has transformed the university into one of the Nation's leading research universities. The University of Washington has been ranked in the top five in receipt of Federal grant and contract dollars, which account for 80 percent of the university's grant funding.

If anyone could document the history of Washington State's congressional delegation over the last 50 years, it would be Jack. His wit is legendary around Washington State circles, and he can quickly recount a story about Scoop or Dan Evans. Jack will tell you that Maggie thought ''foreign policy was anything outside Washington State.'' He was always there with either the right information or the right resource to find the answer.

Dr. Lein will step down from his position at the university at the end of this year. His absence will be felt by U.S. Senators, congressional staff, college faculty, and students for many years to come.

Mr. President, on behalf of the citizens of Washington State, I salute Dr. Jack Lein and his wife, Claire, for a lifetime of dedicated service to his alma mater, his State and his Nation.

Jack, we will miss you, but we will always know that you are close by.

Mr. President, I yield the remainder of my time to the senior Senator from the State of Washington.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, for the two of us who represent the State of Washington in the U.S. Senate, this is a day that is both joyous and sad. It is sad because on December 31 of this year, we will miss the company of Dr. Jack Lein who, for decades, has represented the University of Washington before this body and with particularly, of course, the Members of the House of Representatives and the Senate who represent the State of Washington.

It is a happy occasion, of course, because it gives us an opportunity to crown his career with at least a tiny share of the praise that it deserves.

I can say, Mr. President, after a relatively long career in the U.S. Senate and an even longer one in the Government of the State of Washington, that no person, no individual representing an institution has matched Jack Lein in the quality of his knowledge about the issues that he brings to us, in his dedication to the university that he represents, or in the personal qualities which cause all of us to welcome him into our office, to go out of our way to seek his company and to learn from him.

He has been nonpartisan or bipartisan in the highest sense of that term, with an ability to tell wonderful and always affirmative stories about the people he has met along the way, but with the overwhelming ability to cause us, who obviously believe in our university and want to help our university, to go even further than we would otherwise do simply because it is so important to please him and to help him.

He will be not just difficult to follow in that respect, he will be impossible to follow in that respect. So from the point of view of this Senator—and I know that my sentiments are shared, as they have already been expressed, by my junior colleague—we are not just simply missing someone who represents a vital institution to us here in this body, we are going to miss a very close friend, a good and delightful companion, a wonderful servant of this institution and his State and his medical profession in Dr. Jack Lein. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. If the Senator would withhold that request for just a moment.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1997—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the conference report accompanying H.R. 3666 will be stated.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3666) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1997, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

(The conference report is printed in the House proceedings of the RECORD of September 20, 1996.)

Mr. BOND. Mr. President, I wish to express my appreciation to the leadership and the Members on both sides for allowing the VA–HUD, independent agencies bill, H.R. 3666, to be passed.

Mr. DOMENICI. Mr. President, I rise in strong support of the conference agreement on H.R. 3666, the VA–HUD appropriations bill for 1997.

This bill provides new budget authority of $84.3 billion and new outlays of $49.7 billion to finance operations of the Department of Veterans Affairs and Housing and Urban Development, the Environmental Protection Agency, NASA, and other independent agencies.

I congratulate the chairman and ranking member for producing a bill that is within the subcommittee's 602(b) allocation. When outlays from prior-year budget authority and other adjustments are taken into account, the bill totals $84.3 billion in budget authority and $98.7 billion in outlays. The total bill is under the Senate subcommittee's 602(b) nondefense allocation by $43 million for budget authority and by $8 million for outlays. The subcommittee is also under its defense allocation by $3 million for budget authority and by $4 million for outlays.

Mr. President, I ask unanimous consent to have printed in the RECORD a table displaying the Budget Committee scoring of the conference agreement on H.R. 3666.

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

VA–HUD SUBCOMMITTEE—SPENDING TOTALS—CONFERENCE REPORT

[Fiscal year 1997, in millions of dollars]

	Budget authority	Outlays
Defense discretionary:		
Outlays from prior-year BA and other actions completed	.....	61
H.R. 3666, conference report	126	64
Scorekeeping adjustment	.....	.....
Subtotal defense discretionary	126	125
Nondefense discretionary:		
Outlays from prior-year BA and other actions completed	365	47,431
H.R. 3666, conference report	63,917	31,589
Scorekeeping adjustment	.....	.....
Subtotal nondefense discretionary	64,282	79,020
Mandatory:		
Outlays from prior-year BA and other actions completed	.....	1,153
H.R. 3666, conference report	20,260	18,013
Adjustment to conform mandatory programs with Budget Resolution assumptions	−406	381
Subtotal mandatory	19,854	19,547
Adjusted bill total	84,262	98,692
Senate Subcommittee 602(b) allocation:		
Defense discretionary	129	129
Nondefense discretionary	64,325	79,048
Violent crime reduction trust fund	.....	.....
Mandatory	19,854	19,547
Total allocation	84,308	98,724
Adjusted bill total compared to Senate Subcommittee 602(b) allocation:		
Defense discretionary	−3	−4
Nondefense discretionary	−43	−28
Violent crime reduction trust fund	.....	.....
Mandatory	.....	.....
Total allocation	−46	−32

Note: Details may not add to totals due to rounding. Totals adjusting for consistency with current scorekeeping conventions. Prepared by SBC Majority Staff, Sept. 24, 1996.

SECTION 8 MULTIFAMILY HOUSING PORTFOLIO DEMONSTRATION

Mr. BOND. Mr. President, a number of my colleagues have questions concerning the implementation of the section 8 multifamily housing portfolio demonstration—Section 8 mark-to-market—which was adopted as part of the conference report to H.R. 3666, the VA/HUD fiscal year 1997 Appropriations Act. The purpose of this statement is to clarify these questions for my colleagues, as well as for HUD. The conference report adopts a bipartisan strategy to build on the section 8 multifamily housing portfolio restructuring demonstration which was adopted as part of the HUD fiscal year 1996 appropriations bill, H.R. 3019, a further downpayment toward a balanced budget.

The conference report establishes a revised demonstration program to emphasize that portfolio restructuring needs to be undertaken to reform and improve the FHA multifamily housing programs from a financial and operating perspective, but not to abandon the long-term commitment to resident protection and ongoing low-income affordability. The revised demonstration, therefore, continues to give HUD a

number of flexible tools for restructuring section 8 assisted, FHA-insured projects, while emphasizing the preservation of the existing stock as low-income housing by generally restructuring these FHA-insured mortgages and reducing the cost of renewing the section 8 contracts. I emphasize that this demonstration, including the concept of reasonable offer, is intended to preserve affordable low-income housing, prevent the dislocation of current residents, preserve the rights of current owners who have complied with program requirements, and to not create any significant exposure of tax liability to owners.

