functional categories.

**SEC. 2. RECOMMENDED LEVELS AND AMOUNTS.**

The following budgetary levels are appropriate for the fiscal years 1998, 1999, 2000, 2001, and 2002:

(1) FEDERAL REVENUES.—For purposes of the enforcement of this resolution—

(A) The recommended levels of Federal revenues are as follows:

Fiscal year 1998: $1,154,586,000,000.
Fiscal year 1999: $1,207,938,000,000.
Fiscal year 2000: $1,261,752,000,000.
Fiscal year 2001: $1,317,344,000,000.
Fiscal year 2002: $1,378,690,000,000.

(B) The amounts by which the aggregate levels of Federal revenues should be changed are as follows:

Fiscal year 1998: $-10,063,000,000.
Fiscal year 1999: $-4,994,000,000.
Fiscal year 2000: $-5,026,000,000.
Fiscal year 2001: $-9,576,000,000.
Fiscal year 2002: $-9,431,000,000.

(C) The amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1998: $113,467,000,000.
Fiscal year 1999: $119,065,000,000.
Fiscal year 2000: $125,043,000,000.
Fiscal year 2001: $130,653,000,000.
Fiscal year 2002: $136,824,000,000.

(2) NEW BUDGET AUTHORITY.—For purposes of the enforcement of this resolution, the appropriate levels of total new budget authority are as follows:

Fiscal year 1998: $1,409,884,000,000.
Fiscal year 1999: $1,457,185,000,000.
Fiscal year 2000: $1,503,741,000,000.
Fiscal year 2001: $1,541,157,000,000.
Fiscal year 2002: $1,585,080,000,000.

(3) BUDGET OUTLAYS.—For purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:

Fiscal year 1998: $1,382,422,000,000.
Fiscal year 1999: $1,442,854,000,000.
Fiscal year 2000: $1,496,592,000,000.
Fiscal year 2001: $1,515,497,000,000.
Fiscal year 2002: $1,556,974,000,000.

(4) DEFICITS.—For purposes of the enforcement of this resolution, the amounts of the deficits are as follows:

Fiscal year 1998: $-227,971,000,000.
Fiscal year 1999: $-235,126,000,000.
Fiscal year 2000: $-235,064,000,000.
Fiscal year 2001: $-198,305,000,000.
Fiscal year 2002: $-178,284,000,000.

(5) PUBLIC DEBT.—The appropriate levels of the public debt are as follows:

Fiscal year 1998: $5,693,100,000,000.
Fiscal year 1999: $5,990,700,000,000.
Fiscal year 2000: $6,283,200,000,000.
Fiscal year 2001: $6,518,600,000,000.
Fiscal year 2002: $6,678,300,000,000.

(6) DIRECT LOAN OBLIGATIONS.—The appropriate levels of total new direct loan obligations are as follows:

Fiscal year 1998: $33,829,000,000.
Fiscal year 1999: $33,378,000,000.
Fiscal year 2000: $34,775,000,000.
Fiscal year 2001: $36,039,000,000.
Fiscal year 2002: $37,099,000,000.

(7) PRIMARY LOAN GUARANTEE COMMITMENTS.—The appropriate levels of new primary loan guarantee commitments are as follows:

Fiscal year 1998: $315,472,000,000.
Fiscal year 1999: $324,749,000,000.
Fiscal year 2000: $328,124,000,000.
Fiscal year 2001: $332,063,000,000.
Fiscal year 2002: $335,141,000,000.

**SEC. 3. SOCIAL SECURITY.**

(a) SOCIAL SECURITY REVENUES.—For purposes of Senate enforcement under sections 302, 602, and 311 of the Congressional Budget Act of 1974, the amounts of revenues of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 1998: $402,670,000,000.
Fiscal year 1999: $422,112,000,000.
Fiscal year 2000: $442,345,000,000.
Fiscal year 2001: $461,400,000,000.
Fiscal year 2002: $482,825,000,000.

(b) SOCIAL SECURITY OUTLAYS.—For purposes of Senate enforcement under sections 302, 602, and 311 of the Congressional Budget Act of 1974, the amounts of outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 1998: $314,452,000,000.
Fiscal year 1999: $327,149,000,000.
Fiscal year 2000: $340,599,000,000.
Fiscal year 2001: $355,004,000,000.
Fiscal year 2002: $370,379,000,000.

**SEC. 4. MAJOR FUNCTIONAL CATEGORIES.**

The Congress determines and declares that the appropriate levels of new budget authority, budget outlays, new direct loan obligations, and new primary loan guarantee commitments for fiscal years 1998 through 2002 for each major functional category are:

(1) National Defense (050):

Fiscal year 1998:
(A) New budget authority, $265,579,000,000.
(B) Outlays, $264,978,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $588,000,000.

Fiscal year 1999:
(A) New budget authority, $268,974,000,000.
(B) Outlays, $263,014,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $757,000,000.

Fiscal year 2000:
(A) New budget authority, $274,802,000,000.
(B) Outlays, $268,417,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $1,050,000,000.

Fiscal year 2001:
(A) New budget authority, $281,305,000,000.
(B) Outlays, $269,275,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $1,050,000,000.

Fiscal year 2002:
(A) New budget authority, $289,092,000,000.
(B) Outlays, $277,358,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $1,050,000,000.

(2) International Affairs (150):

Fiscal year 1998:
(A) New budget authority, $19,882,000,000.
(B) Outlays, $14,713,000,000.
(C) New direct loan obligations, $1,966,000,000.
(D) New primary loan guarantee commitments, $12,751,000,000.

Fiscal year 1999:
(A) New budget authority, $16,415,000,000.
(B) Outlays, $15,667,000,000.
(C) New direct loan obligations, $2,021,000,000.
(D) New primary loan guarantee commitments, $13,093,000,000.

Fiscal year 2000:
(A) New budget authority, $16,360,000,000.
(B) Outlays, $15,255,000,000.
(C) New direct loan obligations, $2,077,000,000.
(D) New primary loan guarantee commitments, $13,434,000,000.

Fiscal year 2001:
(A) New budget authority, $16,603,000,000.
(B) Outlays, $15,128,000,000.
(C) New direct loan obligations, $2,122,000,000.
(D) New primary loan guarantee commitments, $13,826,000,000.

Fiscal year 2002:
(A) New budget authority, $16,920,000,000.
(B) Outlays, $15,316,000,000.
(C) New direct loan obligations, $2,178,000,000.
(D) New primary loan guarantee commitments, $14,217,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 1998:
(A) New budget authority, $16,477,000,000.
(B) Outlays, $16,997,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:
(A) New budget authority, $16,458,000,000.
(B) Outlays, $16,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:
(A) New budget authority, $16,277,000,000.
(B) Outlays, $16,269,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:
(A) New budget authority, $16,266,000,000.
(B) Outlays, $16,226,000,000.
(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $16,257,000,000.
(B) Outlays, $16,246,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(4) Energy (270):
Fiscal year 1998:
(A) New budget authority, $3,100,000,000.
(B) Outlays, $2,281,000,000.
(C) New direct loan obligations, $1,050,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $3,483,000,000.
(B) Outlays, $2,489,000,000.
(C) New direct loan obligations, $1,078,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $3,275,000,000.
(B) Outlays, $2,372,000,000.
(C) New direct loan obligations, $1,109,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, $3,073,000,000.
(B) Outlays, $2,132,000,000.
(C) New direct loan obligations, $1,141,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $2,268,000,000.
(B) Outlays, $1,250,000,000.
(C) New direct loan obligations, $1,174,000,000.
(D) New primary loan guarantee commitments, $0.
(5) Natural Resources and Environment (300):
Fiscal year 1998:
(A) New budget authority, $23,514,000,000.
(B) Outlays, $22,035,000,000.
(C) New direct loan obligations, $30,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $23,415,000,000.
(B) Outlays, $22,730,000,000.
(C) New direct loan obligations, $32,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $22,860,000,000.
(B) Outlays, $23,111,000,000.
(C) New direct loan obligations, $32,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, $22,733,000,000.
(B) Outlays, $23,113,000,000.
(C) New direct loan obligations, $34,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $22,790,000,000.
(B) Outlays, $22,942,000,000.
(C) New direct loan obligations, $34,000,000.
(D) New primary loan guarantee commitments, $0.
(6) Agriculture (350):
Fiscal year 1998:
(A) New budget authority, $13,235,000,000.
(B) Outlays, $11,899,000,000.
(C) New direct loan obligations, $9,620,000,000.
(D) New primary loan guarantee commitments, $6,365,000,000.
Fiscal year 1999:
(A) New budget authority, $12,847,000,000.
(B) Outlays, $11,347,000,000.
(C) New direct loan obligations, $11,047,000,000.
(D) New primary loan guarantee commitments, $6,436,000,000.
Fiscal year 2000:
(A) New budget authority, $12,231,000,000.
(B) Outlays, $10,722,000,000.
(C) New direct loan obligations, $11,071,000,000.
(D) New primary loan guarantee commitments, $6,509,000,000.
Fiscal year 2001:
(A) New budget authority, $11,069,000,000.
(B) Outlays, $9,555,000,000.
(C) New direct loan obligations, $10,960,000,000.
(D) New primary loan guarantee commitments, $6,583,000,000.
Fiscal year 2002:
(A) New budget authority, $10,805,000,000.
(B) Outlays, $9,213,000,000.
(C) New direct loan obligations, $10,965,000,000.
(D) New primary loan guarantee commitments, $6,660,000,000.
(7) Commerce and Housing Credit (370):
Fiscal year 1998:
(A) New budget authority, $6,720,000,000.
(B) Outlays, $-1,181,000,000.
(C) New direct loan obligations, $4,739,000,000.
(D) New primary loan guarantee commitments, $245,500,000,000. Fiscal year 1999:
(A) New budget authority, $11,095,000,000.
(B) Outlays, $3,946,000,000.
(C) New direct loan obligations, $1,887,000,000.
(D) New primary loan guarantee commitments, $253,450,000,000. Fiscal year 2000:
(A) New budget authority, $15,245,000,000.
(B) Outlays, $9,475,000,000.
(C) New direct loan obligations, $2,238,000,000.
(D) New primary loan guarantee commitments, $255,200,000,000. Fiscal year 2001:
(A) New budget authority, $16,106,000,000.
(B) Outlays, $11,788,000,000.
(C) New direct loan obligations, $2,574,000,000.
(D) New primary loan guarantee commitments, $257,989,000,000. Fiscal year 2002:
(A) New budget authority, $16,723,000,000.
(B) Outlays, $12,218,000,000.
(C) New direct loan obligations, $2,680,000,000.
(D) New primary loan guarantee commitments, $259,897,000,000. (8) Transportation (400): Fiscal year 1998:
(A) New budget authority, $44,180,000,000.
(B) Outlays, $40,178,000,000.
(C) New direct loan obligations, $155,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $42,742,000,000.
(B) Outlays, $38,988,000,000.
(C) New direct loan obligations, $135,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $43,023,000,000.
(B) Outlays, $39,308,000,000.
(C) New direct loan obligations, $15,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, $43,293,000,000.
(B) Outlays, $39,361,000,000.
(C) New direct loan obligations, $15,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $43,537,000,000.
(B) Outlays, $39,522,000,000.
(C) New direct loan obligations, $15,000,000.
(D) New primary loan guarantee commitments, $0.
(9) Community and Regional Development (450):
Fiscal year 1998:
(A) New budget authority, $17,243,000,000.
(B) Outlays, $11,417,000,000.
(C) New direct loan obligations, $2,867,000,000.
(D) New primary loan guarantee commitments, $2,385,000,000.
Fiscal year 1999:
(A) New budget authority, $8,618,000,000.
(B) Outlays, $11,996,000,000.
(C) New direct loan obligations, $2,943,000,000.
(D) New primary loan guarantee commitments, $2,406,000,000.
Fiscal year 2000:
(A) New budget authority, $7,916,000,000.
(B) Outlays, $11,656,000,000.
(C) New direct loan obligations, $3,020,000,000.
(D) New primary loan guarantee commitments, $2,429,000,000.
Fiscal year 2001:
(A) New budget authority, $7,987,000,000.
(B) Outlays, $11,600,000,000.
(C) New direct loan obligations, $3,098,000,000.
(D) New primary loan guarantee commitments, $2,452,000,000.
Fiscal year 2002:
(A) New budget authority, $8,107,000,000.
(B) Outlays, $8,725,000,000.
(C) New direct loan obligations, $3,180,000,000.
(D) New primary loan guarantee commitments, $2,475,000,000.
(10) Education, Training, Employment, and Social Services (500):
Fiscal year 1998:
(A) New budget authority, $64,792,000,000.
(B) Outlays, $57,160,000,000.
(C) New direct loan obligations, $12,328,000,000.
(D) New primary loan guarantee commitments, $20,665,000,000.
Fiscal year 1999:
(A) New budget authority, $62,262,000,000.
(B) Outlays, $61,972,000,000.
(C) New direct loan obligations, $13,092,000,000.
(D) New primary loan guarantee commitments, $21,899,000,000.
Fiscal year 2000:
(A) New budget authority, $63,953,000,000.
(B) Outlays, $63,650,000,000.
(C) New direct loan obligations, $13,926,000,000.
(D) New primary loan guarantee commitments, $23,263,000,000.
Fiscal year 2001:
(A) New budget authority, $64,420,000,000.
(B) Outlays, $64,614,000,000.
(C) New direct loan obligations, $14,701,000,000.
(D) New primary loan guarantee commitments, $24,517,000,000.
Fiscal year 2002:
(A) New budget authority, $65,022,000,000.
(B) Outlays, $63,670,000,000.
(C) New direct loan obligations, $15,426,000,000.
(D) New primary loan guarantee commitments, $25,676,000,000.
(11) Health (550):
Fiscal year 1998:

(A) New budget authority, $139,785,000,000.
(B) Outlays, $139,465,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $85,000,000.
Fiscal year 1999:
(A) New budget authority, $148,562,000,000.
(B) Outlays, $148,369,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $155,428,000,000.
(B) Outlays, $155,184,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, $163,926,000,000.
(B) Outlays, $163,481,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $170,144,000,000.
(B) Outlays, $169,582,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(12) Medicare (570):
Fiscal year 1998:
(A) New budget authority, $205,396,000,000.
(B) Outlays, $205,519,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $218,952,000,000.
(B) Outlays, $218,411,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $230,613,000,000.
(B) Outlays, $234,575,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, $246,404,000,000.
(B) Outlays, $241,555,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $262,822,000,000.
(B) Outlays, $262,029,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(13) Income Security (600):
Fiscal year 1998:
(A) New budget authority, $238,843,000,000.
(B) Outlays, $248,200,000,000.
(C) New direct loan obligations, $45,000,000.
(D) New primary loan guarantee commitments, $37,000,000.
Fiscal year 1999:
(A) New budget authority, $254,368,000,000.
(B) Outlays, $254,867,000,000.
(C) New direct loan obligations, $75,000,000.
(D) New primary loan guarantee commitments, $37,000,000.
Fiscal year 2000:
(A) New budget authority, $270,654,000,000.
(B) Outlays, $271,973,000,000.
(C) New direct loan obligations, $110,000,000.
(D) New primary loan guarantee commitments, $37,000,000.
Fiscal year 2001:
(A) New budget authority, $277,036,000,000.
(B) Outlays, $276,619,000,000.
(C) New direct loan obligations, $145,000,000.
(D) New primary loan guarantee commitments, $37,000,000.
Fiscal year 2002:
(A) New budget authority, $290,634,000,000.
(B) Outlays, $289,068,000,000.
(C) New direct loan obligations, $170,000,000.
(D) New primary loan guarantee commitments, $37,000,000.
(14) Social Security (650):
Fiscal year 1998:
(A) New budget authority, $11,482,000,000.
(B) Outlays, $11,557,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $12,121,000,000.
(B) Outlays, $12,241,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $12,868,000,000.
(B) Outlays, $12,928,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, $13,125,000,000.
(B) Outlays, $13,126,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $14,523,000,000.
(B) Outlays, $14,523,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(15) Veterans Benefits and Services (700):
Fiscal year 1998:
(A) New budget authority, $40,907,000,000.
(B) Outlays, $41,469,000,000.
(C) New direct loan obligations, $1,029,000,000.
(D) New primary loan guarantee commitments, $27,096,000,000.
Fiscal year 1999:
(A) New budget authority, $41,422,000,000.
(B) Outlays, $41,598,000,000.
(C) New direct loan obligations, $1,068,000,000.
(D) New primary loan guarantee commitments, $26,671,000,000.
Fiscal year 2000:
(A) New budget authority, $41,868,000,000.
(B) Outlays, $43,661,000,000.
(C) New direct loan obligations, $1,177,000,000.
(D) New primary loan guarantee commitments, $26,202,000,000.
Fiscal year 2001:
(A) New budget authority, $42,286,000,000.
(B) Outlays, $40,582,000,000.
(C) New direct loan obligations, $1,249,000,000.
(D) New primary loan guarantee commitments, $25,609,000,000.
Fiscal year 2002:
(A) New budget authority, $42,724,000,000.
(B) Outlays, $42,787,000,000.
(C) New direct loan obligations, $1,277,000,000.
(D) New primary loan guarantee commitments, $25,129,000,000.
(16) Administration of Justice (750):
Fiscal year 1998:
(A) New budget authority, $24,765,000,000.
(B) Outlays, $22,609,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $25,511,000,000.
(B) Outlays, $24,728,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $24,673,000,000.
(B) Outlays, $25,641,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, $25,066,000,000.
(B) Outlays, $26,492,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $25,726,000,000.
(B) Outlays, $25,601,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(17) General Government (800):
Fiscal year 1998:
(A) New budget authority, $14,881,000,000.
(B) Outlays, $14,023,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $14,698,000,000.
(B) Outlays, $14,549,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $14,388,000,000.
(B) Outlays, $15,088,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, $14,301,000,000.
(B) Outlays, $14,692,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $14,547,000,000.
(B) Outlays, $14,485,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(18) Net Interest (900):
Fiscal year 1998:
(A) New budget authority, $300,909,000,000.
(B) Outlays, $300,909,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $311,931,000,000.
(B) Outlays, $311,931,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $314,999,000,000.
(B) Outlays, $314,999,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, $316,469,000,000.
(B) Outlays, $316,469,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $320,135,000,000.
(B) Outlays, $320,135,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(19) Allowances (920):
Fiscal year 1998:
(A) New budget authority, $0.
(B) Outlays, $0.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $0.
(B) Outlays, $0.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $0.
(B) Outlays, $0.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, $0.
(B) Outlays, $0.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $0.
(B) Outlays, $0.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(20) Undistributed Offsetting Receipts (950):
Fiscal year 1998:
(A) New budget authority, −$41,806,000,000.
(B) Outlays, −$41,806,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, −$36,689,000,000.
(B) Outlays, −$36,689,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, −$37,692,000,000.
(B) Outlays, −$37,692,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, −$40,311,000,000.
(B) Outlays, −$40,311,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, −$47,696,000,000.
(B) Outlays, −$48,696,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

## SENATE CONCURRENT RESOLUTION 17—SETTING FORTH THE CONGRESSIONAL BUDGET FOR THE UNITED STATES

Mr. DOMENICI submitted the following concurrent resolution; which was referred to the Committee on the Budget:

S. CON. RES. 17

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

**SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1998.**

(a) DECLARATION.—The Congress determines and declares that this resolution is the concurrent resolution on the budget for fiscal year 1998 including the appropriate budgetary levels for fiscal years 1999, 2000, 2001, and 2002 as required by section 301 of the Congressional Budget Act of 1974.

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

Sec. 1. Concurrent Resolution on the Budget for Fiscal Year 1998.
TITLE I—LEVELS AND AMOUNTS
Sec. 101. Recommended levels and amounts.
Sec. 102. Social Security.
Sec. 103. Major functional categories.
Sec. 104. Reconciliation.
TITLE II—BUDGETARY RESTRAINTS AND RULEMAKING
Sec. 201. Deficit and discretionary spending limits.
Sec. 202. Adjustments to limits.
Sec. 203. Tax reserve fund in the Senate.
Sec. 204. Exercise of rulemaking powers.

### TITLE I—LEVELS AND AMOUNTS

**SEC. 101. RECOMMENDED LEVELS AND AMOUNTS.**

The following budgetary levels are appropriate for the fiscal years 1998, 1999, 2000, 2001, and 2002:

(1) FEDERAL REVENUES.—For purposes of the enforcement of this resolution—

(A) The recommended levels of Federal revenues are as follows:
Fiscal year 1998: $1,164,800,000,000.
Fiscal year 1999: $1,213,400,000,000.
Fiscal year 2000: $1,267,500,000,000.
Fiscal year 2001: $1,327,900,000,000.
Fiscal year 2002: $1,389,300,000,000.

(B) The amounts by which the aggregate levels of Federal revenues should be changed are as follows:
Fiscal year 1998: $300,000,000.
Fiscal year 1999: $700,000,000.
Fiscal year 2000: $900,000,000.
Fiscal year 2001: $1,100,000,000.
Fiscal year 2002: $1,200,000,000.

(C) The amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:
Fiscal year 1998: $113,498,000,000.
Fiscal year 1999: $119,114,000,000.
Fiscal year 2000: $125,095,000,000.
Fiscal year 2001: $130,688,000,000.
Fiscal year 2002: $136,824,000,000.

(2) NEW BUDGET AUTHORITY.—For purposes of the enforcement of this resolution, the appropriate levels of total new budget authority are as follows:
Fiscal year 1998: $1,360,500,000,000.
Fiscal year 1999: $1,415,600,000,000.
Fiscal year 2000: $1,449,800,000,000.
Fiscal year 2001: $1,480,600,000,000.
Fiscal year 2002: $1,522,700,000,000.

(3) BUDGET OUTLAYS.—For purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:
Fiscal year 1998: $1,358,300,000,000.
Fiscal year 1999: $1,405,100,000,000.
Fiscal year 2000: $1,445,800,000,000.
Fiscal year 2001: $1,456,400,000,000.
Fiscal year 2002: $1,497,700,000,000.

(4) DEFICITS.—For purposes of the enforcement of this resolution, the amounts of the deficits are as follows:
Fiscal year 1998: $-193,500,000,000.
Fiscal year 1999: $-191,700,000,000.
Fiscal year 2000: $-178,300,000,000.
Fiscal year 2001: $-128,500,000,000.
Fiscal year 2002: $-108,400,000,000.

(5) PUBLIC DEBT.—The appropriate levels of the public debt are as follows:
Fiscal year 1998: $5,637,000,000,000.
Fiscal year 1999: $5,870,700,000,000.
Fiscal year 2000: $6,089,400,000,000.
Fiscal year 2001: $6,258,300,000,000.
Fiscal year 2002: $6,404,100,000,000.

(6) DIRECT LOAN OBLIGATIONS.—The appropriate levels of total new direct loan obligations are as follows:
Fiscal year 1998: $33,829,000,000.
Fiscal year 1999: $33,378,000,000.
Fiscal year 2000: $34,775,000,000.
Fiscal year 2001: $36,039,000,000.
Fiscal year 2002: $37,099,000,000.

(7) PRIMARY LOAN GUARANTEE COMMITMENTS.—The appropriate levels of new primary loan guarantee commitments are as follows:
Fiscal year 1998: $315,472,000,000.
Fiscal year 1999: $324,749,000,000.
Fiscal year 2000: $328,124,000,000.
Fiscal year 2001: $332,063,000,000.
Fiscal year 2002: $335,141,000,000.

**SEC. 102. SOCIAL SECURITY.**

(a) SOCIAL SECURITY REVENUES.—For purposes of Senate enforcement under sections 302, 602, and 311 of the Congressional Budget Act of 1974, the amounts of revenues of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:
Fiscal year 1998: $402,805,000,000.
Fiscal year 1999: $422,322,000,000.
Fiscal year 2000: $442,569,000,000.
Fiscal year 2001: $461,552,000,000.
Fiscal year 2002: $482,825,000,000.

(b) SOCIAL SECURITY OUTLAYS.—For purposes of Senate enforcement under sections 302, 602, and 311 of the Congressional Budget Act of 1974, the amounts of outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:
Fiscal year 1998: $317,700,000,000.
Fiscal year 1999: $330,400,000,000.
Fiscal year 2000: $343,900,000,000.
Fiscal year 2001: $358,700,000,000.
Fiscal year 2002: $373,700,000,000.

