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Senate

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

PRAYER

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

Gracious God, the deepest longing of our hearts is to know You. We echo the yearning of the psalmist when he said, ''With my whole heart I have sought You; oh, let me not wander from Your commandments! Your word I have hidden in my heart, that I might not sin against You.''—Psalm 119:10–12.

Father, help us live today with a sense of accountability to You. So often we live our lives on the horizontal level, thinking only of our wins and losses in our human struggles. There are people we want to please and others we want to defeat. Awaken us to the reality that every word we speak and every action we do is open to Your review. Make us sensitive to our sins against You and Your absolutes for faithful living and responsible leadership. Help us to have Your word, Your will and way, be the mandate in the hidden, inner sanctuary of our souls. Give us courage to remove any idols of our hearts and be true in our commitment to worship only You. Make us fearless, decisive, and unreserved in our desire to be obedient to what You reveal to us today. Through our Lord and Savior. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

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

SCHEDULE

Mr. LOTT. Mr. President, for the information of all Senators, this morning the Senate will immediately begin debate on the veto message to accompany the partial-birth abortion ban bill. There is no time agreement with respect to the debate, unfortunately, at this time at least, but it is hoped the Senate can proceed to a vote on the veto override early in the afternoon. Following disposition of the veto message, the Senate may be asked to turn to consideration of any of the following items: The immigration conference report, the Presidio parks bill conference report, the NIH reauthorization bill and the pipeline safety bill.

In addition, the Senate can also expect to begin, if available, the omnibus appropriations bill making continuing appropriations for fiscal year 1997. Therefore, rollcall votes can be expected throughout the day, and Senators should be prepared for late nights for the remainder of the session. I have tried very hard to avoid going late into the night where possible, and we will always cooperate with the Democratic leadership in trying to have an understanding of what the schedule will be and when we will have votes, even if

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WILLIAM M. THOMAS, *Chairman.*

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they are late at night. But tonight, while I know there are conflicting events, we have to keep open the option of having votes perhaps later on in the night in order to complete our work, if we are going to be able to complete our work before the end of the fiscal year, which, of course, is Monday.

MEASURE PLACED ON THE CALENDAR—H.R. 4134

Mr. LOTT. Mr. President, I understand there is a bill at the desk which is due for its second reading.

The PRESIDING OFFICER (Mr. SMITH). The clerk will read the bill for the second time.

The assistant legislative clerk read as follows:

A bill (H.R. 4134) to amend the Immigration and Nationality Act to authorize States to deny public education benefits to aliens not lawfully present in the United States who are not enrolled in public schools during the period beginning September 1, 1996, and ending July 1, 1997.

Mr. LOTT. Mr. President, I object to further proceedings on this matter at this time.

The PRESIDING OFFICER. Objection is heard. Under rule XIV, the bill will be placed on the calendar.

SCHEDULE

Mr. LOTT. Mr. President, if I can seek further recognition for comment on our schedule, I know Senators are wondering what is happening to the various bills. The pipeline safety bill has basically been completed, but it still has one incomplete nongermane matter being discussed actively. Hopefully, some resolution can be reached on that, and maybe we can pass the bill on a voice vote.

With regard to NIH reauthorization, it had been my full intent to call it up yesterday. We thought we had all the problems worked out. A new issue arose at the last minute, and we were not able to get it resolved as we went into the night last night. We should not leave without the NIH reauthorization. We will make one more effort today. I will today at some point call that up. If a Senator or Senators have objections, they need to be prepared to come to the floor and actually object.

There is some concern here about how these holds and objections work. I do sometimes get concerned that Senators are not available but they send word over to put on a hold and will not let it be removed without their presence, and then their presence cannot be required. Again, this is not directed to the other side of the aisle. It happens on both sides of the aisle. It is a poor way to do business. Be prepared to object. If you want to object, you have to come and do it.

With regard to the immigration conference report, that bill and the Presidio conference report bill are classic examples of why we have problems developing trust between the Congress and the administration. For weeks, we have been told the problem with the illegal immigration bill was the so-called Gallegly amendment which would have allowed States like California not to have to continue to spend endlessly $2 billion a year for the education of 380,000 or more illegal immigrants' children.

We realized that was a problem. The President made it very clear that with the Gallegly amendment attached, he would veto it. We had a threatened filibuster. So we proceeded to work out a compromise agreement or perhaps even take the Gallegly amendment off the illegal immigration bill.

Eventually, and finally, in an effort to try to have cooperation and to attach the illegal immigration bill to the continuing resolution, the Gallegly amendment was removed. So we were prepared to go ahead with the laboriously developed illegal immigration bill that has been worked on literally for years, not just months, with tremendous effort by the Senator from Wyoming, Senator SIMPSON, Congressman SMITH of Texas, Senator DEWINE, and a wide variety of other Senators and Congressmen. But then when Gallegly was taken off and the bill was ready to go, all of a sudden the administration shows up and says, ''Oh, gee, by the way, we don't like the provisions that might be applicable to legal immigrants in this bill, so if you don't remove title V, we will object to its being put in the continuing resolution, or if it comes to the floor, we will object to unanimous consent. We may even insist on having the bill read in its entirety.'' Absolute, total dilatory tactics, insisting we read aloud the entire bill.

The truth of the matter is, the Gallegly amendment had been used as a mask to cover the opposition of the administration to any real illegal immigration reform legislation. That is really what is going on here. So I am at a loss. We might even say, ''Well, OK, in a good-faith effort, we'll remove title V.'' You know what I think they will do? They will come and say, ''By the way, we have this problem or that problem.'' It is an endless thing.

The American people overwhelmingly expect and want us to pass illegal immigration reform. At some point, I am going to move it forward. If there is objection heard, we will try to go on from there. If they insist on reading, we will just have to have a process to make it clear the Democrats are killing illegal immigration, even without the supposedly controversial Gallegly amendment.

The next step: the Presidio parks bill, a bill that has been in the making not months, not 2 years, but at least 4 years, a bill that has 41 States affected by preservation and parks and conservation. Is it perfect? I am sure it is not. I am sure there is some project or two Senators would like to have in there or some provisions maybe the administration may not like. This is not the end of the world. This is an authorization bill. The administration is in charge of the Park Service. They still have to get appropriations. If there is a problem, they don't have to support the funding.

Again, we were told, well, there are problems with the Tongass language dealing with Alaska, there is a problem with the boundary waters in Minnesota. There were four or five provisions singled out as being veto bait.

To the credit of the chairman and Members on both sides of the Capitol, and both parties, they said, ''We will take these controversial provisions out.''

Now we have an omnibus parks bill, important for the preservation of the future. There is tremendous support for the Presidio bill. We can move this bill. We were ready to go. It was already passed overwhelmingly in the House, and it is in the Senate. Then word comes up, down—whatever—from the White House, ''Oh, gee, we have these other little problems.'' Not one, not two, not three, not four. ''We have these other problems.''

I think our colleagues on the other side of the aisle were stunned. As a matter of fact, this bill has the support of the Senators from California, I believe, who attended a press conference.

Mrs. BOXER. Will the Senator yield?

Mr. LOTT. I will be glad to yield.

Mrs. BOXER. The majority leader is correct that we are anxious for this bill. We were pleased, Senator FEINSTEIN and I, to go to the press conference, but we had not read the 700 pages of the bill. But we do hope very much, as I know you do, that we can work all these problems out. And we do stand ready.

I would say to the majority leader, on behalf of my leadership, we are ready to enter a time agreement on this veto message override. We were hoping to start probably at 9 and finish probably at 12. We have had many colleagues come over for the last 2 days in morning business, as I am sure my colleague is aware, to speak about this issue. We think in 3 hours, the time equally divided, we could have voted at noon. The problem we had on your side was they did not want a vote at noon. So I just want to make it clear that there is a great willingness to work with the majority leader to get this done and to move on. I share his hope that we can work out our problems. I certainly stand ready, as a Senator from California who has much at stake on both of these bills that my colleague referred to.

Mr. LOTT. If I could respond, Mr. President.

I would like for us to see if we could reach a time agreement. If I could go back to a little history, there were those who wanted 6 or 7 or 8 hours today. I said, we have had time to talk about this. We need to go ahead and have a final vote; it is a very important issue, but wrap it up. There was a little problem in that you and your leadership have a luncheon-type rally with

the President coming today, and you needed time between 12 and 2. And we are always trying to accommodate all kinds of Senators' schedules coming and going. So there was a narrow window in there where we would have it hopefully around 12. That is what I was hoping for. We ran into a conflict. We would like to get it around 2, if we can. If we need to go to 2:30 because of your luncheon meeting, we can make it 2:30.

Mrs. BOXER. I say to my colleague, I know that the Democratic leader and the majority leader have talked about this. I know from him that it would not be acceptable, because as Senator Dole came here for a meeting with Republican colleagues of the House and Senate, so does President Clinton and Vice President GORE, they do come here. We certainly would all want to be there for that meeting, just as we cooperated when Senator Dole was here. Therefore, we would not be on the floor between 12 and 2 to debate this matter, and we do not think that is appropriate, particularly since this is an issue that needs explanation. This is an attempt to override the veto by the President. So we thought that was an unfair situation.

Mr. LOTT. I do not know of any luncheon that goes longer than 2 hours. Could we then have 1 hour of debate after your luncheon and vote at 3?

Mrs. BOXER. I will confer with the Democratic leader, because we are anxious to get done.

Mr. LOTT. We have the possibility of business luncheons and dinners and meetings. I am not complaining about that.

Mrs. BOXER. When Senator Dole came, I noticed all the Republicans were there, as well they should have been. But the fact is we would never interfere with you taking a break. We just want to make sure we are on the floor as this debate proceeds. So we were hopeful we could wrap it up at noon. We cannot wrap it up at noon. If we take a break for that 2-hour period and then have a——

Mr. LOTT. Mr. President, we want to accommodate that luncheon. We understand you want to do that. We would honor that. It may be even that we could do some other debate during that time. Maybe we can work on some of these other issues. Or if you want to vote at 3 o'clock, I will be flexible to accommodate your luncheon, but I think we should be ready to go to a vote as soon as everybody makes their final points.

Mrs. BOXER. I will confer with the Democratic leader.

Mr. LOTT. With regard to the Presidio conference report, we do have that pending. At the request of the Democratic leader, we are trying to see what the complaints of the administration are. But it sure is hard to get to the goalposts when the goalposts keep moving. This is a big bill, one of the two or three most important preservation and conservation issues of this Congress, maybe the most important. Once again, even after we complied with the request to move out certain objectionable features, the administration is having problems with it.

Mr. President, do I have leader time reserved?

The PRESIDING OFFICER. Leader time is reserved.

Mr. LOTT. Mr. President, I would like to have time for a statement on the issue pending before us. Do I need to use leader time at this point in order to proceed on that?

The PRESIDING OFFICER. The Senator may use his leader's time or he may use time to lay down the measure and then speak on it while it is pending.

Mr. LOTT. Mr. President, I seek recognition under the time that is available under the bill, not the leader time. I reserve that for use later in the day.

PARTIAL-BIRTH ABORTION BAN ACT OF 1995—VETO

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the veto message on H.R. 1833.

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

The House of Representatives having proceeded to reconsider the bill (H.R. 1833) entitled ''An act to amend title 18, United States Code, to ban partial-birth abortions,'' returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

The PRESIDING OFFICER. The question is, Shall the bill pass, the objection of the President of the United States to the contrary notwithstanding?

Mrs. BOXER addressed the Chair.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader still has the floor.

Mr. LOTT. Mr. President, the debate we are going to hear today on this partial-birth abortion issue is certainly not an easy one. It is a discussion of matters that we really should not even have to talk about and should not have to deal with, not in this country, not in this day in age, not among people who profess regard for human rights.

I cannot imagine a more blatant disregard of the most fundamental human right, the right to life, than this partial-birth abortion procedure.

I will spare the Senate another graphic description of the procedure. I know the Senators know it by now. And more and more Americans are becoming familiar with this procedure.

Without regard to religion, race, sex, philosophy, or party, people have to be horrified that this procedure is actually used as often as it is.

All of us who have followed this debate over the past year must have by now permanent memories of what we have heard and seen. The almost-born baby, the surgical scissors, the dehumanizing terminology that transforms the killing into a medical procedure.

I think there has, in the process, been a tremendous amount of misinformation—some might say disinformation. There are some facts we need to be made aware of. We were told that partial-birth abortions sometimes are necessary to protect the mother's health or fertility. I do not believe that is so.

I think the facts do not bear that out. I discussed this procedure this morning with my wife, who has a medical-related background. She said there clearly are other options that can be used that would be safe to both mother and the baby.

Former Surgeon General C. Everett Koop, along with many prominent specialists in obstetrics and gynecology, has made clear ''that partial-birth abortion is never medically indicated to protect a mother's health or her future fertility.''

We were told that partial-birth abortions were rare, but they are not. This week's Time magazine claims there are only about 600 partial-birth procedures in the entire country. I do not consider 600 insignificant. Yet, earlier this month the Bergen County Sunday Record reported that in New Jersey alone at least 1,500 partial-birth abortions are performed each year.

Just this week in the Washington Post—yes, even the Washington Post—an article by Richard Cohen indicated that when he checked into it, when he found the facts, he found it no longer acceptable.

Mr. President, I ask unanimous consent that a copy of his article in that newspaper 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, Sept. 24, 1996]

A NEW LOOK AT LATE-TERM ABORTION

(Richard Cohen)

Back in June, I interviewed a woman—a rabbi, as it happens—who had one of those late-term abortions that Congress would have outlawed last spring had not President Clinton vetoed the bill. My reason for interviewing the rabbi was patently obvious: Here was a mature, ethical and religious woman who, because her fetus was deformed, concluded in her 17th week that she had no choice other than to terminate her pregnancy. Who was the government to second-guess her?

Now, though, I must second-guess my own column—although not the rabbi and not her husband (also a rabbi). Her abortion back in 1984 seemed justifiable to me last June, and it does to me now. But back then I also was led to believe that these late-term abortions were extremely rare and performed only when the life of the mother was in danger or the fetus irreparably deformed. I was wrong.