The section 8 mark-to-market inventory covers some 8,500 projects with almost one million units that are both FHA-insured and whose debt service is almost totally dependent on rental assistance payments made under section 8 project-based contracts. Most of these projects serve very low-income families, with approximately 37 percent of the stock serving elderly families. Many of these projects are oversubsidized and, without the renewal of expiring section 8 contracts, are at risk of mortgage default. This raises concerns of owner disinvestment, resident displacement, and government ownership, management and disposition of this housing inventory. While continuing the existing subsidy arrangements would be very popular to both owners and tenants, the combination of the Federal Government overpaying for the value of this low-income housing resource as well as the growing tide of discretionary budget cuts require new policies and reforms to these programs.

The cost of renewing the section 8 project-based contracts on this multifamily housing inventory emphasizes the many difficult budget and policy issues which need to be addressed as Congress reevaluates Federal housing policy. In particular, according to HUD estimates, the cost of all section 8 contract renewals, both tenant-based and project-based, will require appropriations of about $3.8 billion in fiscal year 1997, $10 billion in fiscal year 1998, and over $16 billion in fiscal year 2000. In addition, the cost of renewing the section 8 project-based contracts will grow from $1.2 billion in fiscal year 1997 to almost $4 billion in fiscal year 2000, and to some $8 billion in 10 years. Moreover, the unpaid principal balance [UPB] on the mortgages associated with this FHA-insured housing inventory represents a contingent liability of some $17 billion to HUD and the Federal Government.

The section 8 multifamily housing portfolio restructuring demonstration is designed as an interim strategy and as a stepping stone for more comprehensive legislation by the authorizing committees as well as consideration of associated tax issues by the tax committees. This demonstration will require HUD to renew for up to 1 year all section 8 contracts with rents at or below 120 percent of the fair market rent for an area. In addition, project owners with expiring contracts above 120 percent of fair market rent may opt to have their section 8 contracts renewed at 120 percent of the fair market rent. This safe harbor will cover many of the 240,000 units which are supported by expiring section 8 contracts in fiscal year 1997, and will provide HUD with the administrative ability to focus on those FHA-insured multifamily housing projects with significantly oversubsidized rents. The projects with units which do not qualify for the contract renewal safe harbor will be eligible to participate in the section 8 multifamily mortgage restructuring portfolio demonstration and, at a minimum, will be renewed at budget-based rents.

The demonstration would encourage HUD to enter into contracts with qualified State housing finance agencies, local housing agencies, and nonprofits either as a partner or as designee to administer the program for HUD. The conference report reflects the belief that balancing the fiscal goals of reducing costs with the public policy goals of preserving and maintaining affordable low-income housing requires an intermediary which is accountable to the public interest. Because of the Department's capacity and management problems as documented by the Inspector General and the General Accounting Office, the demonstration reflects the understanding that capable public entities and certain qualified nonprofits should be accorded an opportunity to restructure mortgages on behalf of the Federal Government. I believe that many State housing finance agencies [HFA's], local HFA's, and other State and local housing and community development entities have the requisite capacity and expertise to implement the mortgage restructuring demonstration program and that developing this capacity and expertise will be important in the future for further establishing and building on both new and existing public and private partnerships for the development of affordable housing. I emphasize that nonprofits must be financially sound and have a demonstrated record in the area of affordable housing issues. I warn HUD to be very careful that sham nonprofits are not to be included, especially where a nonprofit is determined to be acting as a tool for the interests of some other entity.

It also is expected that HUD and these public purpose designees will contract and subcontract with other entities, including private entities such as financial institutions and mortgage bankers and servicers, to enhance the expertise and capacity necessary to ensure that mortgaging restructurings are handled to the best advantage of the Federal Government, the project, the community, and the residents. It is hoped that these partnerships can be used to crossfertilize public and private approaches to low-income housing to create new strategies and leverage new funds for the preservation and creation of low-income affordable housing resources.

The multifamily housing portfolio restructuring demonstration will provide HUD and the public agencies, and nonprofits, with a number of tools to restructure the FHA-insured mortgages and reduce the cost of section 8 project-based housing assistance. These tools include broad authority to restructure mortgages, including the forgiveness of mortgage indebtedness. For example, HUD could restructure a project mortgage so that a first mortgage would reflect the market value of a project while HUD holds a soft second on the remainder of the project debt. This would preserve the low-income character of the housing while reducing both the cost of the section 8 assistance and the risk of foreclosure. In exchange for mortgage restructuring, project owners would have to agree to preserve the housing as affordable for low-income families in accordance with requirements established by the Department or a designee. These requirements shall be balanced to ensure the long-term economic viability of the housing.

The demonstration also allows HUD to implement budget-based rents to squeeze out any inflated profits while covering the debt service, operating costs and a reasonable return to the owners of these federally assisted projects. The use of budget-based rents are intended to be flexible enough to ensure the preservation of unique and critically needed low-income housing projects, such as elderly projects in rural areas, projects designed to house large families, projects in localities with low vacancy rates, and projects with operating costs which exceed any comparable market rents. I emphasize that the Department should exercise a special sensitivity to certain projects, such as elderly projects in rural areas, that house a special population, especially where the availability of other affordable housing is questionable.

The conference report has elected to focus the restructuring demonstration on projects with contract rents above 120 percent of the fair market rents. According to recent HUD estimates, section 8 contracts affecting approximately 35,000 project-based assisted units will expire in fiscal year 1997. Of this amount, about 12,000 are assisted by HUD's section 8 new construction and substantial rehabilitation [NC/SR] programs. The program expects HUD to focus most of its mortgage restructuring efforts on the NC/SR assisted, or newer assisted portfolio since the costs of section 8 rental assistance attached to these properties are much greater than those assisted by HUD's section 8 loan management set aside [LMSA] program and the budgetary costs to maintain this inventory is greater. Therefore, the conference believes that greater budgetary savings will be realized on restructuring the newer assisted stock.

Further, unlike rents on the newer assisted stock, section 8 contract rents on the older assisted stock are regulated on a budget-based process. As such, the rents are supposed to be set already at the minimum level necessary to meet operating and debt service expenses. Contract rents on the newer assisted stock also are higher than prevailing market rates due to the initial construction costs and automatic rent increases that have been provided during the term of the assistance contract regardless of operating needs. Finally, restructuring the debt on the older assisted portfolio would likely achieve only minimal section 8 subsidy savings since the UPB on the remaining mortgage is smaller than the UPB on the newer stock. For example, older assisted properties have an average UPB of $14,000 per unit compared to an average UPB of $35,000 per unit for newer assisted properties. Therefore, focusing on the older assisted properties for debt restructuring likely would not necessarily be cost-beneficial especially when considering the time and transaction costs of such a process.