**SEC. 103. MAJOR FUNCTIONAL CATEGORIES.**

The Congress determines and declares that the appropriate levels of new budget authority, budget outlays, new direct loan obligations, and new primary loan guarantee commitments for fiscal years 1998 through 2002 for each major functional category are:
(1) National Defense (050):
Fiscal year 1998:
(A) New budget authority, $268,000,000,000.
(B) Outlays, $262,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $588,000,000.
Fiscal year 1999:
(A) New budget authority, $270,600,000,000.
(B) Outlays, $265,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $757,000,000.
Fiscal year 2000:
(A) New budget authority, $273,300,000,000.
(B) Outlays, $269,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $1,050,000,000.
Fiscal year 2001:
(A) New budget authority, $275,900,000,000.
(B) Outlays, $268,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $1,050,000,000.
Fiscal year 2002:
(A) New budget authority, $278,700,000,000.
(B) Outlays, $269,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $1,050,000,000.
(2) International Affairs (150):
Fiscal year 1998:

(A) New budget authority, $13,400,000,000.
(B) Outlays, $13,800,000,000.
(C) New direct loan obligations, $1,966,000,000.
(D) New primary loan guarantee commitments, $12,751,000,000.
Fiscal year 1999:
(A) New budget authority, $12,100,000,000.
(B) Outlays, $13,300,000,000.
(C) New direct loan obligations, $2,021,000,000.
(D) New primary loan guarantee commitments, $13,093,000,000.
Fiscal year 2000:
(A) New budget authority, $12,600,000,000.
(B) Outlays, $13,000,000,000.
(C) New direct loan obligations, $2,077,000,000.
(D) New primary loan guarantee commitments, $13,434,000,000.
Fiscal year 2001:
(A) New budget authority, $12,800,000,000.
(B) Outlays, $12,300,000,000.
(C) New direct loan obligations, $2,122,000,000.
(D) New primary loan guarantee commitments, $13,826,000,000.
Fiscal year 2002:
(A) New budget authority, $13,100,000,000.
(B) Outlays, $12,000,000,000.
(C) New direct loan obligations, $2,178,000,000.
(D) New primary loan guarantee commitments, $14,217,000,000.
(3) General Science, Space, and Technology (250):
Fiscal year 1998:
(A) New budget authority, $16,300,000,000.
(B) Outlays, $16,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $16,400,000,000.
(B) Outlays, $16,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $16,200,000,000.
(B) Outlays, $16,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, $16,200,000,000.
(B) Outlays, $16,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $16,200,000,000.
(B) Outlays, $16,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(4) Energy (270):
Fiscal year 1998:
(A) New budget authority, $2,200,000,000.
(B) Outlays, $1,700,000,000.
(C) New direct loan obligations, $1,050,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $2,600,000,000.
(B) Outlays, $2,000,000,000.
(C) New direct loan obligations, $1,078,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $2,200,000,000.
(B) Outlays, $1,600,000,000.
(C) New direct loan obligations, $1,109,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, $2,000,000,000.
(B) Outlays, $1,200,000,000.
(C) New direct loan obligations, $1,141,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $900,000,000.
(B) Outlays, $100,000,000.
(C) New direct loan obligations, $1,174,000,000.
(D) New primary loan guarantee commitments, $0.
(5) Natural Resources and Environment (300):
Fiscal year 1998:
(A) New budget authority, $22,500,000,000.
(B) Outlays, $21,400,000,000.
(C) New direct loan obligations, $30,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $22,500,000,000.
(B) Outlays, $21,600,000,000.
(C) New direct loan obligations, $32,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $22,600,000,000.
(B) Outlays, $22,100,000,000.
(C) New direct loan obligations, $32,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, $22,800,000,000.
(B) Outlays, $22,400,000,000.
(C) New direct loan obligations, $34,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $23,100,000,000.
(B) Outlays, $22,700,000,000.
(C) New direct loan obligations, $34,000,000.
(D) New primary loan guarantee commitments, $0.
(6) Agriculture (350):
Fiscal year 1998:
(A) New budget authority, $13,100,000,000.
(B) Outlays, $11,800,000,000.
(C) New direct loan obligations, $9,620,000,000.
(D) New primary loan guarantee commitments, $6,365,000,000.
Fiscal year 1999:
(A) New budget authority, $12,800,000,000.
(B) Outlays, $11,300,000,000.
(C) New direct loan obligations, $11,047,000,000.
(D) New primary loan guarantee commitments, $6,436,000,000.
Fiscal year 2000:
(A) New budget authority, $12,300,000,000.
(B) Outlays, $10,700,000,000.
(C) New direct loan obligations, $11,071,000,000.
(D) New primary loan guarantee commitments, $6,509,000,000.
Fiscal year 2001:
(A) New budget authority, $11,100,000,000.
(B) Outlays, $9,600,000,000.
(C) New direct loan obligations, $10,960,000,000.
(D) New primary loan guarantee commitments, $6,583,000,000.
Fiscal year 2002:
(A) New budget authority, $10,900,000,000.
(B) Outlays, $9,300,000,000.
(C) New direct loan obligations, $10,965,000,000.
(D) New primary loan guarantee commitments, $6,660,000,000.
(7) Commerce and Housing Credit (370):
Fiscal year 1998:
(A) New budget authority, $5,900,000,000.
(B) Outlays, $-1,300,000,000.
(C) New direct loan obligations, $4,739,000,000.
(D) New primary loan guarantee commitments, $245,500,000,000.
Fiscal year 1999:
(A) New budget authority, $10,200,000,000.
(B) Outlays, $3,700,000,000.
(C) New direct loan obligations, $1,887,000,000.
(D) New primary loan guarantee commitments, $253,450,000,000.
Fiscal year 2000:
(A) New budget authority, $14,300,000,000.
(B) Outlays, $9,400,000,000.
(C) New direct loan obligations, $2,238,000,000.
(D) New primary loan guarantee commitments, $255,200,000,000.
Fiscal year 2001:
(A) New budget authority, $15,100,000,000.
(B) Outlays, $10,900,000,000.
(C) New direct loan obligations, $2,574,000,000.
(D) New primary loan guarantee commitments, $257,989,000,000.
Fiscal year 2002:
(A) New budget authority, $15,700,000,000.
(B) Outlays, $11,700,000,000.
(C) New direct loan obligations, $2,680,000,000.
(D) New primary loan guarantee commitments, $259,897,000,000.
(8) Transportation (400):
Fiscal year 1998:
(A) New budget authority, $43,400,000,000.
(B) Outlays, $39,100,000,000.
(C) New direct loan obligations, $155,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $43,400,000,000.
(B) Outlays, $37,900,000,000.
(C) New direct loan obligations, $135,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $44,500,000,000.
(B) Outlays, $38,100,000,000.
(C) New direct loan obligations, $15,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, $45,300,000,000.
(B) Outlays, $38,000,000,000.
(C) New direct loan obligations, $15,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $46,300,000,000.
(B) Outlays, $38,100,000,000.
(C) New direct loan obligations, $15,000,000.
(D) New primary loan guarantee commitments, $0.
(9) Community and Regional Development (450):
Fiscal year 1998:
(A) New budget authority, $10,700,000,000.
(B) Outlays, $11,600,000,000.
(C) New direct loan obligations, $2,867,000,000.
(D) New primary loan guarantee commitments, $2,385,000,000.
Fiscal year 1999:
(A) New budget authority, $7,500,000,000.
(B) Outlays, $10,000,000,000.
(C) New direct loan obligations, $2,943,000,000.

(D) New primary loan guarantee commitments, $2,406,000,000.
Fiscal year 2000:
(A) New budget authority, $7,300,000,000.
(B) Outlays, $8,100,000,000.
(C) New direct loan obligations, $3,020,000,000.
(D) New primary loan guarantee commitments, $2,429,000,000.
Fiscal year 2001:
(A) New budget authority, $6,800,000,000.
(B) Outlays, $7,400,000,000.
(C) New direct loan obligations, $3,098,000,000.
(D) New primary loan guarantee commitments, $2,452,000,000.
Fiscal year 2002:
(A) New budget authority, $6,900,000,000.
(B) Outlays, $7,100,000,000.
(C) New direct loan obligations, $3,180,000,000.
(D) New primary loan guarantee commitments, $2,475,000,000.
(10) Education, Training, Employment, and Social Services (500):
Fiscal year 1998:
(A) New budget authority, $52,100,000,000.
(B) Outlays, $53,600,000,000.
(C) New direct loan obligations, $12,328,000,000.
(D) New primary loan guarantee commitments, $20,665,000,000.
Fiscal year 1999:
(A) New budget authority, $53,300,000,000.
(B) Outlays, $53,800,000,000.
(C) New direct loan obligations, $13,092,000,000.
(D) New primary loan guarantee commitments, $21,899,000,000.
Fiscal year 2000:
(A) New budget authority, $54,100,000,000.
(B) Outlays, $54,300,000,000.
(C) New direct loan obligations, $13,926,000,000.
(D) New primary loan guarantee commitments, $23,263,000,000.
Fiscal year 2001:
(A) New budget authority, $55,000,000,000.
(B) Outlays, $55,000,000,000.
(C) New direct loan obligations, $14,701,000,000.
(D) New primary loan guarantee commitments, $24,517,000,000.
Fiscal year 2002:
(A) New budget authority, $55,000,000,000.
(B) Outlays, $54,700,000,000.
(C) New direct loan obligations, $15,426,000,000.
(D) New primary loan guarantee commitments, $25,676,000,000.
(11) Health (550):
Fiscal year 1998:
(A) New budget authority, $135,300,000,000.
(B) Outlays, $135,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $85,000,000.
Fiscal year 1999:
(A) New budget authority, $142,700,000,000.
(B) Outlays, $142,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $150,400,000,000.
(B) Outlays, $150,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, $158,000,000,000.
(B) Outlays, $157,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $167,300,000,000.
(B) Outlays, $166,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(12) Medicare (570):
Fiscal year 1998:
(A) New budget authority, $203,800,000,000.
(B) Outlays, $204,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $217,500,000,000.
(B) Outlays, $217,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $226,100,000,000.
(B) Outlays, $230,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, $240,900,000,000.
(B) Outlays, $236,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $257,100,000,000.
(B) Outlays, $256,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(13) Income Security (600):
Fiscal year 1998:
(A) New budget authority, $229,500,000,000.
(B) Outlays, $243,100,000,000.
(C) New direct loan obligations, $45,000,000.
(D) New primary loan guarantee commitments, $37,000,000.
Fiscal year 1999:
(A) New budget authority, $243,600,000,000.
(B) Outlays, $248,900,000,000.
(C) New direct loan obligations, $75,000,000.
(D) New primary loan guarantee commitments, $37,000,000.
Fiscal year 2000:
(A) New budget authority, $253,500,000,000.
(B) Outlays, $259,700,000,000.
(C) New direct loan obligations, $110,000,000.
(D) New primary loan guarantee commitments, $37,000,000.
Fiscal year 2001:
(A) New budget authority, $259,000,000,000.
(B) Outlays, $263,100,000,000.
(C) New direct loan obligations, $145,000,000.
(D) New primary loan guarantee commitments, $37,000,000.
Fiscal year 2002:
(A) New budget authority, $270,800,000,000.
(B) Outlays, $273,400,000,000.
(C) New direct loan obligations, $170,000,000.
(D) New primary loan guarantee commitments, $37,000,000.
(14) Social Security (650):
Fiscal year 1998:
(A) New budget authority, $11,700,000,000.
(B) Outlays, $11,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $12,600,000,000.
(B) Outlays, $12,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $13,400,000,000.
(B) Outlays, $13,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, $13,800,000,000.
(B) Outlays, $13,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $15,300,000,000.
(B) Outlays, $15,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(15) Veterans Benefits and Services (700):
Fiscal year 1998:
(A) New budget authority, $40,800,000,000.
(B) Outlays, $41,200,000,000.
(C) New direct loan obligations, $1,029,000,000.
(D) New primary loan guarantee commitments, $27,096,000,000.
Fiscal year 1999:
(A) New budget authority, $41,700,000,000.
(B) Outlays, $41,800,000,000.
(C) New direct loan obligations, $1,068,000,000.
(D) New primary loan guarantee commitments, $26,671,000,000.
Fiscal year 2000:
(A) New budget authority, $42,000,000,000.
(B) Outlays, $44,000,000,000.
(C) New direct loan obligations, $1,177,000,000.
(D) New primary loan guarantee commitments, $26,202,000,000.
Fiscal year 2001:
(A) New budget authority, $42,500,000,000.
(B) Outlays, $40,800,000,000.
(C) New direct loan obligations, $1,249,000,000.
(D) New primary loan guarantee commitments, $25,609,000,000.
Fiscal year 2002:
(A) New budget authority, $42,800,000,000.
(B) Outlays, $42,800,000,000.
(C) New direct loan obligations, $1,277,000,000.
(D) New primary loan guarantee commitments, $25,129,000,000.
(16) Administration of Justice (750):
Fiscal year 1998:
(A) New budget authority, $21,900,000,000.
(B) Outlays, $21,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $22,400,000,000.
(B) Outlays, $22,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $21,500,000,000.
(B) Outlays, $22,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, $22,100,000,000.
(B) Outlays, $22,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $22,700,000,000.
(B) Outlays, $22,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(17) General Government (800):
Fiscal year 1998:
(A) New budget authority, $13,600,000,000.
(B) Outlays, $13,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $13,600,000,000.
(B) Outlays, $13,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $13,700,000,000.
(B) Outlays, $13,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, $13,800,000,000.
(B) Outlays, $13,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $13,900,000,000.
(B) Outlays, $13,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(18) Net Interest (900):
Fiscal year 1998:
(A) New budget authority, $299,900,000,000.
(B) Outlays, $299,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $308,900,000,000.
(B) Outlays, $308,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $309,600,000,000.
(B) Outlays, $309,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, $308,200,000,000.
(B) Outlays, $308,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $308,600,000,000.
(B) Outlays, $308,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(19) Allowances (920):
Fiscal year 1998:
(A) New budget authority, −$1,500,000,000.
(B) Outlays, −$900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, −$1,700,000,000.
(B) Outlays, −$1,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, −$1,700,000,000.
(B) Outlays, −$1,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, −$1,700,000,000.
(B) Outlays, −$1,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, −$1,700,000,000.
(B) Outlays, −$1,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(20) Undistributed Offsetting Receipts (950):
Fiscal year 1998:
(A) New budget authority, −$42,100,000,000.
(B) Outlays, −$42,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, −$37,100,000,000.
(B) Outlays, −$37,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, −$38,100,000,000.
(B) Outlays, −$38,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, −$39,100,000,000.
(B) Outlays, −$39,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, −$40,900,000,000.
(B) Outlays, −$40,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

**SEC. 104. RECONCILIATION.**

(a) SENATE COMMITTEES.—Not later than June 13, 1997, the committees named in this subsection shall submit their recommendations to the Committee on the Budget of the Senate. After receiving those recommendations, the Committee on the Budget shall report to the Senate a reconciliation bill carrying out all such recommendations without any substantive revision.

(1) COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY.—The Senate Committee on Agriculture, Nutrition, and Forestry shall report changes in laws within its jurisdiction that reduce the deficit $41,000,000 in fiscal year 1998 and $283,000,000 for the period of fiscal years 1998 through 2002.

(2) COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS.—The Senate Committee on Banking, Housing, and Urban Affairs shall report changes in laws within its jurisdiction that reduce the deficit $544,000,000 in fiscal year 1998 and $2,892,000,000 for the period of fiscal years 1998 through 2002.

(3) COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION.—The Senate Committee on Commerce, Science, and Transportation shall report changes in laws within its jurisdiction that reduce the deficit $376,000,000 in fiscal year 1998 and $18,004,000,000 for the period of fiscal years 1998 through 2002.

(4) COMMITTEE ON ENERGY AND NATURAL RESOURCES.—The Senate Committee on Energy and Natural Resources shall report changes in laws within its jurisdiction that provide direct spending (as defined in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985) to reduce outlays $55,000,000 in fiscal year 1998 and $1,693,000,000 for the period of fiscal years 1998 through 2002.

(5) COMMITTEE ON FINANCE.—The Committee on Finance shall report to the Senate a reconciliation bill proposing changes in laws within its jurisdiction that reduce the deficit $2,903,000,000 in fiscal year 2002 and $110,122,000,000 for the period of fiscal years 1998 through 2002.

(6) COMMITTEE ON GOVERNMENTAL AFFAIRS.—The Senate Committee on Governmental Affairs shall report changes in laws within its jurisdiction that reduce the deficit $914,000,000 in fiscal year 1998 and $7,235,000,000 for the period of fiscal years 1998 through 2002.

(7) COMMITTEE ON THE JUDICIARY.—The Senate Committee on the Judiciary shall report changes in laws within its jurisdiction that provide direct spending (as defined in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985) to reduce outlays $0 in fiscal year 1998 and $476,000,000 for the period of fiscal years 1998 through 2002.

(8) COMMITTEE ON LABOR AND HUMAN RESOURCES.—The Senate Committee on Labor and Human Resources shall report changes in laws within its jurisdiction that reduce the deficit $1,118,000,000 in fiscal year 1998 and $4,551,000,000 for the period of fiscal years 1998 through 2002.

(9) COMMITTEE ON VETERANS' AFFAIRS.—The Senate Committee on Veterans' Affairs shall report changes in laws within its jurisdiction that provide direct spending (as defined in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985) to reduce outlays $247,000,000 in fiscal year 1998 and $3,929,000,000 for the period of fiscal years 1998 through 2002.

## TITLE II—BUDGETARY RESTRAINTS AND RULEMAKING

**SEC. 201. DEFICIT AND DISCRETIONARY SPENDING LIMITS.**

(a) DEFINITIONS.—

(1) UNIFIED DEFICIT LIMITS.—In this section, the term "deficit limit" means—

(A) with respect to fiscal year 1997, −$118,800,000,000.

(B) with respect to fiscal year 1998, −$111,100,000,000.

(C) with respect to fiscal year 1999, −$98,800,000,000.

(D) with respect to fiscal year 2000, −$78,300,000,000.

(E) with respect to fiscal year 2001, −$25,100,000,000; and

(F) with respect to fiscal year 2002, $0.

(2) DISCRETIONARY LIMITS.—In this section and for the purposes of allocations made for the discretionary category pursuant to section 302(a) or 602(a) of the Congressional Budget Act of 1974, the term "discretionary spending limit" means—

(A) with respect to fiscal year 1998, for the discretionary category: $503,901,000,000 in new budget authority and $541,376,000,000 in outlays;

(B) with respect to fiscal year 1999, for the discretionary category: $505,998,000,000 in new budget authority and $537,631,000,000 in outlays;

(C) with respect to fiscal year 2000, for the discretionary category: $504,791,000,000 in new budget authority and $536,888,000,000 in outlays;

(D) with respect to fiscal year 2001, for the discretionary category $506,049,000,000 in new budget authority and $531,311,000,000 in outlays; and

(E) with respect to fiscal year 2002, for the discretionary category: $510,397,000,000 in new budget authority and $530,536,000,000 in outlays.

(b) POINT OF ORDER IN THE SENATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), it shall not be in order in the Senate to consider—

(A) a revision of this resolution or any concurrent resolution on the budget for fiscal years 1999, 2000, 2001, and 2002 (or amendment, motion, or conference report on such a resolution) that provides—

(i) discretionary spending in excess of the discretionary spending limit for such fiscal year; or

(ii) a deficit in excess of the deficit limit for such fiscal year; or

(B) any bill or resolution (or amendment, motion, or conference report on such bill or resolution) for fiscal year 1998, 1999, 2000, 2001, or 2002 that would cause any of the limits in this section (or suballocations of the discretionary limits made pursuant to section 602(b) of the Congressional Budget Act of 1974) to be exceeded.

(2) EXCEPTION.—

(A) IN GENERAL.—This section shall not apply if a declaration of war by the Congress is in effect or if a joint resolution pursuant to section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985 has been enacted.

(B) ENFORCEMENT OF DISCRETIONARY LIMITS IN FY 1998.—Until the enactment of reconciliation legislation pursuant to subsection (a) of section 104 of this resolution—

(i) subparagraph (A) of paragraph (1) shall not apply; and

(ii) subparagraph (B) of paragraph (1) shall apply only with respect to fiscal year 1995.

(c) WAIVER.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(d) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the concurrent resolution, bill, or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(e) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of new budget authority, outlays, new entitlement authority, revenues, and deficits for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

**SEC. 202. ADJUSTMENTS TO LIMITS.**

(a) DEFICIT CALCULATIONS.—As part of the information included in the annual report of CBO to the Committees on the Budget of the House of Representatives and the Senate, CBO shall include—

(1) the amount, if any, the deficit for the prior year was above the deficit limit in section 201 for such year;

(2) the amount, if any, the deficit for the prior year was below the deficit limit in section 201 for such year; and

(3) the amount (if any) the projected deficit for the budget year is below the deficit limit in section 201 for such year.

(b) ADJUSTMENT CALCULATIONS.—

(1) DIVIDEND.—

(A) IN GENERAL.—The Chairman of the Committee on the Budget of the Senate (in this section referred to as the "Chairman") shall make an adjustment in accordance with subparagraph (B) by an amount equal to the smaller of the estimate calculated pursuant to paragraph (2) or (3) of subsection (a).

(B) ADJUSTMENTS.—The Chairman shall—

(i) increase the budget authority and outlay discretionary spending limits in this resolution for the budget year by an amount equal to 50 percent of the amount determined pursuant to subparagraph (A); and

(ii) after the adoption of the concurrent resolution on the budget for the budget year, credit the prior surplus determined for the pay-as-you-go point of order by an amount equal to 50 percent of the amount determined pursuant to subparagraph (A).

(2) DEFICIT EXCESS.—If the deficit for the prior year was above the deficit limit in section 201, the Chairman shall reduce the deficit limit in this resolution for the budget year by the amount determined pursuant to subsection (a)(1).

**SEC. 203. TAX RESERVE FUND IN THE SENATE.**

(a) IN GENERAL.—In the Senate, revenue and spending aggregates may be reduced and allocations may be revised for legislation that reduces revenues by providing family tax relief, fuel tax relief, and incentives to stimulate savings, investment, job creation, and economic growth if such legislation will not increase the deficit for—

(1) fiscal year 1998;

(2) the period of fiscal years 1998 through 2002; or

(3) the period of fiscal years 2003 through 2007.

(b) REVISED ALLOCATIONS.—Upon the consideration of legislation pursuant to subsection (a), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this section. These revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this resolution.

(c) REPORTING REVISED ALLOCATIONS.—The appropriate committee shall report appropriately revised allocations pursuant to sections 302(b) and 602(b) of the Congressional Budget Act of 1974 to carry out this section.

**SEC. 204. EXERCISE OF RULEMAKING POWERS.**

The Congress adopts the provisions of this title—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change those rules (so far as they relate to that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

Mr. DOMENICI. Mr. President, as my friends on the other side of the aisle like to point out, the Congressional Budget Act includes a timetable for Congress to adopt a budget resolution that includes having the Senate Budget Committee report a budget resolution by April 1—it used to be May but it was moved back to April 1—and the conference with the House is supposed to be completed by April 15. What, of course, is not being said is the simple fact that since 1987, when we moved the completion date from May 15 to April 15—only once in those 11 years has the Congress ever met the April 15 deadline. Only three times has the Senate Budget Committee itself met the April 1 deadline.

Obviously, we have not been in charge of that committee most of those years that the Democrat majority on the other side was in charge. Nonetheless, this year the Senate Budget Committee received the President's budget on February 6. Incidentally, the President's budget was delayed a few days this year also. Nevertheless, the committee has engaged in many hearings and meetings on the President's budget. And only 17 days ago, on March 3, did the Congress receive the Congressional Budget Office's preliminary analysis of the President's budget. The final analysis is yet to be completed. And we all know that the Congressional Budget Office analysis of the President's budget set us back in our efforts to get this job done quickly. The President's plan did not achieve balance according to this preliminary report in the year 2002 without relying on some awkward triggering mechanisms.

Yesterday, I, along with my fellow House Budget Committee Chairman and two ranking members, met with the President to discuss the budget before he left for Helsinki. We agreed that over the upcoming recess and early when we return we would work to identify and clarify our differences and attempt to seek some settlement of issues so that we might return together a bipartisan budget blueprint that will get us to balance in 2002 and keep us on a path to balance well into the next century.

Our hope is that these meetings which will take place in the next 2 weeks at the staff level to be followed by an intensive week of work on our return will yield a bipartisan budget blueprint with the President working with the Congress. I am not saying to the Senate that I am certain that will work, but I truly believe there is a probability that this could work. There has been a lot of behind-the-scenes work, and I think the issues are pretty well defined. Everybody wants to be rather specific in the solutions and that will take a little bit of time.

As I expressed with the President yesterday, it is my fervent hope and I am committed to finding that common ground that will achieve the goal not for anybody's political gain but for the country's economic future.

For today, however, it is obvious that the statutory deadline in the Senate will come while we are out on Easter recess and while staff is working on this budget process during the recess. So today, in order to ensure that the work of the Senate will go on, regardless of the outcome of these discussions, I am introducing two fully drafted budget resolutions that will be referred to the Budget Committee but will be automatically discharged from

the committee on April 1 and placed back on the Senate Calendar. All of this occurs by statute which dictates that procedure. This is not unprecedented and certainly not unreasonable. My former Democratic chairmen, Senators Chiles and Sasser, routinely followed this process to provide that insurance the Senate needs that we would, indeed, be able to work our will even if the committee failed to report a resolution.

So I want to make it clear that I do not intend that the Budget Committee not report a budget resolution. That is clearly not my intention. I would not want to be vested with that result because we have always been able to report a budget resolution out of the Budget Committee for better or for worse. It has always met its responsibilities, and I am certain we are going to do that again this year. But in the event we could not, either of these resolutions which I introduced today could be called off the calendar by the leader and the full Senate would then work its will on either of those as they are called up and made part of the Senate's ordinary business.