I didn't know it at the time, of course, and maybe the people who supplied my data—the usual pro-choice groups—were giving me what they thought was precise information. And precise I was. I wrote that ''just four one-hundredths of one percent of abortions are performed after 24 weeks'' and that ''most, if not all, are performed because the fetus is found to be severely damaged or because the life of the mother is clearly in danger.''

It turns out, though, that no one really knows what percentage of abortions are late-term. No one keeps figures. But my Washington Post colleague David Brown looked behind the purported figures and the purported rationale for these abortions and found something other than medical crises of one sort or another. After interviewing doctors who performed late-term abortions and surveying the literature, Brown—a physician himself—wrote: ''These doctors say that while a significant number of their patients have late abortions for medical reasons, many others—perhaps the majority—do not.''

Brown's findings brought me up short. If, in fact, most women seeking late-term abortions have just come to grips a bit late with their pregnancy, then the word ''choice'' has been stretched past a reasonable point. I realize that many of these women are dazed teenagers or rape victims and that their anguish is real and their decision probably not capricious. But I know, too, that the fetus being destroyed fits my personal definition of life. A 3-inch embryo (under 12 weeks) is one thing; but a nearly fully formed infant is something else.

It's true, of course, that many opponents of what are often called ''partial-birth abortions'' are opposed to any abortions whatever. And it also is true that many of them hope to use popular repugnance over late-term abortions as a foot in the door. First these, then others and then still others. This is the argument made by pro-choice groups: Give the antiabortion forces this one inch, and they'll take the next mile.

It is instructive to look at two other issues: gun control and welfare. The gun lobby also thinks that if it gives in just a little, its enemies will have it by the throat. That explains such public relations disasters as the fight to retain assault rifles. It also explains why the National Rifle Association has such an image problem. Sometimes it seems just plain nuts.

Welfare is another area where the indefensible was defended for so long that popular support for the program evaporated. In the 1960s, '70s and even later, it was almost impossible to get welfare advocates to concede that cheating was a problem and that welfare just might be financing generation after generation of households where no one works. This year, the program on the federal level was trashed. It had few defenders.

This must not happen with abortion. A woman really ought to have the right to choose. But society has certain rights, too, and one of them is to insist that late-term abortions—what seems pretty close to infanticide—are severely restricted, limited to women whose health is on the line or who are carrying severely deformed fetuses. In the latter stages of pregnancy, the word abortion does not quite suffice; we are talking about the killing of the fetus—and, too often, not for any urgent medical reason.

President Clinton, apparently as misinformed as I was about late-term abortions, now ought to look at the new data. So should the Senate, which has been expected to sustain the president's veto. Late-term abortions once seemed to be the choice of women who, really, had no other choice. The facts now are different. If that's the case, then so should be the law.

Mr. LOTT. But the most important fact in this debate is that the subject of partial-birth abortion cannot be dismissed as an embryo or as a fetus or what the abortion industry actually refers to as ''the product of conception.''

No. In this case, the subject is a baby, a baby moments away from being born, from making its first cry, from taking its first breath; a baby who, in only a few moments, would be squinting its eyes against the lights of the delivery room; a baby who, in only a few minutes, would be trying, in its clumsy newborn way, to nurse.

That baby is the reason why we have come so far with this legislation. That baby is why the House of Representatives, with significant Democratic support, overrode the President's veto of this bill.

A veto override has been a rare occurrence in the last 2 years. But that baby is why so many members of the President's own party have broken with him on this issue, why some Senators who voted against this bill earlier are now laboring with the decision and are perhaps going to change their vote.

In my own State of Mississippi, Eric Clark, the Democratic secretary of state, newly elected, highly acclaimed for his efforts so far, refused to attend an event celebrating President Clinton's 50th birthday in protest against the veto of this bill.

In Alabama, Circuit Judge Randall Thomas, a long-time Democrat, resigned his judgeship to protest the President's veto of this bill. Judge Thomas declared, ''We're killing babies. It breaks my heart.''

In Texas, Jose Kennard resigned from the executive committee of the Texas Democratic Party to protest the veto.

The president of the 100,000-member International Union of Bricklayers and Allied Craftworkers, John Joyce, has broken ranks with most of organized labor by refusing to support the President because of the veto of this bill.

All of which brings me to what I most want to say to my colleagues here in the Senate today. John Kennedy once observed that sometimes party loyalty demands too much. I know what he meant. I found myself in that position on a few occasions over the years, on at least one or two occasions stepping aside from my position as the minority whip in the House, because I could not in good conscience advocate the position that was being promoted by my party and my President. I just could not do it. So while I would not work it, I could not work against it in view of the fact I had a leadership position in the party, so I stood aside.

It is not easy to vote against a President of your own party. I know. I felt those pressures sometimes tremendously in the leadership as whip in both Houses. Especially it is true on a vote to override his veto. However, I have done it a few times, and I remember a couple times voting to override President Reagan's vetoes. That was very tough to do because I loved him, but on occasion you had to stand for principle or your constituency or your conscience.

This is a political year. That makes it all the more difficult to get in a position of closing ranks. I understand that. But sometimes party loyalty does demand too much, and this is one of those times. When I came to Washington almost three decades ago, I came as a Democrat. I know something about the Democratic Party's tradition and heritage. Keeping partial-birth abortion legal is not part of that tradition. Protecting those who routinely perform hundreds of partial-birth abortions in their clinics is not part of the heritage of either party. Turning a blind eye to an atrocity is not a part of the heritage of the Democratic Party and certainly not of the Republican Party, either.

Yes, this is a political season, and if this bill dies, if the Senate upholds President Clinton's veto, partial-birth abortion will immediately become one of the most powerful issues in the fall elections. That is not a warning. It is just a candid statement of fact. It is happening already, all across America. I am asking my colleagues on both sides of the aisle to take this away from politics. Put an end to it. Keep it out of the elections by voting today to end it.

I ask my Democratic colleagues to join us to override President Clinton's veto, and in the process give children a chance to live, who, with this procedure, clearly would not live. We can still have our disagreements about abortion, but we need not have daily on our conscience this wound, this affront, this offense of partial-birth abortions.

I do not know what else I can say except to assure you I am speaking from the heart today. I would rather not have this issue available for political gain or political use. What I would rather have is a way to get rid of this terrible procedure that is a plague on our country's conscience. There is so much violence in our society, sometimes we seem powerless to stop it—on the streets, drive-by shootings and crime, drug abuse, drug pushing and all that is going on. There is too much suffering for which sometimes we feel like we can do little. I know we can do more, and we will. This is one horror we can stop if we act together in a nonpartisan way and let nothing but our conscience dictate our actions.

I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

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

I have next to me, Mr. President, a picture of Coreen Costello, with her new baby, Tucker. Coreen is a full-time wife and mother. She has three children now, Tucker being the youngest. Her husband, Jim, is 33, and is a chiropractor.

If it was not for the procedure that Senator LOTT, Senator DEWINE, and many other Senators here want to outlaw, Tucker would never have been born because Coreen could have been made infertile if she did not have that procedure. Her doctor writes, ''She might have died without the procedure,'' leaving her two other children

without a mother for the rest of their life.

Coreen writes to us, as Democrats and Republicans, that we should support the President's veto. It would not have been possible for her to have Tucker without the procedure that this Congress wants to outlaw. She says, ''Please, please give other women and their families this chance. Let us deal with our tragedies without any unnecessary interference from our Government. Leave us with our God, our families, and our trusted medical experts.''

Mr. President, the bill before the Senate which bans a medical procedure, even if it is necessary to save the life of a woman, or to spare her serious adverse long-term health risks, the bill before the Senate, if it becomes the law, will result in women dying, women suffering, women becoming infertile, maybe paralyzed, surely gravely harmed.

Women like Coreen Costello and others I will talk about today, several of whom are on Capitol Hill talking to Senators, several of whom are here with us during this debate, these are women who have been devastated by pregnancies gone wrong, gravely and tragically wrong—women who deserve our support, not our wrath.

It has been my purpose ever since this debate began many, many months ago, and it has been the purpose of Senators like PATTY MURRAY and CHUCK ROBB and others, to put a woman's face on this issue.

Let me unequivocally say that the bill that is before the Senate, the vetoed bill, is not about whether abortion should be allowed in the late term of a pregnancy, of a healthy pregnancy. It is not about that. There is not one Senator that believes a healthy pregnancy in the late term should be aborted—not one—despite what has been said on this floor over and over the past few days.

Our President does not believe that abortion should be allowed in the late term. As a matter of fact, our President, as Governor of Arkansas, signed a bill outlawing late-term abortion in all cases except if the woman's life or health was at stake.

Roe versus Wade, the law of the land on this matter, which is broadly supported in this country and in this U.S. Senate, gives no right to unregulated late-term abortion.

So those who support Roe do not support late-term abortion. The Senator from Pennsylvania, Senator SANTORUM, in the last couple of days, when I was not on this floor, and then when I came to this floor, asked me over and over again did I support abortion in a healthy pregnancy. I said, ''No, I do not.'' I think it is extremely sad that Senators would come down to this floor and, on such an issue, try to say that another Senator has a view that is not, in fact, that Senator's view. I think it is sad, I think it is demeaning to this institution, and I think it shows a lack of respect for one another, and I am very sorry about that.

Mr. President, the bill that is before us, which has been vetoed by the President, is not about choice, it is about health and life. Frankly, I believe that it is about politics. That is the saddest thing of all. Why else do you think this override is before us now, very close to this election, in the waning hours of the session? The Republican Congress has had this vetoed bill for more than 5 months. But it is brought to us right before the Republican leadership gets ready to adjourn this Congress to go home and campaign.

After distorting what this bill is really about—although we will be on the floor minute by minute to reply to these distortions—they hope to go home and make political points, make political commercials, and say that those of us who disagree with them are defending late-term abortion, when we are not. We are defending the lives of women—women like Coreen Costello, mothers, loving family members, who have asked us, in the name of God, to allow them to save these mothers.

I think not only is this political that we have seen months go by without action on this veto override—not only is it political, but it is cynical. It is cynical because I believe they know that if we added a true life exception to this bill—and there is no Hyde language, there is no true life exception in this bill, which I will go into later in the day, they know that if they added a true life exception to this bill, and a strong and tightly worded health exemption to this bill, this bill would pass overwhelmingly and the President would sign it. He has said he would sign it. In his veto message, he holds out his hand and says: Make an exception in cases like Coreen's and I will sign the bill. Again, this is the President who was Governor of Arkansas, who signed a bill to outlaw late-term abortion.

So, in its current state, without those exemptions added to it, which we all would vote for—it would pass by unanimous consent in a moment. We could send it back to the House, they could act on it, we could send it to the President's desk. But without those exemptions, what is the bill about? It is about banning a medical procedure that doctors have testified is necessary in certain tragic circumstances to save a woman's life or to spare her unbelievably tragic health consequence. Surely, if we have a heart, we should not ban such a procedure in those circumstances.

Now, I ask, why would Senators want to place themselves in an emergency room, in an operating room, and prevent the doctor from saving a woman's life? Why would a Senator want to place himself or herself in an emergency room or an operating room and stop the doctor from saving a mother, a woman, from irreversible paralysis or infertility? Why? Why?

Now, I know those of us who go into politics are not shy or reticent people. I know we have confidence in ourselves and we believe in ourselves. In order to take a lot of harsh criticism and the hits that we take every day, we have to be strong, we have to be secure, we have to believe in ourselves. But surely we are not that egotistical to believe that we know more than well-trained physicians, and surely we are not so egotistical that we believe we should outlaw a medical procedure that many doctors say they need. Not every doctor says he or she needs it, and we have heard the letters from those who say they don't feel it is necessary. But there are many other doctors who feel it is necessary, like doctors at the Columbia School of Health.

In a letter dated yesterday, Allan Rosenfield, dean of the Columbia University School of Public Health writes:

> The bill in Congress targeting intact D&E abortion, H.R. 1833, is an extreme piece of legislation in that it provides no exception at all for abortions necessary to preserve a woman's health, or in cases where a severe fetal abnormality is incompatible with survival after delivery. To force a woman to carry to term a fetus with a horrible abnormality, such as absence of a brain, once the diagnosis is known, is truly cruel and inhumane.

Are we that egotistical to think we know more than those doctors?

And then a medical doctor from Colorado writes:

> I can assure you that I know of no physician who will provide an abortion in the seventh, eighth, or ninth month of pregnancy by any method at all, for any reason, except when there is a risk to the woman's life or health, or a severe fetal anomaly.

The doctor talks about Coreen Costello, whose picture is right here with her son, who she never could have had if she didn't have this procedure, because she could have been rendered infertile.

The fact is that women like Coreen Costello, a Republican who is opposed to abortion, who desperately wanted her daughter Katherine Grace to be able to live, are exactly the women who would be affected should this bill become law. And these women would be devastatingly hurt by it. They would have a safe medical option taken away from them at their time of greatest need.

The doctor goes on:

> I have dedicated much of my professional life to the health of these women. They are the patients to whom we physicians must commit our greatest skill and compassion. We cannot do that if we risk jail for exercising our best medical judgment.

Are we that egotistical? Do we think we know more than doctors, those who take the Hippocratic oath and swear that they will do everything in their power to save lives? My colleagues on the other side of this issue say this procedure is not necessary. They think they know more. They think they know more than these doctors, and they have doctors who say they don't ever use this procedure. If those doctors don't feel they need that procedure, that is up to those doctors. But don't ban a procedure that other doctors say is absolutely necessary to save

a woman's life, or spare her irreparable permanent damage to her body. Do Senators have that much arrogance, that much hubris, that they want to take away an option from a doctor who swears to God to do everything he or she can do to save lives? I hope not. I hope and I believe that enough Senators will stand with these women, and with our President who stands with these women, and these families, and I hope and I believe they will stand for them and that they will in fact sustain this veto.

Mr. President, I have lived quite awhile and I have seen a lot of life. I have seen enough to know that if my daughter, who just gave me a magnificent grandson, found herself in the late term of pregnancy with a tragic situation like the one of Coreen Costello—where she did not know because science couldn't tell us at the early stages that this pregnancy was tragic, indeed that perhaps the baby had no brain but that the head was filled with fluid and the baby could never live but for a few excruciating seconds—if my daughter found out that the child that she was bearing and loving and wanting had an anomaly such as this, and, if the doctor told me, told my daughter's father, told my daughter's husband that we might lose her were it not for this procedure and that my son might lose his sister and my grandson might lose his mother, and all because some Senator decided he knew better than a doctor who was trained for years in just such medicine, I think if I could get past my anger, I would tell such Senators to stay out of my family's life, to stay out of my family's love, and let us decide together with our God and our doctor.

