small oil well production such as we have in Kansas. We need to encourage this domestic production. Let's have a tax credit for these marginal oil wells that produce less than 10 barrels a day. You get positive comments from the administration, but then nothing happens. On biofuels or Central Asia, there is enormous capacity in that region for oil and gas. Yes, this takes place, but what are you going to do to cause this to happen? What is your strategy? Nothing is put forward.

Here we are with high gas prices and high heating oil. My parents burn propane to heat their home. They are paying a significant premium price now. All of these things are taking place, and then their answer is to tap this 1½ day supply, instead of dealing with fundamentals which they have failed to do over a period of time. So we have been warned. I hope we can press the administration, and I hope this is something to which people pay attention.

Mr. SESSIONS. I thank the Senator for those comments, and I do think it is important for America. The average citizen doesn't have time to watch debate here and hear what goes on in committees, but this has been a matter of real contention for a number of years. There have been warnings by people such as Senator MURKOWSKI, who chairs the Energy Committee, and others, that this would occur, and it has now occurred. I think it is particularly a condemnation of the policy when you have been told about the consequences and warned about it publicly and still you have not acted. That, to me, is troubling. I appreciate the Senator's comments.

I yield the floor.

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## THE PACKERS AND STOCKYARDS ENFORCEMENT IMPROVEMENT ACT OF 2000

Mr. BROWNBACK. Mr. President, I rise to address something about which the occupant of the chair has a great deal of concern. A bill was introduced recently by Senator GRASSLEY from Iowa. I support his bill, the Packers and Stockyards Enforcement Improvement Act of 2000. I think this is a commonsense approach to a very difficult agricultural antitrust concern taking place. I applaud Senator GRASSLEY's approach and endorse his Stockyards Enforcement Act of 2000.

Concerns about concentration and market monopolization have risen in recent years, with the remaining low prices that farmers have received and the struggle that we have had to adopt and adapt to the globalized commerce that we see taking place.

I was visiting yesterday with my dad, who farms full time in Kansas, and my brother who farms with him, about concerns regarding the concentration and the low prices taking place and what is happening around them.

What Senator GRASSLEY has done is request a GAO study, and he found that the USDA has not adequately put forward efforts of enforcement in the packers and stockyards field, and that needs to take place. He is taking the GAO study and putting it into legislative language. I believe it would be prudent and wise for this Congress to pass that language.

Senator GRASSLEY's bill spells out specific reforms that will make a direct difference in the way antitrust issues and anticompetitive practices are dealt with. Specifically, the bill will require USDA to formulate and improve investigation and case methods for competition-related allegations in consultation with the Department of Justice and the Federal Trade Commission; integrate attorney and economist teams, with attorney input from the very beginning of an investigation, rather than merely signing off at the end of the inquiry.

It turns out that the GAO study reports that the economists are looking at the cases early on but the attorneys are not. The attorneys need to be involved at the very outset. By the nature of these charges, they are legal issues and should be looked at by attorneys at the very outset. It would establish specific training programs for attorneys and investigators involved in antitrust investigations. It would require a report to Congress on the state of the market and concerns about anticompetitive practices.

Senator GRASSLEY, today, chaired a hearing that further illuminated the problems, needs, and solutions.

Senator GRASSLEY's bill comes after a thorough examination of USDA's enforcement of the Packer's and Stockyards Act by the GAO. That report, released last week, found numerous problems in the way the agency approaches these investigations. I have to say, as somebody whose family is directly involved in farming, who has been secretary of agriculture for the State of Kansas, it troubles me when the Department is having difficulties enforcing this very important area of the law.

This bill simply puts into law these GAO recommendations for USDA reform. This bill is necessary because USDA has been struggling to address many of these concerns raised by the GAO in terms of antitrust enforcement over the past 3 years. This issue has been raised in the Kansas State Legislature this last session with a great deal of concern about really who is watching. Are they properly prepared and adequately staffed to look into these antitrust investigations and allegations? This bill gets reforms done within a year and ensures that the law is being enforced.

Today's agricultural markets are in tough shape. Prices are too low. We cannot, however, make assumptions about concentration as the cause without having accurate information and thorough investigations. Under Senator GRASSLEY's bill, this process will be greatly improved because it requires USDA to retool and devote more resources to the area of antitrust enforcement.

This bill avoids the pitfalls of lumping the innocent in with the guilty and instead sorts out anticompetitive practices where they occur. These reforms are necessary to restore producer confidence in the Packers and Stockyards Act and USDA's ability to police this increasingly concentrated industry.

Again, I thank Senator GRASSLEY for his wise approach on this tough issue and his continued sincere concern for the farmers of this Nation. This has been an excellent effort to move forward by Senator GRASSLEY.

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## THE VETERANS CLAIMS ASSISTANCE ACT OF 2000

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Veterans' Affairs Committee be discharged from further consideration of H.R. 4864, and the Senate then proceed to its immediate consideration.