The conference bill also requires at least 75 percent of mortgages be restructured with FHA insurance. It is my belief that FHA mortgage insurance and other forms of credit enhancement are necessary for debt financing considering the short terms of section 8 contract renewals that are being provided in recent appropriation acts. Without long-term section 8 contracts, debt financing likely is to be difficult for restructured projects. If no insurance is provided when mortgages are restructured, debt restructuring costs also will be likely be higher, or mortgage debt discount deeper, than if the mortgages were restructured with insurance because private lenders would set the terms of the loans to reflect the risk of default. These projects could not have been built or financed without the original FHA mortgage insurance due to the inherent risks in developing low-income housing and the areas that these projects were built in.

Nevertheless, I emphasize that the use of FHA mortgage insurance and other forms of credit enhancement should be explored carefully to minimize the default risk to the Federal Government. In some cases, mortgage insurance may not be necessary when owners can obtain reasonable financing without insurance. As a result, the demonstration program allows some discretion in exploring and creating new forms of credit enhancement that would reduce the default risk and credit subsidy costs to the Federal Government. The demonstration also includes the use of mortgage insurance under risk-sharing arrangements currently practiced under the mortgage risk-sharing programs enacted under the Housing and Community Development Act of 1992. Mortgage insurance under these risk-sharing arrangements would be encouraged by not applying the current statutory limitations on the number of units that can be made available for mortgage insurance under this program.

There is also concern about the Department's plans to sell its benefits and burdens, including rights and obligations, under the FHA mortgage insurance program to public agencies as well as private entities. The demonstration permits HUD to sell to private entities the benefits and burdens of FHA multifamily mortgage insurance on up to 5,000 units. While it is important to test various restructuring strategies under the demonstration, the Department needs to ensure that the housing be preserved as low income, with residents and owners not displaced because of any risks associated with this mortgage refinancing strategy.

The demonstration also allows HUD to test the use of vouchers on up to 10 percent of the units in the demonstration so long as the owner agrees and the residents are consulted. As a further protection for residents, this strategy may only be implemented where it is determined that residents will be able to use successfully vouchers to obtain decent, safe, and sanitary housing.

Finally, this demonstration is an interim step to a more comprehensive long-term solution to the preservation of section 8 assisted housing. It is expected that the authorizing committee, consistent with hearings held by both the House and Senate authorizing committess, will consider reform of the section 8 mark-to-market inventory a priority for legislation during the next Congress.

MARK-TO-MARKET DEMONSTRATION

Mr. MACK. Mr. President, I would like to commend Senator BOND for addressing the expiration of thousands of section 8 housing assistance contracts by including a FHA multifamily demonstration program in the VA–HUD appropriations bill. This demonstration program incorporates many of the major principles of S. 2042, the Multifamily Assisted Housing Reform and Affordability Act of 1996, which I introduced last month along with Senators BOND, D'AMATO, and BENNETT. However, the success of the demonstration program depends on HUD's implementation. I would like to ask Senator BOND a few questions to clarify the intent of the legislation.

First, the demonstration program would allow the Secretary to use nonprofit entities as ''designees'' to carry out the functions and responsibilities of portfolio restructuring. Athough I believe that there are legitimate and qualified nonprofits who could be used as restructuring entities, I am concerned about the use of nonprofits that do not have the support of the local community or residents. How does the demonstration program address ''sham'' nonprofits?

Mr. BOND. I share the Senator's concern and believe that the demonstration authority does address ''sham'' nonprofits. Specifically, the demonstration requires the Secretary to select only these entities that have a long-term record of service in providing low-income housing and meet standards of fiscal responsibility. I expect HUD to issue detailed guidelines on what would constitute a qualified ''designee'' whether it is a nonprofit or public entity.

Mr. MACK. My second concern is about the Department's capacity to restructure up to 50,000 units in the demonstration program. Numerous studies by the HUD IG and GAO and statements by HUD officials themselves have indicated that there are serious capacity problems in the multifamily housing area at HUD. HUD's response to these problems is to liquidate the inventory through sales of HUD-held and guaranteed mortgages to Wall Street investors. S. 2042, however, would protect the Federal Government's affordable housing investment by transferring the portfolio management responsibilities to publicly accountable entities such as State and local housing finance agencies. How does the demonstration program address these issues?

Mr. BOND. The demonstration program is significantly based on S. 2042. Like S. 2042, the demonstration program addresses the Department's capacity constraints by requiring HUD to form arrangements with qualified third party public entities. The demonstration program assumes that the participation of public entities such as State and local housing finance agencies will be encouraged and utilized to the fullest extent possible by HUD. In response to the Senator's concern about HUD's liquidation policy, the demonstration does allow HUD to transfer or sell up to 5,000 units of HUD mortgages to private sector parties. This provision is not intended to be used as means of liquidating the housing stock. Instead, the intent is to test the efficiency and effectiveness of using private sector entities to preserve the affordable housing stock at the lowest possible cost to the American taxpayer while recognizing the impact on communities and owners.

Mr. MACK. Thank you again for your work and dedication to this issue and for considering the views of the authorizing committee in the demonstration program.

Mr. BOND. I appreciate the Senator's support and work on this issue, and I look forward to our continued cooperative effort to develop a comprehensive portfolio restructuring program early next year.

SECTION 8 CONTRACT RENEWALS

Mr. GREGG. I have a question for the chairman Senator BOND. I congratulate him for tackling the difficult problem of renewal of section 8 contracts in a comprehensive manner, providing for renewal of all contracts with rents less than 120 percent of fair market rent at the existing contract rent and permitting FHA-insured projects with rents

over 120 percent of fair market rents either to accept rents at 120 percent of fair market rents, or to enter the demonstration. The Senator also permits projects financed or insured by State or local agencies, or under section 202, 811, and 515, to be renewed at current rents. However, there is an omission, with regard to conventionally financed contracts with rents over 120 percent of fair market rent, which are not explicitly covered by the legislation.

Many of these projects, including some in New Hampshire, were developed in the early years of section 8, and I assume that the conferees did not intend to exclude them.

Mr. BOND. The Senator is correct. Under present law, namely section 405(a) of the Balanced Budget Down Payments Act I, HUD has the authority to renew conventionally-financed section 8 contracts at up to 120 percent of fair market rents. Indeed, in August HUD sent out a memorandum stating that it would renew such contracts at rents not in excess of 120 percent of Fair Market Rent. Nothing in this year's appropriations bill withdraws HUD's authority under section 405(a) to renew such contracts. I ask unanimous consent to have printed in the RECORD the legal opinion by Judge Diaz, the General Counsel for HUD, which confirms this analysis.

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

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
Washington, DC, September 24, 1996.