I would say to that Senator, ''If you want to do this to your own family, if you want to tell your daughter that she cannot have the safest procedure, that is your right. But don't you tell that to my family.'' I would say, if I could get past my anger, ''I didn't elect you to be a surgeon, or a physician, or to play God with my daughter. Stay out of my family's life, stay out of my family's love, and let us decide with our doctor and our God how to handle this most tragic situation.'' I would say that.

That is exactly what the women who have had this procedure are telling us. They were on Capitol Hill last week. They are on Capitol Hill this week, and they are courageous. They are courageous because in telling their stories they are reliving the most difficult moments of their lives. I had the privilege of meeting such families and introducing them to some my colleagues. Many of these women are very, very religious. They are against abortion. But all of them oppose this bill and support President Clinton's decision to stand with them and veto that bill.

Again, at any moment we could have a unanimous-consent request to add a health and life exception to this bill, and we could walk side by side and have a bill signed into law.

So who is it that is playing politics with this? I ask. The women who were here on the Hill who have come to tell their stories are not doing it for themselves but for others who could face the same horror that they did. They are here to stand up to those Senators who would have condemned them to grave injury—maybe even to death.

I ask my colleagues to vote for these women and their families and families like them who need every medical option at their disposal. This issue is not about choice. Roe versus Wade does not give a woman a choice to have an abortion at the end of her pregnancy—only if her life and health is at undeniable risk.

Let me repeat that. There is no law or Supreme Court decision that allows a woman to have a late-term abortion—only if her life is at stake, or she faces severe health risks.

So we can pass a bill today that will allow this procedure to be used only if a woman's life is at stake, or if she faces severe serious health consequences. The President would sign such a bill. He has stated so in his letter.

Let me read to you from the President's letter. I believe that every American who listens to this letter will see the compassion in our President toward women and families who find themselves in tragic danger and circumstances, and to children. Yes, to children. If Coreen Costello didn't have that procedure, she could have died. She has two other children, and the President cares about those children and about this child, and about this woman.

The President writes:

DEAR MR. LEADER: I am writing to urge that you vote to uphold my veto of H.R. 1833, a bill banning so-called partial-birth abortions. My views on this legislation have been widely misrepresented, so I would like to take a moment and state my position clearly.

This is the President.

First, I am against late-term abortions and have long opposed them, except, as the Supreme Court requires, where necessary to protect the life or health of the mother. As Governor of Arkansas, I signed into law a bill that barred third trimester abortions with an appropriate exception for life and health. I would sign a bill to do the same thing at the Federal level if it were presented to me.

Here is the President saying that as Governor he outlawed late-term abortions but for the life and health, and he would in fact sign the bill outlawing this procedure if there was an exception for the life and health.

The procedure aimed at in H.R. 1833 poses a difficult and disturbing issue. Initially, I anticipated that I would support the bill. But after I studied the matter and learned more about it, I came to believe that it should be permitted as a last resort when doctors judge it necessary to save a woman's life or to avert serious consequences to her health.

In April, I was joined in the White House by five women who were devastated to learn that their babies had fatal conditions. These women wanted anything other than an abortion, but were advised by their doctors that this procedure was their best chance to avert the risk of death or grave harm, including, in some cases, an inability to bear children. These women gave moving testimony. For them, this was not about choice. Their babies were certain to perish before, during or shortly after birth. The only question was how much grave damage the women were going to suffer. One of them described the serious risks to her health that she faced, including the possibility of hemorrhaging, a ruptured cervix and loss of her ability to bear children in the future. She talked of her predicament.

And then the President, in his letter asking for our support, quotes this woman:

Our little boy had . . . hydrocephaly. All the doctors told us there was no hope. We asked about in utero surgery, about shunts to remove the fluid, but there was absolutely nothing we could do. I cannot express the pain we still feel. This was our precious little baby, and he was being taken from us before we even had him. This was not our choice, for not only was our son going to die, but the complications of the pregnancy put my health in danger, as well.

The President, retelling stories that we hear from families all over this Nation, families, some of whom oppose all abortion, some of whom support Roe verses Wade, some of whom are extremely religious, some of whom are Democrats and some of whom are Republicans and some who are Independents. This is about health and life and compassion.

The President goes on:

Some have raised the question whether this procedure is ever most appropriate as a matter of medical practice. The best answer comes from the medical community, which believes that, in those rare cases where a woman's serious health interests are at stake, the decision of whether to use the procedure should be left to the best exercise of their medical judgment.

The problem with H.R. 1833 is that it provides an exception to the ban on this procedure only when a doctor is convinced that a woman's life is at risk, but not when the doctor believes she faces real, grave risks to her health.

Let me be clear. I do not contend that this procedure, today, is always used in circumstances that meet my standard. The procedure may well be used in situations where a woman's serious health interests are not at risk. But I do not support such uses, I do not defend them, and I would sign appropriate legislation banning them.

The President of the United States says if this procedure is used in any other circumstance other than health and life of the mother, he would ban it, and we could do that by unanimous consent today. I want to alert my colleagues, at some point during the debate I will be making a unanimous consent request to do just that. I wanted to alert them to that.

The President goes on:

At the same time, I cannot and will not accept a ban on this procedure in those cases where it represents the best hope for a woman to avoid serious risks to her health.

I also understand that many who support this bill believe that a health exception could be stretched to cover almost anything, such as emotional stress, financial hardship

or inconvenience. That is not the kind of exception I support. I support an exception that takes effect only where a woman faces real, serious risks to her health. Some have cited cases where fraudulent health reasons are relied upon as an excuse—excuses I could never condone. But people of good faith must recognize that there are also cases where the health risks facing a woman are deadly serious and real. It is in those cases that I believe an exception to the general ban on the procedure should be allowed.

Further, I reject the view of those who say it is impossible to draft a bill imposing real, stringent limits on the use of this procedure—a bill making crystal clear that the procedure may be used only in cases where a woman risks death or serious damage to her health, and in no other case. Working in a bipartisan manner, Congress could fashion such a bill.

That is why I asked Congress, by letter dated February 28 and in my veto message, to add a limited exemption for the small number of compelling cases where use of the procedure is necessary to avoid serious health consequences. As I have said before, if Congress produced a bill with such an exemption, I would sign it.

In short, I do not support the use of this procedure on demand or on the strength of mild or fraudulent health complaints. But I do believe that it is wrong to abandon women, like the women I spoke with, whose doctors advise them that they need the procedure to avoid serious injury. That, in my judgment, would be the true inhumanity. Accordingly, I urge that you vote to uphold my veto of H.R. 1833.

He finishes with these words:

I continue to hope that a solution can be reached on this painful issue. But enacting H.R. 1833 would not be that solution.

I ask my colleague from Pennsylvania, without losing the right to the floor, did he want to offer a unanimous-consent request?

Mr. SANTORUM. I thought we did, but I have just been informed to wait a second. Have you seen the unanimous consent?

Mrs. BOXER. No, I have not.

Mr. SANTORUM. I will hand a copy to my colleague.

Mrs. BOXER. I thank the Senator.

Mr. SANTORUM. Will the Senator yield for 1 second?

Mrs. BOXER. I will be happy to yield.

GOLDEN GAVEL AWARD

Mr. SANTORUM. I just wanted to recognize the Senator from New Hampshire. I have been informed that the hour of 10 o'clock will be the 100th hour of the Senator from New Hampshire presiding in the Chair. He will be awarded a golden gavel for doing so. I just wanted to commend him for his work in that regard. My understanding is he is the first Senator from the State of New Hampshire to receive such an award. I congratulate the distinguished Senator.

Mrs. BOXER. May I add my words of congratulations? I have not sat in that chair as often as I would like to, so I am falling far behind his record, but I do offer my congratulations to the Senator from New Hampshire.

It is difficult, sometimes, to sit there, particularly when I know the Senator would love nothing more than to jump into this debate at any point during my words here, so I particularly want to thank him for his generosity of spirit.

UNANIMOUS-CONSENT AGREEMENT

Mr. SANTORUM. If the Senator will yield, I will propound the unanimous-consent agreement.

I ask unanimous consent there now be 4 hours for debate on the veto message to accompany H.R. 1833, the partial-birth abortion bill, with the time equally divided in the usual form. Further, that the Senate recess between the hours of 12:30 and 1:30 today, and that when the Senate reconvenes at 1:30, there be a period of morning business until 2 p.m., with the Senators permitted to speak for up to 5 minutes, during which time statements relating to the veto message will be prohibited.

I further ask that, at the hour of 2 o'clock, the Senate resume consideration of the veto message with the remaining time limitations still in effect. And, finally, following the expiration or yielding back of time, the Senate proceed to a vote on the question, ''Shall the Senate pass the bill, the objections of the President to the contrary notwithstanding?''

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Mr. President, reserving the right to object and I will not, I think this is a fair request. I just want to make sure that it is clear that the Senator from California, me, will be controlling the time of the side that wishes to sustain the veto, and if the Senator from Pennsylvania is on the other side—I think it would clarify matters.

Mr. SANTORUM. I add that to the request.

The PRESIDING OFFICER. Without objection, the request is so modified. Without objection, the unanimous-consent request is agreed to.

Mr. SANTORUM. Thank you, Mr. President.

Mrs. BOXER. Thank you very much, to all Senators on both sides, so we can bring this difficult issue to a close, at least for this session, because I am sure this entire issue will be debated again.

Mr. President, what I have done in this part of my presentation, and I am almost finished with this first part and I will save the rest for the rest of the debate, I have tried to make the case that the reason the President vetoed this bill, and the reason I am here asking my colleagues to support his veto, is because the bill in its form is extreme. It is extreme because it does not have, first of all, a clear life exception, which I will go into this afternoon. It does not have the usual high life exception. It has only an exception for preexisting conditions which might threaten the woman, but not the actual pregnancy itself. And it has no exemption for health.

I do believe that this President, who has really taken a tremendous amount of time to lay out his reason for vetoing this bill, is very, very clear and very willing to work with all sides to craft a bill that he can sign. I think, again, we can do that pretty easily.

So the issue that is before us today is not about choice, it is not about a woman's right to choose. A woman doesn't have a right to choose at the end of her pregnancy to have an abortion. It is not allowed under Roe versus Wade. No physician I ever heard from ever performed such an abortion. No Senator I know condones such an abortion.

What we are saying is only in the cases where this tragic pregnancy exists at the end of a pregnancy and was not known earlier, a woman should have a chance with her God and her family to have all medical options available to her so that she can have other children, so that she can continue to live a life on this Earth.

Again, we can pass a bill today that would allow this procedure to be used if a woman's life is at stake or if she faces serious adverse health consequences. I keep repeating that because the majority leader, TRENT LOTT, in his remarks said he would like to see us work together. We are ready to work together, and before the end of my remarks today, I am going to make such a unanimous-consent request, I alert my colleagues, and I will be doing that all through this debate.

I suspect that when I make the unanimous-consent request that will, in essence, ban this procedure except for life and health, it will be objected to. The reasons will be stated and they will be, No. 1, there already is a life exception in this bill. As I stated, there really is no life exception in this bill except for a preexisting condition. No. 2, they will say that the health risks represent a loophole. A woman can say, ''My life is at stake,'' and it isn't. We have crafted it such a way to say serious adverse health consequences to the woman. We think that is very, very tightly drawn.

The end result by not supporting this unanimous-consent request that I will make is that we will have no bill signed into law, but instead we will have a political issue. In essence, I have to say, that those who do not support the life and health exemption, in essence, are not placing the woman's health or her life in an important position.

I will say this not as a matter of philosophy but as a matter of fact that Coreen Costello, who is pictured here with her son, might not have lived had she not had that procedure. We are looking at a 31-year-old mother of three who might not be here. So we are not talking philosophy here. We are talking reality. We are not talking a woman's right to choose here, we are talking health and life.

In retrospect, it shouldn't surprise us that when we offered our amendment in the original debate, which was the Boxer amendment to outlaw this procedure but for life and health, in retrospect it shouldn't surprise us that we lost our amendment. We were able to

get 47 votes. We do have some Republican votes, which are very meaningful and very important to us, but we didn't know at that time that the Republican platform was going to actually call for criminalizing all abortion, even those in the first weeks of a pregnancy and even in the case of rape and incest.

So I guess in retrospect, I shouldn't be surprised that I lost my, what I thought to be, very moderate, very straightforward amendment when we see the most antichoice Congress in history.

Even when it comes to a tragic situation that Coreen Costello found herself in and other women whose stories I will bring to the floor this afternoon, colleagues cannot even allow these women the chance to save their lives, save their fertility, save them from paralysis, save them from hemorrhaging? They cannot even do that.

So I say, in many ways, the debate today is unnecessary. We could sit down and work out this amendment. We could get the bill to the President. But it is really about a political agenda for the Presidential, senatorial, and House races. That is why we have this veto override in what may be the last week of the Senate of this particular Congress.

Mr. President, I am going to save the rest of my remarks for later in the debate. Right now, I am going to make a unanimous-consent request to set aside the pending veto message and proceed immediately to a bill that allows this procedure only in cases where the mother's life is at stake or she would suffer serious adverse health consequences without this procedure. I make that unanimous-consent request.

Mr. SANTORUM. Reserving the right to object. I say to the Senator from California that, first off, we had an opportunity to debate this issue, and we did debate this issue when the bill originally came up. The issue was debated at length. The Senator from California lost. The Senate worked its will. The Senator's amendment was defeated.

In addition, obviously, we have already had a veto override in the House, including dozens of Members who were pro-choice supporting the override of this, what you would term, extreme provision, this extreme law.

I suggest that the health of the mother exception that you want to include is unnecessary, and the reason it is unnecessary is because, according to physicians, not according to the Senator from Pennsylvania—I am not an obstetrician; I am not using my words in responding to the Senator from California, I will use the words of a Dr. Harlan Giles, a professor of high-risk obstetrics and perinatology at the Medical College of Pennsylvania. He performs abortions by a variety of procedures.