The first resolution I am submitting today is simply the President's budget submitted back in February and reestimated by the Congressional Budget Office which we now know did not reach balance in the year 2002 but resulted in a deficit of nearly $70 billion in that year. Obviously, I do not support this resolution. I am doubtful whether it would have much support of the Senate. And if it were called up by the Budget Committee in the Chamber, I would work to modify it significantly so that it did achieve balance and make these fundamental changes required to truly address the fiscal concerns that lie beyond 2002.

The second resolution I am introducing, I must say that I do not support it either and I do not think there would be a lot of Senators who would like the medicine provided in that budget resolution but, reluctantly, would be forced to vote for this if progress is not made in the next few weeks to modify the President's proposal, and that might be the case.

This is my own resolution. It is not necessarily a Republican resolution. It is simply my effort to point out to all what would be required to reach balance in 2002 without any changes to the President's limited entitlement savings. This second resolution, based on the Congressional Budget Office benchmark used to analyze the President's budget, assumes the President's relatively low stated savings over the next 5 years in Medicare of $100 billion and Medicaid of $9 billion.

This resolution assumes essentially the same defense spending pattern as the President had. The budget makes no assumptions about any changes to the Consumer Price Index and no changes to the Congressional Budget Office assumptions. This alternative budget resolution assumes no net tax reductions over the next 5 years.

This resolution includes what might be thought of as a reverse trigger. It is based on the Congressional Budget Office economic forecast which is more conservative than the administration's, but the resolution would allow for an adjustment to domestic spending and permit tax cuts, if the administration's more optimistic economic assumptions turn out to be right, more right than the Congressional Budget Office, and the targets toward a balanced budget are being met on a specified timetable. Then there would be a trigger in instead of a trigger out as the President proposed to make up for an unbalanced budget.

Finally, to achieve balance in 2002 with these assumptions, that portion of the Federal Government that represents annually appropriated accounts for most domestic agencies will be reduced by $183 billion over the next 5 years—nearly three times the level that the President assumes in his budget. I estimate that these domestic spending programs would see nearly a 20 percent reduction in the level of spending over the next 5 years. And, of course, that is estimating that they all take the same cut. To the extent that you cause some to increase others would have to be reduced even more. There would be absolutely no room for any new initiatives and many existing programs would obviously have to be terminated.

The message from this second resolution, if the goal is still to reach balance by 2002 using the conservative Congressional Budget Office forecasts and unless the President is willing to do more than his budget now envisions in mandatory programs or entitlement programs, not only would we not be able to fund any new initiatives, there would be significant reductions in programs such as education, environment, crime fighting, transportation, housing and others and neither would tax cuts in the President's budget or the congressional budget be possible.

Again, this is not a preferred option on my part. I certainly am not recommending this to anyone. I think we can do much better, and I think we will. I think we can achieve balance and provide some relief, tax relief, to hard-working American families. I believe we do not need to devastate Government programs in the manner that I have just described.

But it will require courage in dealing with entitlement spending, and I am asking that the President join with us in a bipartisan way to exhibit that courage. I am dedicated to making sure neither of these resolutions I have introduced today will ever need to be considered when we return from this recess, for they will not be considered if we produce a balanced budget in the committee and report it to the Senate, for that will be the subject matter before the Senate at that time.

I believe that is entirely possible. If we cannot work something out with the President, which I am still hoping and indicating today there is a probability that we could, then we will work it out in the committee. One way or another it will come out of there, in my opinion perhaps bipartisan. Work is underway and I remain hopeful that a solid budget will be prepared that will enjoy the support of the President and the vast majority here in the Congress. I think we all understand the significance of these events this year, and I must say that I believe the President understands the significance.

I mean, it seems to me that if, in fact, we do not reach some accord with the President, he can look forward to a very frustrating couple of years, achieving little or nothing, not moving toward a balanced budget with any dispatch and any earnestness. And I am not sure that is good for him.

For Republicans, I am quite positive that we do not want 2 or 4 years of just constant turmoil, working by ourselves, among ourselves as Republicans, but rather should look forward to working this very important set of circumstances out in a bipartisan manner for the benefit of everyone.

Mr. GORTON. Mr. President, my good friend, the distinguished chairman of the Budget Committee and the Senator from New Mexico, Senator DOMENICI, has just introduced and explained to the Senate two alternative budget resolutions.

He has, as a matter of courtesy, introduced the President's budget without change, but with the analysis and economic impacts that it will cost made by the Congressional Budget Office.

The Senator from New Mexico has also introduced a budget, a sparse and bare-bones budget, that he feels will be required as almost the only responsible answer to the refusal of the President of the United States seriously to consider entitlement reform in his budget.

In order to bring the budget of the United States in balance by the year 2002, in order to get the huge fiscal dividend of more than $75 billion that economists tell us will result from a balanced budget, in order to provide the economic opportunities and the increased income to Americans across the country that a balanced budget will provide, in order to end the practice of spending money today and sending the bills to our children and grandchildren, the Senator from New Mexico has introduced a budget that does no more and no less in the way of entitlement reform than the inadequate proposals of the President of the United States, accepts the conservative projections of our economy made by our

own Congressional Budget Office and, therefore, includes no room—and I emphasize no room, Mr. President—for overdue and deserved tax relief for the American people.

Even without any tax relief for the American people, this set of decisions requires reductions in domestic discretionary spending that are extremely drastic, more than twice those that either the President or most of us, as Republicans on the Budget Committee, feel to be appropriate. In addition to leaving no room for any tax relief, this budget has no room for any of the new initiatives proposed by the President himself.

The Senator from New Mexico has introduced this budget in this form to indicate precisely what the real world consequences of a failure to reform entitlement spending will be.

In addition, in order to end or to mute the debate with the President over whether the President's far more rosy projections of our economy are correct as against those of the Congressional Budget Office, the proposal of the Senator from New Mexico says if, in fact, the economy operates in a better fashion than is projected by the Congressional Budget Office, half of those additional revenues will be devoted to tax relief and half to reducing the cuts in domestic discretionary spending. In other words, instead of the policies proposed by the President, which is "spend now and then cut everything to ribbons if my projections don't work out," this proposal says, "take the more conservative projections now and spend and provide tax relief in the future if the President's projections show themselves to be correct in whole or in part."

The chairman of the Budget Committee did not present this proposal as his preferred budget, nor is it mine, nor is it, I am sure, that of the distinguished Presiding Officer at this point. It is simply what we are likely to be forced to do if we cannot agree on significant reform in the entitlement programs which are growing both so rapidly as to crowd out all other spending and all tax relief, but also so rapidly as to threaten their own very existence.

What the Senator from New Mexico would prefer, what this Senator would prefer, would be an engagement, a budget resolution reflecting a strong bipartisan consensus in this body and the strong enthusiastic support and recommendations of the President of the United States himself that will require us to deal with entitlements. It will require us to look into the accuracy, or lack of accuracy, in the Consumer Price Index, because it is only if we have a more equitably distributed budget that we can provide for tax relief and for necessary discretionary spending programs. Only then we can have a conversation with the President and between the two parties on exactly what tax relief should be granted to the American people and where additional discretionary funds may be spent.

As I began these remarks, there was on the floor the distinguished Senator from Rhode Island, Mr. CHAFEE, and there is now my friend from North Dakota, Senator CONRAD. Each of them was a leader, one a Republican and one a Democrat, in a bipartisan budget proposal which was presented to this body almost a year ago on this floor. It courageously dealt with each one of these issues, dealt with them in a balanced fashion and dealt with them in a way that decisively would have brought the budget into balance by the year 2002.

One of the curious elements of that budget, I may say, Mr. President, and I am sure my friend from North Dakota agrees with me, was that we hear today numerous favorable comments about it from those who did not vote for it. In fact, if we could try it again and put ourselves back into April of last year, it looks like it might have gotten 70 votes rather than 46.

In any event, that time is past, that time is lost and because we lost it, the challenges we face are even more difficult today. But I know that my friend from New Mexico, who has now returned to the floor, means the introduction of these two alternatives to be a trigger toward an agreement with the President and with many members of the Democratic Party on a budget that will realistically reach balance by the year 2002 which will give needed tax relief to the American people, tax relief that they deserve, that will allow us sufficient money for the important discretionary programs of this Government, whether they are the building of an infrastructure or for education or for environmental purposes, and that will not only reform entitlement programs so that these other goals can be reached, but will reform them so that they are themselves secure and financially sound for the future, and so that what we do reflects the real world and not an artificial set of statistics.

So I came to the floor this evening, Mr. President, to thank the Senator from New Mexico for his thoughtfulness and his tremendous amount of work for the two resolutions that he has submitted, and to simply try to emphasize that with him I hope not that either of these proposals passes and becomes a guideline for the U.S. Senate and for the Congress, but that they help us reach a goal that is not a Republican goal, not a Democratic goal, but a goal for all Americans.

Mr. DOMENICI. Would the Senator yield?

Mr. GORTON. The Senator would.

Mr. DOMENICI. First, let me note the presence of Senator CONRAD on the floor.

Might I just say, I do not think you heard any of my remarks since I returned from a couple of hours at the White House yesterday. And I have not had a chance to speak with the distinguished Senator. But we are busy, as of today, working on trying to reach our differences. There will be a lot of work the next 2 weeks. We are very hopeful 1 week after we return, with that week being spent by some of us getting down to the final stages of negotiations, that we will have something very constructive.

It is hard to say where it will all end up, but I can say the President approached it with a degree of not only earnestness, but a sense that we ought to go ahead and move and we ought to resolve some differences and get going. And I have expressed that here today, indicating that as these two budgets are only there in the event we cannot get a budget out of the Budget Committee, then we have to get something to work off of, and this is a rather normal way to do it: Put a budget resolution in. Then the leader can call it up if we were to fail, and we have something to work on.

I simply think everybody knows there are a lot of possibilities of working a budget together this year because there are many Republicans and Democrats who are looking seriously at ways to put something together that does do some difficult things, that is not just a skirting over the difficulties, and is saying, let us do some things that have real long-term impact and as you, I say to the Senator, have so eloquently said, something we can all be proud of that really does the job.

That is my goal. I will try as best I can in the next few weeks. And, again, subject to the frailties of partisanship and things that can happen that you know nothing about, I said I thought there was a probability we could reach an agreement with the President, bipartisan, that many Senators would like.

## SENATE CONCURRENT RESOLUTION 18—RELATIVE TO BELARUS

Mr. LAUTENBERG (for himself and Mr. D'AMATO) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 18

Whereas the seedlings of an independent and democratic Belarus, for which generations of Belarusan patriots have fought and died, are in danger of being swept away as a result of the policies of Belarusan President Alaksandr Lukashenka and the efforts of Russian nationalist leaders to recreate the Soviet empire;

Whereas March 25th is the date that Belarusans throughout the world salute the sacrifices and bravery of the members of the Council of the Belarusan Democratic Republic, who in 1918 liberated their country from czarist rule;

Whereas the Russian Duma in March 1996 voted to declare void the 1991 agreement dissolving the Soviet Union;

Whereas the referendum adopted in November of 1996 expanded President Lukashenka's already considerable powers in violation of the Constitution of Belarus and basic democratic principles;

Whereas on January 16, 1996, the Chairman-in-Office of the Organization for the Security and Cooperation of Europe urged the Government of Belarus "to enter into dialogue with the opposition and to ensure freedom of media and not restrict access to the media for members of the opposition";

Whereas on March 14, 1997, the United States Department of State issued a statement that calls on President Lukashenka's Government to exercise restraint and to observe the international human rights agreements to which it is a party; and

Whereas the Government of President Lukashenka has monopolized the mass media, undermined the constitutional foundation for the separation of powers, suppressed the freedom of the press, undermined efforts to restore the Belarusan language, and undercut the ground for all-Belarusan unity: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That it is the sense of Congress that the President should urge President Lukashenka and the Government of Belarus to—

(1) abide by the provisions of—

(A) the Helsinki Final Act; and

(B) other agreements of the Organization for the Security and Cooperation of Europe;

(2) guarantee human rights and fundamental freedoms, including freedom of the press, assembly, and expression; and

(3) guarantee separation of powers.

**SEC. 2. SUPPORT OF INDEPENDENCE.**

It is the policy of the United States to support the people of Belarus in—

(1) maintaining independent statehood;

(2) promoting the rule of law, human rights, and fundamental freedoms; and

(3) assuring that Belarus has the opportunity to survive as an equal and full-fledged member-state among the sovereign nations of the world.

Mr. LAUTENBERG. Mr. President, today I am submitting a concurrent resolution regarding Belarus. I am pleased that Senator D'AMATO is an original cosponsor of this concurrent resolution. Representative PALLONE has submitted a similar measure in the House of Representatives.

I am deeply concerned about events in Belarus and the effort by President Lukashenka to expand his already considerable powers at the expense of basic democratic principles. I am deeply concerned by his proposal to unify Russia and Belarus. And, as the cochairman of the Helsinki Commission, I am dismayed by President Lukashenka's failure to abide by the provisions of the Helsinki Final Act and other OSCE agreements which guarantee respect for human rights and fundamental freedoms.

The resolution recognizes March 25, 1997, as the anniversary of the proclamation of Belarusan independence. It calls on President Lukashenka and the Government to abide by the provisions of the Helsinki Final Act and other agreements of the Organization for the Security and Cooperation of Europe; to guarantee human rights and fundamental freedoms, including freedom of the press, assembly, and expression; and to guarantee separation of powers. The resolution states that it is the policy of the United States to support the people of Belarus in achieving independent statehood, promoting the rule of law, human rights, and fundamental freedoms, and assuring that Belarus has the opportunity to survive as an equal and full-fledged member-state among sovereign nations of the world.

As we approach the anniversary of Belarus' 1918 declaration of independence, we are reminded that Belarus is a nation with a proud history and traditions. It is appropriate that we remember the brave struggle of Belarusan patriots in 1918. At the same time, we must recognize that the struggle for national sovereignty and democratic freedoms continues today and is greatly threatened by the actions of the Lukashenka regime.

I urge my colleagues to approve this resolution.

## SENATE RESOLUTION 66—COMMENDING THE UNIVERSITY OF FLORIDA FOOTBALL TEAM

Mr. MACK (for himself and Mr. GRAHAM) submitted the following resolution; which was considered and agreed to:

S. RES. 66

Whereas the University of Florida can trace its beginnings to 1853 but was formally established by the State of Florida when Florida Agricultural College merged with East Florida Seminary, South Florida Military College, and St. Petersburg Normal & Industrial School in 1905;

Whereas the University of Florida adopted the colors of orange and blue for its athletic team in 1905 and the alligator as the school's mascot in 1908;

Whereas the origins of intercollegiate football at the University of Florida can be traced back to 1901, when Dr. T.H. Taliaferro, president of the Florida State Agricultural College, enthusiastically endorsed the new sport of football and by that deed ensured that the University of Florida Fightin' Gator football team exists today;

Whereas the University of Florida is a founding member of the Southeastern Conference, considered by many to be the toughest conference in college football;

Whereas the students, alumni, and friends of the University of Florida are to be commended for the dedication, enthusiasm, and admiration they share for the Fightin' Gator football team;

Whereas in 1990, Stephen Orr Spurrier, the most fabled football player in the history of the University of Florida and winner of the Heisman Trophy in 1966, was hired to be the head football coach to lead the team to the ever elusive "Year of the Gator";

Whereas in 1992, Coach Spurrier and his assistant coaches recruited a group of talented athletes who went on to form the nucleus of the 1996 football team;

Whereas the 1996 Fightin' Gator football team compiled a record of 12 wins and 1 loss and outscored their opponents by a margin of 611 points to 221 points, and for this achievement the Fightin' Gator football team was recognized by the Associated Press and the Division I college football coaches as college football's 1996 Division I national champions;

Whereas the 1996 Fightin' Gators football team and coaches are to be commended for winning the school's first Division I collegiate football national championship.

Whereas the 1996 Fightin' Gator football team broke several school, Southeastern Conference, and Division I football records during the 1996 football season;

Whereas the 1996 senior class of Fightin' Gator football team should be commended for their leadership and their "team first" approach that helped win the 1996 Division I Collegiate football national championship, 4 consecutive Southeastern Conference football championships, and the most victories for a senior class in school history;

Whereas Danny Wuerffel, the team's quarterback, field leader, and spiritual leader should be commended for winning numerous awards and accolades for his performance during the 1996 football season including the Heisman Trophy, which is presented yearly to college football's most outstanding player, and the Draddy Scholarship Trophy, which is presented annually to the Nation's premier football scholar athlete;

Whereas Lawrence Wright, the team's strong safety, should be commended for winning the prestigious Jim Thorpe Award, which is presented yearly to college football's most outstanding defensive back;

Whereas Reidel Anthony, one of the team's clutch wide receivers, should be commended for being selected by both the Football Writers Association and the Associated Press to their respective college football All-American teams;

Whereas Ike Hilliard, another of the team's deep threats at wide receiver, should be commended for being selected by the Walter Camp Football Foundation as a member of its college football All-American team;

Whereas all the loyal sons and daughters of the University of Florida join together in honoring Coach Spurrier and the 1996 Florida Fightin' Gators for winning the 1996 NCAA Division I football championship; and

Whereas the 1996 season will be known forever in the hearts and minds of the University of Florida faithful as the "Year of the Gator": Now therefore, be it

*Resolved,* That the Senate—

(1) commends the University of Florida for winning the 1996 Division I collegiate football national championship;

(2) recognizes the achievements of all the players, coaches, and support staff who were instrumental in helping the University of Florida win the 1996 Division I collegiate football national championship and invites them to the Capitol to be honored in an appropriate manner to be determined;

(3) requests that the President recognize the accomplishments and achievements of the 1996 University of Florida Fightin' Gator football team and invite the team to Washington, D.C. for the traditional White House ceremony held for national championship teams; and

(4) directs the Secretary of the Senate to make available enrolled copies of this resolution to the University of Florida for appropriate display and to transmit an enrolled copy to each member of the 1996 University of Florida Division I collegiate national championship football team.

## SENATE RESOLUTION 67—TO AUTHORIZE A PRINTING

Mr. CRAIG (for himself and Mr. REID) submitted the following resolution; which was considered and agreed to:

S. RES. 67

*Resolved,*

**SECTION 1. PRINTING OF THE HISTORY MANUSCRIPT OF THE REPUBLICAN POLICY COMMITTEE IN COMMEMORATION OF ITS 50TH ANNIVERSARY.**

(a) IN GENERAL.—There shall be printed as a Senate document the book entitled, "A History of the Senate Republican Policy Committee, 1947–1997," prepared by the Senate Historical Office under the supervision of the Secretary of the Senate, with the concurrence of the United States Senate Republican Policy Committee.

(b) SPECIFICATIONS.—The Senate document described in subsection (a) shall include illustrations and shall be in the style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

(c) NUMBER OF COPIES.—In addition to the usual number of copies, there shall be printed with suitable binding the lesser of—

(1) 1,000 copies for use of the Senate, to be allocated as determined by the Secretary of the Senate; or

(2) a number of copies that does not have a total production and printing cost of more than $1,200.

**SEC. 2. PRINTING OF THE HISTORY MANUSCRIPT OF THE DEMOCRATIC POLICY COMMITTEE IN COMMEMORATION OF ITS 50TH ANNIVERSARY.**

(a) IN GENERAL.—There shall be printed as a Senate document the book entitled, "A History of the Senate Democratic Policy Committee, 1947–1997," prepared by the Senate Historical Office under the supervision of the Secretary of the Senate, with the concurrence of the United States Senate Democratic Policy Committee.

(b) SPECIFICATIONS.—The Senate document described in subsection (a) shall include illustrations and shall be in the style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

(c) NUMBER OF COPIES.—In addition to the usual number of copies, there shall be printed with suitable binding the lesser of—

(1) 1,000 copies for use of the Senate, to be allocated as determined by the Secretary of the Senate; or

(2) a number of copies that does not have a total production and printing cost of more than $1,200.

## SENATE RESOLUTION 68—DESIGNATING "NATIONAL FORMER PRISONER OF WAR RECOGNITION DAY"

Mr. SPECTER (for himself, Mr. AKAKA, and Mr. SMITH of New Hampshire) submitted the following resolution; which was considered and agreed to:

S. RES. 68

Whereas the United States has fought in many wars;

Whereas thousands of members of the Armed Forces of the United States who served in such wars were captured by the enemy and held as prisoners of war;

Whereas many prisoners of war were subjected to brutal and inhumane treatment by their captors in violation of international codes and customs for the treatment of prisoners of war and died, or were disabled, as a result of the treatment; and

Whereas the great sacrifices of the prisoners of war and their families deserve national recognition: Now, therefore, be it

*Resolved,* That the Senate—

(1) designates April 9, 1997, and April 9, 1998, as "National Former Prisoner of War Recognition Day" in honor of the members of the Armed Forces of the United States who have been held as prisoners of war; and

(2) requests that the President issue a proclamation calling on the people of the United States to commemorate this day with appropriate ceremonies and activities.

Mr. SPECTER. Mr. President, I am pleased to submit a resolution which would recognize the service and dedication of America's former prisoners of war [POW's]. The resolution would designate April 9, 1997, and April 9, 1998, as National Former Prisoner of War Recognition Day. April 9 is the anniversary of the fall of Bataan in 1942. On that day more Americans became POW's than any other day in our history.

Every American who wears the uniform of our country makes a unique commitment of service and duty to our country and to our fellow citizens. Perhaps no American veterans have been called upon to honor their commitment to our country under circumstances more difficult than those endured by our former POW's. For many, their experience was one of malnutrition, torture, and nonexistent medical care, combined with the burden of watching comrades die under terrible conditions.

Even under the best possible conditions, the POW experience places American service members in the position of being dependent upon our Nation's enemies for every scrap of food, every bandage, every human need. In such circumstances, the reward for treason, or even cooperation, is high. The penalty for resistance and loyalty is immediate, frequently painful and sometimes fatal. This resolution recognizes the sacrifice and loyalty of the POW's who maintained their commitment of service to our country. In so doing, it helps fulfill the duty we have to former POW's, derived from their faithful discharge of duty to our nation.

Mr. President, this resolution commemorates the service of former POW's who sustained their commitment to our country under circumstances that few of us can imagine, and none would willingly endure. I ask this body to honor the memory of those who have already died and express our gratitude to those still alive.

## AMENDMENTS SUBMITTED

## MEXICO CERTIFICATION JOINT RESOLUTION

### COVERDELL (AND OTHERS) AMENDMENT NO. 25

Mr. COVERDELL (Mrs. FEINSTEIN, Mr. HELMS, Mrs. HUTCHISON, Mr. MCCAIN, Mr. DOMENICI, Mr. KERRY, Mr. DODD, Ms. MOSELEY-BRAUN, Ms. LANDRIEU, and Mr. D'AMATO) proposed an amendment to the joint resolution (H.J. Res. 58) disapproving the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding foreign assistance for Mexico during fiscal year 1997; as follows:

Strike all after the resolving clause and insert the following:

**SECTION 1. REPORT REQUIREMENT.**

(a) FINDINGS.—Congress makes the following findings:

(1) The abuse of illicit drugs in the United States results in 14,000 deaths per year, has inordinate social consequences for the United States, and exacts economic costs in excess of $67,000,000,000 per year to the American people.

(2) An estimated 12,800,000 Americans, representing all ethnic and socioeconomic groups, use illegal drugs, including 1,500,000 users of cocaine. Further, 10.9 percent of Americans between 12 and 17 years of age use illegal drugs, and one in American four children claim to have been offered illegal drugs in the past year. Americans spend approximately $49,000,000,000 per year on illegal drugs.

(3) There is a need to continue and intensify anti-drug education efforts in the United States, particularly education directed at the young.

(4) Significant quantities of heroin, methamphetamines, and marijuana used in the United States are produced in Mexico, and a major portion of the cocaine used in the United States is imported into the United States through Mexico.

(5) These drugs are moved illegally across the border between Mexico and the United States by major criminal organizations, which operate on both sides of that border and maintain the illegal flow of drugs into Mexico and the United States.

(6) There is evidence of significant corruption affecting institutions of the Government of Mexico (including the police and military), including the arrest in February 1997 of General Jesus Gutierrez Rebollo, the head of the drug law enforcement agency of Mexico, for accepting bribes from senior leaders of the Mexican drug cartels. In 1996, the Attorney General of Mexico dismissed more than 1,200 Mexico federal law enforcement officers in an effort to eliminate corruption, although some were rehired and none has been successfully prosecuted for corruption. In the United States, some law enforcement officials may also be affected by corruption.

(7) The success of efforts to control illicit drug trafficking depends on improved coordination and cooperation between Mexico and United States drug law enforcement agencies and other institutions responsible for activities against illicit production, traffic and abuse of drugs, particularly in the common border region.

(8) The Government of Mexico recognizes that it must further develop the institutional financial regulatory and enforcement capabilities necessary to prevent money laundering in the banking and financial sectors of Mexico and has sought United States assistance in these areas.