Memorandum to: Nicolas P. Retsinas, Assistant Secretary for Housing—FEA Commissioner.

From: Nelson A. Diaz, General Counsel.

Subject: Expiring project-based section 8 contracts on noninsured multifamily housing projects.

This memorandum is in response to your request for an opinion from the Office of General Counsel (OGC) regarding the legal authority to renew expiring project-based section 8 contracts on noninsured multifamily projects which have rents greater than 120% of the fair market rent.

Under Section 408(a) of the Balanced Budget Downpayment Act I, HUD has the authority to renew conventionally-financed section 9 contracts at up to 120% of the fair market rents. This position was set forth in HUD Notice H 96–74, entitled Project-Based section 8 Contracts Expiring in Fiscal Year 1997, issued on August 28, 1996. As it is currently composed in the draft before us on September 23, 1996, it is OGC's opinion that nothing in this year's proposed appropriation bill withdraws HUD's authority under 405(a) to enter into project-based maintenance contracts on those non-FHA insured projects whose expiring contract rents exceed 120% of the fair market rents for the market area in which the projects are located.

SECTION 8 RENTS

Mr. LAUTENBERG. Mr. President, I am concerned that this legislation does not adequately address the circumstances faced by certain unique properties. Specifically, I am worried about situations where the current section 8 rents exceed the fair market rents set by HUD by more than 120 percent, but are below the comparable market rents. If HUD cannot renew these contracts at current rents, the low and moderate-income residents of these properties may quickly find themselves without a decent place to live, especially in tight housing market such as we have in northern New Jersey. In this situation, I fear that an owner may have little choice other than to terminate the leases and rent the property to people who are willing to pay the real market rent. I do not believe that we have provided any sort of inducement for the owner of this type of property to continue to house low and moderate income people, many of whom may be elderly. Sticky vouchers would have been a very good solution to this problem. However, I have been advised by staff that the budget-based rent provisions under the demonstration address my concerns. I would like to be assured that this is, in fact, the case.

Mr. BOND. I would like to assure my colleague that the budget-based rent provisions can be used to address the concerns you raise. Under the budget-based rent provisions, the owner of unique property located in a tight housing market which houses elderly families and where the market rates are greater than the current contract rents and the rents are in excess of 120 percent of the FMR, could be provided with a contract renewal at the current contract rent level for 1 year. Also, Congress should look at the use of sticky vouchers in the future.

Mr. LAUTENBURG. So the budget-based rent provision is not limited to properties where the operating costs exceed comparable market rents?

Mr. BOND. That is correct. Properties where the operating costs exceed the comparable market rents are eligible for the budget-based rent provisions, but eligibility for budget-based rents is not limited to such properties. I emphasize that the mark-to-market demonstration is designed to ensure that HUD is particularly sensitive to the need to preserve existing low-income housing for the elderly and disabled.

Mr. LAUTENBURG. What would induce an owner of the type of property I described to continue to keep the property as an affordable housing resource?

Mr. BOND. The owner could be induced to continue to keep the property as an affordable housing resource by allowing the owner an adequate return on equity.

Mr. LAUTENBERG. Would the calculation of an adequate return on equity take into account the true market value of the property in unique circumstances such as the one I have described?

Mr. BOND. The Secretary would have the discretion to determine an adequate return on equity in this way if he so chose.

SECTION 8 HOUSING FOR THE ELDERLY

Mr. KERREY. I am very concerned that in Nebraska and its neighboring States, section 8 projects for the elderly will be disadvantaged under the language in the conference report, unless a special effort is made to preserve them. Fair market rents in these areas for zero and 1-bedroom apartments are low which cause high rents necessary to sustain section 8 projects with appropriate services for the elderly. These projects often have elevators, additional facilities for food, recreation and services, and extra management services such as 24-hour-in-house staff. They are above the 120 percent of FMR threshold for renewal at current rents. In order to bring these project rents down to FMR, all or most of the debt services would have to be eliminated. Debt reduction of this magnitude would most certainly give rise to significant tax liabilities. Is it your intent that debt restructuring occur?

Mr. BOND. The legislation is intended to preserve section 8 housing for the elderly and special populations. While debt restructuring may be unnecessary in most cases, it may be advantageous in some. Therefore, the chairman's intent is for HUD to review carefully each case and limit the use of debt restructuring to those rare cases where it is most advantageous. Furthermore, in any calculation HUD uses in determining the market rent for these projects, HUD must include compensation to cover services that meet the unique needs of the elderly and special populations.

Mr. HARKIN. I would ask that the chairman clarify his intentions on the limitations placed on HUD when considering debt restructuring.

Mr. BOND. HUD is instructed to use a three-pronged approach in determining whether the debt should be restructured. First, no tenants should be displaced. Second, the owners should not be forced to sell the project. Third, owners should not be subject to significant tax liability.

Mr. KERREY. I thank the chairman and look forward to assisting in the oversight of the implementation of these legislative provisions.

Mr. HARKIN. I would also like to thank the chairman. It is increasingly important that we preserve these projects for the elderly, especially in rural areas.

SECTION 8 CONTRACT RENEWALS

Ms. SNOWE. Mr. President, Senator COHEN and I have been working extensively with the U.S. Department of Housing and Urban Development and the Maine State Housing Authority to clarify the status and handling of contracts for 17 housing projects in Maine that were originally subsidized under section 23 and were later converted to section 8. We would like to confirm that these housing projects meet the definition of ''project-based'' as defined under paragraph (5), section 21 of the housing appropriations bill.

Mr. BOND. Mr. President, that is correct.

Mr. COHEN. Mr. President, of these housing projects, all of which receive

project-based assistance from the Department of Housing and Urban Development, 14 are financed through the Maine State Housing Authority. None of them are FHA-insured. We would like to further confirm our understanding that the project-based contracts for these particular housing projects will be renewed for 1-year at the current rent level under the terms and conditions of paragraph (2), section 211 of the housing appropriations bill.

Mr. BOND. Mr. President, the senior Senator from Maine is absolutely right.

Mr. MACK. Mr. President, I want to commend the chairman of the subcommittee, Senator BOND, for incorporating report language clarifying that Congress does not intend for the Fair Housing Act to apply to property insurance. HUD's assertion of authority over the conduct of the property insurance market overreaches, and in fact contradicts, congressional intent as reflected in the plain language and legislative history of the Fair Housing Act.

HUD's attempt to regulate the business of insurance, notwithstanding the lack of any reference to property insurance in the Fair Housing Act or its legislative history, also contradicts the statutory mandate of the McCarran-Ferguson Act of 1945, which requires that, unless a Federal law ''specifically relates to the business of insurance,'' that law shall not apply where it would ''invalidate, impair or supersede'' State law. HUD's assumption of authority to regulate property insurance has the practical effect of invalidating, impairing and superseding the State laws which prohibit unfair discrimination by insurers, and it is the type of duplicative regulation which Congress sought to avoid through McCarran-Ferguson.