I say to the Senator from California that even if this bill were to become law, there are still a variety of other abortion procedures available to women to have late-term abortions. This outlaws one which many of us believe is the most barbaric.

His testimony was as follows:

> After 23 weeks, I do not think there are any maternal conditions—

I repeat that.

> there are any maternal conditions that I'm aware of that mandate ending the pregnancy that also require that the fetus be dead or that fetal life be terminated. In my experience for 20 years, one can deliver these fetuses either vaginally or by cesarean section, for that matter, depending on the choice of the parents, with informed consent. But there's no reason these fetuses cannot be delivered intact vaginally after a miniature labor, if you will, and be at least accessed at birth and given the benefit of the doubt.

This is someone who performs abortions.

Senator BROWN from Colorado quoted a doctor from Boulder, CO, a Dr. Hern, who performs late-term abortions. He is the only one in Colorado, according to the Senator from Colorado, who performs these procedures, performs lots of abortions and has said identical things: that there is no reason to perform this procedure; that this procedure is not to benefit the health of the mother; and that the women who have this procedure done, the women who were trotted out to the White House, were misinformed about what health consequences beset them at the time of their abortion.

So I object because the premise that the health of the mother is somehow improved by this procedure is a false premise, and that is not pro-life doctors talking, although we have many of them who are, that is not just pro-choice doctors talking, although we have many of them that do, but I am talking about people who perform late-term abortions talking.

So to stand up and give credibility to this idea that there is a health reason to perform this abortion is factually incorrect, according to a very broad spectrum of physicians who don't and who do perform late-term abortions and abortions at other points in time.

So I do object on the fact that the premise underlying the Senator's amendment is a faulty premise and is not appropriate for this legislation.

The PRESIDING OFFICER. Objection is heard.

Mr. SANTORUM. I object.

Mrs. BOXER. Mr. President, I understand that the Senator objects to my unanimous consent request to set aside this veto fight and instead craft a bill that would have a very fairly drawn exception for these most tragic cases. That is exactly what we want. And I will say in response to the Senator's objection a couple of things.

He said there were dozens of Members who were pro-choice on the House side who voted for the bill. The fact is, those same dozens of House Members had no opportunity to vote on an exception, a true life and a true health exception. They were not given that by the Republican leadership. They had no choice to state their position as Senators here do on the Boxer amendment, which had 47 votes.

When my colleague says he objected, we already debated it, he is right; we did fail by three votes. The fact is, since that time we have a letter from the President asking us—and he is the President of the United States of America, and he does represent the people, and he is saying, ''Please send me a bipartisan bill.'' He says, ''We can draw a bill that would address the small number of compelling cases where the use of this procedure is necessary to avoid serious health consequences.'' He says if Congress produced such a bill, he would sign it.

So that is new information. That is why I planned to offer this unanimous consent request. I think if we really wanted to get something done on this, we could outlaw this procedure except in those narrow cases.

I thank my colleagues for their courtesy, and we will obviously have several hours of this debate. When I come back to the floor for further debate, I am going to introduce by way of their photographs many other families with compelling stories like this. We can talk about this in the abstract. I intend to put the family's face on this issue, and I think the President has done that magnificently in his veto message.

There is one more thing I wanted to point out. There was an editorial today in the New York Times. I am going to be placing it on the desks of Senators. I am going to just read the very end of it.

> Whatever one's views of late-term abortions, this bill is not a serious effort to confront the issue directly. Rather, it is the first shot in a campaign by antiabortion forces to erode access to abortion by banning one procedure after another. These forces have already gained ground in individual States, imposing legal restrictions and conditions that have made it extremely difficult, particularly for poor women or those in rural or remote areas, to get abortions, without outlawing the practice outright. Mr. Clinton was right to veto their efforts and the Senate should stand with him.

I ask unanimous consent to have this editorial printed in the RECORD.

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

[From the New York Times, Sept. 26, 1996]

UPHOLD THE ABORTION VETO

The politically charged issue of abortion returns to the Senate today in the form of a veto to override President Clinton's veto of a bill outlawing certain late-term abortions and imposing criminal sanctions on doctors who perform them. Last week, the House voted by 285 to 137 to override Mr. Clinton. That leaves only the Senate to stop this campaign-season rush to outlaw a procedure that, despite its distasteful nature, remains the safest method to abort a fetus for valid medical reasons late in pregnancy.

The bill passed earlier this year, would ban a particular procedure, known as intact dilation and extraction, but called a ''partial birth'' abortion in the bill by anti-abortion advocates. It is used only in late-term abortions, after 20 weeks of gestation. Reliable statistics are difficult to come by, but the

Alan Guttmacher Institute, which as long tracked abortion issues, reports that only some 15,000 of the estimated 1.5 million abortions each year take place after 20 weeks and only about 600 of those take place after 26 weeks or during the third trimester. The minority of these third-trimester abortions use the procedure that has stirred Congress' ire.

The procedure involves partially pulling the fetus into the birth canal and then collapsing the skull in order to let it be extracted. Graphic pictures have been circulating to stir up opposition to the procedure, but is actually considered safer and less traumatic than the alternative late-term procedure, in which the fetus is broken apart in the uterus before it is suctioned out.

The bill should be rejected as an unwarranted intrusion into the practice of medicine. It would mark the first time that Congress has outlawed a specific abortion procedure, thus usurping decisions about the best method to use that should properly be made by doctor and patient. The bill would actually force doctors to abandon a procedure that might be the safest for the patient and resort to a more risky technique.

Although the bill allows the procedure to be used to preserve the mother's life, that exception is drawn so narrowly as to make the technique virtually unusable. A doctor charged with violating the law would have to prove in defense that no other procedure could have saved the mother's life. Moreover, the exception only covers cases in which the mother's life was endangered by physical disorder, illness or injury. Many opponents argue that the exception is so narrow that it ignores cases in which the pregnancy itself poses the threat to life. A further weakness is that the bill also does not recognize any broader threat to the mother's health.

In addition, the fact that the defense could only be raised after criminal charges were brought would have a chilling effect on the already small number of doctors who perform abortions. The penalty, for anyone convicted, could be up to two years in prison and $250,000 fine.

Whatever one's views of late-term abortions, the bill is not a serious effort to confront the issue directly. Rather, it is the first shot in a campaign by anti-abortion forces to erode access to abortion by banning one procedure after another. These forces have already gained ground in individual states, imposing legal restrictions and conditions that have made it extremely difficult, particularly for poor women or those in rural or remote areas, to get abortions, without outlawing the practice outright. Mr. Clinton was right to veto their efforts and the Senate should stand with him.

Mrs. BOXER. Mr. President, when I come back, I will go into some other editorials. I will introduce you to more women like Careen Costello, and I will go into the life exception in this bill, which is not a true life exception. I hope that at the end when we count the votes we will stand with the women, with the families, with compassion, and sustain our President's veto.

Mr. President, I yield the floor.

Mr. SANTORUM addressed the Chair.

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

Mr. SANTORUM. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from a woman who had a child with a fetal defect, a fetal abnormality, and decided to go through and have the baby, and her comments about this legislation.

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

On March 20, 1995 my husband and I found out that we were expecting a precious baby. The discovery was an incredible surprise. We were not trying to become pregnant, but knowing that the Lord's plan for our lives was being carried out, we were overjoyed, a little overwhelmed, but completely thrilled. I began my prenatal vitamins immediately and followed all known guidelines to protect my unborn child.

Three months later, on June 18, I had an uneasy feeling, nothing that I felt physically, just an anxious, strange feeling. I called my obstetrician and requested a fetal heart check. They dismissed my concern as the first-time-mother jitters but agreed to let me come into the office. Unable to find a heart beat, the nurse sent me down the hall for a sonogram to reassure me that there were no problems. This would be my first sonogram where I would actually be able to see the baby. I was five months pregnant.

The nurse began pointing out our baby's toes and feet, and when the baby kicked I smiled, believing that everything was alright. Then, the nurse suddenly stopped answering my questions and began taking a series of pictures and placed a videotape into the recorder. Unaware of what a normal sonogram projects, I did not decipher the enormous abdominal wall defect that my child would be born with four months later.

My husband was unreachable so I sat alone, until my mother arrived, as the doctor described my baby as being severely deformed with a gigantic defect and most likely many other defects that he could not detect with their equipment. He went on to explain that babies with this large of a defect are often stillborn, live very shortly or could survive with extensive surgeries and treatments, depending on the presence of additional anomalies and complications after birth. The complications and associated problems that a surgical baby in this condition could suffer include but are not limited to: bladder exstrophy, imperforate anus, collapsed lungs, diseased liver, fatal infections, cardiovascular malformations, etc.

I describe my situation in such detail in hopes that you can understand our initial feelings of despair and hopelessness, for it is after this heartbreaking description that the doctor presented us with the choice of a late-term abortion. My fear is that under this emotional strain many parents do and will continue to choose this option that can be so easily taken as a means of sparing themselves and their child from the pain that lies ahead. With our total faith in the Lord, we chose uncertainty, wanting to give us as much life as we could possibly give to our baby.

On October 26, 1995, the doctors decided that, although a month early, our baby's chance of survival became greater outside the womb than inside, due to a drop in amniotic fluid. At 7:53 am, by caesarean section, Andrew Hewitt Goin was born. The most wonderful sound that I have ever heard was his faint squeal of joy for being brought into the world. Two hours after being born he underwent his first of three major operations.

For two weeks Andrew lay still, incoherent from drugs, with his stomach, liver, spleen and small and large intestines exposed. He was given drugs that kept him paralyzed, still able to feel pain but unable to move. Andrew had IV's in his head, arms and feet. He was kept alive on a respirator for six weeks, unable to breathe on his own. He had tubes in his nose and throat to continually suction his stomach and lungs. Andrew's liver was lacerated and bled. He received eight blood transfusions and suffered a brain hemorrhage. Andrew's heart was pulled to the right side of his body. He contracted a series of blood infections and developed hypothyroidism. Andrew's liver was severely diseased, and he received intrusive biopsies to find the cause. The enormous pressure of the organs being replaced slowly into his body caused chronic lung disease for which he received extensive oxygen and steroid treatments as he overcame a physical addiction to the numerous pain killers he was given.

The pain and suffering was unbearable to watch, but the courage and strength of our child was a miraculous sight. We were fortunate. The worst case scenarios that were painted by the doctors did not come to fruition, and we are thankful that our son was allowed the opportunity to fight. His will to live overcame all obstacles, and, now, we are blessed by his presence in our lives each and every minute. Our deepest respect and prayers go out to the courageous parents who knew that their baby would not survive and yet chose to love them on earth as long as God allowed and intended for them to be.

WHITNEY AND BRUCE GOIN,
Orlando, FL.

Mr. SANTORUM. Every time the Senator from California would bring up one of these cases, I will, unfortunately—Members on this side and maybe on the other side—have to tell the entire story about all these cases that the Senator from California would like to bring up, because, in fact, as was said earlier, there is no health or life reason to do this procedure. There is no reason. In fact, the Senator from Ohio, who I am going to yield to in a minute, will go through the case of Coreen Costello.

We do not want to do this. I am sure Mrs. Costello went through some terrible things, but if the Senator from California is going to offer her up as a justification for this procedure, then the American public and the Members of the Senate have to know all the facts related to the procedure that was done and how she was misinformed about her alternatives. We have hundreds and hundreds of physicians, obstetricians, both pro-life, pro-choice, people who perform abortions, people who do not, who agree with that assessment of that.

With respect to the New York Times article, I would say to the Senator from California the New York Times is the same paper that said we do not need to reform welfare because if we just change a little bit, it is a slippery slope and all of a sudden there will not be welfare. And they are the same people who criticize the National Rifle Assocation, which opposes any restriction on the second amendment, because of their slippery slope argument, and they criticize them for ''standing firm.'' And yet they are taking this position if you do one thing, even though it is reasonable, and you might argue it is reasonable, it is just a real big, sort of plot effort. That is just absolutely baloney. Baloney.

My goodness, the New York Times, they are just—get a life. This is murder. Let us not call it partial-birth

abortion. Call it partial-birth infanticide. That is what this is. If we think that is OK in this country, we have gone much too far.

It is my pleasure to yield 15 minutes to the Senator from Ohio.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, we have begun a very historic debate in this Chamber. It really is the conclusion of a debate that has been going on for several months. I think it might be instructive to review how we got here.

The House, of course, took this matter up. The Senate Judiciary Committee held hearings. I will be quoting from some of those hearings in just a moment. The House passed the bill. The Senate passed the bill. Then the President vetoed it. The House overrode the President's veto, and now we are in the Senate.

I think it is important that we keep our eye on the ball as this debate goes on. We should try to stay with the facts and try as much as possible to keep personal comments out of this.

My friend from California, the Senator from California, repeatedly has come to the floor the last few days and said she has been offended by other Senators characterizing her position. I understand that. Yet, she has repeatedly this morning talked about politics and talked about cynicism and talked about motives that she believes drive Members of the Senate who happen to be on this side, the other side from her in this debate.

Quite frankly, I think that is too bad. I think those assertions are too bad. I think it is too bad when anyone in this debate attempts to look into the heart and mind, the soul of any Senator. And I think it is wrong to do that. Please, please, spare us that argument.

The Senator specifically said that she was going to offer a unanimous consent, which she did, which would add this health exception. Let me assure my colleague and friend from California, those of us who oppose that and who would object, do not do it for political reasons. No. We oppose it because we know, based on court decisions, that an amendment such as that would make the bill useless—useless. I think if the Senator will read the opinions of the Court, Supreme Court decisions, that she will see that. But it is not because of politics. It is because we believe this bill should pass and we believe this bill should pass in a form that accomplishes something.

I will return to that later today.

My friend from California talked about Coreen Costello. I was in the Judiciary Committee when she testified. It was compelling testimony. It was testimony that would break your heart. However, Coreen Costello did not—let me repeat—did not have a partial-birth abortion. Let me read the proposed law, the bill that is in front of us. And then I will turn to Coreen Costello's testimony. Here is the pertinent part of the legislation. As used in this section, the term ''partial-birth abortion'' means ''an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.''

Coreen Costello testified—again everyone's heart went out to her when she testified—this is what she said.

> When I was put under anesthesia, Katherine's heart stopped. She was able to pass away peacefully inside my womb, which was the most comfortable place for her to be. . . .
>
> When I awoke a few hours later, she was brought in to us. She was beautiful. She was not missing any part of her brain. She had not been stabbed in the head with scissors.