(9) The Government of Mexico has recently approved, but has yet to implement fully, new and more effective legislation against organized crime and money laundering.

(10) The Government of the United States and the Government of Mexico are engaged in bilateral consideration of the problems of illicit drug production, trafficking, and abuse through the High Level Contact Group on Drug Control established in 1996.

(11) The President of Mexico has declared that drug trafficking is the number one threat to the national security of Mexico.

(12) In December 1996, the Government of the United States and the Government of Mexico joined with the governments of other countries in the Western Hemisphere to seek to eliminate all production, trafficking, and abuse of drugs and to prevent money laundering.

(13) Section 101 of division C of the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104–208) requires the Attorney General to increase the number of positions for full-time, active-duty patrol agents within the Immigration and Naturalization Service by 1,000 per year through the year 2001.

(14) The proposed budget of the President for fiscal year 1998 includes a request for 500 such agents.

(15) Drug cartels continue to operate with impunity in Mexico, and effective action needs to be taken against Mexican drug trafficking organizations, particularly the Juarez and Tijuana cartels.

(16) While Mexico has begun to extradite its citizens for the first time and has cooperated by expelling or deporting major international drug criminals, United States requests for extradition of Mexican nationals indicted in United States courts on drug-related charges have not been granted by the Government of Mexico.

(17) Cocaine seizures and arrests of drug traffickers in Mexico have dropped since 1992.

(18) United States law enforcement agents operating in Mexico along the United States border with Mexico must be allowed adequate protection.

(b) SENSE OF CONGRESS ON COOPERATION ON DRUGS BY COUNTRIES IN THE WESTERN HEMISPHERE.—It is the sense of Congress to urge the President, in his official visits in the Western Hemisphere, to examine with leaders of governments of other countries in the Western Hemisphere the effectiveness of efforts to improve counterdrug activities in order to curtail the production, traffic, and abuse of illicit drugs, and to define plans for specific actions to improve cooperation on such activities, including consideration of a coordinated multilateral alliance.

(c) SENSE OF CONGRESS OF PROGRESS IN HALTING PRODUCTION AND TRAFFIC OF DRUGS IN MEXICO.—It is the sense of Congress that there has been ineffective and insufficient progress in halting the production in and transit through Mexico of illegal drugs.

(d) REPORT TO CONGRESS.—Not later than September 1, 1997, the President shall submit to Congress a report describing the following:

(1) The extent of any significant and demonstrable progress made by the Government of the United States and the Government of Mexico, respectively, during the period beginning on March 1, 1997, and ending on the date of the report in achieving the following objectives relating to counterdrug cooperation:

(A) The investigation and dismantlement of the principal organizations responsible for drug trafficking and related crimes in both Mexico and the United States, including the prevention and elimination of their activities, the prosecution or extradition and incarceration of their leaders, and the seizure of their assets.

(B) The development and strengthening of permanent working relationships between the United States and Mexico law enforcement agencies, with particular reference to law enforcement directed against drug trafficking and related crimes, including full funding and deployment of the Binational Border Task Forces as agreed upon by both governments.

(C) The strengthening of bilateral border enforcement, including more effective screening for and seizure of contraband.

(D) The denial of safe havens to persons and organizations responsible for drug trafficking and related crimes and the improvement of cooperation on extradition matters between both countries.

(E) The simplification of evidentiary requirements for narcotics crimes and related crimes and for violence against law enforcement officers.

(F) The full implementation of effective laws and regulations for banks and other financial institutions to combat money laundering, including the enforcement of penalties for non-compliance by such institutions, and the prosecution of money launderers and seizure of their assets.

(G) The eradication of crops destined for illicit drug use in Mexico and in the United States in order to minimize and eventually eliminate the production of such crops.

(H) The establishment and implementation of a comprehensive screening process to assess the suitability and financial and criminal background of all law enforcement and other officials involved in the fight against organized crime, including narcotics trafficking.

(I) The rendering of support to Mexico in its efforts to identify, remove, and prosecute corrupt officials at all levels of government, including law enforcement and military officials.

(J) The augmentation and strengthening of bilateral cooperation.

(2) The extent of any significant and demonstrable progress made by the Government of the United States during the period beginning on March 1, 1997, and ending on the date of the report in—

(A) implementing a comprehensive antidrug education effort in the United States targeted at reversing the rise in drug use by America's youth;

(B) implementing a comprehensive international drug interdiction and enforcement strategy; and

(C) deploying 1,000 additional active-duty, full-time patrol agents within the Immigration and Naturalization Service in fiscal year 1997 as required by section 101 of division C of the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104–208).

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, March 20, 1997, at 9 a.m. in SR–328A to receive testimony regarding agriculture research reauthorization.

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

COMMITTEE ON ARMED SERVICES

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 10 a.m. on Thursday, March 20, 1997, in open session, to receive testimony on the fiscal year 1998 budget request for Department of Energy national security programs and review environmental management activities.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LOTT. 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, March 20, for purposes of conducting a Subcommittee on National Parks, Historic Preservation, and Recreation hearing which is scheduled to begin at 2 p.m. The purpose of this oversight hearing is to address the future of the National Park System and to identify and discuss needs, requirements and innovative programs that will insure the Park Service will continue to meet its many responsibilities well into the next century.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. LOTT. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to meet to consider the nominations of Johnny H. Hayes, nominated by the President to be a member of the board of directors of the Tennessee Valley Authority; Judith M. Espinosa, nominated by the President to be a member of the board of trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation; and D. Michael Rappoport, nominated by the President to be a member of the board of trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation Thursday, March 20, after the first Senate floor vote or at a time to be determined Thursday, March 20, in 406 Dirksen.

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

COMMITTEE ON FINANCE

Mr. LOTT. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Thursday, March 20, 1997, beginning at 10 a.m. in room 215 Dirksen.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, March 20, 1997, at 9:30 a.m. for a hearing on the role of the Department of Commerce in the U.S. trade policy, promotion and regulation, and opportunities for reform and consolidation.

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

COMMITTEE ON THE JUDICIARY

Mr. LOTT. The Committee on the Judiciary would request unanimous consent to hold an executive business meeting on Thursday, March 20, 1997, at 10:30 a.m., in room 226 of the Senate Dirksen Office Building.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on Higher Education Act reauthorization, during the session of the Senate on Thursday, March 20, 1997, at 10 a.m.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. LOTT. 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, March 20, 1997, beginning at 9:30 a.m. until business is completed, to hold an oversight hearing on the operations and budget of the Congressional Research Service and the Library of Congress.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. LOTT. The Committee on Veterans' Affairs would like to request unanimous consent to hold a joint hearing with the House Committee on Veterans' Affairs to receive the legislative presentation of AMVETS, American Ex-Prisoners of War, Veterans of World War I, and the Vietnam Veterans of America. The hearing will be held on March 20, 1997, at 9:30 a.m., in room 345 of the Cannon House Office Building.

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

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Financial Institutions of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, March 20, 1997, to conduct a hearing to examine the Federal Reserve's proposal to modify the "firewalls" that separate commercial banks and their securities affiliates.

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

SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE

Mr. LOTT. Mr. President, I ask unanimous consent that the Surface Transportation and Merchant Marine Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, March 20, 1997, at 9:30 a.m. on ocean shipping reform.

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

## ADDITIONAL STATEMENTS

### ROLLOUT OF THE F–22

Mrs. HUTCHISON. Mr. President, on April 9, 1997, an important milestone will be reached when the Lockheed Martin Corp. rolls out the F–22 in Marietta, GA. The F–22 is a powerful new aircraft that will ensure complete and total air dominance for the United States in the 21st century.

How do you measure success in air superiority. The best measure I know is reflected in the fact that no U.S. soldier has been killed by an enemy aircraft in over 40 years. And that is why the F–22 is critical at this time, for the F–22 ensures that impressive record of protecting our forces continues unbroken.

There are some who fail to understand that the threat to our air forces is growing and that the world remains dangerous despite the end of the cold war. Throughout the world today there are a host of Russian-made surface-to-air missiles readily available on the open market to any nation with the money available to buy them. At the same time, a new generation of tactical fighter is also being produced in Russia and elsewhere which can out perform and defeat our current air superiority fighter, the F–15C. All of these pose significant threats to our ability to maintain air superiority.

The F–22 will ensure that America maintains not just air superiority but air dominance. And as the former Secretary of Defense William Perry once said "everything else we do depends on air dominance.

Mr. President, I am pleased to note that the rollout on April 9 will mark the beginning of a new era for Air Force aviation. As a Texan, I am also proud of the role America's premier tactical fighter complex in Fort Worth, TX played in building this revolutionary aircraft.

I hope my colleagues will take notice of the rollout in a year which marks the 50th anniversary of our Air Force. I also hope my colleagues will take this opportunity to reflect on the importance of our Air Force and the role they have played since their founding 50 years ago in maintaining peace and stability in a dangerous world. The rollout of the F–22 will begin a new chapter in Air Force history and help ensure the Air Force and the country remains strong and capable in the future.

### GREEK INDEPENDENCE DAY

• Mr. SARBANES. Mr. President, I rise today to pay tribute to the Greek people on the 176th anniversary of the beginning of their struggle for independence. Since regaining their freedom and reaffirming their commitment to democratic principles, the Greek people have built a modern-day republic that is a strong and positive presence in the Balkans and eastern Mediterranean.

As the only member of the European Union from the region, Greece has played a stabilizing role in the area and helped advance its neighbors' progress toward political and economic security. Greece's own efforts to continue the modernization of its economy and its steadfast defense of democratic governance are critical to the promotion of democracy and stability in neighboring lands.

On March 25, Greece will commemorate the beginning of its quest for independence from four centuries of Ottoman rule. After nearly 10 years of struggle against tremendous odds, the Greek people secured liberty for their homeland and reaffirmed the individual freedoms that are at the heart of their tradition.

From the beginning of their revolution, the Greeks had the support—both material and emotional—from a people who had only recently gained freedom for themselves; the Americans. And since then, our two nations have remained firmly united by shared beliefs in democratic principles and mutual understanding of the sacrifices entailed in establishing a republic.

As a nation whose founders were ardent students of the classics, America has drawn its political convictions from the ancient Greek ideals of liberty and citizenship. And just as we looked to the Greeks for inspiration, Greek patriots looked to the American Revolution for strength in the face of their own adversity.

Since their liberation, the Greek people have never taken their liberty for granted. In both World Wars, Greece never wavered from its commitment to the United States and the other allied nations to resist the forces of totalitarianism. Faced with a Communist uprising after World War II, Greece received support from President Truman and the American people, who helped the Greeks rebuild their war-ravaged nation.

Along with our shared values and traditions, Greece and America share a bond by virtue of those individuals who have remained devoted to the ideals of both countries. The Greek-American community, which maintains an especially close relationship with Greece, also consistently makes significant contributions to American culture, business, and history. Truly, it is a community that enriches our life at home while strengthening our ties abroad.

At this time last year, First Lady Hillary Clinton was in Greece. Her visit was followed by a meeting here in Washington between Greek Prime Minister Kostandinos Simitis and President Clinton, which laid the foundation for even stronger Greek-American relations in the future, and the broadening of existing ties into new arenas.

This year, I was proud to cosponsor Senate Resolution 56, designating March 25, 1997, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy," and I was gratified to see it approved by the Senate last week. Emotionally and philosophically, Greece has remained near the hearts and minds of Americans since this Nation was founded.

President James Monroe aptly summarized these feelings in 1822, observing: "The mention of Greece fills the mind with the most exalted sentiments and arouses in our bosom the best feelings of which our nature is susceptible." Mr. President, more than inspiration, Greece today has a very important and tangible role to play in the democratic progress of its own region. I have no doubt that Greece is up to the task.•

## THE 25TH ANNIVERSARY OF THE ESTABLISHMENT OF THE FIRST NUTRITION PROGRAM UNDER THE OLDER AMERICANS ACT

• Mr. JEFFORDS. Mr. President, on Saturday, March 22, our Nation will commemorate the 25th anniversary of the establishment of the national nutrition programs for the elderly under the Older Americans Act. Since their inception, these programs have benefited thousands of our Nation's elderly by providing home-delivered and collective meals to those elderly facing serious challenges and limitations, including economic hardship, physical and health limitations, and rural isolation.

The elderly's ability to obtain meals under the Older Americans Act was originally limited to meal sites, where groups of elderly can congregate for a meal during the day. Following several successful years of service, nutrition programs expanded to serve the homebound elderly. Also, the parameters of the Older Americans Act were extended to allow Area Agencies on Aging to inform the elderly on how to obtain nutrition education, counseling, and screening. Nutritional services have proven to be critical for a significant population of the elderly who can continue to maintain a healthy, independent lifestyle.

Through this program, Vermont's five Area Agencies on Aging contract with various local nutrition service providers to expedite the delivery of meals to people's homes and continue to coordinate meals provided in congregate settings. Federal grants provided for our country's nutrition programs fill resource gaps where nonprofit and State organizations cannot.

Twenty-five years following the first meal served in the early 1970's, 242 million meals have been provided to 3.5 million of our Nation's elderly. Since taking office in the House of Representatives in 1975, I am proud to have been a steadfast supporter of these nutrition programs. They are a wonderful example of the Federal Government's successful contribution to improving the lives of our Nation's senior citizens.•

## COST OF UNITED STATES INVOLVEMENT IN BOSNIA

• Mr. FEINGOLD. Mr. President, I rise today to speak about the escalating costs of the United States involvement in Bosnia.

Recently, I asked the administration representatives for a ballpark estimate of the expected cost to the United States taxpayer of the American operation in Bosnia.

I was astonished to hear that administration estimates have been revised to $6.5 billion.

Six-point-five billion dollars. To put that in perspective, we were originally told that the Bosnia mission would cost the United States taxpayer some $2 billion. Later, the estimate was revised to $3 billion. Now, it has risen to a staggering $6.5 billion.

Mr. President, the cost has now risen more than threefold since the original estimates we were given. That is equal to just over half of the entire foreign operation budget for fiscal 1997 which is about $12.2 billion.

Let me review what has happened here. In late 1995, when the administration negotiated the United States troop commitment outlined by the Dayton accords, the administration came to the Congress with an estimate for United States troop participation in the NATO Peace Implementation Force in Bosnia, commonly referred to as IFOR. According to information provided to my office by the Office of the Secretary of Defense [OSD], this initial estimate of $2 billion was generated using a force deployment model based on experience in Desert Storm and Somalia * * * [although] the types of forces, deployment schedules, field conditions, and security situation had not been determined." Once troops were deployed to Bosnia, new information about the field conditions became available and pushed the original estimate up by about 50 percent.

As I understand it, unexpected and adverse weather conditions, including major floods, further complicated the operation—delaying the establishment of land routes and altering placement of planned camp sites. According to the Defense Department, additional reserves were also required to back fill for troops that had been deployed to the region.

Further refinements of the cost estimate were again made in July 1996, when the Defense Department recognized the need for additional moneys—to the tune of almost $310 million—for pulling out heavy armored forces and replacing them with military police, as well as additional communications requirements. A new total cost estimate of $3.2 million for operations through the end of 1996—that is, for approximately one full year—was provided to congressional staff in July.

The conditions that led to these refinements also helped throw the time line for the 1-year mission out of whack. So, no one could have really been surprised by the announcement last October—just as the Congress was preparing to take its long recess—that the United States had decided to dispatch additional troops to Bosnia. The new deployment of an additional 5,000 troops was to be part of a new mission—the one we now call SFOR, or NATO stabilization force—and would last 18 months, through June 1998.

The extension of the U.S. mission in the region, of course, required a new cost estimate. Using actual costs to date, projected force levels for fiscal year 1997 and for fiscal year 1998, and expected operating costs, the Defense Department now says that total costs for the operation are expected to be $6,512,000,000.

Mr. President, when Congress was first consulted about the Bosnia operation back in 1995, I asked whether or not the United States would be able to withdraw troops from IFOR in December 1996, as the administration said then, even if the mission clearly had not been successful. I had my doubts then that the stated goal—ending the fighting and raising an infrastructure capable of supporting a durable peace—would be achievable in 12 months' time. I foresaw a danger that conditions would remain so unsettled that it would then be argued that it would be folly—and waste—to withdraw on schedule.

My concerns and hesitations of October 1995 were only compounded by the October 1996 announcement that additional troops were being deployed to Bosnia, and compounded further in November 1996 when it became clear that the mission was being extended for an additional 18 months.

In my view, the handwriting has been on the wall for some time now.

As many in this Chamber will recall, I was one of the few Members of Congress, and the only Democrat, to vote against the initial deployment of troops in 1995. At that time, I questioned the projections regarding the duration and cost of the mission.

What I feared then has happened. The United States continues to be drawn deeper into a situation from which we

appear unable to extricate ourselves. The war in Vietnam was called a quagmire. We referred to continued United States troop deployment in Somalia as mission creep. I fear that the Bosnia operation presents the same dilemma. There will continue to reasons to encourage continued U.S. military presence on the ground. Despite an original estimate of $2 billion, that presence is now moving closer and closer to $7 billion.

I recognize that the Bosnia mission has not been without some positive results. We can all be grateful that people are no longer dying en masse in Bosnia and that United States and troops from other nations are to be applauded for having largely succeeded in enforcing the military aspects of the Dayton accords. But successive delays in holding municipal elections and the lasting, and at-large, presence of indicted war criminals are continuing signs that the progress of American troop presence is transitory at best.

At the heart of the conflict is that the strategic political goals of the warring factions remain unchanged. Peace in the region appears to be achievable, unfortunately, only at the point of NATO arms.

Mr. President, I now fear that, come next June, when the SFOR mission is expected to end, and after we will have invested $6.5 billion, there is a real danger that we will be back at square one.

I hope that the lesson learned from Bosnia is that we should not make commitments of United States resources, be they military, humanitarian, or otherwise, without a candid assessment of the likely level and duration of the commitment. While it is clear that there were sound, military reasons for upping the financial projections for U.S. participation in both IFOR and SFOR, I can not believe that the original estimate was as candid of an assessment as we could have had, even that early in the process.

We are told that U.S. troops will finish their mission next June. But that begs a question: What certainty is there that even this promise will be kept? I fear, as I did when the United States first committed 20,000 ground troops, that there is no easy way out of this situation. The cost of U.S. involvement continues to rise. And troops, from my State and from throughout the Nation, continue to be deployed.

When will it end, Mr. President. When will it end?

At the very time we are straining hard to eliminate the Federal deficit, the dollars continue to pour out of our Treasury. The cost of this excursion goes on and on.•

## HATTIE H. HARRIS, A CREDIT TO OUT COUNTRY AND OUR FLAG

• Mr. D'AMATO. Mr. President, one of our Nation's most outstanding citizens Mayor Hattie H. Harris will celebrate her 100th birthday April 25, 1997, God willing. For nearly one century Hattie's unimpeachable integrity, brilliant mind, and inconquerable spirit have dominated the scene in Rochester, NY. She courageously faces each challenge and perpetually accomplishes worthy humanitarian deeds. Hattie consistently demonstrates that eternal youth rules father time. Mayor Hattie's grueling schedule puts to shame some persons half her age.

Mayor Hattie's unswerving devotion to assisting mankind is a tribute to democracy's dream. She embraces every request to inspire mankind: whether it be delivering meals herself as chairperson of the 1995–6 Meals on Wheels Program, or awarding scholarships from the endowment in her name, Hattie is an exemplary humanitarian. She has received accolades and honors too numerous to list here. Suffice it to say that Hattie has done many good things for good people and has been recognized for many of her efforts with awards, titles, honors, and tributes.

Hattie was born on April 25, 1897 in Rochester and has lived there all of her life. She had to leave school at the tender age of 11 and become a buttonhole maker to earn money and help support the family. As a child she never had a birthday party, her toys and clothes were second-hand. All her life she has done all she can so other children will get the chances she never did. She has endowments bearing her name at Monroe Community College, St. John Fisher College, Mary Cariola Children's Center, and Campership Fund for Needy Children.

Hattie is a wonderful human being whose outstanding lifelong humanitarian achievements deserve special recognition from each of us. Happy birthday Hattie Harris.•

## TRIBUTE TO JUDGE CHARLES R. RICHEY

• Mr. HOLLINGS. Mr. President, I respectfully rise today and ask that we pay tribute to Judge Charles R. Richey.

Today the flags in front of the Thurgood Marshall Judiciary Building fly at half-mast in mourning for Judge Richey. Charles Richey was a great man and a superlative judge. We join in the loss with his wife, Mardelle, and his sons, Charles and William.

Judge Richey, despite his lofty status in the courts, always considered himself a man of the people and he consistently defied the labels of conservative and liberal. His public career began when he came to Washington as a legislative counsel to Representative Frances Payne Bolton from Ohio. Later he was appointed general counsel for the Maryland Public Service Commission during Spiro Agnew's last years as Governor. He was appointed to the Federal bench by President Nixon in 1971.

In 1979, the American Trial Lawyers Association voted Judge Richey Outstanding Federal Trial Judge. He was one of the busiest judges in the Washington U.S. District Court and ran a tight ship in the courtroom. He was a firm believer in swift justice and had the most up-to-date docket on the circuit.

Over the course of his career, Richey handed down many landmark decisions, including one he loved to recount—his 1976 ruling that called in the California tuna ships for violation of the Marine Mammal Protection Act. In that same year he also became the first judge to hold that employees who are sexually harassed by their superiors can file under title VII of the Civil Rights Act of 1964.

Ever willing to take on the Government on behalf of the little man, in 1981, Richey awarded $6 million in back pay and $10 million in future earnings for 324 women in the sex discrimination suit against the Government Printing Office, then the largest amount ever awarded in a sex discrimination case. Perhaps the case most indicative of his feeling for the citizens though was his dismissal of charges against people camped in protest in Lafayette "Protest" Park. He said they were exercising their rights under the First Amendment.

Judge Richey's courtesy in the court was legendary. He used gender-neutral terms when discussing certain statutes mentioning only men. Despite his own strict Methodist upbringing, he gave witnesses options on oaths containing no religious references and dispensing with the Gideon Bible. One said of him, "Judge Richey is tough as shoe leather, but fair minded almost to a fault."

We shall all miss this man. He leaves behind an unparalled judicial legacy and record of public service.•

## INTERNAL REVENUE SERVICE ACCOUNTABILITY ACT

• Mr. HAGEL. Mr. President, the American people are fed up with the IRS and its tactics. They are calling for change. Today I have taken a first step to help. I am joining as a cosponsor of S. 365, the Internal Revenue Service Accountability Act, which was introduced by my distinguished colleague from Georgia, Senator COVERDELL.

The IRS is in disarray from its top management all the way down to its field offices, and American taxpayers are paying the price for that disarray—a price in inefficiency, in inconvenience, in intrusiveness, and even in harassment. It is not fair for American taxpayers to fund an agency that is wasting their money and time. It is time to clean up the IRS. It is time for a change.

The IRS Accountability Act puts a tight rein on the IRS and its agents. It

makes IRS agents personally accountable for their actions and subjects them to criminal prosecution if they abuse their authority by harassing taxpayers. The bill makes it a crime to release information from tax returns without proper authority. It restricts the ability of the IRS to conduct audits. It ensures that the IRS will abide by court decisions against it. And it ensures that taxpayers have a chance to correct any honest mistakes on their tax forms without incurring a penalty.

American taxpayers are honest, hard workers. They do not deserve an overzealous agency with its agents tormenting and harassing them. It is time to make the IRS more accountable for its actions.

This bill is an important first step toward protecting Americans from a Tax Code that is unfair, restrictive, punitive, and complicated. We need to do more. We need to completely overhaul our Tax Code to make it flatter, fairer, and simpler. We need to look at all options as we tackle this issue, but we must make sure that a new Tax Code eases the burden for families and businesses and encourages, rather than inhibits, growth, investment, and savings. That should be our top priority.

That is our task for the coming months and years. But until we can successfully meet that greater challenge, the very least we can do for the American taxpayer is to get the IRS cleaned up and off the taxpayers' backs.

The time has come for tax relief. The people of the United States have had enough. They want less government, less regulation, and less taxes. And they want less hassle and harassment from their Government. The IRS Accountability Act is a good start. As we approach tax day, April 15, it is only appropriate that we take a bold step toward fixing the IRS.

The time for change is now.•

## THE 50TH ANNIVERSARY OF CENTRALIA, IL, MINING DISASTER

• Mr. DURBIN. Mr. President, I rise today to memorialize 111 miners from the town of Centralia, IL, who died nearly 50 years ago on March 25, 1947, in one of the worst coal mining disasters in U.S. history.

On that day, 142 men were working in mine No. 5 of the Centralia Coal Co. Only a few minutes remained before the end of their shift when there was an explosion in the mine. The blast raced through the tunnels beneath the town of Wamac on the southern edge of Centralia, leaving debris and poisonous fumes in its wake.

Thirty-one men managed to escape, but 111 of their coworkers were trapped 540 feet underground. For 4 days, rescuers worked to save them, but they could not reach the miners in time. In a tragic discovery, the searchers found notes next to some of the miners' bodies that they had written on scraps of paper and cardboard as they lay dying. "Tell Dad to quit the mine and take care of Mom," wrote one miner. "Tell baby and my loving boys goodbye and I am feeling weak. Lots of love." Together, the men left behind 99 widows and 76 children under the age of 18.