We should not tolerate illegal discriminatory practices by anyone involved in the real estate market. However, every State provides recourse for addressing complaints of unfair discrimination by insurers. There is no need for HUD, which currently has difficulty meeting its statutory mandates, to step into the shoes of State regulators to create a Federal regulatory regime without clear justification or authority.

PROPERTY INSURANCE REGULATION

Mr. BOND. Mr. President, I want to make it clear that I am fundamentally and adamantly opposed to discrimination in any form, including discrimination in the provision of property insurance. Nevertheless, I believe that HUD has no authority under the Fair Housing Act to regulate the practices of the insurance industry, including practices related to the provision of property insurance. Moreover, HUD does not have the capacity or ability to address discrimination issues in the practices of the insurance industry, and any attempts to establish and enforce standards are likely to result in confusion and questionable actions.

The purpose of both the Senate and House committee reports to the VA/HUD fiscal year 1997 appropriations bill is to ask HUD to focus its fair housing resources of $30 million toward activities designed to fight discrimination in the sale, rental, and financing of housing.

These are limited resources and the committee report language in both House and Senate reports is designed to ensure that this funding is used in a comprehensive and focused manner to fight housing discrimination.

Furthermore, while the courts have not always been consistent in the application of the Fair Housing Act, I believe Congress has made it clear that the regulation of property insurance is outside the scope of the Fair Housing Act and is contrary to the intent of the MacCarran-Ferguson Act which states that the responsibility for insurance matters, including property insurance, is the responsibility of the States. The Fair Housing Act says nothing about Federal action with regard to discrimination in the provision of property insurance.

In fact, the legislative history of the Fair Housing Act indicates that the Fair Housing Act does not apply to insurance. Notably, in the Senate floor debate on the 1980 amendments to the Fair Housing Act, Senator HEFLIN stated that it was * * *

> * * *the decision of the Subcommittee on the Constitution, acquiesced in by the full Senate Judiciary Committee, to leave the regulation and oversight of the property insurance business to the States and to reject extension of [the Fair Housing Act] to that business.

HUD's property insurance activities are wholly unwarranted. Every State and the District of Columbia have laws and regulations addressing unfair discrimination in property insurance. We need to avoid duplication of effort and also avoid the risk of creating new and different standards that will be confusing and administratively burdensome. The House and Senate reports to the VA/HUD fiscal year 1997 Appropriations Act are identical on the issue of fair housing and property insurance, and are designed to state the understanding of the House and Senate that HUD should not intrude upon the responsibilities of the States with regard to the regulation of insurance, including property insurance.

Mr. SHELBY. Mr. President, on September 5, 1996, several senators expressed concern about language regarding property insurance activities by HUD's Office of Fair Housing and Equal Opportunity contained in the committee report accompanying the VA, HUD, and independent agencies appropriation bill.

For some time now, HUD has claimed it has jurisdiction under the Fair Housing Act to investigate complaints about alleged insurance redlining practices. Statements have been made that the committee report language is an effort to somehow exempt the insurance industry from civil rights enforcement. Nothing could be further from the truth. This is not about civil rights. It is about regulation.

Congress never intended to apply the Fair Housing Act to property insurance for the simple reason that the insurance industry is subject to State regulation under the McCarran-Ferguson Act. It is for this reason that the Congress chose specifically not to include the sale or underwriting of insurance under the Fair Housing Act.

HUD's enforcement and regulatory activities regarding property insurance is clearly a waste of resources because it duplicates State laws and regulations. Virtually every State and the District of Columbia have laws or regulations governing unfair discriminatory practices by insurance companies. States are actively investigating and addressing discrimination where it is found to occur. HUD is just adding another wasteful and unnecessary layer of bureaucracy.

Congress faces many hard choices in working to fulfill its commitment to eliminate unnecessary Federal spending and red tape. With respect to HUD, Congress must determine how to preserve essential programs while creating a more efficient Federal Government and reduce the budget deficit. If there is one area of Federal spending where Congress need not struggle to determine whether cutbacks are appropriate, it is HUD's activities regarding property insurance.

Mr. FAIRCLOTH. Mr. President, I rise today to speak about HUD's attempts over the past few years to regulate property insurance under the Fair Housing Act. Let me state for the record that I am committed to strict enforcement of the Fair Housing Act and its prohibitions against discrimination in housing.

The Fair Housing Act is one of the basic tenets of our country's civil rights laws. Where outright discrimination in housing is found, enforcement must be swift and strong.

However, my concerns stem from two issues. First, HUD lacks the authority to regulate property insurance. Second, regulation of property insurance is already being done by the States.

The Fair Housing Act makes it unlawful ''to discriminate against any person in the terms, conditions, or privileges of sale or rental of a home . . . Because of race.'' The language goes on to refer to the services provided by mortgage bankers and real estate brokers. Nowhere in the language does the act refer to property insurance. The Fair Housing Act does not specifically relate to the business of insurance. Courts have held that Congress never intended the Fair Housing Act to apply to insurance. HUD is clearly overstepping its authority by pursuing any regulation in this area. In fact, it spent hundreds of thousands of dollars on outside legal help to write this regulation because the legal basis for doing so was so tenuous.

By pursuing this issue, HUD is assuming that States have not been doing anything in this area. That assumption is wrong. All 50 States and the District of Columbia have enacted statutes or regulations, or both, that address unfair discrimination in insurance practices, violations of civil rights or which permit insurance departments to investigate unfair trade practices. I will submit for the record a compilation of some of these State statutes or regulations governing unfair discrimination in insurance. States are active in investigating discrimination. There is strong protection against illegal discrimination. HUD's actions only add another unnecessary layer of Federal bureaucracy.

This is just another example of HUD trying to assert more Federal power and more Federal control in an area traditionally under the domain of the States. HUD has shown, over the more than 30 years that the department has been in existence, that it cannot perform well those programs that are under its administration. What case can be made for HUD to take on yet another program. HUD is a failure. Regulation of property insurance is not within HUD's authority, and every effort should be made to keep HUD out of this area.

I ask unanimous consent that a representative sample of State statutes or regulations be printed in the RECORD.