Coreen Costello did not have a partial-birth abortion. If she had intended to have a partial-birth abortion, we know—we know—from all the testimony, that is undisputed, that all of the baby's body, with the exception of the head, would have had to have been delivered anyway.

I will quote Dr. Haskell later in regard to the actual procedure. So, although many of the stories that we are going to hear will be compelling, I am not sure, frankly, that they are at all relevant to our discussion.

Let me talk about the essential facts as we really begin this debate. There are, in my opinion, four essential facts that we need to keep in mind, Members of the Senate need to keep in mind, as we debate this.

No. 1. This procedure is not recognized in medical circles. This procedure, Mr. President, is not recognized in medical circles. Dr. Pamela Smith, Medical Education Director at Mount Sinai Medical Center in Chicago testified November 17, 1995, citing the medical textbook ''Williams Obstetrics,'' that this is not a recognized procedure. The term is not even found in medical textbooks.

The American Medical Association Legislative Council voted, without dissent, to recommend that the AMA's board endorse the partial-birth abortion ban. And they did it because they felt, according to the Congress Daily, ''This was not a recognized medical technique.'' I want to point out that the AMA ended up taking no position. They overrode the legislative council. They overrode it because they did not want to take a position on a policy issue, but there is no indication that they disagreed with the statement ''This was not a recognized medical technique.''

Dr. Nancy Romer, chairman of obgyn and a professor at Wright State University Medical School in Ohio said, ''there is simply no data anywhere in the medical literature in regards to the safety of this procedure. There is no peer review or accountability of this procedure. There is no medical evidence that the partial birth abortion procedure is safer or necessary to provide comprehensive health care to women.

Finally, Dr. Donna Harrison, a fellow of the American College of Obstetricians and Gynecologists put it most simply:

> This is medical nonsense . . . it is a hideous travesty of medical care and should rightly be banned in this country.

That is essential fact No. 1. The procedure is not recognized in medical circles.

Fact No. 2. The procedure is not used to save the life of the mother. We have testimony that a partial-birth abortion takes 3 days to perform. Now, let me just say it again. The testimony is it takes 3 days to perform this abortion. This is not an emergency procedure. Emergency procedures exist to save the life of the mother. This is simply not one of those procedures.

Listen again to the testimony of Dr. Pamela Smith: ''So for someone to choose a procedure that takes 3 days, if they are really interested in the life of the mother, that puts the mother's life in further jeopardy.'' Those are not my words, those are the words of Dr. Pamela Smith.

In his medical paper describing partial-birth abortion, Dr. Martin Haskell—now, this is the doctor who performs the abortions, one of the doctors who performs this procedure—he put it in a medical paper. This is, in part, what he said. He described in great detail the 3-day process for performing this type of abortion.

His paper goes through day 1, which is dilation, day 2, more dilation, and day 3, the actual operation. Let me quote directly from the doctor's paper. Again, this is the doctor's own paper, Dr. Haskell.

> Day 1—Dilation.
>
> The patient is evaluated with an ultrasound. . . . Hadlock scales are used to interpret all ultrasound measurements.
>
> In the operating room, the cervix is prepped, anesthesized and dilated 9–11 [millimeters]. . . .
>
> Day 2—More Dilation.

I am going to summarize this. The patient returns to the operating room, and the previous day's Dilapan are removed. The cervix is scrubbed.

> Day 3. The patient returns to the operating room, and the previous day's Dilapan is removed, and the procedure begins.

Mr. President, by definition and by description, this is not an emergency procedure used to save the life of the mother. That is fact No. 2.

Fact No. 3. My friends who are opposed to this bill have argued this procedure is usually medically necessary, when, in fact, these abortions are overwhelmingly elective. Here again, the testimony of those individuals who do these abortions is instructive. Dr. Martin Haskell, in a tape-recorded statement to the American Medical News, said the following: ''Eighty percent of these abortions are purely elective.'' Another physician said the following: ''We have an occasional abnormality, but it is a small amount. Most are for elective, not medical, reasons.''

The Washington Post reports that although no statistics are kept on partial-birth abortion, ''Perhaps the majority are not for medical reasons.''

President Clinton has said this procedure is necessary ''to prevent ripping the mother to shreds and to protect future fertility.''

But, Mr. President, Dr. Joseph DeCook, another fellow at the American College of OB-GYNs, says, ''Both contentions are, of course, incorrect, and probably merit the adjective 'absurd.'''

Finally, former Surgeon General C. Everett Koop sums up this issue by saying, ''In no way can I twist my mind to see that late-term abortion is a medical necessity for the mother.''

So that is fact No. 3. These abortions, the vast majority of them, are elective, not medically necessary.

No. 4, a living, fully formed living child is killed. You can use all the language you want to to try to hide this fact, but the basic fact is a living child is killed. We need, I think, to understand this procedure. In a partial-birth abortion, the entire body of the baby has been delivered except the head—the entire body is delivered except the head. The only reason the head has not been delivered—the only reason—is because under the law the doctor would have to protect the rights of a fully delivered baby.

Listen to nurse Brenda Shafer's description. Remember that Brenda Shafer had described herself as being pro-choice before she walked into the doctor's office that day, to that clinic. This is what she saw:

> The baby's heart beat was clearly visible on the ultrasound screen . . . Dr. Haskell went in with forceps and grabbed the baby's legs and pulled them down . . . Then he delivered the baby's body and the arms—everything but the head . . . The baby's little fingers were clasping and unclasping, and his little feet were kicking. Then the doctor stuck the scissors in the back of his head and the baby's arms jerked out, like a startle reaction . . . The doctor opened up the scissors, stuck a high-powered suction tube into the opening and sucked the baby's brains out. Now the baby went completely limp.''

Mr. President, it has been argued that the baby was dead before the procedure was initiated. But listen again to Dr. Haskell, listen again to his own comments. He said in his interview, ''No, it is not. No, it is really not.'' It was argued that the anesthesia given to the woman killed the baby, but the American Society of Anesthesiologists testified this is absolutely untrue. Anesthesia does not kill the child. The baby is alive.

Mr. President, the essential facts about partial-birth abortion are as follows: One, it is not recognized in traditional medical circles. No. 2, it is not necessary to save the life of the mother. In fact, there are safer methods to protect maternal health. No. 3, those who perform these abortions admit they are overwhelmingly done for elective reasons. They are elective. No. 4, this procedure kills a living child. Mr. President, civilized society simply cannot tolerate this procedure.

How, then, did partial-birth abortion come about? Why was this technique developed? Why are there some doctors—not many, but some—doing this? Why was this particularly gruesome procedure ever developed?

I ask unanimous consent for an additional 5 minutes.

Mr. SANTORUM. I yield 5 minutes.

Mr. DEWINE. I thank my colleague from Pennsylvania.

Mr. President, how did this come about? We know now it has no medical purpose. We heard testimony that partial-birth abortions are not taught in any medical school. The term is not found in any medical text. In fact, the American Medical Association does not recognize it as a medical procedure.

We also know, Mr. President, that mainstream medical doctors would never use this procedure for any medical purpose. We have testimony to that effect. Doctors who do these partial-birth abortions admit that most are ''purely elective.'' Fellows at the American College of OB-GYNs describe the contention of this type of abortion being used for legitimate medical reasons as, ''incorrect and absurd.'' Dr. Koop says, ''In no way can I twist my mind to say that late-term abortion is a medical necessity for the mother.''

So we know that partial-birth abortion is not a medical term or a medical procedure. How did this come about? I believe the evidence is clear, Mr. President, that it came about as a perversion of the law. Under the law, a child outside the womb is, of course, a fully protected human being. That child has civil rights. That child has rights under the Constitution as a person—rights we all enjoy. However, if the child is almost ready to be born but remains in the womb, the law permits the child to be aborted. The law permits the child to be killed.

Remember the testimony, remember the evidence, when we say, ''almost ready to be born.'' Every part of this child is out, outside the womb, except the head. The head is kept in. The problem for the person doing the abortion is that when a baby is nearly ready to be born, a more traditional style of abortion is uncertain and dangerous, because in a traditional abortion the child is kept totally in and the abortion is performed totally inside the womb. When the baby is ready to be born and is fully developed, it is more difficult to kill the child with certainty, and the abortion may be more dangerous.

Dr. Haskell, an abortion provider who is a self-described ''pioneer'' in this procedure, was most proud of the fact that partial-birth abortion is the most effective and certain way to kill a child that is legal under the law today. The most effective way to kill a late-term child, a child that is very close to being born, is to use this procedure. That is why it is used.

You could argue, Mr. President, that the safest and easiest way to kill such a child ready to be born would be to allow complete delivery, allow the head to come out as well as the rest of the body, and then kill the baby. That, of course, is illegal. That is why it is not done. The law does not allow a fully delivered child to be killed. Current law does allow a child that four-fifths of the child's body is out, to be killed. That is what the facts are. No matter how we talk or how we try to gloss over the fact, that is the essential fact of this debate.

Mr. President, those who do partial-birth abortions have done what they think is the best way, the best thing under the law. They nearly fully deliver the baby. Every part of the child is delivered except the head, and they hold the head inside the birth canal. Mr. President, they cannot let the head slip out. As Dr. Haskell says again, the man who does these procedures, ''That's the goal of your work, to complete an abortion—not to see how do I manipulate the situation so I get a live birth instead.''

Mr. President, the law allows this. This cannot be what the Senate of this country or the American people believe to be good public policy.

What happens, Mr. President, if a doctor makes a mistake, a sneeze, a cough, a knock at the door, or the doctor looks away, is distracted, and by mistake the baby's head comes out? The doctor meant to hold it in, but it slipped out. Can he still kill the child? Well, of course not—not legally, because we now have a fully delivered baby with civil rights.

Mr. President, how can we permit a situation to exist in this country where, if the doctor makes a mistake, it is a child, but if he is coldly efficient, it is not? How do we say that a few inches is the difference between the life or death of this child? Surely, this Senate can stand up for the rights of that defenseless child. Surely, this Senate cannot stand by and allow such a legal absurdity to continue, a perversion of medicine, a perversion of the law.

This is why we are here today. This is not about the right to choose. This is not about the right to abortion generally. This is a question of whether the Senate will permit a legal fiction that says that if you are fully born, you are protected, but if a doctor holds just your head inside the birth canal, you may be killed.

Mr. President, in conclusion, is there no limit to what we will accept in this country? Is there no limit to what we will tolerate as a people? Are we so numb or are we so insensitive that we cannot raise our voice and say, ''No, not this. This is just too much''? Mr. President, what are we willing to turn our backs on?

My colleague and friend from Illinois, Congressman HYDE, is a great spokesperson and very eloquent in this area. He was very eloquent in his closing argument in the House. But he is also not only eloquent with regard to

this issue, he is eloquent about the duty each one of us has not just in this country, but the duty we each have as individuals. Many times, he quotes from St. Ambrose: ''Not only for every idle word, but for every idle silence must man render an account.''

I don't think this is unique to the Christian faith. I do not think this is unique to St. Ambrose. I think this is a universal truth. Let me quote from a book written by HENRY HYDE a number of years ago that speaks, I think, to personal responsibility, because that is what we are about on the Senate floor today:

> I believe . . . that when the final judgment comes—as it will surely—when that moment comes that you face Almighty God—the individual judgment, the particular judgment—I believe that a terror will grip your soul like none other you can imagine. The sins of omission will be what weigh you down; not the things you've done wrong, not the chances you've taken, but the things you failed to do, the times that you stepped back, the times you didn't speak out.
>
> ''Not only for every idle word but for every idle silence must man render an account.'' I think that you will be overwhelmed with remorse for the things you failed to do.

Mr. President, this Senate should not fail to do what is right. This Senate should not fail to override the President's very misguided veto.

Thank you. I yield the floor.

Mr. SMITH addressed the Chair.

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

Mr. SMITH. Mr. President, I yield 5 minutes to the distinguished Senator from Washington, Senator GORTON.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, there have been a number of occasions on which this body has debated policy relating to abortion in which I have not found myself on the same side as my friends and distinguished colleagues from Pennsylvania and Ohio and New Hampshire. But this, Mr. President, is not such an occasion.

From the time that I first became involved in national politics, it has seemed to me that, for mature adults, under most circumstances, the law was not an appropriate method of determining what are ultimately moral choices for the people most intimately involved with those choices. But, Mr. President, when we talk about late-term abortion and when we speak specifically about partial-birth abortion, we are not dealing with most cases. We are not dealing with this issue in the way in which we speak about it under most circumstances.

I believe that my views probably reflect those of a majority of the American people who do believe that this should be a matter of an individual woman's choice and that of close family—again, under most cases. But I think it is clear that the majority of the American people, as they come increasingly to understand exactly what this procedure is, are horrified by it.

This isn't most cases, Mr. President. This is a practice that is not necessary. This is a practice that is not compassionate. This is a practice that is not within the bounds of civilized or humane behavior. My colleagues have described it in detail, and I don't need to repeat that detail. But I do think that it is significant that those who would uphold the President's veto, generally speaking, talk in circumlocution, disguise the language, resist and object not only to a description of the procedure itself, but even to the title—partial-birth abortion. They speak about slippery slopes rather than the procedure itself and attempt to avoid the true brutality and extreme nature of the procedure.

It is significant also, I think, Mr. President, as this has become a greater issue of consequence to the American people, that few, if any, of the Members of this body—I think none—who voted for this bill the first time are even remotely considering switching their votes to uphold the President's veto. Several who voted against the bill the first time are likely to vote to overturn the President's veto. I am convinced, even from private conversations, that many others would like to, but they feel bound by their former vote.

Finally, many of them simply wish the issue would go away, and that they would not have to vote at all. But that vote will be a defining issue about our own society, about our feelings for indifference to brutality, about violence, about uncivilized, inhumane behavior.

For all of those reasons, Mr. President, I am convinced that we should override the President's veto, and I deeply hope that a sufficient majority of my colleagues will vote to do that.

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Thank you, Mr. President.