But the real tragedy for Centralia was that the disaster could have been prevented. As early as 1942—and continuing right up to the time of the explosion—State and Federal inspectors warned about dangerous conditions at the mine. In fact, when the blast occurred, the latest State and Federal reports were thumbtacked to a bulletin board outside the mine's wash house.

While the inspectors found numerous safety violations, they were particularly concerned about the combustible coal dust which was so thick that it would collect in the miners' shoes as they worked. The miners themselves knew how dangerous the dust could be, and more than a year before the disaster, four of them sent a letter to Illinois Gov. Dwight H. Green warning that it might explode one day. "This is a plea to you," they wrote, "to please save our lives, to please make the Department of Mines and Minerals enforce the laws at the No. 5 mine, before we have a dust explosion."

But neither the Governor nor Federal officials nor the Centralia Coal Co. took any significant action. Investigators later determined that one of the main causes of the explosion was the dust the miners had feared.

Three days after the disaster, Governor Green ordered State inspectors to close all unsafe coal mines. In Washington, Congress held hearings and launched an investigation. But for Centralia, IL, it was too late.

As we near the 50th anniversary of this disaster, our thoughts are with the people of Centralia and the families of those who lost their lives. We are reminded that too often, we react to disasters rather than taking steps to prevent them.

The greatest tribute we can give to the Centralia mine explosion victims is to ensure that critical worker safety and health protections are not weakened or destroyed. We must be vigilant in our efforts to make sure workers don't risk their lives simply by going to work.•

## JUNETEENTH INDEPENDENCE DAY

• Mr. ABRAHAM. Mr. President, I rise today to pledge my support for the commemoration of June 19 as "Juneteenth Independence Day." This day marks a significant occurrence in American history, a day every American should reflect upon and remember.

Mr. President, June 19 is a day when all African-Americans were finally liberated from the bondage of slaveowners. Although President Lincoln signed the revolutionary Emancipation Proclamation on January 1, 1865, many slaves were still denied their lawful freedom. It was not until June 19, 1865, that all slaveowners officially recognized and abided by the dictates of the Emancipation Proclamation.

For too many years, African-Americans were denied basic rights and liberties that today all Americans enjoy. I stand here today, 132 years later, to express my view that this shameful aspect of American history should never be forgotten. For these reasons, I proudly endorse Senate Resolution 11. This significant legislative endeavor reminds every citizen of the unspeakable horrors to which many of our fellow Americans were subjected. It is my hope that every June 19 from this year forward will be celebrated as "Juneteenth Independence Day." It also is my hope that this day will serve as a reminder, of our past and a bridge all of us can use to overcome our differences and unite as Americans.

Mr. President, I believe commemoration of "Juneteenth Independence Day" warrants support from all members of the U.S. Senate. As a cosponsor of Senate Resolution 11, I urge my colleagues to join me in officially recognizing this important day.•

## LET'S DEBATE THE CHEMICAL WEAPONS CONVENTION

• Mr. FEINGOLD. Mr. President, I rise today to add my voice to those who have spoken about the need to bring the Chemical Weapons Convention [CWC] to the Senate floor for debate at the earliest possible date. As everyone in this body knows, the U.S. Senate must ratify the CWC by April 29, 1997, in order for the United States to become an original party to the convention.

To date, 70 countries have ratified the CWC, and another 161 countries are signatories. The United States has taken a leadership role throughout the negotiations surrounding this treaty, and yet, with time running out, the Senate has not voted on the document that so many Americans have helped to craft.

Time is of the essence in this debate for several reasons. One reason is, of course, the April 29 deadline by which the U.S. Senate must ratify this treaty so that the United States may be a full participant in the Organization for the Prohibition of Chemical Weapons [OPCW], the governing body that will have the responsibility for deciding the terms for the implementation of the CWC.

A second reason is the constitutional responsibility of the Senate to provide its advice and consent on all treaties signed by the President. This treaty

was signed by President Bush in January 1993, and was submitted to the Senate by President Clinton in November of that year. Unfortunately, the Senate has not yet fulfilled its responsibility with respect to this treaty.

A third reason, and what I believe is one of the most important, is the need for adequate time for debate of this treaty and its implications for the United States prior to the April 29 deadline for ratification. Many have expressed concern over various provisions in the CWC. Senators should have the opportunity to debate these concerns, and the American people deserve the chance to hear them. Senators will also have the opportunity to voice their concerns during debate of the treaty's implementing legislation, which will most likely be discussed in conjunction with the treaty itself.

As a member of the Senate Committee on Foreign Relations, I have had the opportunity to participate in hearings on this issue. In all the hearings and deliberations over the efficacy of this treaty, two things have been made crystal clear: First, the CWC is not perfect, and second, the CWC is the best avenue available for beginning down the road to the eventual elimination of chemical weapons.

There are real flaws, as we all recognize, with the verifiability of the CWC. There will be cheating and evasions and attempts to obey the letter but not the spirit of the treaty. But most of the responsible players on the international stage will recognize that through the CWC the world has spoken, and firmly rejected chemical weapons.

The CWC was laboriously crafted over three decades to meet the security and economic interests of states parties. The United States was at the forefront of that effort; the treaty reflects U.S. needs and has the blessing and enthusiastic support of our defense and business communities.

Can the treaty be improved? Of course. But the CWC has a provision for amendment after it comes into force. I would hope that the United States would be again at the head of efforts to make the treaty more effective after a period to test its utility. We have the technological means and economic weight to make it so. But only if we are a party to the treaty. And to become a party to the treaty, the U.S. Senate must perform its constitutionally mandated function of debate and ratification before April 29.

Mr. President, it is unfortunate that the Chemical Weapons Convention is being held hostage to other, unrelated, matters. Time is of the essence, Mr. President, and time is running out.

In closing, this treaty should be fully and carefully debated by the U.S. Senate at the earliest possible date, not at the 11 hour when the clock is ticking on our ability to ensure that the United States is an active participant in future revisions to the CWC. The American people deserve no less.●

## "ANOTHER BAD ONE"

● Mr. LEAHY. Mr. President, I ask unanimous consent that a copy of the attached editorial from the Vermont newspaper The Time Argus, titled "Another Bad One," and dated March 19, 1997, be printed in the RECORD.

The editorial follows:

ANOTHER BAD ONE

The arguments against amending the U.S. Constitution over campaign financing are the same as the arguments against a balanced budget amendment or a prohibition amendment. It is a waste of effort to target specific evils by way of the Constitution.

The U.S. Senate wisely rejected a campaign finance amendment by a wide margin on Tuesday.

States which have encumbered their constitutions with numerous amendments have found their documents have become just that: encumbrances.

A constitutional amendment will not stop candidates from getting money, and it will not stop people who want to influence candidates from using their money to promote that influence. You might as well have an amendment that said: "Candidates for public office shall not spend money in their quest for the office."

Then there would be a court case to argue whether a candidate who filled his automobile gas tank while on the way to a campaign forum had "spent money in his quest" for the office.

A constitutional amendment against bank robbery would not stop the number of bank robberies that occur. There is a law against bank robbery, and in fact Congress finally got the federal government into the investigations by making it possible for the FBI to enter bank robbery cases immediately.

And something similar relating to campaign financing would be the proper course of action, instead of an amendment to the Constitution. A congressional statute putting greater controls over campaigns would have the same effect as an amendment without the permanent encumbrance of the amendment on matters unforeseen.

In some cases the courts have ruled that specific laws limiting contribution limits infringe on free speech. It ought to be possible for a congressional statute to impose some sort of constraint on money without interfering with speech.

The huge sums spent on campaigns may very well be considered immoral, but history has given ample illustrations of the futility of trying to legislate morality. Prohibition is a relatively recent example. Did it stop people from consuming alcohol? No. In fact, it helped increase the power of law-breaking organizations geared to providing illicit substances, a baneful influence that is still with us.

The present spotlight in Washington on campaign contributions and the methods of solicitation for such funds makes it easy for people to think an amendment to the Constitution would be an appropriate response. But however tawdry such actions have been—and they certainly are tawdry—there will be no change merely by passing an amendment that says, in effect: "Thou shalt not be tawdry. Thou shalt not be greedy."

The existing amendments to the U.S. Constitution that come closest to addressing a specific subject are the 13th and 14th, which after the Civil War abolished slavery and codified equal protection under the law. But even they were not so specific that they can't be applied to races other than African-Americans, and questions of equal protection arise even today.

Efforts for a balanced budget amendment are an abdication of congressional responsibility. Efforts for an amendment on campaign financing constitute a similar abdication.●

## EXPRESSING CONCERNS ABOUT AIRPORT IMPROVEMENT BUDGET

● Mr. HOLLINGS. Mr. President, I want to express my concern with the President's proposal for the budget of the Federal Aviation Administration. We all know how important aviation is to our economy, contributing more than $770 billion in direct and indirect benefits. In South Carolina, travel and tourism is the No. 2 industry, accounting for almost 100,000 jobs. The industry is fueled by the aviation industry.

The President has talked a lot about a bridge to the 21st century. Bridges and highway projects are critical parts of our Nation's infrastructure. But so are airports. I have an airport in almost every county of my State. We have a strong airport system, but one that needs money to rebuild and expand. The $1 billion proposal falls far short of what is needed. It is a shortsighted approach to meeting our country's needs. It also undoes a deal that we had last year with the administration. I am certain that the new Secretary wants to make sure that our Nation's infrastructure needs are addressed, and I want to work with him on ways to meet those needs.

The President has proposed a $1 billion airport improvement program. The airport community claims that nationwide it needs almost $10 billion per year. In my State alone, money for airports is critically needed for small and large projects. Without adequate funding, these airports cannot expand and cannot begin to attract new businesses. I can cite many examples of this, but one that comes to mind is the Greenville-Spartanburg Airport project. Without an AIP grant, the runway would not have been lengthened. It helped BMW decide to locate in South Carolina. Airport grants mean business opportunities.●

## YALE PUBLIC SERVICE AWARDS

● Mr. MOYNIHAN. Mr. President, I rise today to salute five extraordinary New Yorkers who, on Monday April 7, 1997, will receive the Public Service Award of the Yale Alumni Association of Metropolitan New York [YAAMNY]. These individuals have demonstrated both extraordinary leadership and a deep commitment to public service. Each honoree brilliantly exemplifies the motto of the Empire State: Excelsior.

I thank the Chair, and I ask that the text of YAAMNY's citation of the achievements of the respective honorees be printed in the RECORD.

The Text Follows:

THE YALE ALUMNI ASSOCIATION OF METROPOLITAN NEW YORK, 1997 PUBLIC SERVICE AWARDS, APRIL 7, 1997

THE HONOREES

Peter Rosen, M.F.A., 1968, has produced an directed over 50 full-length films and television programs. His subjects range from student activism at Yale in 1970 (his first film, titled Bright College Years) to I.M. Pei to Carnegie Hall's 100th anniversary, all of which have aired on PBS.

Kimberly Nelson, B.A., 1988, is Team Program Director at Creative Arts Workshop, which provides job and leadership training for at-risk teens. She served as a coordinator for Black Students at Yale. She began her career as a social worker at the Rheedlan Foundation, a Harlem social service agency.

Tania November, B.A., 1988, is a Manhattan Assistant District Attorney in the Office of the Special Narcotics Prosecutor. She launched her career as an intern in the same office before her senior year, and went straight to Harvard Law, where she was a teaching fellow and law tutor in the college.

Sarah Pettit, B.A., 1988, is Editor of OUT, America's largest circulation gay and lesbian magazine. At Yale, she ran the lesbian and gay Co-op. She also helped amend the University's non-discrimination policy to include sexual orientation as a protected category. She makes frequent television appearances.

Jenifer Hadiyia, B.A., 1995, is currently enrolled in a Masters of Pubic Policy and Administration program at Columbia University. She is also an intern at Planned Parenthood. A coordinator for the Women's Center while at Yale, she helped organize the 25th anniversary celebration of coeducation.•

## TAX CUTS

• Mr. FEINGOLD. Mr. President, the Speaker of the other body made a remarkable statement earlier this week. He argued that Congress should wait on cutting taxes, and instead make balancing the budget our highest priority. This is a significant and extremely positive development in the fight for a balanced Federal budget, and I congratulate the Speaker for making that statement in the face of significant opposition within his own party.

Mr. President, the Speaker's comments are indeed welcome. They follow the comments made this weekend by the chairman of the Senate Budget Committee [Mr. DOMENICI], who informally offered a no-tax cut, no new spending programs outline of a possible budget agreement. Mr. President, I cannot emphasize enough how important the comments of the chairman were. They came after several days of highly partisan comments on the budget, from both parties and in both houses. Often, without leadership, it is the nature of some to retreat to the security of partisan politics—an easy path that leads us further and further apart. To his great credit, Chairman DOMENICI rejected the considerable forces of partisanship, and offered an alternative path. Mr. President, his path offers us a real chance for a bipartisan budget agreement, and I want to take this occasion to commend my chairman for his courage. I am pleased to serve on the Budget Committee, and deeply honored to serve with the senior Senator from New Mexico.

Mr. President, the Speaker is of course absolutely right on the mark. As dearly as many of us would like to support tax cuts, our first priority must be to balance the budget. This is a position I took when I first ran for the Senate, and one I hold today.

Major tax cuts undercut our ability to craft a politically sustainable balanced budget plan, as was so clearly demonstrated during the 104th Congress. As I have noted before, both parties are at fault. We cannot afford either the President's tax cuts or the Congressional Republican tax cuts.

In November of 1994, I faulted the so-called Contract With America tax cuts—called the crown jewel of the Contract With America at the time. A month later, the day after the President proposed his own set of tax cuts, I took his proposal to task as well.

Mr. President, we dodged a bullet during the 104th Congress. Despite formal support for a tax cut in some form from both the White House and the majority party in Congress, we escaped without doing serious damage to the progress we made in reducing the deficit. Regretfully, we did not build significantly on the work accomplished in the 103d Congress to reduce the deficit. Though we made some modest strides, the bulk of the work that remained at the end of 1994 must still be done.

Mr. President, major tax cuts make the difficult task of enacting a balanced budget impossible. Most obviously, major tax cuts dig the hole even deeper before we begin. But major tax cuts also pose a significant and very real political problem, and the Speaker's comments about how including tax cuts leaves a balanced budget plan open to criticism are absolutely correct. There is no painless solution to the deficit.

The fundamental premise of any plan to balance the budget rests on the willingness of the Nation to sacrifice, but we cannot expect the Nation to embrace a plan which calls for some to sacrifice while providing tax cuts for others. Such a plan would not be sustainable, as was demonstrated so clearly during the 104th Congress. We can enact a balance budget plan if that plan is seen broadly as spreading sacrifice fairly. Mr. President, no partisan plan has any hope of rallying broadbased public support.

The only way we will enact a balanced budget plan, and sustain it through the several years it will take to achieve balance, is through a truly bipartisan effort. Thanks to the leadership of Chairman DOMENICI, and with the support of the Speaker, we have a chance to build such a plan. I hope my colleagues will not squander the opportunity they have given us at some personal political cost to themselves.

I look forward to working with Chairman DOMENICI on the Budget Committee to fashion the beginning of a budget agreement. As I have indicated to him in the committee, there are several budget issues that are especially important to me, but I remain flexible on all aspects of the budget in trying to reach a bipartisan agreement. Mr. President, I applaud the Speaker for change of heart, and especially commend Chairman DOMENICI for his courage and leadership.•

## TRIBUTE TO JACK G. JUSTUS

• Mr. BUMPERS. Mr. President, I rise today to pay tribute to a fellow Arkansan who is soon to retire after a long and distinguished career in Arkansas agriculture.

Jack G. Justus has devoted 44 years of service to Arkansas agriculture as a county agricultural agent and as a staff member of the Arkansas Farm Bureau. Under Jack's leadership as executive vice president for the past 15 years, the Arkansas Farm Bureau has nearly doubled in size to more than 200,000 members.

"Progressive Farmer" honored Jack Justus as its 1996 Man of the Year in Service to Agriculture. Throughout his career, Jack has served on numerous boards and commissions, including the Future Farmers of America Foundation, the 4–H Club Foundation, Arkansas State Fair, and other groups committed to the improvement of life for farm youth and the rural community.

Mr. President, on June 1, 1997, Jack Justus will retire from his administrative duties at the Farm Bureau. This native Arkansan, life-long resident, product of our State's educational system, and dedicated public servant is certainly deserving of a long and satisfying retirement.

Our State has benefited greatly from Jack Justus' stewardship and I know I join literally thousands from all across our State who join me in saying thank you.•

## CITY OF HACKENSACK

• Mr. TORRICELLI. Mr. President, I rise today to inform the Senate that Americans are still committed to economic progress and that local government is not powerless in the face of economic challenges. In my home State of New Jersey, the city of Hackensack has shown that dedication to solving long-term economic problems can be accomplished with practical leadership utilizing innovative solutions.

Over the past few years, the city of Hackensack had seen its downtown population decrease and its economic stability put at risk. The people of Hackensack were not to be deterred from making their city the best it could be. So, instead of accepting an unsatisfying economic fate, Hackensack's mayor and city council called together local business leaders to establish the Hackensack Economic Development Commission. This pioneering commission set out to study the city's economic climate and propose steps toward its continuing development.

This study, conducted by the Eagleton Institute's Center for Public Interest Polling at Rutgers University, is the first of its kind by a municipality in our State. The city's initiative and creativity in utilizing these research tools should be commended. Hackensack's climate study is unique in that it reached a broad range of people, over 5,000 residents and workers of the Hackensack area. The wide scope and depth of the study is a model for similarly situated cities in New Jersey.

Yet, more than a model for New Jersey, the efforts of the commission serve as a model for the entire country to prove that with solid community commitment, ongoing economic growth can be a reality. Thus, I ask that you join me in recognizing the city of Hackensack in its devotion to be an improved economic development and commend its foresight and planning to other cities across the Nation.•

## NATIONAL AGRICULTURE DAY—MARCH 20, 1997

• Mr. DURBIN. Mr. President, I rise today to pay tribute to America's farm families and those involved, both directly and indirectly, in production agriculture.

Today, is National Agriculture Day. It is an opportunity for all of America to pause, reflect, and be thankful that we enjoy the safest and most abundant food supply in the world. But, this doesn't happen by accident.

Every day, 77,000 farm families in Illinois go about the business of producing the food and fiber that our State and our Nation needs to survive. To them I say, thank you.

Mr. President, I am honored to represent the State of Illinois. It is the home of some of the most productive farm land in the world. Illinois farms produce corn, soybeans, pork, beef, wheat, dairy products, and many specialty crops. Our agribusiness community is vibrant. And, our researchers help provide answers to some of the most common as well as the most complex agricultural questions we know.

Over the last few months, I've traveled my home State and talked to farmers and others involved in production agriculture. The message from my fellow Illinoisans has been clear—health insurance affordability and economic opportunity are priority issues.

I believe that a 100-percent tax deduction for health insurance premiums is one of the most basic issues to farm families across this country. Because of the high cost of health insurance, especially individually purchased insurance, lack of affordability is a growing problem. Health insurance is particularly important to those involved in production agriculture because farming is one of the more dangerous occupations. Therefore, it is essential that farmers have access to quality health care and that they be covered by health insurance.

To help with affordability of health insurance, I plan to introduce legislation that would allow farmers and other self-employed individuals to pay for their health insurance premiums with pretax dollars. When it comes to health insurance, farmers and small business owners deserve to be treated the same as corporations. Corporations are allowed to take an income tax deduction for the full cost of the health insurance premiums that they pay.

The self-employed, including farmers, can only deduct 40 percent of their premiums this year. My bill would allow farmers to deduct 100 percent of their health insurance premiums from their taxable income this year and every year thereafter. A 100-percent deduction for health insurance premiums can reduce the net cost of health insurance for a farm family by as much as $500 to $1,000 annually. This savings can make the difference between whether health insurance is affordable or price-prohibitive. The affordability of quality health insurance is vitally important to Illinois' and America's farm families.

Mr. President, another important issue for rural America is finding new or alternative uses for our agricultural products to help ensure economic opportunity for farm families. Ethanol, a renewable fuel made from corn, is one of the best alternative use opportunities that exists today.

Last week the Government Accounting Office released a report, Alcohol Fuels: Tax Incentives Have Had Little Effect on Air Quality or Energy Security." Unfortunately, this report misses the point. That point is simple: Ethanol has a significant economic, environmental, and energy security impact in this country; one that past GAO reports have clearly recognized. The effect on air quality and energy security would be larger if more of our Nation s gasoline contained ethanol.

Ethanol should not be a poster child for Government handouts or corporate welfare. The primary incentive—a 5.4-cents-per-gallon reduction in the gasoline excise tax for 10 percent ethanol blends—is not claimed by major ethanol-producing corporations. The incentive is claimed by thousands of gasoline marketers—mostly independent, small businesses—that sell ethanol blends all across the country. In other words, the incentive is claimed at corner gas stations, not in corporate boardrooms.

On a day like today, it is important to point out the benefits of ethanol. The industry is responsible, both directly and indirectly, for more than 40,000 American jobs. Ethanol contributes more than $5.6 billion annually to our economy. Five percent of our Nation's corn crop goes to ethanol production. Corn growers have seen their incomes increased by more than $1.2 billion because of ethanol. This year over 1.4 billion gallons of ethanol will be produced. Thanks to the reformulated gasoline program, toxic air pollutants like benzene and carbon monoxide have fallen substantially. And, ethanol contributes over $2 billion annually to the U.S. trade balance.

Finally, Mr. President, in order for our country to continue to have a safe and abundant food supply we must support agricultural research. This year, we have an opportunity to reauthorize the research title of the farm bill. Congressional reauthorization will establish national policy for important agricultural research into the 21st century. In these times of constrained Federal budgets, it is vitally important to maintain an effective system for agricultural research.

Agriculture-related research in this country is currently conducted at over 100 ARS labs, including Peoria, IL, and over 70 land grant institutions, including the University of Illinois. Unfortunately, the United State ranks behind Japan, the United Kingdom, France, and Germany in the percentage of total research and development funding that is dedicated to agriculture. From soybean diseases to water quality to biotechnology, agricultural research plays an important part in the safety and quality of our food and fiber system.

Mr. President, last year Congress passed a comprehensive reauthorization of most farm programs. This year we need to continue that commitment by ensuring affordable health care and deductibility of premiums for farmers and the self-employed, promoting the use of alternative agricultural products like ethanol, and modernizing our agriculture system by continuing a strong and active investment in research.

I look forward to working with my colleagues on both sides of the aisle and from rural and urban areas to ensure that American agriculture remains a model of quality and efficiency for all nations.•

## NOMINATION OF MERRICK GARLAND

• Mr. FAIRCLOTH. Mr. President, yesterday I voted "no" on the nomination

of Merrick Garland to the U.S. Court of Appeals for the District of Columbia Circuit.

In so voting, I take no position on the personal qualifications of Mr. Garland to be a Federal appeals court judge. What I do take a position on is that the vacant 12th seat on the U.S. Court of Appeals for the District of Columbia Circuit does not need to be filled. Senator CHUCK GRASSLEY, chairman of the Senate Judiciary Committee's Subcommittee on Administrative Oversight and the Courts, has examined this issue thoroughly, and has determined that the court's workload does not justify the existence of the 12th seat. Last Congress, Senator GRASSLEY introduced legislation to abolish this unneeded seat. By proceeding to renominate Mr. Garland, President Clinton has flatly ignored this uncontradicted factual record.

I commend Senator GRASSLEY for his important work on this matter, as well as Senator JEFF SESSIONS, who has also emphasized the importance of this matter. With the Federal deficit at an all time high, we should always be vigilant in looking for all opportunities to cut wasteful government spending; this is one such opportunity. After all, each unnecessary circuit judge and his or her staff cost the taxpayer at least $1 million a year.

Lastly, our vote yesterday is an important precedent, since it marks the beginning of the Senate's new commitment to hold rollcall votes on all judicial nominees. This is a policy change which I had urged on my Republican colleagues by letter of January 8, 1997, to the Republican Conference. Voting on Federal judges, who serve for life and who exert dramatic—mostly unchecked—influence over society, should be one of the most important aspects of serving as a U.S. Senator. Rollcall votes will, I believe, impress upon the individual judge, the individual Senator, and the public the importance of just what we are voting on. I hope that my colleagues will regard this vote, and every vote they take on a Federal judge, as being among the most important votes they will ever take.•

## TRIBUTE TO PROF. ROBERT J. LAMPMAN

• Mr. FEINGOLD. Mr. President, I rise to offer tribute to Dr. Robert J. Lampman, economist, University of Wisconsin-Madison professor and noted researcher on poverty, who passed away March 4 at his home in Madison.