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

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4864) to amend title 48, United States Code, to reaffirm and clarify the duty of the Secretary of Veterans Affairs to assist claimants for benefits under laws administered by the Secretary, and for other purposes.

There being no objection, the Senate proceeded to the consider the bill.

AMENDMENT NO. 4189

Mr. BROWNBACK. Mr. President, there is a substitute amendment at the desk submitted by Senators SPECTER and ROCKEFELLER.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas (Mr. BROWNBACK) for Mr. SPECTER and Mr. ROCKEFELLER proposes an amendment numbered 4189.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. SPECTER. Mr. President, I have sought recognition to explain briefly an action that I, as chairman of the Senate Committee on Veterans' Affairs, propose to take today with respect to a House-passed bill, H.R. 4864. I take this action with the concurrence and support of the committee's ranking member, Senator JAY ROCKEFELLER and Senator PATTY MURRAY, the original sponsor of Senate legislation, S. 1810, to reinstate VA's duty to assist claimants in the preparation of their claims.

In 1999, the United States Court of Appeals for Veterans claims issued a ruling, *Morton* v. *West*, 12 Vet. App. 477 (1999), which had the effect of barring the Department of Veterans Affairs (VA) from offering its assistance to

veterans and other claimants in preparing and presenting their claims to VA prior to the veteran first accumulating sufficient evidence to show that his or her claim is ''well grounded.'' This decision overturned a long history of VA practice under which VA had taken upon itself a duty to assist veterans in gathering evidence and otherwise preparing their claims for VA adjudication. That practice was grounded in a long VA tradition of non-adversarial practice in the administrative litigation of veterans' claims.

For over a year, the Senate Committee on Veterans' Affairs has worked to craft, and then to develop VA and veterans service organization support for, a legislative solution that returns VA to the pre-Morton status quo ante, and reinstates VA's duty to assist veterans and other claimants in the preparation of their claims. The product of the Senate committee's work is contained in section 101 of S. 1810, a bill which was approved by the Senate on September 21, 2000. Since S. 1810 was reported, however, committee staff has worked with the staff of the House Veterans' Affairs Committee to reconcile the provisions of section 101 of S. 1810 and a similar bill, H.R. 4864, which passed the House of Representatives on July 25, 2000.

The Senate and House committees have now reached such an agreement, and have reconciled the differences between the Senate- and House-passed provisions. Those differences—which are, principally, matters of tone and emphasis, not substance—are contained in the proposed amendment to H.R. 4864 which I present to the Senate today and which is explained in detail in the staff-prepared joint explanatory statement which I have filed with the amendment's text. This compromise agreement has been reached after extensive consultation with VA's general counsel and the major veterans service organizations.

I now ask that the Senate approve this compromise agreement by approving the proposed amendments to H.R. 4864. The House will then be in a position to approve the Senate-passed amendments to the House bill and send this legislation to the President for his signature.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the amendment be agreed to, the bill be read a third time and passed, as amended, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 4189) was agreed to.

The bill (H.R. 4864), as amended, was passed.

Mr. ROCKEFELLER. Mr. President, as the ranking member of the Committee on Veterans' Affairs, I am enormously pleased that the Senate has passed this bill to reestablish the Department of Veterans Affairs' duty to assist veterans in developing their claims for benefits from the Department. Senator MURRAY, who introduced the original Senate bill, S. 1810, that led to this compromise bill should be praised for her leadership on this issue.

The ''duty to assist,'' along with other principles such as giving the veteran the benefit of the doubt in benefits' determinations, are parts of what make the relationship between the Department of Veterans Affairs (VA) and the claimant unique in the Federal Government. Congress has long recognized that this Nation owes a special obligation to its veterans. The system to provide benefits to veterans was never intended to be adversarial or difficult for the veteran to navigate. That is why Congress codified, in the Veterans Judicial Review Act of 1988 (Public Law 100–687), these longstanding practices of the VA to help claimants develop their claims for veterans benefits.

Over time, the U.S. Court of Appeals for Veterans Claims attempted to give meaning to loosely defined, but well-ingrained concepts of law. In Caluza v. Brown, the Court identified three requirements that would be necessary to establish a well-grounded claim, which the Court viewed as a prerequisite to VA's duty to assist. These requirements were: (1) a medical diagnosis of a current disability; (2) medical or lay evidence of the inservice occurrence or aggravation of a disease or injury; and (3) medical evidence of a nexus or link between an inservice injury or disease and the current disability. Through a series of cases, which culminated in Morton v. West, the Court ruled that VA has no authority to develop claims that are not ''well-grounded.'' This resulted in a change of practice where VA no longer sought records or offered medical examinations and opinions to assist the veteran in ''grounding'' the claim.