While the Senator from Pennsylvania is still on the floor, I would like to compliment the Senator for his compassion, interest, and involvement in this issue. I know that during the previous debate, he was, by his own admission, not very much involved in it but came down to listen and was so overwhelmed by what he heard and what the details of this procedure were that he became involved, and he has now become the leader in his own right on this issue. We certainly welcome his support, his compassion, and his commitment. I just want to say it is an honor to serve with Senator SANTORUM.

Mr. President, there has been a lot said about this issue. I do not know what else could be said. But I want to, in as quiet and as compassionate a way as I can, urge my colleagues to vote to override President Clinton's veto of H.R. 1833—not necessarily to listen to my words, or to listen to anyone's words in particular, but to look into your own consciences as deeply as you can and examine the facts.

This vote that we will face this afternoon, Mr. President, has presented this Congress with an issue that transcends abortion. I want to repeat that. It transcends abortion. We have had our differences here on the floor on abortion, and I respect those who differ with me, and I hope they respect me for differing with them. It is an issue that we debate over and over again—both here and sometimes in our personal lives, as well as our political lives. That is not the issue today. It transcends abortion. The reason we know that is that there is a long list of very distinguished Members of the House and the Senate and the medical profession who identify themselves as pro-choice who have courageously stepped forward and supported the Partial-Birth Abortion Ban Act.

Last week, the House of Representatives voted 285 to 137 to override President Clinton's veto. That is the people's House. I served in it. The distinguished occupant of the chair served in the House of Representatives. That is the people's House. They are elected every 2 years. They are very close to their constituents. They heard from their constituents, and they listened. That bipartisan, overwhelming two-thirds supermajority included the two Democratic leaders of the House, RICHARD GEPHARDT, DAVID BONIOR, as well as some of the leading pro-choice Representatives, such as PATRICK KENNEDY of Rhode Island, JAMES MORAN of Virginia, and SUSAN MOLINARI of New York—Democrats, Republicans, liberals, moderates, and conservatives.

To be perfectly frank with my colleagues, I know we face an uphill struggle in this Senate. I know that. I know what the numbers are. We all do. But every time we come down on a vote that is this close, we come down with hope and optimism.

I might say that 6 or 7 votes on the floor of this Senate today will determine as many as 900—perhaps 1,000, 1,500—lives a year; 6 votes, 7 votes, hundreds of lives. That is what it really comes down to.

When the Senate passed this ban last year, last December, it did so by a vote of 54 to 44. We know the numbers. You all know the numbers. To override the President of the United States, you need two-thirds. That is 67, if we have 100 Senators, and two-thirds of whoever is here to vote.

So it is an uphill struggle to win. I know that. We all do. But I am optimistic, Mr. President, I am optimistic that people are going to listen to the facts here who can be available.

There has been some very emotional testimony here. But it is not emotion that should guide us in our decision. It is the facts. Let me say again. This issue transcends abortion. It is not about a pro-choice and pro-life. It is not about the abortion debate.

One of the most distinguished and respected Members of this Senate on either side of the aisle is a man that I have the utmost respect for and immense admiration for—an honest man,

a man of integrity—DANIEL PATRICK MOYNIHAN, the Senator from New York. He didn't vote when the Senate considered this last December, but subsequently, and after a lot of soul-searching, the distinguished Senator from New York announced that he would vote to override the President's veto. Voting against the President of your own party—I have had to do it. That is not easy. But this isn't partisan politics. This has nothing to do with Democrats or Republicans—nothing at all.

If you want to write ''a profile in courage,'' you can write it about DANIEL PATRICK MOYNIHAN, who had the courage to look at the facts and not get into the debate about pro-choice and pro-life. Senator MOYNIHAN is pro-choice. He and I differ. But he looked at the facts.

Another Democrat, President Clinton's own Ambassador to the Vatican, the former Democratic mayor of Boston, Ray Flynn, was courageous enough to criticize the President who appointed him to one of the world's most coveted ambassadorial posts, was quoted in April 1996 in the Washington Post, saying, ''I think that the Catholic Church and the Holy Father are absolutely right in condemning President Clinton's veto of the partial-birth abortion ban.''

I also urge my colleagues who are rethinking—hopefully some are—their position to consider the words of another very, very respected individual, I think one of the most respected individuals in all of the United States, perhaps second only to Billy Graham, is the U.S. Surgeon General, C. Everett Koop. Here is what Surgeon General Koop told the American Medical Association's American Medical News in an interview published on August 19, 1996:

> I believe that Mr. Clinton was mislead by his medical advisers on what is fact and what is fiction in reference to late-term abortions. Because in no way can I twist my mind to see that late-term abortion as described—you know, partial birth, and then destruction of the unborn child before the head is born—is a medical necessity for the mother. It certainly can't be a necessity for the baby. So I am opposed to. . . partial-birth abortions. C. Everett Koop.''

Mr. President, if there is any physician who would be known as America's doctor or the conscience of America's doctors, it is C. Everett Koop. He is widely admired. He is revered all across the Nation. He is not a partisan man. I do not even know what his position is on abortion; I have no idea. He is not an ideological man. He is a doctor. He is a doctor first. He is an honest, plain-speaking doctor in whom Americans have learned to have a great deal of trust.

So consider again what Dr. Koop said:

> . . . in no way can I twist my mind to see that late-term abortion . . . partial-birth . . . is a medical necessity for the mother.

Those are not my words. Those are not my words. They are the words of a doctor, Dr. Koop. I wish President Clinton had listened to Dr. Koop before he vetoed this bill.

Mr. President, at this point I ask unanimous consent that an excerpt from the American Medical News interview with Dr. Koop be printed in the RECORD immediately following my remarks.

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

(See exhibit 1.)

Mr. SMITH. Mr. President, let me emphasis that H.R. 1833 includes the life-of-the-mother exception. I know because I put it in there. I wrote it. Senator Dole and I offered it as an amendment, and the Senate approved it by a vote of 98 to 0.

Given his consistent portrayal of himself as someone who is a moderate on the abortion issue—Mr. Clinton said in 1992 that he wants abortion to be safe, legal, and rare—then one would think President Clinton would have signed this bill. I thought that the President might well sign it.

In fact, after the Senate passed the bill, I twice—on two separate occasions—sent President Clinton personal notes, personal messages. And in those personal messages, Mr. President, I asked the President of the United States for 15 minutes, 15 minutes of his time, 15 minutes of his time to sit down with me anywhere he wished—the Oval Office, library, wherever, in his car, on the way to the airport, anything—he does not usually go to the airport—on the way to the helicopter or whatever, face to face, one on one, no staff, no advisers, no press, and no comment afterward. My pledge: I say nothing about the meeting. You say nothing about the meeting, if you wish. All I want to do is sit down and say to you listen to the facts as I would like to present them to you, not screened by staff, one on one.

No response, not even the courtesy of a response from the President of the United States. Even after he vetoed it, no response.

Your learned and respected colleague, for those of you who think it might be partisan, Senator MOYNIHAN, has already indicated he is going to vote to override. If you are concerned about medical aspects, then listen to Dr. Koop. Listen to him the way you would listen to him when he speaks about the dangers of smoking. I have heard so many people in the Chamber quote Dr. Koop, especially on smoking and other medical issues. He opposes these partial-birth abortions. He denies that they are ever medically necessary. Dr. Koop supports the bill.

I urge my colleagues to consider the words of one of their House colleagues shortly after he voted in favor of H.R. 1833 last year, liberal Democrat, pro-choice, Virginia Congressman JAMES MORAN. He said he knew his vote would anger some pro-choice supporters but he could not put his conscience on the shelf. That is a man of courage right there, to say that and do something like that.

Mr. President, I want to close by making a couple of points on the individual women who participated in the press conference with President Clinton. These women went through terrible ordeals. I admire them. I respect them. My heart goes out to them for what they went through. We have three children, my wife and I. We were lucky; our children were born with no problems. This is not about the problems that these five women had. This is not about that.

None of those five women had a partial-birth abortion. The Senator from Ohio has made that point. And it is interesting. At the April 10 veto ceremony concerning this bill President Clinton displayed, if you will, or had stand by his side these five women whom he initially said had the kind of abortion procedure that would be banned.

Later in the ceremony—and this is very interesting about Bill Clinton and pretty consistent—later in the ceremony Mr. Clinton said that the H.R. 1833 description of the procedure did not cover the procedure that these women had. Let me repeat that. The President of the United States in the press conference on the veto with five women standing there that he indicated had such procedure said the description of the procedure did not cover the procedure that these women had. None of the five women had a partial-birth abortion.

I know that there are tremendous differences between the two sides on the issue of abortion. We have debated it, as I said before. Whatever I feel personally about abortion is not the issue here. Under H.R. 1833, a partial-birth abortion is defined as an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.

Coreen Costello, a wonderful, brave woman who went through a horrible ordeal, who was shown in the photograph with another child in this Chamber by the Senator from California, conceded during her testimony before the Senate Judiciary Committee that she did not have a partial-birth abortion. Her baby was able to pass away peacefully.

We do not stop the doctor in this legislation from stopping Ms. Costello from having the procedure that she had. That is not a partial-birth abortion. I could go through the cases of the other four women because it is the same situation.

Let me just close, Mr. President, by saying reach into your hearts, my colleagues. Ask yourself, no matter how you feel on abortion, whether you are pro-choice or pro-life, whether or not a baby held in the hands of a physician, all but the head being allowed to enter this world and killed for whatever reason, is that really what we are about in America?

That does not have a thing to do with interfering with the medical procedure

or interfering with a doctor and a patient, not a thing. That is a child. That is not an abortion. That is a child. That is a child in the hands of a doctor. As the Senator from Ohio said, that child has rights under the Constitution, civil rights.

So reach into your hearts. Think carefully about this vote because, as I say, 6 or 7 votes are going to determine hundreds of lives.

I yield the floor, Mr. President.

EXHIBIT 1

[American Medical News, Aug. 19, 1996]

THE VIEW FROM MOUNT KOOP

Q: Clinton just vetoed a bill to ban ''partial birth'' abortions, a late-term abortion technique that practitioners refer to as ''intact dilation and evacuation'' or ''dilation and extraction.'' In so doing, he cited several cases in which women were told these procedures were necessary to preserve their health and their ability to have future pregnancies. How would you characterize the claims being made in favor of the medical need for this procedure?

A: I believe that Mr. Clinton was misled by his medical advisers on what is fact and what is fiction in reference to late-term abortions. Because in no way can I twist my mind to see that the late-term abortion as described—you know, partial birth, and then destruction of the unborn child before the head is born—is a medical necessity for the mother. It certainly can't be a necessity for the baby. So I am opposed to . . . partial birth abortions.

Q: In your practice as a pediatric surgeon, have you ever treated children with any of the disabilities cited in this debate? For example, have you operated on children born with organs outside of their bodies?

A: Oh, yes indeed. I've done that many times. The prognosis is usually good. There are two common ways that children are born with organs outside of their body. One is an omphalocele, where the organs are out but still contained in the sac composed of the tissues of the umbilical cord. I have been repairing those since 1946. The other is when the sac has ruptured. That makes it a little more difficult. I don't know what the national mortality would be, but certainly more than half of those babies survive after surgery.

Now every once in a while, you have other peculiar things, such as the chest being wide open and the heart being outside the body. And I have even replaced hearts back in the body and had children grow to adulthood.

Q: And live normal lives?

A: Serving normal lives. In fact, the first child I ever did, with a huge omphalocele much bigger than her head, went on to develop well and become the head nurse in my intensive care unit many years later.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER (Mr. KYL). The Senator from California.

Mrs. BOXER. I am going to yield to Senators at this point. I know the other side has had a chance to yield to a few people. Before I yield to Senator MURRAY, I want to just yield myself 3 minutes to respond specifically to the remarks of the Senator from New Hampshire.

Mr. President, everyone involved in this debate opposes late-term abortion. Let me repeat that. Everyone involved in this debate opposes late-term abortion. All we are saying, along with the President, who outlawed late-term abortion when he was Governor of Arkansas, is that in the most tragic of circumstances where pregnancies take a tragic turn, where there is no healthy viable child—in many cases the brain is outside the baby's skull or there is no brain and the skull is filled with fluid and the situation presents a danger, a high level of danger to the woman's long-term health or to her life—there be an exception.

A little while ago I made a unanimous-consent request to set aside the pending bill, the pending veto and craft such a bill together. It was objected to by the Senator from Pennsylvania. I am going to offer that later again and again to make the point that we could walk down this aisle together and just keep those abortions to those crisis pregnancies. That is what the President wants. Again, in his letter he says send him a bill in a bipartisan manner and he would sign it with those tightly drawn exceptions. There has been reference made to a life exception in this bill. The Senator from New Hampshire said he wrote it. Well, it is clear it is not the usual Hyde exception which just says an exception ''to save the life of the mother.'' That is not in this bill. What is in this bill is a very narrowly crafted life exception which only triggers if the woman has a preexisting condition and that preexisting condition threatens her life, not the pregnancy itself.

That is why the New York Times, in its editorial today, says the life exception ''is drawn so narrowly as to make the technique * * * unusable.'' Unusable.

So the fact is, there is no Hyde life exception here. What we want to see is a life exception, the Hyde life exception, plus a narrowly drawn exception for health.

The last point I would make before yielding to my friend from Washington is this. I talked about the arrogance of politicians who think they know better than a physician. I pointed out that we have a lot of self-confidence. You have to in this political life that we lead. But how could we ever know more than a physician? Why would we want to take away a tool that many say they need?

Then we have the arrogance of colleagues on the other side of the aisle, saying that Coreen Costello, whom I talked about and will talk about some more, did not have this procedure. They think they know better than Coreen Costello and her doctor. Coreen Costello writes us just yesterday, ''Some who support this bill state I do not fit into the category of someone who had this so-called procedure. This is simply not true.''

So, I hope we could work together, craft a bill that makes a life and health exemption, and take this out of the political arena. For anyone who thinks it is not in the political arena, why did it take 5 months to bring this override right here, into the last week of this session? Let us be honest with one another. It is a political issue.