Mr. President, Dr. Lampman spent much of his distinguished professional career studying and writing about poverty and working to develop strategies to achieve its end. In 1966, he became the founding director of the Institute for Research on Poverty, a nonpartisan center for research into the causes and consequences of poverty and social inequality in America, on the UW-Madison campus, which established the university as a leader of research in that field. A colleague at the University of Wisconsin, Dr. Lee Hansen, called Dr. Lampman "a true scholar in that he was always asking questions to get a better understanding of the issues."

Despite his standing in his profession, Dr. Lampman was known as a professor who regarded his students as colleagues. One news report describing his career included a recollection by Dr. Thomas Corbett, once a graduate student studying with Dr. Lampman and now a University of Wisconsin professor of social work and acting director of the IRP. Dr. Corbett recalled Dr. Lampman's stopping by his office and saying he wanted "to pick my brain." "In a world where egos can become overwhelming, he was a guy who never lost his perspective," Dr. Corbett said.

In 1962, he joined the staff of President John Kennedy's Council of Economic Advisors, where he prophetically warned that economic growth, alone, would not eliminate poverty. He was later a key author of the historic chapter on poverty contained in Lyndon Johnson's "Economic Report of the President" in 1964 that helped call America's attention to poverty.

Dr. Lampman became, in the words of Nobel laureate economist James Tobin, "the intellectual architect of the War on Poverty," and he emphasized the importance of economic growth, income maintenance, and opportunities for education and jobs for those mired in poverty.

In 1964, as the War on Poverty was getting underway, he predicted to a group of University of Wisconsin-Madison graduate students that, within 20 years, "by present standards, no one will be poor."

Mr. President, it turned out that Professor Lampman was overly optimistic. Poverty was not eliminated in 20 years, but the War on Poverty had an impact. In 1964, before the War on Poverty was up and running, 19 percent of Americans were poor. Within 5 years, programs created by the Federal Government and a broadly expanding economy had combined to bring that number down to 12.1 percent. By 1973, the poverty rate was down to 11.1 percent.

That progress stalled, for many reasons. Census Bureau estimates for 1995, the most recent year for which data are available, tell us 13.8 percent of our Nation's population was poor, and, in the wealthiest nation in history, one American child in five lived in poverty.

Mr. President, Dr. Lampman's dedication, his intellectual energy, and his commitment to solving one of the most difficult, complex, and persistent social challenges we face should inform and inspire us. We should apply, as Dr. Lampman did, our best efforts to ridding our world of the plague of poverty and finally establishing social justice. That would be the most fitting tribute we could pay to this man.•

## RURAL HEALTH

• Mr. ABRAHAM. Mr. President, I rise today to pledge my support to the Rural Health Improvement Act of 1997. In my home State of Michigan and across the Nation, this legislation would improve the standard of health care for millions of Americans who live in rural areas.

Mr. President, I am very aware of the problems inherent in caring for citizens who live far away from major cities. Too often, these hardworking taxpayers and their children are not given easy access to the quality emergency and primary care services they deserve. There have, however, been two recent efforts that have been extremely successful in providing such care while also controlling costs—the Montana Medical Assistance Facility demonstration project and the Essential Access Community Hospital and Rural Primary Care Hospital demonstration program.

Mr. President, the bill that I endorse today would extend these successful initiatives to all 50 States. It would also ease Federal regulations for small hospitals that wish to be designated as "critical access" institutions. The aim of the bill is to allow these facilities greater flexibility in tailoring their services to the needs of patients in their particular communities. In short, I believe this law would improve care and save lives. A study of these programs by the General Accounting Office, in fact, has found that these initiatives actually decreased Medicare costs while maintaining a high standard of care.

In my view, Michigan and the rest of the Nation must receive the most affordable high quality care available. I believe this legislation is an important step in that direction. For these reasons, I am proud to cosponsor this legislation and urge my colleagues to do the same.•

## SAFE ADOPTIONS AND FAMILIES ENVIRONMENTS ACT

• Mr. DODD. Mr. President, I rise today to voice my strong support for the Chafee-Rockefeller Safe Adoptions and Families Environments Act [SAFE]. What's more, I commend each of them for their tireless and bipartisan efforts on behalf of this issue.

As I come to the floor today, it is difficult for me to imagine a more outrageous and disgraceful form of violence than child abuse.

However, while national attention to the problems of abuse are increasing, regrettably, so too are incidents of child abuse and neglect.

In fact, the number of abused and neglected children nearly doubled from

1.4 million in 1986 to over 2.8 million in 1993. During that period the number of children who were seriously injured quadrupled—from about 143,000 to nearly 570,000.

In my own State of Connecticut incidents of child abuse and neglect increased 118 percent from 1984 to 1994. In fact, between 1993 and 1994 alone there was a 43-percent increase.

Unfortunately, many child welfare agencies lack the resources to effectively deal with the increase in child abuse cases or efficiently place children in safe, permanent, and loving homes.

Legislation introduced today by Senators CHAFEE and ROCKEFELLER, of which I am an original cosponsor, would do more to not only protect these abused children but also ensure that they are not returned to environments where they will be abused or neglected.

First, it would work to ensure that abused and neglected children are placed in safe and protected settings.

Second, it would more rapidly move children out of the foster system and into permanent homes.

If there is one thing that all of us can agree upon it is the importance of assuring the safety and well-being of our Nation's children. This bill would improve our child welfare system and help ensure that every child is given the opportunity to grow up in a safe and healthy home.

I urge all my colleagues to join me in a bipartisan manner, and support this critically important legislation for our children's future.●

## THE NATIONAL ENTERPRISE

● Mr. FRIST. Mr. President, the extraordinary lifestyle, security and standard of living Americans have enjoyed since the end of the Second World War is one of our most notable achievements in recent history. We are wealthier, healthier, and safer than any people before us. We have built an economy whose resilience, ingenuity, and potential are truly the envy of the world. We have become the standard by which all other nations are measured. The century in which we have survived economic collapse and two world wars only to become stronger bears our name, the "American Century."

This unparalleled achievement is not a product of chance or fate, luck or serendipity, or even good timing. It is the product of an extraordinary effort on the part of the American people and the institutions we have built and strengthened. It is the product of the American spirit and work ethic which, in our first 100 years, propelled us from the periphery of a colonial empire to an independent nation a continent wide. It has allowed us, in our second century, to defeat challenges under which other nations withered.

Since the end of the Second World War, we have witnessed and enjoyed progress and growth unparalleled in our own history. That unparalleled progress is the product of a unique effort that helped us win the cold war and, among other notable achievements, put Americans on the moon. The effort is best described as a National Enterprise: a strong foundation built upon a shared responsibility and a common vision for our country's success.

The common vision that helped define our National Enterprise was shared by three basic pillars of our society: our Government, our academic institutions, and our private industries. The cementing agent is a sense of singular mission, embodied largely, but not exclusively, in the cold war effort, our love of freedom, and our free markets. Its medium and fuel are an ingenious, compassionate, optimistic, hard working, and resolute people.

The National Enterprise has now reached a crossroads, and we are facing one of the greatest but understated challenges of our history. With the advent of two historical trends, we face a challenge more daunting than any enemy: a potential loss of our own resolve.

First, growing Federal entitlements have created a fiscal crisis in the Federal Government, with 28 consecutive years of deficit spending, a $5.3 trillion debt, and shrinking discretionary spending. The money we allocate to research and development faces increasing competition from other worthwhile endeavors such as environment, education, national parks, infrastructure, and defense. All are competing for a smaller and smaller slice of the Federal spending pie.

Second, the end of the cold war era has left America with what some might call a diluted sense of mission or common interest. The National Enterprise cannot be defined in a single dimension, but for better or for worse, the cold war's unifying power and the birth of America as a superpower was the single greatest motive driving the Enterprise and the yardstick of its success.

With the launch of Sputnik in 1957, we witnessed a technologically advanced, symbolic challenge from our would-be enemy. It was the crack of the starter pistol in a race that would bear both frightening military capabilities and extraordinary peaceful dividends. For the first time, we were sobered in our celebration of post-war-era wealth and security and were challenged to push ourselves to the limit. The Sputnik era has ended, and with it has ended the series of punctuated events that presented a clear road map for our progress and cold war victory. What will be the new road map for our National Enterprise?

I was heartened to hear the President recognize the importance of the National Enterprise during his State of the Union Address. Without his leadership, any efforts in Congress, industry or education are unlikely to be successful. However, the President addressed only broad themes and small remedies for a few specific problems. In the President's budget, funding for Federal research and development remains essentially unchanged in a gradual downward trend, with the prognosis for coming years being a point of great concern. The President's emphasis on education is also a positive initiative, but his proposals seem to disproportionately favor higher education over all other levels. The President has presented a budget which seems to recognize some of the problems, but does not clearly articulate the full spectrum of challenges before us.

In addition to addressing the funding challenges that our National Enterprise faces, we must also embolden the Federal Government with a new understanding of mission and role within the Enterprise. This understanding is the critical difference between developing a strategy like the one that won the Cold War, and one that is simply a triage of federal spending programs. We must forge a sense of mission and seek a new understanding, for we may never have another Sputnik to awaken our schools, government and industries to the essence of the National Enterprise.

The challenges of the coming century will be as great or greater than those we have met thus far, but we do have the benefit of learning from our past successes. We can base our inquiry and guide our decisions on a set of simple truths we have learned from that experience. These simple truths make the link between spending and results, and highlight the need to make those links as clear, as direct, and as strong as possible.

Truth number one: research and development, science, and education bring advancements and innovation.

Truth number two: innovation has been the basis of our competitive edge—peaceful and defensive—and of our extraordinary lifestyle; it is the cornucopia of modern America and the envy of the world.

Truth number three: federal funding of research, and creating an environment that encourages private research and innovation, is the bedrock upon which the National Enterprise has been founded.

These fruits of our labor are not obscure laboratory innovations, but integral parts of our lives and economy. The Internet, computer chips, satellites, super-sonic aircraft, higher education and research universities, and strong civilian and defense-related basic research are a few compelling examples.

Therefore, the question is not whether federal research and development

spending is the taproot of our innovation and economic growth—it clearly is. The questions we face are, What is the right formula for the federal government in this National Enterprise? What are the actual mechanisms by which that combination of spending and American ingenuity translate into advancements? And how do we make them as strong and as sharp as possible?

We have some initial ideas here in Congress, but I do not believe this body as a whole is prepared to answer those questions—the most important of our time. But it is my sincere hope that we have begun this necessary dialogue.

In our pursuit of these answers, we have a simple, yet profound, justification: research and development spending and strong science and technology are the essential base elements of our competitive edge, our standard of living, and our defense. To hone and preserve that edge, Congress must work closely with the traditional partners in this effort: universities, government agencies and their labs, and private industry. These partnerships have been a key to America's strength and their whole is seemingly greater than the sum of its respective parts.

Along with several representatives of the national research, development and education effort in government, universities, and industry, several Senators of both parties have begun to explore the issues and open a dialogue addressing the questions of great national importance, as illustrated by the formation of the Senate's bipartisan Science and Technology Caucus. The full Senate understands the challenges of maintaining a vibrant National Enterprise, but the gravity of the challenge has not been fully articulated, even as we face greater competition from other countries and ever greater pressure on federal and private funding of all research and development.

This venture will require understanding, sympathy, discipline and dedication. Already, the initial dialogue has realized some immediate success: it exposed common ground and initiated the critical dialogue. We have begun to identify issues and areas on which Congress can begin to pursue an agenda and strategy:

Partnerships among industry, government, and universities are the strong basis of our preeminence in science and technology and in research and development, and are the essential whet stone of our competitive edge. We must find the best ways to shorten the time it takes to bring basic research to market, clinic, the armed forces, or industry.

Education is the seed-corn of the advancements we enjoy. We must continue to cultivate human capital, for that seed-corn cannot be planted too early. To fail to provide our institutions of higher learning with qualified students will ultimately be the most damaging blow to the National Enterprise. It is a problem that cannot be corrected in a single budget or simply through new laws and higher federal spending levels. Today, nearly one-third of incoming American college students are compelled to enter remedial courses because they are ill-prepared for much of the basic curriculum. The erosion of standards and performance in our elementary and secondary school systems is an erosion of the basis of the National Enterprise itself and a threat to its very existence.

Consistent and stable commitments to funding are essential for planning. Planning, in turn, is an essential ingredient in long term strategies and the ability for individuals, companies and institutions to commit to the long term and basic research.

A commitment to basic research is the foundation upon which all other discoveries and technical advancements are dependent. Here, the federal role is particularly important. Universities and labs cannot realistically undertake such high-risk and long-term research on their own. And industries cannot necessarily commit to a venture that may not enjoy a market return during the lifetime of the company.

Do not think I'm speaking of simply a more-informed and sophisticated triage. The overall budget projections on research and development spending are a point of great concern—some say a threat to our national security, our quality of life and our sharp competitive edge.

In this delicate operation of redefining our National Enterprise, we must be extremely careful, for clean incisions are not easy, and the distinctions between excesses and successes are not always clear. We must note that in trying to solve our budget crisis, some of the issue have been muddled, where the fine distinctions between basic and applied research, and between research and development, are lost or misjudged. However, should we gain a new sense of mission and consensus of goals through dialogue, such distinctions become less and less difficult with time, and we can better focus the energies and money of the United States.

We also face the danger that any such dialogue could be characterized politically and split by misconceptions of conservative versus liberal, of big government versus streamlined government, or even command economy versus the free market. We should be clear from the outset that this discussion is none of these, and it is certainly not a Republican versus Democrat issue, as the recent bipartisan efforts illustrate.

We must be mindful that the dialogue must also focus on education and the creation of human capital to fuel and guide our National Enterprise. A National Enterprise with all financial means at its disposal is impotent and adrift without knowhow and wisdom. Our economy's resilience, ingenuity, and potential are sure to fade without an unwavering commitment to education.

On these issues we must be prepared to deliberate, to make difficult decisions, and to lead. Congress must use its experience, knowledge and authority to move dialogue, keep it from folly, and define priorities and goals in the interests of the American people—a very tall order.

We must begin to study these issues and join the effort, beginning with the appreciation that this dialogue is the extraordinary luxury of an accomplished, enterprising and open-minded people. As Chairman of the Science, Technology and Space Subcommittee, as a founding member of the Science and Technology Caucus, and as a medical scientist and physician, I will actively pursue this dialogue and seek answers to these critical questions.

The Nation's approach to these challenges must be broadened in scope and increased in level of participation. It must move away from an annual piecemeal approach, confined to specific programs' and agencies' funding within our own appropriations process. It must also gain the level of honesty and earnestness realized during the Cold War Era and in the wake of Sputnik. This nascent dialogue and recent legislative initiatives are encouraging first steps, but the challenge must expand to include more of the Congress, the Administration and the public.

Congress must answer the critical questions to determine the role of the federal government, and then see that our laws and spending reflect the correct answers and clearly define our national interests. We must set out to understand our mission and to define our goals.

America cannot afford to wait for another Sputnik to shake us from our complacency and to define our interests for us. Congress has a great challenge ahead, and we must act now to restore and preserve our competitive edge and standard of living—so much depends on the decisions Congress makes and on the sincerity, depth, and sobriety of the dialogue.•

## THIRTIETH ANNIVERSARY OF THE REUNIFICATION OF JERUSALEM

• Mr. MOYNIHAN. I rise today to speak about the city of Jerusalem, a subject I have spoken about at some length and on numerous occasions during my tenure in the United States Senate. In the not too distant future, the people of Israel will celebrate the thirtieth anniversary of the reunification of their Capital. It is altogether fitting and proper that the United

States Congress should mark this anniversary with an appropriate resolution.

For 3,000 years Jerusalem has been the focal point of Jewish religious devotion. Although there had been a continuous Jewish presence in Jerusalem for three millennia—and a Jewish majority in the city since the 1840's—the once thriving Jewish population of the historic Old City of Jerusalem was driven out by force during the 1948 Arab-Israeli War. From 1948 to 1967 Jerusalem was divided by concrete, barbed wire, and cinder block. Israelis of all faiths and Jews of all nationalities were denied access to holy sites in the area controlled by Jordan.

Jerusalem was finally reunited by Israel in 1967 during the conflict known as the Six Day War. Since then, Jerusalem has been a united city in which the rights of all faiths have been respected and protected, and persons of all religious faiths have been guaranteed full access to holy sites within the city.

In 1990, I sponsored Senate Concurrent Resolution 106, which was overwhelmingly adopted by the United States Senate, while a similar resolution (H. Con. Res. 290) was adopted by the House of Representatives. These resolutions declared that Jerusalem, the capital of Israel, "must remain an undivided city" and called on the Israelis and the Palestinians to undertake negotiations to resolve their differences. The late Prime Minister Yitzhak Rabin credited S. Con. Res. 106 with "[helping] our neighbors reach the negotiating table" to produce the historic Declaration of Principles signed in Washington on September 13, 1993.

In the fall of 1995, I joined with Senator Dole to introduce "The Jerusalem Embassy Act of 1995" (Public Law 104–45) which states as a matter of United States policy that Jerusalem should remain the undivided capital of Israel. I firmly believe that Jerusalem must remain an undivided city in which the rights of every ethnic and religious group are protected, as they have been by Israel during the past thirty years.

I congratulate the people of Israel on the approaching thirtieth anniversary of the reunification of their historic capital. When the Senate reconvenes next month, I will introduce a resolution to commemorate this event, as I have done on previous anniversaries.•

## THE NUCLEAR WASTE POLICY ACT OF 1997

• Mr. MURKOWSKI. Mr. President, high-level nuclear waste and highly radioactive used nuclear fuel is piling up at 80 sites in 41 States. It is stored in populated areas, near neighborhoods and schools, in the backyards of people across America.

An example is the Palisades Plant in Michigan, which is within 100 feet of Lake Michigan. Another is the Haddam Neck Plant, in Connecticut. A U.S. Senator has observed that he can see it from his house.

Without objection, I would like to place in the RECORD an editorial from today's Hartford Courant that observes that "with the closing of the Connecticut Yankee Plant at Haddam Neck, the issue of what to do with the State's high-level nuclear waste has moved from the theoretical to the here and now. . . . Experts say Connecticut Yankee's spent fuel could be stored at Haddam Neck for another 30 years if Congress fails to approve a temporary facility. Unfortunately, the hands of the clock can't be turned back to a time when nuclear waste didn't exist. In terms of its disposal, a remote desert site in Nevada is the lesser of two evils."

The waste was supposed to be taken by the Federal Government for safer, central storage by 1998. Will that happen? The answer is "no."

Even though $12 billion has been collected from Americans to pay for storage—and even though a Federal court reaffirmed the Government's legal obligation to take the waste by 1998—there is no plan for action.

By 1998, 23 reactors in 14 States will be full. By 2010, 65 reactors in 29 States will be full.

A conservative estimate is that 25 percent of our nuclear plants will not be able to build onsite storage and will be forced to shut down. That would mean the loss of over 5 percent of our Nation's total electricity generating capacity.

But Yucca Mountain won't be ready until at least 2015. Therefore, the Nation needs a temporary solution.

That solution—S. 104—passed the Energy and Natural Resources Committee with a solid, bipartisan vote (15–5). Almost half the minority members and all majority members voted in favor of the bill.

Americans have waited too long for a solution to this environmental and public safety challenge—we must not wait any longer. There is a critical need to construct a safe, central storage facility to eliminate the growing threat to the environment and to the American people.

I have worked with Members on both sides of the aisle to solve any problems they have with this bill. We accepted several amendments from the Democrat side.

We continue to meet with Democrat Members and the administration to resolve remaining concerns. We will continue to work with new Secretary Peña and his staff at the Energy Department, now that the Secretary has the portfolio to resolve this pressing problem.

Over the recess, committee staff will be available to work on proposed compromises which can be considered in April. Senator BINGAMAN has been very constructive in this regard.

Much of what he is proposing appears acceptable. However, the bottom line is the need for a predictable path to interim and permanent waste storage. We simply cannot leave trap doors that allow central storage to be delayed for decades.

We now have an opportunity for bipartisan action. Let's seize that opportunity.

It is no secret both Nevada Senators will do what they feel they need to to derail this important bill. They consider it a political necessity to oppose it.

There will be allegations that the science is bad and try to scare us with references to mobile chernobyl. They will imply that if this bill doesn't pass, nuclear waste will not be transported through this country. That is not true. The fact is that there have been 2,500 shipments of used fuel across this country in the last 20 years.

This is not just history—it is happening today. DOE is transporting spent fuel from nuclear reactors all over the world into the United States, virtually as we speak—by truck, by train, by barge, by boat.

If the Nevada Senators do not tell you about this, there's a reason. Its because these shipments have been, and will continue to be, completely uneventful. In short, these spent fuel shipments are safe, and they aren't news.

At our hearing in February, all four members of the Nevada delegation admitted there was no process and no level of scientific proof that would decrease their opposition. This is about politics, and little about science.

Senator BRYAN was once in favor of sending high-level materials to the Nevada test site. As a State legislator, he voted for A.J.R 15, which was signed by the Nevada Governor in May 1975, which asked the Federal Government to do just that.

I think he was right the first time. It is safer, smarter, and cheaper to contain these materials at one location in the remote Nevada desert.

The Nevada test site was used for decades to explode nuclear bombs. It helped win the cold war—now it can help us win the war on radioactive waste disposal. High-level nuclear waste is our legacy: Now it's our obligation to dispose of it.

It is irresponsible to let this situation continue. It is unsafe to let dangerous radioactive materials pile up at 80 sites in 41 States. It is unwise to block safe storage in a remote area when the alternative is to simply leave it in 41 States. This is a national problem that requires a national solution. We need to pass S. 104.

So far, the administration's attitude toward nuclear waste storage has been to simply ignore the problem and disregard the Governments contractual obligation to take this waste. The American people deserve better.

Safe nuclear storage should not be a political issue. It is a scientific and an environmental issue—and we need a solution now. Sadly, the administration has turned a blind eye and a deaf ear. In addition to threats to the environment and safety, 22 percent of our electric capacity is at risk—22 percent.

Starting in January 1998, taxpayers may have to pay billions of dollars in liability payments because the Government has not met its obligation to take waste. Estimates of taxpayers' liability under a recent lawsuit brought by States run as high as $80 billion. That's as much as $1,300 per American family. Here's how the damages break down:

Cost of storage of spent nuclear fuel: $19.6 billion.

Return of nuclear waste fees: $8.5 billion.

Interest on nuclear waste fees: $15 to $27.8 billion (depending on the interest rate used).

Consequential damages for shutdown of 25 percent of nuclear plants due to insufficient storage (power replacement cost): $24 billion.

Inaction is not an option. Inaction is irresponsible.

Many of the opponents claims are also irresponsible: Interim storage at the Nevada test site will not delay construction of Yucca Mountain. A viability assessment will occur before the interim site is built. The President will have a choice of interim sites after the viability assessment.

This Nation faces a major decision: either continue storing high-level radioactive materials at 80 locations in 41 States indefinitely, or more safely contain them at one, centralized facility.

The option is clear—it's safer and cheaper. The time for action is now.

The editorial follows:

[From the Hartford Courant, Mar. 20, 1997]

THE LESSER OF TWO EVILS

With the closing of the Connecticut Yankee plant at Haddam Neck, the issue of what to do with the state's high-level nuclear waste has moved from the theoretical to the here and now.

The dilemma for Connecticut—and for other states that are home to any of 109 nuclear reactors—is whether to continue to store the spent nuclear rods on site or. . . . Or What?

Or begin shipping the radioactive waste to a temporary repository in the Nevada desert, but only if Congress approves such a facility. Senate action is expected shortly.

Already, utility ratepayers have contributed $13 billion nationally, and $500 million in Connecticut, for the purpose of disposing spent nuclear fuel at a central repository. But the federal government is more than a dozen years behind in developing a permanent underground vault at Yucca Mountain, Nev., thus heightening the need for a temporary holding place.

To be sure, concerns about transporting 85,000 tons of waste in 15,000 shipments over 30 years should in no way be minimized. Any leak, accident or terrorist attack would have disastrous consequences for the 75 percent of the nation's population who live along the designated truck and rail routes.

But nuclear engineers have done everything humanly possible to ensure the integrity of the operation. The casks that contain the radioactive material have been dropped 30 feet onto hard surfaces, engulfed in 1,475-degree fires, submerged under three feet of water and crashed at 80 mph into a 700-ton concrete wall. In every test, the casks survived intact. In the seven transportation accidents that have occurred, no radioactivity was ever released.

Although the risk will never be eliminated, the alternative is unacceptable. High-level nuclear waste cannot continue to be stockpiled at the 73 existing sites. Many reactor sites either have been decommissioned or are running out of room. Experts say Connecticut Yankee's spent fuel could be stored at Haddam Heck for another 30 years if Congress fails to approve a temporary facility.

Unfortunately, the hands of the clock can't be turned back to a time when nuclear waste didn't exist. In terms of its disposal, a remote desert site in Nevada is the lesser of two evils.•

## THE NUCLEAR WASTE POLICY ACT OF 1997

• Mr. CRAIG. Mr. President, I am very pleased that the Senate is now prepared to take up the Nuclear Waste Policy Act of 1997. It is time that this Congress clarify its intentions for the disposal of spent nuclear fuel and nuclear waste. It is for this reason that I introduced the Nuclear Waste Policy Act of 1996, which passed successfully in this body last year, and it is why I am a sponsor of S. 104 this year. We must resolve the problem that this Nation faces with disposing of nuclear material. Congress must recognize its responsibility to set a clear and definitive nuclear disposal policy. With the passage of this legislation in the last Congress, the Senate expressed its will that Government fulfill its responsibilities.