Veterans advocates, VA, and Congress grew very concerned over this situation and the resulting potential unfairness to veterans. Veterans may be required to submit records that are in the government's possession (e.g., VA medical records, military service records, etc.). Also, veterans who could not afford medical treatment and did not live near or did not use a VA medical facility (and thus had no medical records to submit) would not be provided a medical exam. Many veterans claims were denied as not well-grounded.

Therefore, Congress, with significant input from the veterans service organizations and VA, developed legislation to correct this problem. H.R. 4864, as amended, reflects the compromise language developed jointly by the staff of the House and Senate Committees on Veterans' Affairs. I believe that this bill restores VA to its pre-Morton duty to assist, as well as enhances VA's obligation to notify claimants of what is necessary to establish a claim and what evidence VA has not been able to obtain before it makes its decision on the claim.

In developing this compromise, it was very important to me to ensure that veterans will get all the assistance that is necessary and relevant to their claim for benefits. This assistance should include obtaining records, providing medical examinations to determine the veteran's disability or opinions as to whether the disability is related to service, or any other assistance that VA needs to decide the claim. On the other hand, it was also important to balance this duty against the futility of requiring VA to develop claims where there is no reasonable possibility that the assistance would substantiate the claim. For example, wartime service is a statutory requirement for VA non-service-connected pension benefits. Therefore, if a veteran with only peacetime service sought pension, no level of assistance would help the veteran prove the claim; and if VA were to spend time developing such a claim, some other veteran's claim where assistance would be helpful would be delayed. However we need to ensure that the bar is no longer set so high that veterans with meritorious claims will be turned away without assistance.

H.R. 4864, as amended, does specify certain types and levels of assistance for compensation claims. The majority of VA's new casework is in making these initial disability determinations. If the record could be developed properly the first time the veteran submits an application for benefits, subsequent appeals or claims for rating increases or for service connection for additional conditions would be much more accurate and efficient.

The compromise bill provides that VA shall provide a veteran a medical examination or a medical opinion when such an exam or opinion is necessary to make a decision on the claim. The bill specifies one instance when an exam or opinion is necessary—when there is competent evidence that the veteran has a disability or symptoms that may be related to service, but there is not sufficient evidence to make a decision. This determination may be based upon a lay statement by the veteran on a subject that he or she is competent to speak about. That is, if a veteran comes to VA claiming that she or he has a pain in his leg that may be related to service—and there is no evidence that the veteran, for example, was awarded a workers compensation claim for a leg disability last month—VA must provide an examination or opinion. The veteran can probably not provide evidence that the pain is due to traumatic arthritis; that would requires a doctor's expertise. H.R. 4864 does recognize that there are many other instances when a medical examination or opinion would be appropriate or necessary.

Again, by specifying certain types of assistance for compensation claims,

the bill does not limit VA's assistance to those types of claims or to a specific type of assistance. It expressly provides that nothing in the bill prevents the Secretary from rendering whatever assistance is necessary. It also does not undo some of the complementary Court decisions that require the VA to render certain additional types of assistance, such as those required in McCormick v. Gober.

Although VA is moving its claims adjudication system toward a team-based, case management system that will result in better service and communication with claimants, I felt that it was critical to include requirements that VA explain to claimants what information and evidence will be needed to prove their claim. VA will also be required to explain what information and evidence it would secure (e.g., medical records, service medical records, etc.) and what information the claimant should submit (e.g., marriage certificate, Social Security number, etc.). Currently, many veterans are asked for information in a piecemeal fashion and don't know what VA is doing to secure other evidence. Better communication will lead to expedited decisionmaking and higher satisfaction in the process.

H.R. 4864, as amended, provides for retroactive applications of the bill's duty to assist provisions, as well as the enhanced notice procedures. Now, claimants that were denied due to the Morton decision will be able to have their claims readjudicated in accordance with the provisions of this bill and receive VA's full duty to assist. This will also ensure an earlier effective date if their claim is successful.

It is critical that we honor our commitment to veterans and their families. We should not create technicalities and bureaucratic hoops for them to jump through. I am pleased that Congress is able to move this provision and begin the restoration of VA's duty to assist claimants in developing the evidence and information necessary to establish their claims for veterans benefits.

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## RECESS UNTIL 9:30 A.M. TOMORROW

Mr. BROWNBACK. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 6:53 p.m., recessed until Tuesday, September 26, 2000, at 9:30. a.m.

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## NOMINATIONS

Executive nominations received by the Senate September 25, 2000:

### NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

DONALD L. FIXICO, OF KANSAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2004, VICE ALAN CHARLES KORS, TERM EXPIRED.

### NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

PAULETTE H. HOLAHAN, OF LOUISIANA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2004, VICE MARY S. FURLONG, TERM EXPIRED.

MARILYN GELL MASON, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2003, VICE JOEL DAVID VALDEZ, TERM EXPIRED.

### DEPARTMENT OF JUSTICE

JOHN J. WILSON, OF MARYLAND, TO BE ADMINISTRATOR OF THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, VICE SHELDON C. BILCHIK.