I yield to my colleague from Washington, Senator MURRAY, as much time as she may consume.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I have listened to my colleagues on the floor discussing this issue over the last several days, and over the last several months, as it has increasingly become an inflammatory issue both here and across this country. I found myself going home last night feeling more and more angry. I asked myself, why is it that I feel so angry listening to this debate? I realized it was because I feel that we have really offended the women and the families who have had to make this decision, and they probably are sitting at home watching this debate in tears. Because none of us were there when they had to face a horrendous decision, women and men, young families, who wanted very much to have a baby, who found themselves at the end of a long pregnancy, after months of people coming up to them and telling them, ''Oh, how exciting. When is your baby due?'' Of planning for that baby, of having the furniture ready in the baby's room. Only at the end of that pregnancy to find out there were tragic circumstances involved, that perhaps their baby's brain was not formed, that their baby would not survive. Not only that, but to be told by their doctor that if this baby were to be delivered at the end of 9 months, the woman's life would be in serious jeopardy, or perhaps her ability to have future children.

I feel so sorry for those families who have had to live through this tragic experience, who now have to watch an inflammatory and divisive debate on this floor in this Senate by people who are not medical doctors, who have not been there, who do not know the circumstances surrounding that horrendous decision they had to make, now try to make it a criminal offense for them to go through that. I apologize to those families. I apologize to them for having to listen to this debate. For us to be sitting here second-guessing them and their doctors—I find it offensive. Again, I thought about it—why am I so angry? Mr. President, I am angry at the arrogance of those who sit out here on this floor and describe to us the joys they have had in being with their wives when their babies were born under wonderful circumstances. And I have had that opportunity twice in my life. But there are some on this floor who have had to live through similar experiences, and I think it is arrogant of people to be on this floor talking about it who have not been through the same thing. It is extremely difficult to sit in a doctor's office, when you have been pregnant for many months, and be told that your baby is not going to live. It is a tragic, horrendous experience that no one can understand unless they have been there.

Mr. President, I am offended that Members of this body know, or think

they know, what that would be like. If you have not lived through it, you do not know. This Senate, this Congress, should not be deciding the lives of those women, their families, or their future. It should be up to the doctor and the husband and the wife, as it has in the past and it better well be in the future, for my daughter and the other women around this country.

Mr. President, this is an emotional, distorted debate. We are using the lives of a few women to create divisions across this country. I know that many women are offended, as I am. Again, I extend my apology to the women in this country who have been through this experience and who know. I commend our President for having had the strength and the courage to stand up and say that he will veto this bill. I commend my colleagues who have the courage as well, despite the often offensive comments that we have heard, and the horrendous articles that we have seen written, and the divided doctors' opinions we have read. If we can be smart today and not override this veto and have courage to vote what is right, we will leave it up to women in the future to make their own decisions. That is extremely important for us to do.

Mr. President, the New York Times today had an extremely important editorial. I hope my colleagues who are sitting back, thinking about this debate and what their vote will mean, will take the time to read it. It states the case very well, in a very cognizant manner. I remind my colleagues, despite what you hear, if we can save the life of one woman and we can save the tragedy of one family not being able to make the decision that is good for the mother's health, then we have done the right thing today.

I urge my colleagues to sustain the veto of the President of the United States, and I yield my time back to Senator BOXER from California.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I just need to restate, we have quoted physician after physician, obstetrician after obstetrician, pro-life, pro-choice, people who have performed abortions—this is not RICK SANTORUM or JAMES INHOFE or MIKE DEWINE or BOB SMITH—these are physicians, obstetricians, who are saying that this procedure is never, never, never medically necessary to save the health or life of the mother. Never. Never.

So, when we suggest we are doing this and we are denying something to women, let me also state that Dr. Hern, whom the Senator from Colorado quoted just yesterday, performs late-term abortions and will continue to perform late-term abortions if this bill passes. He believes that this is an unsafe procedure. It is not a medically recognized procedure. There is no literature on it, there is no peer review on it, there is nothing anywhere that says that this procedure is a proper procedure to use. This is not RICK SANTORUM talking. I wish the Members who argue would at least argue the facts. I am not speaking for me. I am quoting doctors.

So let me quote doctors and describe this, because no one has described this procedure. I know, I will warn people, this is not something that I want to do. But I think the American public has to know what this procedure is and who it is performed on and at what time in the pregnancy it is performed.

Guided by ultrasound, the abortionist grabs the baby's leg with forceps. This baby is anywhere from 20 weeks, into the third trimester, 30 weeks or more old. At 23 weeks, babies can survive with the new surfactant drugs and the like. It is not a high probability.

Just remember a couple of years ago when that young girl in Texas was down in that well, and for 80 hours the American public was just riveted on what was going to happen to that little girl. People cried and wept when we saved that little girl.

Well, these are little girls and little boys. They are not inch blobs of tissue. These are little girls and little boys. These are viable babies, not tissue—viable babies.

The doctor grabs the legs and pulls it into the birth canal feet first. That is a breech delivery. It is a dangerous delivery. No physician would ever deliver a baby deliberately breech if there was an alternative. So they deliver the baby breech. It is dangerous to the mother to deliver a breech baby.

The baby's entire body is delivered, with the exception of the head. Nurse Brenda Shafer, who testified here, talked about the arms and legs of the baby moving outside of the mother.

At that point, the abortionist takes a pair of scissors and, by feel, jams the scissors into the base of the skull for one purpose, to kill the baby, and creates a hole and takes a suction catheter, a powerful one, and suctions the baby's brains out until the head collapses, and then the rest of the baby is delivered.

This is the procedure that people say they are outraged that we are trying to stop? Can you imagine? Can you imagine that people are outraged that we want to stop this? It is outrageous that we want to stop this? I have seen many reasons for outrage, justifiable outrage. Stopping this, people are outraged? What have we become when we become outraged?

I yield 10 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I regret that we are so short on time, that we have a time agreement. I had planned, as I announced yesterday when I spoke on this subject, to speak for at least 30 minutes. So I will not be able to use all the material I have. It is such a critical issue, I deeply regret that. I think it is probably appropriate that I speak, in that tomorrow at this time my daughter-in-law will be presenting me with my fourth grandchild. I plan to be there at the birth of that child. I am hoping to name it Perry Dyson INHOFE III. I don't know that will happen for sure.

I think if you just wrap up some of the things that were said here that are very significant, No. 1, we are not talking about abortion. We are talking about, in many cases, the normal birth process.

When I stood here before I spoke yesterday, I heard Senator HANK BROWN from Colorado, a guy who has always been pro-choice —I have disagreed with him; I have always been pro-life—but he stood up and recognized the fact that we are not talking about abortions. I wish they never named this ''partial-birth abortion.'' Maybe people would wake up. I agree with the senior Senator from New York who characterized it as ''infanticide.''

So we are talking about now a third-trimester type of a treatment. I was going to elaborate on some of the comments that were made. I have here with me 17,601 signatures on petitions that I got this weekend as I was doing town meetings. They were given to me from all over Oklahoma. I haven't heard from anyone on the other side of this issue.

One of the things that they fail to talk about, because it is painful to talk about, is the pain that a baby feels when the baby is eliminated using this partial-birth-abortion procedure.

There is a paper I was going to read, but I will paraphrase it. It is a paper that was produced by a British research group, that a Dr. White, a neurosurgeon in the United States, agrees with, where they say it is now proved that a child in the second trimester or third trimester feels the same type of pain that is felt by any of us in this room, in this Chamber.

So we are not talking about something that is painless for a child that is being aborted, being destroyed in the process that was described by the Senator from Pennsylvania.

I ask unanimous consent that this paper be printed in the RECORD.

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

FETAL PAIN AS IT RELATES TO THE PARTIAL-BIRTH ABORTION METHOD

Partial-birth abortions are most commonly performed on fetuses between the 20th and 24th weeks and beyond. Studies by British researchers and a Cleveland neurosurgeon have found that the fetus at this stage feels pain.

Dr. Robert White, Neurosurgeon, Case Western Reserve University School of Medicine, testimony given before the House Subcommittee on the Constitution, June 15, 1995:

1. The neuroanatomical pathways which carry the pain impulses are present in fetuses by the 20th week of gestation.

Also, the neurosystems which would modulate and suppress these pain impulses are either not present or immature during this stage of fetal development.

2. The classical cardiovascular responses associated with stress and pain are found in

fetuses of this age who experience painful incidents such as the introduction of a needle in the abdomen.

His summary: ''The fetus within this time frame of gestation, 20 weeks and beyond, is fully capable of experiencing pain.''

British study Journal: ''The Lancet''; ''Fetal Plasma Cortisol and Beta-Endorphin Response to Intrauterine Needling'' July 9, 1994:

Study: The study was on the effects of fetal blood sampling.

Conclusion: When the fetus is subjected to an abdominal injection, it reacts with a hormonal stress response, characteristic of a pain response.

Mr. INHOFE. Mr. President, I had occasion to talk to a Dr. Mary Ballenger this morning. Dr. Mary Ballenger was called to do a very unpleasant thing about a year ago. My kids' dog, a Labrador, was 16 years old. She came out and had to put it to sleep because the dog had cancer and was beyond any help and was in pain.

She described and wrote down the procedure that she used to destroy the dog. It was necessary. She first injected a drug into the dog, which puts the dog into a euphoric state and is completely relaxed, and then, of course, sodium pentothal to put the dog to sleep.

I thought it was ironic, when I look at this procedure. We are so humane in the procedure that we use in putting someone to death who has committed a heinous crime for which he must be destroyed. It is the same procedure, because we are so humane in this country. Yet, we have no concern over the pain that is inflicted on a small person who is a victim of this type of a termination.

If I were to suggest that the procedure that was described by the Senator from Pennsylvania were to be used on dogs or cats, the same people who are promoting this procedure would be out there picketing.

Something has happened. Perversion has taken place in this country where we put a higher value on critters than we do human life. In fact, under our laws, it is a criminal violation if you were to kill a gray bat that is endangered. It would be a $50,000 fine or 1 year in prison.

I have a testimonial from a young lady in my State of Oklahoma. I will only use her first name. This is the testimony of Nancy. I would like you to listen very carefully, Mr. President:

TESTIMONY OF NANCY, SENT TO FRANK PARONE OF PRIESTS FOR LIFE

I am twenty-one years old and a native of southwest Oklahoma. Five years ago, I had a partial birth abortion. I was 36 weeks pregnant.

I was sixteen at the time I got pregnant. I hid my pregnancy from my mother. It wasn't hard for me to do that because I was somewhat over weight and wearing large, baggy clothes was already in style. My mother had always told me that if I got pregnant, the baby would be gone. It was just as simple as that. I knew that I had to protect my baby.

One day, my mother accidentally saw me in the shower, and I think it was at that point, it dawned on her that I was pregnant. My mother took me to see a friend of hers who was a doctor. He said that the baby and I were both healthy and doing fine. We did a sonogram, and I got to see my little boy for the first and only time. It was so exciting. I had been able to feel him kick and turn in my belly for a long time, but it touched my heart to get to see him face to face. My heart melted as the doctor pointed out him sucking his thumb.

My mother didn't speak to me for two days. I knew that my mother was a very determined woman who would do anything to accomplish what she wanted. Her silence really frightened me.

Then we got the call from her friend. The doctor said that I had a hernia in my abdominal wall. If I wanted to have any chance for a normal delivery, I had to have surgery which wasn't easy for a pregnant woman. He recommended a doctor in Wichita, Kansas. Little did I know that my mother, through the doctor, had just handed my baby the death sentence.

We drove to Kansas the next day. The doctor said it wouldn't be too painful for me because I would be asleep. All I remember about the time just before going to sleep was a feeling that this wasn't right. Waves of fear kept washing over me. My mother sat there and kept saying that we had to do what we had to do. What comforting words.

I woke up several hours later. The first thing I did was reach for my belly. I remember screaming a lot and I couldn't stop. My belly was flat and my baby was gone. I ripped the IV out of my arm. The doctor ordered the nurse to restrain me. I then remember them giving me a shot to calm me down. To this day, I still remember the cold pain and horror I felt when I realized what had happened.

It took several months after the abortion for the fights to begin. Every time I wanted to talk about the situation, my mother just turned stone silent. When she did speak, she flipped off cliches like, ''What was done was done.'' and ''Don't cry over spilt milk.'' More comforting words.

After one major fight, she finally did tell me that the abortion procedure that was done was the D and X, dilation and extraction, a partial birth abortion. I just couldn't bear to look at my mother anymore. She had lied to me and killed her own grandson. I just don't see how anyone could have looked at that sweet face on the ultrasound screen and have that baby brutally and coldbloodedly murdered. I left my mother's house that day, and I have never been back.

Because of the damage of the abortion, I can no longer have any more children. I failed my children, I really failed my little boy, I failed to protect him. And he died.

My life hasn't been the same. I cry so much for my little boy. I never got to hold him in my arms. People made decisions for me and took him away. I am not sure that the hurt will ever go away.

Mr. President, this is not just someone who has talked about, third hand, the agony that is experienced by so many people. When I hear people say that this is a rare procedure, and it is not used very often, I remember the testimony of Dr. Haskell who has performed, he said, over 1,000 partial-birth abortions. And he said, ''In my particular case''—I don't know about all of them nationwide, but ''In my particular case probably 20 percent are for genetic reasons. And the other 80 percent are purely elective . . .''

Since my time is about up, I would like to repeat something that I heard this morning, Mr. President, that perhaps puts a sense of urgency on this. At a prayer breakfast this morning there were a number of people who prayed. One was Rev. Herb Lusk from Pennsylvania who described this procedure as ''an unrighteous act.'' The next was Cardinal Belivacqua. He said, ''If we don't respect life, then what is left to respect?'' Then Rabbi Daniel Lapin said, ''We must defy this monstrous evil.''

But it was when Dr. James Dobson said his prayer that it first occurred to me, when he said, ''You know, you folks on the floor are going to be speaking for those who are not here today and cannot speak for themselves. You will be speaking in their behalf.''

That is what we are looking at right now, Mr. President. I do agree with Charles Colson who said on his prison fellowship broadcast, ''The vote is the most significant of my lifetime, and is about life itself, about who will live and who will die.''

I honestly believe, Mr. President, this is the most significant character vote in the history of this institution.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I am going to yield to the Senator from Illinois and then the Senator from Massachusetts, as we have discussed with my colleagues on the other side. But first I will yield myself just 2 minutes to respond to some of the statements that have been made here.