One major provision of this legislation directs that an interim storage facility be constructed at Area 25 at the Nevada Test Site and that the interim facility be prepared to accept materials by November 30, 1999. The first phase of this two-phase facility will be of a sufficient size to accept spent fuel from commercial reactors, shut down reactors and the Department of Energy.

As reported out of Committee, S. 104 includes a provision which I introduced. This provision clarifies Congress' intent to provide for the timely removal of spent nuclear fuel and high-level radioactive waste from the Government's national laboratories and defense programs. Under this provision, the Department of Energy is required to remove Government nuclear waste and spent nuclear fuel from our national laboratory sites in an amount equal to at least 5 percent of the total waste DOE accepts into the interim storage facility every year.

In addition to the billions of dollars that utility ratepayers have contributed to the disposal fund, taxpayers have contributed hundreds of millions of dollars to the disposal program for the removal of spent fuel and nuclear waste from the Nation's national laboratory sites. The provision I have sponsored makes good on the Government's commitment to clean up these sites and shows a return on the taxpayer money committed to this disposal program.

This provision assures that the spent fuel from the U.S. Navy reactors currently stored at the Idaho National Engineering and Environmental Laboratory will begin to be sent to the interim storage facility beginning in 1999. This is good news for both the DOE and for Idaho. Spent nuclear fuel will be moved out of Idaho well before the agreed date of 2035 called for in the agreement between Idaho Governor Batt, the DOE and the Navy. The fuel that is now temporarily stored in Idaho will be at the designated facility designed for long term disposal.

In my opinion, this legislation is important because it closes off the "escape routes" that exist in past legislation on this issue and have stymied the opening of a facility that actually accepts spent nuclear fuel and stores or disposes of it at a permanent facility. S. 104 closes these escape routes by specifying an interim facility location and a date for the opening of that facility.

Congress must own up to its responsibilities for the disposal of nuclear materials that it assumed through statute in 1982; a responsibility that 40 utilities and other organizations from 23 States are suing the Federal Government right now in the U.S. Court of Appeals to fulfill. The passage of S. 104 will take a major step in that direction and stem the Government's potential liability for failure to fulfill its contractual commitments—a potential hemorrhage of billions of dollars in judgments against the Department of Energy. By this action, spent nuclear fuel that is currently stored at nearly 100 different sites around the country—sites that were never designed for long-term storage—will be moved to one central location: A location that is specially designed for such storage.

In the course of this debate, we will hear a lot of discussion from those on both sides of this issue about transportation. Those who don't want to address the nuclear waste issue are likely to raise the specter of a "mobile Chernobyl." This scaremongering is simply not supported by the facts.

The fact is that there have been over 2,500 commercial shipments of spent fuel in the United States, and that there has not been a single death or injury from the radioactive nature of the cargo. Let me add to these statistics by noting that in my State there have been over 600 shipments of Navy fuel and over 4,000 other shipments of radioactive material. Again, there have been

no injuries related to the radioactive nature of these shipments. This is an exemplary safety record—a product of the care and rigorous attention with which these materials are transported.

I know that many people would prefer not to address the problem of spent nuclear fuel disposal. But for this Congress not to address the problem would be irresponsible. As the legislative body that sets policy for the Nation, Congress cannot sit by and watch while a key component of the energy security of this Nation, and the source of 20 percent of our country's electricity, nuclear power, drowns in its own waste.

The Nuclear Waste Policy Act of 1997 will do what neither the 1982 nor the 1987 act accomplished, and that is to definitively resolve the question of what to do with spent nuclear fuel in a timely manner. I look forward to its successful passage.●

## APPOINTMENTS BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, in accordance with Public Law 99-498, Section 1505(a)(1)(B)(ii), appoints the Senator from Colorado [Mr. CAMPBELL] to the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development.

## AUTHORITY FOR COMMITTEES TO REPORT

Mr. SANTORUM. Mr. President, I ask unanimous consent the committees have between 10 a.m. and 2 p.m. Wednesday, April 2, to file legislative or executive reported legislation.

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

## COMMENDING THE UNIVERSITY OF FLORIDA FOOTBALL TEAM

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 66 submitted earlier today by Senators MACK and GRAHAM.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 66) commending the University of Florida Football Team for winning the 1996 Division 1 Collegiate Football National Championship.

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

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

Mr. MACK. Mr. President, I rise today to introduce a resolution saluting the University of Florida football team on winning the 1996 National Football Championship.

As a proud alumnus of the University of Florida, I join with all those who have worn the Orange and Blue—both on and off the field—in honoring Coach Steve Spurrier, his staff and the football team for this outstanding accomplishment.

From its humble beginnings in 1906 to the present, the University of Florida's football program has had a rich and proud history. But 1996 will be forever known in the hearts and minds of the Gator faithful as "The Year of the Gator."

From the season opener in "The Swamp" to the national championship title game in the Sugar Bowl, the Gator faithful knew that with Steve Spurrier as their coach and Danny Wuerffel as the team's quarterback, field leader and spiritual leader, the 1996 season would indeed be one to remember.

The 1996 football team compiled a record of 12 wins and 1 loss and outscored their opponents 611 to 221 points in winning its fourth consecutive SEC championship and its first-ever national football championship.

For this achievement, the University of Florida was recognized by the Associated Press and major college football coaches as the 1996 national champions.

This season will also be remembered because for the first time in the history of the Heisman Trophy, an award which is presented annually to college football's most outstanding player, the winner played under a head coach who also had won the Heisman Trophy. Coach Steve Spurrier and Danny Wuerffel should be commended for this high honor.

It is also important to note that for the first time since the NCAA has been keeping records, two division I college football teams from the same State have played each other for college football's national championship.

I also want to take this moment to honor Coach Bobby Bowden and the Florida State University football team for their outstanding season and for reaching the national championship game. While they didn't win the game, the Seminoles and their fans should be proud of their achievements and commended for an outstanding season.

The State of Florida is indeed fortunate to be home to three of the finest college football teams in the Nation: The University of Florida, Florida State University, and the University of Miami. Together these three teams combined have won six college football national championships.

But in 1996, the national football championship was won by the University of Florida. Not only is this a special accomplishment that will long be remembered by the coaches and players, but it is also a moment to savor for Gator fans. After 90 years of ups and downs, great victories and frustration, the Fightin' Gators are finally the national champions of college football.

All the loyal sons and daughters of the University of Florida—wherever they may be—join me today in congratulating Coach Steve Spurrier, his staff, and the 1996 Fightin' Gator football team on winning the 1996 college football's national championship.

Mr. President, I ask unanimous consent to print in the RECORD the names of the Gator players, coaches, and staff along with their season record and the final polls with the Florida Gators in the top position as the national champions.

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

UNIVERSITY OF FLORIDA 1996 NATIONAL FOOTBALL CHAMPIONS

*Players*

Tremayne Allen
Reidel Anthony
Ernie Badeaux
Tyrone Baker
James Bates
Ronnie Battle
Tim Beauchamp
Cheston Blackshear
Noah Brindise
Teako Brown
Pat Browning
Scott Bryan
Zuri Buchanan
Jayme Campbell
Cooper Carlisle
Derrick Chambers
Ed Chester
Willie Cohens
Mo Collins
Collins Cooper
Keith Council
Camerson Davis
Reggie Davis
Jason Dean
Ernie Dubose
Craig Dudley
Dwight Edge
Bart Edmiston
Jerome Evans
McDonald Ferguson
Rod Frazier
Tony George
Rod Graddy
Jacquez Green
Buck Gurley
Fred Hagberg
Mike Harris
Thomas Hewitt
Ike Hilliard
Todd Holland
Al Jackson
Denise Stevens
Tom Williams
Demetric Jackson
Terry Jackson
Doug Johnson
Ryan Kalich
Nafis Karim
Jevon Kearse
Trey Killingsworth
Erron Kinney
Sean Ladd
Demetrius Lewis
Anthone Lott
Eugene McCaslin
Xavier McCray
Reggie McGrew
Travis McGriff

Anthony Mitchell
Jeff Mitchell
Dwayne Mobley
Mike Moten
David Nabavi
Shawn Nunn
Daryl Owens
Alonza Pendergrass
Jason Perry
Mike Peterson
Zach Piller
Dock Pollard
Alan Rhine
Jamie Richardson
Larry Richart
Wyley Ritch
Willie Rodgers
Taras Ross
Johnny Rutledge
Brian Schottenheimer
Nick Schiralli
Shea Showers
Teddy Sims
Ian Skinner
Robby Stevenson
Deac Story
Fred Taylor
Matt Teague
Dwayne Thomas
Kavin Walton
Cedric Warren
Fred Weary
Elijah Williams
Scott Wise
Lawrence Wright
Danny Wuerffel
Jon Xynidis
Correy Yarbrough
Billy Young
Donnie Young
Michael Younkins
Zac Zedalis
President: Dr. John Lombardi
Director of Athletics: Jeremy Foley

*Coaching Staff*

Head Coach Steve Spurrier
Rod Broadway
Jim Collins
Dwayne Dixon
Carl Franks
Lawson Holland
Bob Sanders
Jimmy Ray Stephens
Bob Stoops
Barry Wilson
Steve Spurrier, Jr.
Aubrey Hill

*Strength & Conditioning*

Jerry Schmidt
Rob Glass
Patt Moorer
Randy Popple

*Support Staff*

Norm Carlson
Dr. Keith Carodine
Bud Fernandez
Dave Houts
John Humenik
Dr. Pete Indelicato
Jeff Kamis
Betty Ling
Greg McGarity
Chris Partick
Nancy Sain
Tim Sain
Dr. Dick Shaara
Danny Sheldon
Jamie Speronis
Mike Wasik

1996 SCHEDULE

| | | | | |
|---|---|---|---|---|
| August 31st | Florida | 55 | SW Louisiana | 21 |
| September 7th. | Florida | 62 | Georgia Southern | 14 |
| September 21st. | Florida | 29 | Tennessee | 29 |
| September 28th. | Florida | 65 | Kentucky | 0 |
| October 5th .. | Florida | 42 | Arkansas | 7 |
| October 12th | Florida | 56 | Louisiana State | 13 |
| October 19th | Florida | 51 | Auburn | 10 |
| November 2nd. | Florida | 47 | Georgia | 7 |
| November 9th | Florida | 28 | Vanderbilt | 21 |
| November 16th. | Florida | 52 | South Carolina | 25 |
| November 30th. | Florida | 21 | Florida State | 24 |
| 1996 SEC CHAMPIONSHIP GAME | | | | |
| December 7th | Florida | 45 | Alabama | 30 |
| 1996 NATIONAL CHAMPIONSHIP GAME | | | | |
| January 2nd | Florida | 52 | Florida State | 20 |

1996 FINAL DIVISION 1 RANKINGS

ASSOCIATED PRESS POLL

1. University of Florida
2. Ohio State University
3. Florida State University
4. Arizona State University
5. Brigham Young University
6. University of Nebraska
7. Penn State University
8. University of Colorado
9. University of Tennessee
10. University of North Carolina
11. University of Alabama
12. Louisiana State University
13. Virginia Tech University
14. University of Miami (Fla)
15. Northwestern University
16. University of Washington
17. Kansas State University
18. University of Iowa
19. University of Notre Dame
20. University of Michigan
21. Syracuse University
22. University of Wyoming
23. University of Texas
24. Auburn University
25. U.S. Military Academy (Army)

USA TODAY/CNN COACHES POLL

1. University of Florida
2. Ohio State University
3. Florida State University
4. Arizona State University
5. Brigham Young University
6. University of Nebraska
7. Penn State University
8. University of Colorado
9. University of Tennessee
10. Univerity of North Carolina
11. University of Alabama
12. Virginia Tech University
13. Louisiana State University
14. University of Miami (Fla)
15. University of Washington
16. Northwestern University
17. Kansas State University
18. University of Iowa
19. Syracuse University
20. University of Michigan
21. University of Notre Dame
22. University of Wyoming
23. University of Texas
24. U.S. Military Academy (Army)
25. Auburn University

Mr. GRAHAM. Mr. President, I rise today with my distinguished colleague and fellow Florida Gator, Senator CONNIE MACK, to congratulate this year's national champions and one of the top football programs in the history of the Southeastern Conference, the University of Florida Gators. The Gators clinched their first national championship in football on January 2, 1997 when they defeated the Florida State University Seminoles in the Louisiana Superdome in New Orleans. This year's triumph is indeed special and came on the heels of a perfect nine win season in the Southeastern Conference, which is, as my colleagues know, one of the toughest leagues in college football.

The Gators defeated the Florida State football team by a score of 52–20 in the Sugar Bowl on January 2nd. It was truly an impressive and memorable display of leadership, dedication and teamwork by a college football team. This historic victory by the Gators not only brought with it the team's first national championship, but the Gators also set an unprecedented number of bowl records including the largest margin of victory against a No. 1 ranked team and the most points scored in a Sugar Bowl game.

I would also like to commend Florida State's Head Coach, Bobby Bowden and his fine team of football players for their magnificent season and for earning the right to play in the national championship. Although Florida State didn't win the game on January 2nd, they had a great season and they and their fans should be proud of their accomplishments.

The Gators managed to play its full complement of players during the season and devastated their opponents by averaging: 46.6 points per game, 333.9 yards passing per game and 503.9 yards total offense per game. Among their numerous record breaking achievements on the football field, the Gators' players also managed to bring home the Heisman Trophy, the Maxwell Award, the Unitas Award, the Davey O'Brien Award and the Thorpe Award to name just a few.

Under the extraordinary tutelage and superior leadership of Head Coach Steve Spurrier, the University of Florida football program rose above all others on the field in 1996. Prior to his arrival in 1990, no Florida Gator football team had captured an official Southeastern Conference championship in 56 years even though the university was a charter member of the league.

That trend changed in 1990, and Coach Spurrier's Gators have won at least nine games in each season since his arrival. The 1996 Florida Gators have the distinct honor of winning an unprecedented fourth consecutive Southeastern Conference championship and their fifth since Coach Spurrier's arrival. Over the past seven seasons, Coach Spurrier and his talented staff of assistants have posted a remarkable record of 73 wins on the football field, and in the always tough, Southeastern Conference, the Gators have achieved a remarkable record of 53 wins. During his tenure, the Gators have lost exactly two games at Ben Hill Griffin Stadium, an 80,000 seat fortress that Spurrier has dubbed "the swamp."

It is clear that the University of Florida Gators have been winners on the football field, but their winning

doesn't stop there. Academically, the Gators have excelled equally as well. They have achieved a tremendous graduation rate for an NCAA Division I football program, and 16 members of this year's team were named to the Southeastern Conference's Academic Honor Roll. In addition to their awards for athletic achievement, Lawrence Wright and Danny Wuerffel both received Scholar-Athlete Awards from the College Football Association.

Their achievements don't stop on the football field, however. The Gators have also been major contributors to the greater Gainesville community where they volunteer countless hours in support of worthy causes like a literacy program, an international youth education program and support students with disabilities.

As a Gator and a graduate of the University of Florida, I am extremely proud of the 1996 Florida Gators and Head Coach Steve Spurrier for their outstanding achievements both on and off of the football field.

Mr. SANTORUM. Mr. President, I take some pride in that my brother graduated from the University of Florida. So I will join in those congratulations.

I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

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

The resolution (S. Res. 66) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 66

Whereas the University of Florida can trace its beginnings to 1853 but was formally established by the State of Florida when Florida Agricultural College merged with East Florida Seminary, South Florida Military College, and St. Petersburg Normal & Industrial School in 1905

Whereas the University of Florida adopted the colors of orange and blue for its athletic team in 1905 and the alligator as the school's mascot in 1908;

Whereas the origins of intercollegiate football at the University of Florida can be traced back to 1901, when Dr. T.H. Taliaferro, president of the Florida State Agricultural College, enthusiastically endorsed the new sport of football and by that deed ensured that the University of Florida Fightin' Gator football team exists today;

Whereas the University of Florida is a founding member of the Southeastern Conference, considered by many to be the toughest conference in college football;

Whereas the students, alumni, and friends of the University of Florida are to be commended for the dedication, enthusiasm, and admiration they share for the Fightin' Gator football team;

Whereas in 1990, Stephen Orr Spurrier, the most fabled football player in the history of the University of Florida and winner of the Heisman Trophy in 1966, was hired to be the head football coach to lead the team to the ever elusive "Year of the Gator";

Whereas in 1992, Coach Spurrier and his assistant coaches recruited a group of talented athletes who went on to form the nucleus of the 1996 football team;

Whereas the 1996 Fightin' Gator football team compiled a record of 12 wins and 1 loss and outscored their opponents by a margin of 611 points to 221 points, and for this achievement the Fightin' Gator football team was recognized by the Associated Press and the Division I college football coaches as college football's 1996 Division I national champions;

Whereas the 1996 Fightin' Gators football team and coaches are to be commended for winning the school's first Division I collegiate football national championship.

Whereas the 1996 Fightin' Gator football team broke several school, Southeastern Conference, and Division I football records during the 1996 football season;

Whereas the 1996 senior class of the Fightin' Gator football team should be commended for their leadership and their "team first" approach that helped win the 1996 Division I collegiate football national championship, 4 consecutive Southeastern Conference football championships, and the most victories for a senior class in school history;

Whereas Danny Wuerffel, the team's quarterback, field leader, and spiritual leader should be commended for winning numerous awards and accolades for his performance during the 1996 football season including the Heisman Trophy, which is presented yearly to college football's most outstanding player, and the Draddy Scholarship Trophy, which is presented annually to the Nation's premier football scholar athlete;

Whereas Lawrence Wright, the team's strong safety, should be commended for winning the prestigious Jim Thorpe Award, which is presented yearly to college football's most outstanding defensive back;

Whereas Reidel Anthony, one of the team's clutch wide receivers, should be commended for being selected by both the Football writers Association and the Associated Press to their respective college football All-American teams;

Whereas Ike Hilliard, another of the team's deep threats at wide receiver, should be commended for being selected by the Walter Camp Football Foundation as a member of its college football All-American team;

Whereas all the loyal sons and daughters of the University of Florida join together in honoring Coach Spurrier and the 1996 Florida Fightin' Gators for winning the 1996 NCAA Division I football championship; and

Whereas the 1996 season will be known forever in the hearts and minds of the University of Florida faithful as the "Year of the Gator": Now, therefore, be it

*Resolved*, That the Senate—

(1) commends the University of Florida for winning the 1996 Division I collegiate football national championship;

(2) recognizes the achievements of all the players, coaches, and support staff who were instrumental in helping the University of Florida win the 1996 Division I collegiate football national championship and invites them to the Capitol to be honored in an appropriate manner to be determined;

(3) requests that the President recognize the accomplishments and achievements of the 1996 University of Florida Fightin' Gator football team and invite the team to Washington, D.C. for the traditional White House ceremony held for national championship teams; and

(4) directs the Secretary of the Senate to make available enrolled copies of this resolution to the University of Florida for appropriate display and to transmit an enrolled copy to each member of the 1996 University of Florida Division I collegiate national championship football team.

## AUTHORIZING THE PRINTING OF THE HISTORY MANUSCRIPT OF THE REPUBLICAN AND DEMOCRATIC POLICY COMMITTEES

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 67 submitted earlier today by Senators CRAIG and REID.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 67) authorizing the printing of the history manuscript of the Republican and Democratic Policy Committees in Commemoration of their 50th Anniversaries.

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

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

Mr. CRAIG. Mr. President, I rise to speak on "A History of the Senate Republican Policy Committee, 1947–1997."

Fifty years ago, the Senate established the Republican and Democratic policy committees. At the end of the Second World War and at the beginning of the cold war, U.S. Senators had concluded that this venerable old institution needed modernization to enable it to handle the increasingly complex foreign and domestic issues on its agenda, and to hold its own against an expanding presidential influence.

From 1945 to 1946, a joint committee chaired by Senator Robert M. LaFollette, Jr., a Republican from Wisconsin, and Representative Mike Monroney, an Oklahoma Democrat, investigated ways to reform the legislative branch. The joint committee proposed creation of professional staffs for each standing committee and allowing Senators and Representatives to appoint administrative assistants. It also recommended expansion of the Legislative Reference Service, now known as the Congressional Research Service. Those reforms were incorporated into the Legislative Reorganization Act of 1946.

One proposal that was not included in the act was the joint committee's recommendation that the Senate and House establish policy committees to assist the parties in promoting their legislative agenda. House Speaker Sam Rayburn feared that such policy committees might threaten his authority and refused to support them. Although the idea was dropped from the Legislative Reorganization Act, it was shortly thereafter incorporated in an appropriations bill but authorized policy committees for the Senate alone. Some

time later the House also established policy committees.

Chief credit for the policy committees belongs to Ohio Republican Senator Robert A. Taft. As chairman of the Republican Steering Committee, from 1944 to 1946, Taft firmly believed in thorough preparation and expertise. Although Republicans were then in the minority, Taft used the Steering Committee to plan and coordinate the party's legislative program, rather that wait to react defensively against the initiatives of the President and the majority party. Under Taft the Steering Committee helped Republican Senators become better informed on pending issues. His staff ran evening meetings that some called a night school for Senators. The Republican Steering Committee became the model for the proposed policy committees. Indeed, when the policy committees were written into law, the Republican Conference simply redesignated its Steering Committee as the Republican Policy Committee. Chairman Taft and all of the other members of the Steering Committee become the first members of the Policy Committee.

The Republican Policy Committee came into existence at the beginning of the 80th Congress, just as Republicans resumed the majority in the Senate and House. The 50th anniversary finds Republicans back in the majority in both Houses of Congress. Over the years the Policy Committee's services and functions have expanded considerably. Since 1947, it has produced the very useful Record Vote Analyses. Since 1956, it has hosted working lunches each week for Republican Senators. Since 1987, it has operated an in-house bulletin-board cable information channel to keep Senators and their staffs apprised of Senate floor activities and the upcoming agenda. In 1995, the Policy Committee stood among the first Senate offices to develop a home page on the Internet's World Wide Web, to provide information inside and outside the Senate on its publications, and to share information on key Republican policies.

The Policy Committee staff prepares both brief and indepth reports on the major issues facing the Senate. The Policy Committee conducts seminars for new legislative staff members, and holds issue forums and roundtable discussions for Senators. It also hosts regular meetings for staff directors, legislative directors, and press secretaries.

During its first 50 years, the Republican Policy Committee grew into a thriving operation staffed by a variety of experts. Working directly with the Senators, and educating the journalists who report on them, the Policy Committee has assisted Republican Senators in setting policy, enacting legislation, and getting their message out. That is an accomplishment entirely consistent with the goals that Robert Taft set in founding the Republican Policy Committee. The story of how those goals were achieved is contained in the history of the Policy Committee that was prepared by the Senate Historical Office, and will now be available for Senators, staff, students, and the general public.

I understand that the Democratic Policy Committee is considering a companion publication, and I would like to take this opportunity to congratulate its chairman, Senator TOM DASCHLE, and cochairman, Senator HARRY REID, on our mutual 50th anniversary.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

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

The resolution (S. Res. 67) was agreed to.

The resolution is as follows:

S. RES. 67

**SECTION 1. PRINTING OF THE HISTORY MANUSCRIPT OF THE REPUBLICAN POLICY COMMITTEE IN COMMEMORATION OF ITS 50TH ANNIVERSARY.**

(a) IN GENERAL.—There shall be printed as a Senate document the book entitled, "A History of the Senate Republican Policy Committee, 1947–1997," prepared by the Senate Historical Office under the supervision of the Secretary of the Senate, with the concurrence of the U.S. Senate Republican Policy Committee.

(b) SPECIFICATIONS.—The Senate document described in subsection (a) shall include illustrations and shall be in the style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

(c) NUMBER OF COPIES.—In addition to the usual number of copies, there shall be printed with suitable binding the lesser of—

(1) 1,000 copies for use of the Senate, to be allocated as determined by the Secretary of the Senate; or

(2) a number of copies that does not have a total production and printing cost of more than $1,200.

**SEC. 2. PRINTING OF THE HISTORY MANUSCRIPT OF THE DEMOCRATIC POLICY COMMITTEE IN COMMEMORATION OF ITS 50TH ANNIVERSARY.**

(a) IN GENERAL.—There shall be printed as a Senate document the book entitled, "A History of the Senate Democratic Policy Committee, 1947–1997," prepared by the Senate Historical Office under the supervision of the Secretary of the Senate, with the concurrence of the U.S. Senate Democratic Policy Committee.

(b) SPECIFICATIONS.—The Senate document described in subsection (a) shall include illustrations and shall be in the style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

(c) NUMBER OF COPIES.—In addition to the usual number of copies, there shall be printed with suitable binding the lesser of—

(1) 1,000 copies for use of the Senate, to be allocated as determined by the Secretary of the Senate; or

(2) a number of copies that does not have a total production and printing cost of more than $1,200.