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

STATE LAWS GOVERNING UNFAIR DISCRIMINATION IN INSURANCE

[Below is a compilation of laws and regulations in the 50 states and the District of Columbia which address unfair discrimination in insurance practices, violations of civil rights, or which permit insurance departments to investigate unfair trade practices. All 50 states and the District of Columbia have enacted statutes or regulations, or both, to address these issues. Except where otherwise indicated, all citations are to insurance codes or regulations]

State: Citation and chapter/section heading	Relevant text
Alabama:	
Trade Practices Law: § 27–12–2; § 27–12–21	No person shall engage in this state in any trade practice which is . . . determined [by the Commissioner] to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance.
Rates and Rate Organizations: § 27–13–1; § 27–13–65	Every rating organization and every insurer which makes its own rates shall make rates that are not unreasonably high or inadequate for the safety and soundness of the insurer and which do not unfairly discriminate between risks in this state . . .
Arkansas:	
Trade Practices: § 23–66–205; § 23–66–206(7)	Prohibited unfair competition or unfair or deceptive acts or practices include the following: (C) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk, unless: (i) The refusal, cancellation, or limitation is for a business purpose which is not a mere pretext for unfair discrimination; or (ii) The refusal, cancellation, or limitation is required by law or regulatory mandate. (D) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a residential property risk or on the personal property contained therein because of the age of the residential property, unless: (i) The refusal, cancellation, or limitation is for a business purpose which is not a mere pretext for unfair discrimination; or (ii) The refusal, cancellation, or limitation is required by law or regulatory mandate.
Rates and Rating Organizations: § 23–67–201; § 23–67–208	(a) [Insurance] rates shall not be excessive, inadequate, or unfairly discriminatory.
California:	
Prohibition of Discriminatory Practices by Certain Admitted Insurers: § 679.71	No admitted insurer shall fail or refuse to accept an application for, or to issue a policy to an applicant, or cancel insurance, under conditions less favorable to the insured than in other comparable cases, except for reasons applicable alike to persons of every marital status, sex, race, color, religion, national origin, or ancestry; nor shall sex, race, color, religion, national origin, or ancestry itself constitute a condition or risk for which a higher rate, premium, or charge may be required of the insured for such insurance.
CA Code of Regulations (CCR): § 2646.6	Requires insurers to collect and submit comprehensive insurance premium/exposure, marketing and customer demographic data by geographical area on an annual basis to the Department of Insurance.
District of Columbia:	
Fire, Casualty, and Marine Insurance: § 35–1533	Discrimination between individual risks of the same class or hazard in the amount of premiums or rates charged for any policy, or in the benefits or amount of insurance payable thereon, or in any of the terms or conditions of such policy, or in any other manner whatsoever, is prohibited, and the Superintendent is empowered after investigation to order removed at such time and in such manner as he shall specify any such discrimination which his investigation may reveal.
Regulation of Casualty and Other Insurance Rates: § 35–1703	(a) Rates for insurance within the scope of this chapter shall not be excessive, inadequate, or unfairly discriminatory.
Georgia:	
Unfair Trade Practices: § 33–6–3; § 33–6–4(b)(A)(iii)	Prohibited unfair methods of competition and unfair and deceptive acts or practices in the business of insurance include the following: (A)(iii) Making or permitting any unfair discrimination in the issuance, renewal, or cancellation of any policy or contract of insurance against direct loss to residual property and the contents thereof, in the amount of premium, policy fees, or rates charged for the policies or contracts when the discrimination is solely based upon the age or geographical location of the property within a rated fire without regard to objective loss experience relating thereto.
Regulation of Rates, Underwriting Rules, and Related Organizations: § 33–9–1; § 33–9–4.	(1) [Insurance] rates shall not be excessive or inadequate, as defined in this Code section, nor shall they be unfairly discriminatory.
GA Regulations: 120–2–65; 120–2–66	Prohibitive underwriting guidelines for automobile insurance. Prohibitive underwriting guidelines for property insurance.
Illinois:	
Unfair Methods of Competition and Unfair and Deceptive Acts and Practices: 215 ILCS 5/423; 215 ILCS 5/424; 215 ILCS 5/155.22.	Prohibited unfair methods of competition or unfair and deceptive acts or practices include the following: (3) Making or permitting, in the case of insurance of the types enumerated in classes 2 and 3 of section 4, any unfair discrimination between individuals or risks of the same class or of essentially the same hazard and expense element because of the race, color, religion or national origin of such insurance risks or applicant. No company authorized to transact in this State the kinds of business described in Classes 2 and 3 of Section 4,[1] and no officer, director, agent, clerk, employee or broker of such company shall upon proper application refuse to provide insurance solely on the basis of the specific geographic location of the risk sought to be insured unless such refusal is for a business purpose which is not a mere pretext for unfair discrimination.
Louisiana:	
Unfair Trade Practices: § 22.1213; § 22:1214(7)	Prohibited unfair methods of competition in the business of insurance include the following: (7)(d) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazard by refusing to insure, refusing to renew, cancelling, or limiting the amount of insurance coverage on a property or casualty risk solely because of the geographic location of the risk, unless such action is a result of the application of sound underwriting and actuarial principles related to actual or reasonably anticipated loss experience; (e) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to insure, refusing to renew, canceling, or limiting the amount of insurance coverage on the residential property risk, or the personal property contained therein, solely because of the age of the residential property; (f) Refusing to insure, refusing to continue to insure or limiting the amount of coverage available to an individual solely because of the sex, marital status, race, religion, or national origin of the individual. However, nothing in this Subsection shall prohibit an insurer from taking marital status into account for the purpose of defining persons eligible for dependent benefits. Nothing in this Section shall prohibit or limit the operation of fraternal benefit societies.
§ 22:652	No insurer shall make or permit any unfair discrimination in favor of particular individuals or persons, or between insureds or subjects of insurance having substantially like insuring risk and exposure factors, or expense elements, in the terms or conditions of any insurance contract, or in the rate of amount of premium charged therefor, or in the benefits payable or in any other rights or privileges accruing thereunder . . .
Loisiana Insurance Rating Commission and Rate Regulation: § 1402; § 1404	(2) [Insurance] rates shall not be excessive, inadequate or unfairly discriminatory.
New York:	
Unfair Claim Settlement Practices; Other Misconduct; Discrimination: § 2606 ..	(a) . . . no individual or entity subject to the supervision of the superintendent shall because of race, color, creed or national origin: (1) Make any distinction or discrimination between persons as to the premiums or rates charged for insurance policies or in any other manner whatever. (2) Demand or require a greater premium from any persons than it requires at that time from others in similar cases. (b) . . . no individual or entity subject to the superintendent's supervision shall solely because of the applicant's race, color, creed or national origin: (1) Reject any application for a policy of insurance issued and/or sold by it. (2) Refuse to issue, renew or sell such policy after appropriate application therefor.
§ 2607	No individual or entity shall refuse to issue any policy of insurance, or cancel or decline to renew such policy because of the sex or marital status of the applicant or policyholder.
Property/Casualty Insurance Rates: § 2301; § 2303	Rates shall not be excessive, inadequate, unfairly discriminatory, destructive of competition or detrimental to the solvency of insurers.
North Carolina:	
Unfair Trade Practices: § 58–63–10; § 58–63–15(7)	Prohibited acts of unfair discrimination include: (7)c. Making or permitting any unfair discrimination between or among individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk, unless: 1. The refusal or limitation is for the purpose of preserving the solvency of the insurer and is not a mere pretext for unfair discrimination or 2. The refusal, cancellation, or limitation is required by law. d. Making or permitting any unfair discrimination between or among individuals or risks of the same class and of essentially the same hazard by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a residential property risk, or the personal property contained therein, because of the age of the residential property, unless: 1. The refusal or limitation is for the purpose of preserving the solvency of the insurer and is not a mere pretext for unfair discrimination, or 2. The refusal, cancellation, or limitation is required by law.