## NATIONAL FORMER PRISONER OF WAR RECOGNITION DAY

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 68 submitted earlier today by Senators SPECTER and AKAKA.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 68) designating April 9, 1997 and April 9, 1998 as "National Former Prisoner of War Recognition Day."

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

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

Mr. SANTORUM. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

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

The resolution (S. Res. 68) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 68

Whereas the United States has fought in many wars;

Whereas thousands of members of the Armed Forces of the United States who served in such wars were captured by the enemy and held as prisoners of war;

Whereas many prisoners of war were subjected to brutal and inhumane treatment by their captors in violation of international codes and customs for the treatment of prisoners of war and died, or were disabled, as a result of the treatment; and

Whereas the great sacrifices of the prisoners of war and their families deserve national recognition: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates April 9, 1997, and April 9, 1998, as "National Former Prisoner of War Recognition Day" in honor of the members of the Armed Forces of the United States who have been held as prisoners of war; and

(2) requests that the President issue a proclamation calling on the people of the United States to commemorate this day with appropriate ceremonies and activities.

## WAIVER OF D.C. RESIDENCY REQUIREMENTS

Mr. SANTORUM. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 514, which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H. R. 514) to permit the waiver of D.C. residency requirements for certain employees of the Office of Inspector General of the District of Columbia.

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

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

Mr. SANTORUM. Mr. President, I ask unanimous consent that the bill be considered read a third time, passed, and the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (H.R. 514) was passed.

## ESTATE TAX RELIEF FOR THE AMERICAN FAMILY ACT OF 1997

Mr. SANTORUM. Mr. President, I ask unanimous consent that the text of S. 479, the Estate Tax Relief for the American Family Act of 1997, be printed in the RECORD.

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

S. 479

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

**SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.**

(a) SHORT TITLE.—This Act may be cited as the "Estate Tax Relief for the American Family Act of 1997".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

**SEC. 2. INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDIT.**

(a) ESTATE TAX CREDIT.—

(1) IN GENERAL.—Section 2010(a) (relating to unified credit against estate tax) is amended by striking "$192,800" and inserting "the applicable credit amount".

(2) APPLICABLE CREDIT AMOUNT.—Section 2010 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) APPLICABLE CREDIT AMOUNT.—For purposes of this section, the applicable credit amount is the amount of the tentative tax which would be determined under the rate schedule set forth in section 2001(c) if the amount with respect to which such tentative tax is to be computed were the applicable exclusion amount determined in accordance with the following table:

| "In the case of estates of decedents dying, and gifts made, during: | The applicable exclusion amount is: |
|---|---|
| 1997 | $700,000 |
| 1998 | $800,000 |
| 1999 | $850,000 |
| 2000 | $900,000 |
| 2001 | $950,000 |
| 2002 or thereafter | $1,000,000." |

(3) CONFORMING AMENDMENTS.—

(A) Section 6018(a)(1) is amended by striking "$600,000" and inserting "the applicable exclusion amount in effect under section 2010(c) for the calendar year which includes the date of death".

(B) Section 2001(c)(2) is amended by striking "$21,040,000" and inserting "the amount at which the average tax rate under this section is 55 percent".

(C) Section 2102(c)(3)(A) is amended by striking "$192,800" and inserting "the applicable credit amount in effect under section 2010(c) for the calendar year which includes the date of death".

(b) UNIFIED GIFT TAX CREDIT.—Section 2505(a)(1) (relating to unified credit against gift tax) is amended by striking "$192,800" and inserting "the applicable credit amount in effect under section 2010(c) for such calendar year".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying, and gifts made, after the date of the enactment of this Act.

**SEC. 3. FAMILY-OWNED BUSINESS EXCLUSION.**

(a) IN GENERAL.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2033 the following new section:

**"SEC. 2033A. FAMILY-OWNED BUSINESS EXCLUSION.**

"(a) IN GENERAL.—In the case of an estate of a decedent to which this section applies, the value of the gross estate shall not include the lesser of—

"(1) the adjusted value of the qualified family-owned business interests of the decedent otherwise includible in the estate, or

"(2) the sum of—

"(A) $1,500,000, plus

"(B) 50 percent of the excess (if any) of the adjusted value of such interests over $1,500,000, but not over $10,000,000.

"(b) ESTATES TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—This section shall apply to an estate if—

"(A) the decedent was (at the date of the decedent's death) a citizen or resident of the United States,

"(B) the executor elects the application of this section and files the agreement referred to in subsection (h),

"(C) the sum of—

"(i) the adjusted value of the qualified family-owned business interests described in paragraph (2), plus

"(ii) the amount of the gifts of such interests determined under paragraph (3),

exceeds 50 percent of the adjusted gross estate, and

"(D) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which—

"(i) such interests were owned by the decedent or a member of the decedent's family, and

"(ii) there was material participation (within the meaning of section 2032A(e)(6)) by the decedent or a member of the decedent's family in the operation of the business to which such interests relate.

"(2) INCLUDIBLE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—The qualified family-owned business interests described in this paragraph are the interests which—

"(A) are included in determining the value of the gross estate (without regard to this section), and

"(B) are acquired by any qualified heir from, or passed to any qualified heir from, the decedent (within the meaning of section 2032A(e)(9)).

"(3) INCLUDIBLE GIFTS OF INTERESTS.—The amount of the gifts of qualified family-owned business interests determined under this paragraph is the excess of—

"(A) the sum of—

"(i) the amount of such gifts from the decedent to members of the decedent's family taken into account under subsection 2001(b)(1)(B), plus

"(ii) the amount of such gifts otherwise excluded under section 2503(b),

to the extent such interests are continuously held by members of such family (other than the decedent's spouse) between the date of the gift and the date of the decedent's death, over

"(B) the amount of such gifts from the decedent to members of the decedent's family otherwise included in the gross estate.

"(c) ADJUSTED GROSS ESTATE.—For purposes of this section, the term 'adjusted gross estate' means the value of the gross estate (determined without regard to this section)—

"(1) reduced by any amount deductible under paragraph (3) or (4) of section 2053(a), and

"(2) increased by the excess of—

"(A) the sum of—

"(i) the amount of gifts determined under subsection (b)(3), plus

"(ii) the amount (if more than de minimis) of other transfers from the decedent to the decedent's spouse (at the time of the transfer) within 10 years of the date of the decedent's death, plus

"(iii) the amount of other gifts (not included under clause (i) or (ii)) from the decedent within 3 years of such date, other than gifts to members of the decedent's family otherwise excluded under section 2503(b), over

"(B) the sum of the amounts described in clauses (i), (ii), and (iii) of subparagraph (A) which are otherwise includible in the gross estate.

For purposes of the preceding sentence, the Secretary may provide that de minimis gifts to persons other than members of the decedent's family shall not be taken into account.

"(d) ADJUSTED VALUE OF THE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—For purposes of this section, the adjusted value of any qualified family-owned business interest is the value of such interest for purposes of this chapter (determined without regard to this section), reduced by the excess of—

"(1) any amount deductible under paragraph (3) or (4) of section 2053(a), over

"(2) the sum of—

"(A) any indebtedness on any qualified residence of the decedent the interest on which is deductible under section 163(h)(3), plus

"(B) any indebtedness to the extent the taxpayer establishes that the proceeds of such indebtedness were used for the payment of educational and medical expenses of the decedent, the decedent's spouse, or the decedent's dependents (within the meaning of section 152), plus

"(C) any indebtedness not described in subparagraph (A) or (B), to the extent such indebtedness does not exceed $10,000.

"(e) QUALIFIED FAMILY-OWNED BUSINESS INTEREST.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified family-owned business interest' means—

"(A) an interest as a proprietor in a trade or business carried on as a proprietorship, or

"(B) an interest in an entity carrying on a trade or business, if—

"(i) at least—

"(I) 50 percent of such entity is owned (directly or indirectly) by the decedent and members of the decedent's family,

"(II) 70 percent of such entity is so owned by members of 2 families, or

"(III) 90 percent of such entity is so owned by members of 3 families, and

"(ii) for purposes of subclause (II) or (III) of clause (i), at least 30 percent of such entity is so owned by the decedent and members of the decedent's family.

"(2) LIMITATION.—Such term shall not include—

"(A) any interest in a trade or business the principal place of business of which is not located in the United States,

"(B) any interest in an entity, if the stock or debt of such entity or a controlled group (as defined in section 267(f)(1)) of which such entity was a member was readily tradable on an established securities market or secondary market (as defined by the Secretary) at any time within 3 years of the date of the decedent's death,

"(C) any interest in a trade or business not described in section 542(c)(2), if more than 35 percent of the adjusted ordinary gross income of such trade or business for the taxable year which includes the date of the decedent's death would qualify as personal holding company income (as defined in section 543(a)),

"(D) that portion of an interest in a trade or business that is attributable to—

"(i) cash or marketable securities, or both, in excess of the reasonably expected day-to-day working capital needs of such trade or business, and

"(ii) any other assets of the trade or business (other than assets used in the active conduct of a trade or business described in section 542(c)(2)), the income of which is described in section 543(a) or in subparagraph (B), (C), (D), or (E) of section 954(c)(1) (determined by substituting 'trade or business' for 'controlled foreign corporation').

"(3) RULES REGARDING OWNERSHIP.—

"(A) OWNERSHIP OF ENTITIES.—For purposes of paragraph (1)(B)—

"(i) CORPORATIONS.—Ownership of a corporation shall be determined by the holding of stock possessing the appropriate percentage of the total combined voting power of all classes of stock entitled to vote and the appropriate percentage of the total value of shares of all classes of stock.

"(ii) PARTNERSHIPS.—Ownership of a partnership shall be determined by the owning of the appropriate percentage of the capital interest in such partnership.

"(B) OWNERSHIP OF TIERED ENTITIES.—For purposes of this section, if by reason of holding an interest in a trade or business, a decedent, any member of the decedent's family, any qualified heir, or any member of any qualified heir's family is treated as holding an interest in any other trade or business—

"(i) such ownership interest in the other trade or business shall be disregarded in determining if the ownership interest in the first trade or business is a qualified family-owned business interest, and

"(ii) this section shall be applied separately in determining if such interest in any other trade or business is a qualified family-owned business interest.

"(C) INDIVIDUAL OWNERSHIP RULES.—For purposes of this section, an interest owned, directly or indirectly, by or for an entity described in paragraph (1)(B) shall be considered as being owned proportionately by or for the entity's shareholders, partners, or beneficiaries. A person shall be treated as a beneficiary of any trust only if such person has a present interest in such trust.

"(f) TAX TREATMENT OF FAILURE TO MATERIALLY PARTICIPATE IN BUSINESS OR DISPOSITIONS OF INTERESTS.—

"(1) IN GENERAL.—There is imposed an additional estate tax if, within 10 years after the date of the decedent's death and before the date of the qualified heir's death—

"(A) the material participation requirements described in section 2032A(c)(6)(B) are not met with respect to the qualified family-owned business interest which was acquired (or passed) from the decedent,

"(B) the qualified heir disposes of any portion of a qualified family-owned business interest (other than by a disposition to a member of the qualified heir's family or through a qualified conservation contribution under section 170(h)),

"(C) the qualified heir loses United States citizenship (within the meaning of section 877) or with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) occurs, and such heir does not comply with the requirements of subsection (g), or

"(D) the principal place of business of a trade or business of the qualified family-owned business interest ceases to be located in the United States.

"(2) ADDITIONAL ESTATE TAX.—

"(A) IN GENERAL.—The amount of the additional estate tax imposed by paragraph (1) shall be equal to—

"(i) the applicable percentage of the adjusted tax difference attributable to the qualified family-owned business interest (as determined under rules similar to the rules of section 2032A(c)(2)(B)), plus

"(ii) interest on the amount determined under clause (i) at the underpayment rate established under section 6621 for the period beginning on the date the estate tax liability was due under this chapter and ending on the date such additional estate tax is due.

"(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage shall be determined under the following table:

| "If the event described in paragraph (1) occurs in the following year of material participation: | The applicable percentage is: |
|---|---|
| 1 through 6 | 100 |
| 7 | 80 |
| 8 | 60 |
| 9 | 40 |
| 10 | 20. |

"(g) SECURITY REQUIREMENTS FOR NONCITIZEN QUALIFIED HEIRS.—

"(1) IN GENERAL.—Except upon the application of subparagraph (F) or (M) of subsection (h)(3), if a qualified heir is not a citizen of the United States, any interest under this section passing to or acquired by such heir (including any interest held by such heir at a time described in subsection (f)(1)(C)) shall be treated as a qualified family-owned business interest only if the interest passes or is acquired (or is held) in a qualified trust.

"(2) QUALIFIED TRUST.—The term 'qualified trust' means a trust—

"(A) which is organized under, and governed by, the laws of the United States or a State, and

"(B) except as otherwise provided in regulations, with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

"(h) AGREEMENT.—The agreement referred to in this subsection is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property designated in such agreement consenting to the application of subsection (f) with respect to such property.

"(i) OTHER DEFINITIONS AND APPLICABLE RULES.—For purposes of this section—

"(1) QUALIFIED HEIR.—The term 'qualified heir'—

"(A) has the meaning given to such term by section 2032A(e)(1), and

"(B) includes any active employee of the trade or business to which the qualified family-owned business interest relates if such employee has been employed by such trade or business for a period of at least 10 years before the date of the decedent's death.

"(2) MEMBER OF THE FAMILY.—The term 'member of the family' has the meaning given to such term by section 2032A(e)(2).

"(3) APPLICABLE RULES.—Rules similar to the following rules shall apply:

"(A) Section 2032A(b)(4) (relating to decedents who are retired or disabled).

"(B) Section 2032A(b)(5) (relating to special rules for surviving spouses).

"(C) Section 2032A(c)(2)(D) (relating to partial dispositions).

"(D) Section 2032A(c)(3) (relating to only 1 additional tax imposed with respect to any 1 portion).

"(E) Section 2032A(c)(4) (relating to due date).

"(F) Section 2032A(c)(5) (relating to liability for tax; furnishing of bond).

"(G) Section 2032A(c)(7) (relating to no tax if use begins within 2 years; active management by eligible qualified heir treated as material participation).

"(H) Paragraphs (1) and (3) of section 2032A(d) (relating to election; agreement).

"(I) Section 2032A(e)(10) (relating to community property).

"(J) Section 2032A(e)(14) (relating to treatment of replacement property acquired in section 1031 or 1033 transactions).

"(K) Section 2032A(f) (relating to statute of limitations).

"(L) Section 6166(b)(3) (relating to farmhouses and certain other structures taken into account).

"(M) Subparagraphs (B), (C), and (D) of section 6166(g)(1) (relating to acceleration of payment).

"(N) Section 6324B (relating to special lien for additional estate tax)."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by inserting after the item relating to section 2033 the following new item:

"Sec. 2033A. Family-owned business exclusion."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1997.

**SEC. 4. EXTENSION OF TREATMENT OF CERTAIN RENTS UNDER SECTION 2032A TO LINEAL DESCENDANTS.**

(a) GENERAL RULE.—Paragraph (7) of section 2032A(c) (relating to special rules for tax treatment of dispositions and failures to use for qualified use) is amended by adding at the end the following new subparagraph:

"(E) CERTAIN RENTS TREATED AS QUALIFIED USE.—For purposes of this subsection, a surviving spouse or lineal descendant of the decedent shall not be treated as failing to use qualified real property in a qualified use solely because such spouse or descendant rents such property to a member of the family of such spouse or descendant on a net cash basis. For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as the child of such individual by blood."

(b) CONFORMING AMENDMENT.—Section 2032A(b)(5)(A) is amended by striking out the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendment made by section 6151 of the Technical and Miscellaneous Revenue Act of 1988.

**SEC. 5. INCREASE IN MAXIMUM REDUCTION IN VALUE FOR SPECIAL USE VALUATION.**

(a) IN GENERAL.—Section 2032A(a)(2) (relating to limitation on aggregate reduction in fair market value) is amended by striking "$750,000" and inserting "$1,000,000".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1996.

**SEC. 6. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.**

(a) GENERAL RULE.—Paragraph (3) of section 2032A(d) (relating to modification of election and agreement to be permitted) is amended to read as follows:

"(3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.—The Secretary shall prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor, but—

"(A) the notice of election, as filed, does not contain all required information, or

"(B) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to the estates of decedents dying after the date of the enactment of this Act.

**SEC. 7. 20-YEAR INSTALLMENT PAYMENT WHERE ESTATE CONSISTS LARGELY OF INTEREST IN CLOSELY HELD BUSINESS.**

(a) IN GENERAL.—Section 6166(a) (relating to extension of time for payment of estate tax where estate consists largely of interest in closely held business) is amended by striking "10" in paragraph (1) and the heading thereof and inserting "20".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1996.

**SEC. 8. NO INTEREST ON CERTAIN PORTION OF ESTATE TAX EXTENDED UNDER 6166.**

(a) IN GENERAL.—Section 6601(j) (relating to 4-percent rate on certain portion of estate tax extended under section 6166) is amended—

(1) by striking the first sentence of paragraph (1) and inserting the following new sentence: "If the time for payment of an amount of tax imposed by chapter 11 is extended as provided in section 6166, no interest on the no-interest portion of such amount shall (in lieu of the annual rate provided by subsection (a)) be paid.",

(2) by striking "4-percent" each place it appears in paragraphs (2) and (3) and inserting "no-interest",

(3) by striking subparagraph (A) of paragraph (2) and inserting the following new subparagraph:

"(A) $153,000, or",

(4) by striking "4-PERCENT" in the heading of paragraph (2) and inserting "NO INTEREST", and

(5) by striking "4-PERCENT RATE" in the heading thereof and inserting "NO INTEREST".

(b) CONFORMING AMENDMENTS.—

(1) Section 6166(b)(7)(A)(iii) is amended by striking "4-percent rate of interest" and inserting "no-interest portion".

(2) Section 6166(b)(8)(A)(iii) is amended to read as follows:

"(iii) NO-INTEREST PORTION NOT TO APPLY.—Section 6601(j) (relating to no-interest portion) shall not apply."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1996.

**SEC. 9. GIFTS MAY NOT BE REVALUED FOR ESTATE TAX PURPOSES AFTER EXPIRATION OF STATUTE OF LIMITATIONS.**

(a) IN GENERAL.—Section 2001 (relating to imposition and rate of estate tax) is amended by adding at the end the following new subsection:

"(f) VALUATION OF GIFTS.—If—

"(1) the time has expired within which a tax may be assessed under chapter 12 (or under corresponding provisions of prior laws) on the transfer of property by gift made during a preceding calendar period (as defined in section 2502(b)), and

"(2) the value of such gift is shown on the return for such preceding calendar period or is disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such gift,

the value of such gift shall, for purposes of computing the tax under this chapter, be the value of such gift as finally determined for purposes of chapter 12."

(b) MODIFICATION OF APPLICATION OF STATUTE OF LIMITATIONS.—Paragraph (9) of section 6501(c) is amended to read as follows:

"(9) GIFT TAX ON CERTAIN GIFTS NOT SHOWN ON RETURN.—If any gift of property the value of which (or any increase in taxable gifts required under section 2701(d)) is required to be shown on a return of tax imposed by chapter 12 (without regard to section 2503(b)), and is not shown on such return, any tax imposed by chapter 12 on such gift may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time. The preceding sentence shall not apply to any item which is disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such item. The value of any item which is so disclosed may not be redetermined by the Secretary after the expiration of the period under subsection (a)."

(c) DECLARATORY JUDGMENT PROCEDURE FOR DETERMINING VALUE OF GIFT.—

(1) IN GENERAL.—Part IV of subchapter C of chapter 76 is amended by inserting after section 7476 the following new section:

**"SEC. 7477. DECLARATORY JUDGMENTS RELATING TO VALUE OF CERTAIN GIFTS.**

"(a) CREATION OF REMEDY.—In a case of an actual controversy involving a determination by the Secretary of the value of any gift shown on the return of tax imposed by chapter 12 or disclosed on such return or in any statement attached to such return, upon the filing of an appropriate pleading, the Tax Court may make a declaration of the value of such gift. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(b) LIMITATIONS.—

"(1) PETITIONER.—A pleading may be filed under this section only by the donor.

"(2) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—The court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines that the petitioner has exhausted all available administrative remedies within the Internal Revenue Service.

"(3) TIME FOR BRINGING ACTION.—If the Secretary sends by certified or registered mail notice of his determination as described in subsection (a) to the petitioner, no proceeding may be initiated under this section unless the pleading is filed before the 91st day after the date of such mailing."

(2) CLERICAL AMENDMENT.—The table of sections for such part IV is amended by inserting after the item relating to section 7476 the following new item:

"Sec. 7477. Declaratory judgments relating to value of certain gifts."

(d) CONFORMING AMENDMENT.—Subsection (c) of section 2504 is amended by striking ", and if a tax under this chapter or under corresponding provisions of prior laws has been assessed or paid for such preceding calendar period".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall apply to gifts made after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to gifts made in calendar years ending after the date of the enactment of this Act.

**SEC. 10. EXPANSION OF EXCEPTION FROM GENERATION-SKIPPING TRANSFER TAX FOR TRANSFERS TO INDIVIDUALS WITH DECEASED PARENTS.**

(a) IN GENERAL.—Section 2651 (relating to generation assignment) is amended by redesignating subsection (e) as subsection (f), and by inserting after subsection (d) the following new subsection:

"(e) SPECIAL RULE FOR PERSONS WITH A DECEASED PARENT.—

"(1) IN GENERAL.—For purposes of determining whether any transfer is a generation-skipping transfer, if—

"(A) an individual is a descendant of a parent of the transferor (or the transferor's spouse or former spouse), and

"(B) such individual's parent who is a lineal descendant of the parent of the transferor (or the transferor's spouse or former spouse) is dead at the time the transfer (from which an interest of such individual is established or derived) is subject to a tax imposed by chapter 11 or 12 upon the transferor (and if there shall be more than 1 such time, then at the earliest such time),

such individual shall be treated as if such individual were a member of the generation which is 1 generation below the lower of the transferor's generation or the generation assignment of the youngest living ancestor of such individual who is also a descendant of the parent of the transferor (or the transferor's spouse or former spouse), and the generation assignment of any descendant of such individual shall be adjusted accordingly.

"(2) LIMITED APPLICATION OF SUBSECTION TO COLLATERAL HEIRS.—This subsection shall not apply with respect to a transfer to any individual who is not a lineal descendant of the transferor (or the transferor's spouse or former spouse) if, at the time of the transfer, such transferor has any living lineal descendant."

(b) CONFORMING AMENDMENTS.—

(1) Section 2612(c) (defining direct skip) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(2) Section 2612(c)(2) (as so redesignated) is amended by striking "section 2651(e)(2)" and inserting "section 2651(f)(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to terminations, distributions, and transfers occurring after December 31, 1997.

## BILL READ FOR THE FIRST TIME—H.R. 1122

Mr. SANTORUM. Mr. President, I understand that H.R. 1122 has arrived from the House, and I would now ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1122) to amend title 18, United States Code, to ban partial-birth abortions.

Mr. SANTORUM. I now ask for its second reading, and I will object to my own request on behalf of the other side of the aisle.

The PRESIDING OFFICER. Objection is heard.

## UNANIMOUS-CONSENT AGREEMENT—S. 104

Mr. SANTORUM. Mr. President, I ask unanimous consent that at 2:15 p.m. on Tuesday, April 8, 1997, there be 15 minutes equally divided for debate prior to the cloture vote.

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

## PROGRAM

Mr. SANTORUM. Mr. President, for the information of all Senators, when the Senate reconvenes following the Easter recess, the Senate will resume the motion to proceed to the consideration of the nuclear waste legislation. On Monday, the Senate will proceed as in morning business from the hour of 12 noon until 1 p.m. with a 5-minute limitation. Senators should be aware that no rollcall votes will occur during Monday's session of the Senate. The next rollcall vote will occur on Tuesday, April 8, at 2:30 p.m. The Senate could also be asked to turn to other Legislative or Executive Calendar items that may be cleared.

## ADJOURNMENT UNTIL FRIDAY, MARCH 21, 1997

Mr. SANTORUM. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the provisions of Senate Concurrent Resolution 14, unless the House fails to agree to the concurrent resolution. If the House fails to agree, the Senate would then stand in adjournment until 12 noon on Friday, March 21.

Thereupon, the Senate, at 7:28 p.m., adjourned until Friday, March 21, 1997, at 12 noon.

## CONFIRMATIONS

Executive nominations confirmed by the Senate March 20, 1997:

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

MARY LUCILLE JORDAN, OF MARYLAND, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM OF 6 YEARS EXPIRING AUGUST 30, 2002.

THEODORE FRANCIS VERHEGGEN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM EXPIRING AUGUST 30, 2002.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

COLLEEN KOLLAR-KOTELLY, OF THE DISTRICT OF COLUMBIA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA.

DEPARTMENT OF JUSTICE

ROSE OCHI, OF CALIFORNIA, TO BE DIRECTOR, COMMUNITY RELATIONS SERVICE, FOR A TERM OF 4 YEARS.