STATE LAWS GOVERNING UNFAIR DISCRIMINATION IN INSURANCE—Continued

[Below is a compilation of laws and regulations in the 50 states and the District of Columbia which address unfair discrimination in insurance practices, violations of civil rights, or which permit insurance departments to investigate unfair trade practices. All 50 states and the District of Columbia have enacted statutes or regulations, or both, to address these issues. Except where otherwise indicated, all citations are to insurance codes or regulations]

State: Citation and chapter/section heading	Relevant text
Regulation of Insurance Rates: § 58–40–1; § 58–40–20	(a) In order to serve the public interest, rates shall not be excessive, inadequate or unfairly discriminatory.
Texas:	
Misrepresentation and Discrimination: Art. 21.21 sec. 3; Art. 21.21 sec. 4	Prohibited acts of unfair discrimination include: (7)(c) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to renew, canceling or limiting the amount of coverage on a policy of insurance covered by Subchapter C, Chapter 4, of this code because of the geographic location of the risk unless: (1) the refusal, cancellation or limitation is for a business purpose that is not a mere pretext for unfair discrimination; or (2) the refusal, cancellation or limitation is required by law or regulatory mandate.
Casualty Insurance and Fidelity, Guaranty and Surety Bonds: Art. 5.14	(3) Rates shall be reasonable, adequate, not unfairly discriminatory.

[1] 215 ILCS 5/4.

FAIR HOUSING INITIATIVE PROGRAM

Mr. BURNS. Mr. President, during consideration of the VA, HUD, and independent agencies appropriations bill on September 5, 1996, several of my colleagues made statements about language contained in the report accompanying the bill that directs HUD to expend the limited funds available for the Fair Housing Initiative Program [FHIP] only on such forms of discrimination as are explicitly identified under title VIII of the Civil Rights Act.

The Fair Housing Act makes no mention of property insurance. A reading of the legislative history of the act will disclose that Congress intentionally left out property insurance because insurance is a State regulated activity. Since the States regulate property insurance and have laws and regulations addressing unfair discrimination in property insurance, it was our conclusion that this is one area where HUD does not need to expend its resources.

Moreover, the report language was included in response to testimony from the Department of Housing and Urban Development stating it had limited resources available for the FHIP Program. It was our thought that HUD should use its limited resources to address only those areas specifically mentioned in the law that include the sale, rental, and financing of housing and in the provision of brokerage services.

Throughout all of its efforts and funding of outside groups to investigate insurance practices, it is interesting that neither HUD nor the private groups it funds with public money have been able to produce one individual who has failed to purchase a home because insurance was denied to that person. So much for ''no insurance, no loan, no house.''

In a statement released September 11, 1995, Max Boozell, the Illinois director of insurance, stated,

I am very disturbed by the contention that major homeowner insurance companies are redlining in Chicago. To the contrary, our 1994 study of homeowners insurance not only reflects a healthy, viable urban insurance market in Illinois, but provides no hard evidence of institutional redlining by any Illinois insurer.

Nor is this a civil rights debate as many would have us believe. Activities of the Justice Department under the Fair Housing Act have not been curtailed, nor does the inclusion of this report language impact the application to property insurance practices of section 1981 of the U.S. Code, which prohibits racial discrimination in the provision of insurance and other services under contract.

Nowhere in the Fair Housing Act is property insurance mentioned. More than 50 years ago, Congress wisely decided that, in the area of insurance regulation, the States should be spared Federal interference. Under the McCarran-Ferguson Act of 1945, Congress explicitly provided that, unless a Federal law ''specifically relates to the business of insurance,'' that law shall not be deemed applicable to insurance practices. By applying the Fair Housing Act to insurance, HUD simply disregards the fact that the law does not ''specifically relate to the business of insurance.''

Mr. President, the courts are divided on this issue. It was disappointing that the Supreme Court failed to grant certiorari in the case of Nationwide Mutual versus Cisneros. The Court could have resolved the conflict that now exists in 2 circuits out of our 13 Federal circuit courts. The two courts that have found that the Fair Housing Act applies to property insurance practices have relied on HUD's regulations, which, without any statutory authority, refer to discrimination in property insurance. In other words, HUD did not have a law, so the bureaucrats got to work and created one through regulations.

There is simply no justification for HUD continuing to expend funds for insurance regulatory activities that duplicate comprehensive State regulation at the expense of the American taxpayer. HUD would do better to work within the framework of the law with its limited resources.

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

Mr. BOND. Mr. President, the conference report to H.R. 3666, the VA/HUD Fiscal Year 1997 Appropriations Act, included an amendment by Senator BENNETT, that requires GAO to audit the operations of the Office of Federal Housing Enterprise Oversight [OFHEO] concerning staff organization, expertise, capacity, and contracting authority to ensure that the resources are adequate and that they are being used appropriately to ensure that Fannie Mae and Freddie Mac are adequately capitalized and operating safely. As Senator BENNETT previously advised, OFHEO is over 2 years behind in developing risk-based capital standards which are intended to ensure the financial safety and soundness of these Government-sponsored entities. Senator BENNETT further advised that OFHEO needs to refocus its activities, away from such activities as trips abroad, to ensure that these critically needed risk-based capital standards are developed and operative.

I also am very concerned over OFHEO's lapse in its responsibility for the timely development of these risk-based capital standards, and I urge OFHEO to expedite these necessary rulemaking requirements. I also advise that the Housing and Community Development Act of 1992 established OFHEO as an independent office in HUD and not as a new Federal agency. Nevertheless, in a time of Government downsizing, OFHEO continues to request additional staff and funding, while focusing on activities other than its primary responsibility to promulgate financial safety and soundness rules.

The 1992 housing bill, which I worked on, intended OFHEO, as a practical matter, to be a tripwire to alert Congress and the Nation to any significant financial risks that may be confronting Fannie Mae and Freddie Mac. This is a critically important function and OFHEO's primary function—I do not think that anyone intends or expects OFHEO to become a new agency or act as a political entity. I expect the GAO audit to lend some perspective to OFHEO's purpose, its ability to perform its purpose, and recommend ways to streamline and ensure OFHEO's capacity and expertise will meet its rulemaking and regulatory functions.

DRINKING WATER HEALTH EFFECTS RESEARCH

Mr. BOND. Mr. President, since completion of the VA-HUD conference, some confusion has arisen as to funding of drinking water health effects research. First, let me state unequivocally that I strongly support funding for drinking water health effects research to ensure that rules governing drinking water quality are based on the best science and result in cost-effective protection of public health. As a member of the Environment and Public Works Committee, I advocated amending the Safe Drinking Water Act to change the standard setting process and improve the scientific basis for regulations.

As chairman of the VA, HUD, and Independent Agencies Appropriations Subcommittee, I have worked to fund fully the new State revolving fund program for the construction of drinking water plants. The conference report before us includes $1.275 billion—$550 million as requested by the President, and

an additional $725 million to restore funds previously appropriated for this program but released last month for clean water SRF's.

Unfortunately, delays in enactment of the Safe Drinking Water Act amendments precluded in VA–HUD subcommittee's consideration of the many additional funding requirements associated with implementation of this legislation.

However, the conference agreement acknowledges that the new legislation will require resources, and states ''the conferees expect EPA to address any funding requirements for implementation of [this] important statute, such as drinking water health effects research, in the agency's operating plan.''

Funding for drinking water health effects research—outside of the amounts included in the science and technology account—was not in either House or Senate version of the VA-HUD bill, and hence was not an issue in conference. While I object to off-the-top setasides from State revolving funds, I fully support funding for health effects research from the science and technology account, which funds all of EPA's research activities. Should EPA propose to increase the relative priority for health effects research as part of its operating plan, and request additional funding for such research within the $542 million appropriated for science and technology, it is my expectation that this would be favorably received.

In conclusion, I encourage EPA to consider carefully the funding requirements associated with this new legislation, and propose a redirection of funds for these important activities within the $6.7 billion fiscal year 1997 appropriation.

COORDINATED TRIBAL WATER QUALITY PROGRAM

Mrs. MURRAY. Mr. President, I want to thank the subcommittee for its hard and diligent work on this bill. In particular, I appreciate the earmark of $500,000 for the Coordinated Tribal Water Quality Program for fiscal year 1997.

This program began in 1990 when the 26 tribes and tribal organizations in Washington State came together with a cooperative intergovernmental strategy to accomplish national clean water goals. As a result of Federal court decisions, the State of Washington has recognized the tribes as comanagers of water quality in the State. This program has been an effective tool for leveraging scarce public funds to create viable, watershed-based water quality protection plans.

It is my understanding that the $500,000 earmark in the committee report is not intended to preclude the Coordinated Tribal Water Quality Program from receiving the needed additional $2 million from the Environmental Protection Agency's existing funds under section 104(b)3 of the Clean Water Act.

Mr. BOND. Mr. President, the Senator from Washington is correct. The earmark is intended to be a floor from which the EPA may supplement the Coordinated Tribal Water Quality Program. The additional funding will allow the tribes to fulfill their roles as comanagers of water quality in Washington State.

Mrs. MURRAY. I thank the distinguished Chairman for this clarification.

The PRESIDING OFFICER. Pursuant to the previous order, the conference report accompanying H.R. 3666, the VA–HUD appropriations bill, having been received, the conference report is agreed to, and the motion to reconsider is tabled.

The conference report was agreed to.

Mr. GORTON. 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. KENNEDY. 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. KENNEDY. I ask unanimous consent to proceed for 5 minutes.

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

STRENGTHENING THE FAMILY AND MEDICAL LEAVE ACT

Mr. KENNEDY. Mr. President, passage of the Family and Medical Leave Act in 1993 was a true landmark for America's families. For the first time, millions of working men and women were freed from the threat of job loss if they needed time off for the birth of a child or to care for a sick family member.

The act has worked well—for employees and for their employers. Employees are now able to take a leave of absence to be with their children or with a sick relative at a crucial time for the family, so that they can provide the special care and compassion which are the glue that binds a family together. In the 3 years since its enactment, it has already helped millions of American families.

For seriously ill children it is particularly important. Having the emotional support of close family members can be a crucial element in their recovery. Allowing a parent the time to be with his or her child under these circumstances can truly make a difference.

The impact on employers has been negligible. A research survey commissioned by the Bureau of Labor Statistics found that 93 percent of businesses incurred little or no additional cost due to the Family and Medical Leave Act. There was no noticeable effect on productivity, profitability, and growth resulting from the new law, according to 87 percent of the businesses surveyed.

In light of these facts, it is particularly shocking that Bob Dole would attack the Family and Medical Leave Act as he did the other day. He criticized the Family and Medical Leave Act as an example of ''the long arm of the Federal Government'' interfering with the rights of business owners. As he stated, ''My view is, why should the Federal Government be getting into family leave? * * * the Federal Government ought to be out of it.''

Bob Dole is wrong about family and medical leave and many other issues. In more and more American homes today, both parents must have jobs in order to support their families. A substantial majority of children live in families where neither parent is at home during the day because of their jobs. If we value families—if we are serious about helping parents meet the needs of their children—then family medical leave is essential. Family members must be allowed time off from work to care for a newborn infant, to nurse a sick child back to health, or to be with a sick parent or spouse in a time of medical crisis.

The price of meeting these family responsibilities should not be losing your job. That is why family and medical leave is essential. Bob Dole may not understand this, but American people, by an overwhelming majority, do understand it.

The current law has made a dramatic difference for working families. But, it does not address another very important issue for such families—the need for a brief break in the workday to meet the more routine, but still very important, demands of raising children. At a time when more children than ever are growing up in one parent homes or in families where both parents work outside the home, this flexibility is becoming more and more essential.

Every working parent has experienced the strain of being torn between the demands of their job and the needs of their children. Taking a child to the pediatrician, meeting with a teacher to discuss a problem at school, accompanying a child to a school event, watching a child perform in a special recital or in the big game—all of these often require time off from work. No parent should have to choose between alienating the boss and neglecting the child.

Many employers understand this, and allow their workers to take time for family responsibilities. But many other companies refuse to accommodate their workers in this way. The ability of parents to meet these family obligations should not be dependent on the whim of their employer. In a society that genuinely values families, it should be a matter of right.

Under proposed Democratic amendments to the Family and Medical Leave Act, working parents would be entitled to 4 hours of unpaid leave a month, up to a total of 24 hours of leave a year, to participate in their child's school and community activities or to take that child to the doctor.