I want to comment on the statement of my colleague, PATTY MURRAY. I think that every Senator should have been here to listen to her. She talked from the depths of her soul about what it is like for a family to be faced with this extraordinary circumstance. For a baby you have craved, you have wanted, you adore, is suddenly in grave danger with a severe anomaly, such as no brain or a cranium filled with fluid, putting the mother's life at risk. And here we are in the U.S. Senate with some of my colleagues in essence sounding like doctors, saying that the procedure that they want to ban in all cases is not necessary.

Mr. President, I ask unanimous consent to have printed in the RECORD a series of statements by medical groups and doctors who oppose this bill and support the President's veto. They include the American College of Obstetricians and Gynecologists, the California Medical Association, the American Nurses Association, the American Medical Women's Association, the American Public Health Association, and numerous individual doctors who basically say that this politically motivated bill is going to lead to irreparable harm to women.

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

MEDICAL GROUPS AND DOCTORS OPPOSE H.R. 1833, SUPPORT PRESIDENT'S VETO

American College of Obstetricians and Gynecologists:

''The American College of Obstetricians and Gynecologists (ACOG), an organization representing more than 37,000 physicians dedicated to improving women's health care, does not support HR 1833, the Partial Birth Abortion Ban Act of 1995. The College finds very disturbing that Congress would take any action that would supersede the medical judgment of trained physicians and criminalize medical procedures that may be necessary to save the life of the woman.''

California Medical Association:

''When severe fetal anomalies are discovered late in pregnancy, or the pregnant woman develops a life-threatening medical condition that is inconsistent with continuation of the pregnancy, abortion—however heart-wrenching—may be medically necessary. In such cases, the intact dilation and extraction procedure (IDE)—which would be outlawed by this bill—may provide substantial medical benefits.''

American Nurses Association:

''It is the view of the American Nurses Association that this proposal would involve an inappropriate intrusion of federal government into a therapeutic decision that should be left in the hands of a pregnant woman and her health care provider . . . The American Nurses Association is the only full-service professional organization representing the nation's 2.2 million Registered Nurses.''

American Medical Women's Association:

''On behalf of the 13,000 women physicians . . . we encourage the Senate to actively oppose S. 939 . . . this legislation represents a serious impingement on the rights of physicians to determine medical management for individual patients.''

American Public Health Association:

''APHA opposes [HR 1833] because it prevents women from receiving medical care which ensures their safety and well-being.''

Individual Doctors:

''[HR 1833] is not good public health policy, it is not good medical care, and it harms families.''—Philip G. Stubblefield, MD, Chairman, Department of Obstetrics and Gynecology, Boston University School of Medicine.

''This legislation represents an unprecedented intrusion into the practice of medicine and the doctor/patient relationship. The bill . . . eliminates a therapeutic choice for physicians and imposes a politically inspired risk to the health and safety of a pregnant woman.''—Allan Rosenfield, MD, Dean, Columbia University School of Public Health.

''One concept that seems to be lost on the general public is that these pregnancies can have a significant health risk to the mother. Often fetuses that have physical abnormalities will have increased amniotic fluid that can cause uterine agony and severe maternal bleeding at birth. Fetuses that have fluid in their lungs and bodies can cause mothers to experience 'mirror syndrome,' where they themselves become bloated and dangerously hypertensive. Abnormal fetuses often require operative deliveries, and this puts the mother at increased risk of infection and death. The usual type of termination of pregnancy is a traumatic stretching of the cervix that then increases a woman's chance for infertility in the future. The procedure that is up for 'banning' allows very passive dilation of the cervix and allows gentle manipulation to preserve the very much desired fertility of these distraught women.''—Dru Elaine Carlson, MD, Director, Reproductive Genetics, Department of Obstetrics and Gynecology, Cedars-Sinai Medical Center, Assistant Professor, UCLA.

''Sometimes, as any doctor will tell you, you begin a surgical procedure expecting that it will go one way, only to discover that the unique demands of the case require you to do something different. Telling a physician that it is illegal for him or her to adapt his or her surgical method for the safety of his patient is, in effect, legislating malpractice, and it flies in the face of standards for quality medical care.''—J. Courtland Robinson, MD, MPH, Division of Gynecologic Specialties, Johns Hopkins Medicine.

CALIFORNIA MEDICAL ASSOCIATION,
San Francisco, CA, October 24, 1995.

Re: H.R. 1833.

Representative SAM FARR,
Washington, DC.

DEAR REPRESENTATIVE FARR: The California Medical Association is writing to express its strong opposition to the above-referenced bill, which would ban ''partial-birth abortions.'' We believe that this bill would create an unwarranted intrusion into the physician-patient relationship by preventing physicians from providing necessary medical care to their patients. Furthermore, it would impose an horrendous burden on families who are already facing a crushing personal situation—the loss of a wanted pregnancy to which the woman and her spouse are deeply committed.

An abortion performed in the late second trimester or in the third trimester of pregnancy is extremely difficult for everyone involved, and CMA wishes to clarify that it is not advocating the performance of elective abortions in the last stage of pregnancy. However, when serious fetal anomalies are discovered late in a pregnancy, or the pregnant woman develops a life-threatening medical condition that is inconsistent with continuation of the pregnancy, abortion—however heart-wrenching—may be medically necessary. In such cases, the intact dilarion and extraction procedure (IDE)—which would be outlawed by this bill—may provide substantial medical benefits. It is safer in several respects than the alternatives, maintaining uterine integrity, and reducing blood loss and other potential complications. It also permits the parents to hold and mourn the fetus as a lost child, which may assist them in reaching closure on a tragic situation. In addition, the procedure permits the performance of a careful autopsy and therefore a more accurate diagnosis of the fetal anomaly. As a result, these families, who are extremely desirous of having more children, can receive appropriate genetic counseling and more focused prenatal care and testing in future pregnancies. Thus, there are numerous reasons why the IDE procedure may be medically appropriate in a particular case, and there is virtually no scientific evidence supporting a ban on its use.

CMA recognizes that this type of abortion procedure performed late in a pregnancy is a very serious matter. However, political concerns and religious beliefs should not be permitted to take precedence over the health and safety of patients. CMA opposes any legislation, state or federal, that denies a pregnant woman and her physician the ability to make medically appropriate decisions about the course of her medical care. The determination of the medical need for, and effectiveness of, particular medical procedures must be left to the medical profession, to be reflected in the standard of care. It would set a very undesirable precedent if Congress were by legislative fiat to decide such matters. The legislative process is ill-suited to evaluate complex medical procedures whose importance may vary with a particular patient's case and with the state of scientific knowledge.

CMA urges you to defeat this bill. The patient who would seek the IDE procedure are already in great personal turmoil. Their physical and emotional trauma should not be compounded by an oppressive law that is devoid of scientific justification.

Sincerely,

EUGENE S. OGROD, II, M.D.,
President.

AMERICAN NURSES ASSOCIATION,
Washington, DC, November 8, 1995.

Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: I am writing to express the opposition of the American Nurses Association to H.R. 1833, the ''Partial-Birth Abortion Ban Act of 1995'', which is scheduled to be considered by the Senate this week. This legislation would impose Federal criminal penalties and provide for civil actions against health care providers who perform certain late-term abortions.

It is the view of the American Nurses Association that this proposal would involve an inappropriate intrusion of the federal government into a therapeutic decision that should be left in the hands of a pregnant woman and her health care provider. ANA has long supported freedom of choice and equitable access of all women to basic health services, including services related to reproductive health. This legislation would impose a significant barrier to those principles.

Furthermore, very few of those late-term abortions are performed each year and they are usually necessary either to protect the life of the mother or because of severe fetal abnormalities. It is inappropriate for Congress to mandate a course of action for a woman who is already faced with an intensely personal and difficult decision. This procedure can mean the difference between life and death for a woman.

The American Nurses Association is the only full-service professional organization representing the nation's 2.2 million Registered Nurses through its 53 constituent associations. ANA advances the nursing profession by fostering high standards of nursing practice, promoting the economic and general welfare of nurses in the workplace, projecting a positive and realistic view of nursing, and by lobbying the Congress and regulatory agencies on health care issues affecting nurses and the public.

The American Nurses Association respectfully urges you to vote against H.R. 1833 when it is brought before the Senate.

Sincerely,

GERI MARULLO, MSN, RN,
Executive Director.

AMERICAN MEDICAL WOMEN'S ASSOCIATION, INC.,
March 4, 1996.

President WILLIAM J. CLINTON,
The White House,
Washington, DC.

DEAR PRESIDENT CLINTON: On behalf of the American Medical Women's Association, I would like to commend you for reiterating your support of Roe v. Wade in your letter to Congress dated February 28, 1996. However, we are dismayed that you have agreed to support H.R. 1833 if it is amended as you requested in your letter to Congress. Our association opposes any efforts to erode the constitutionally protected rights guaranteed by Roe v. Wade. AMWA objects to laws and court rulings that interfere with the doctor-patient relationship, either in requiring or proscribing specific medical advice to pregnant women. Further, we oppose any measures that limit access to medical care for pregnant women, particularly the poor or underserved and measures that involve spousal or parental interference with their personal decision to terminate pregnancy. This bill would not only restrict the reproductive rights of American women but also

impose legal requirements for medical care decisions.

The American Medical Women's Association strongly opposes H.R. 1833 in its current form on several grounds. We continue to support a woman's right to determine whether to continue or terminate her pregnancy without government restrictions placed on her physician's medical judgment and without spousal or parental interference. This bill would subject physicians to civil action and criminal prosecution for making a particular medical decision. We expect that the provisions for prosecutions of physicians would generate considerable litigation if this bill becomes law. We do not believe that the federal government should dictate the decisions of physicians and feel that passage of H.R. 1833 would in effect prescribe the medical procedures to be used by physicians rather than allow physicians to use their medical judgment in determining the most appropriate treatment for their patients. The passage of this bill would set a dangerous precedent—undermining the ability of physicians to make medical decisions. It is medical professionals, not the President or Congress, who should determine appropriate medical options.

We will continue to press the White House and Congress to protect the provisions of Roe v. Wade and support a woman's right to continue or terminate her pregnancy.

Sincerely,

JEAN L FOURCROY, M.D., Ph.D,
President.

AMERICAN PUBLIC HEALTH ASSOCIATION,
Washington, DC, April 10, 1996.

President CLINTON,
The White House,
Washington, DC.

DEAR PRESIDENT CLINTON: Thank you for expressing opposition to H.R. 1833, legislation banning certain late term abortion procedures, and for urging Congress to include legislative protections for the life and the health of the woman. The American Public Health Association urges you to veto this bill because of the potential deleterious effects it could have on the health of American women.

APHA opposes this legislation because it prevents women from receiving medical care which ensures their safety and well-being. APHA recognizes that in certain cases when a wanted pregnancy results in a tragic outcome for the fetus or places the woman in harms way the procedure banned by H.R. 1833 may be appropriate. This procedure is used rarely but should remain legal and available to ensure that women who face life and health threatening conditions due to their pregnancies are protected and that their health is preserved.

The bill passed by both chambers of Congress fails to include acceptable life exception language. As it reads, if any other procedure is available, regardless of the risks or injurious long-term effects it could have on the woman, a physician is required by law to utilize the other option. This precludes a physician from employing the dilation and extraction procedure when it would prove less harmful and be more likely to preserve a woman's life and health.

We urge you to veto this version of the legislation and return it to Congress with a request for the inclusion of broader life exception language which truly protects the lives and health of American women.

Sincerely,

FERNANDO M. TREVIÑO, Ph.D. MPH,
Executive Director.

BOSTON UNIVERSITY
MEDICAL CENTER HOSPITAL,
Boston, MA, July 22, 1996.

Representative OLVER,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE OLVER: Thank you very much for your past opposition of H.R. 1833, the so called partial birth abortion bill. Please vote against the attempt to override President Clinton's veto of this legislation.

This attempt to prevent women with malformed pregnancies from obtaining late abortion services is not good public health policy, it is not good medical care, and it harms families. Please vote against the override attempt.

Sincerely,

PHILLIP G. STUBBLEFIELD, M.D.,
Chairman.

COLUMBIA UNIVERSITY SCHOOL
OF PUBLIC HEALTH,
New York, NY, June 26, 1996.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Oneata, NY.

DEAR SENATOR MOYNIHAN: I write to you to express my concern about an attempt to override President Clinton's veto of H.R. 1833, a bill that would allow for the criminal prosecution of physicians who perform certain kinds of abortions.

This legislation represents an unprecedented intrusion into the practice of medicine and the doctor/patient relationship. The bill targets an abortion method used only in rare and tragic circumstances, eliminates a therapeutic choice for physicians, and imposes a politically inspired risk to the health and safety of a pregnant woman.

I have attached a copy of the editorial I wrote for the New York Times that outlines my concerns. I went on record on this issue to respond to the overwhelming misinformation surrounding this legislation. As a physician, I am trying my best to counter the religious political extremists who are purposely distorting the facts.

I have also attached for your review a fact sheet compiled by the American College of Obstetricians and Gynecologists to outline some of the medical realities surrounding these medically necessary abortions. I hope you find it helpful, and that you will reconsider your intention to override President Clinton's veto of H.R. 1833.

I stand ready to provide any information you may need. I can be reached at (212) 305–3929.

Sincerely,

ALLAN ROSENFIELD, M.D.

CEDARS-SINAI MEDICAL CENTER,
Los Angeles, CA, June 27, 1995.

Hon. PATRICIA SCHROEDER,
Washington, DC.

DEAR——— ———: This is a letter to encourage you to defeat bills H.R. 1833 and S. 9392. These bills aim to ban the surgical procedure of second trimester abortion known as intact D & E.

I am the Director of Reproductive Genetics and a perinatologist and geneticist at Cedars-Sinai Medical Center in Los Angeles. My practice consists primarily of pregnant women who are referred to me by their Obstetrician for an ultrasound and/or genetic evaluation of their ongoing pregnancy. Sometimes I am asked to see women who have a possible abnormal finding on a prenatal ultrasound done by another practitioner. I am usually the final diagnostician in these cases and I spend a tremendous amount of my time counseling families about what I see, how we can approach this problem, how we can clarify what is wrong, and sometimes, how we can fix the fetal abnormality. Often nothing can be done and we are left with an abnormal fetus that is in the late second trimester and a devastated family. With the help of their private doctor, other geneticists, and genetic counselors, we advise parents that we will support them in whatever decision they choose. If they continue the pregnancy, we will be there with them. If they choose to end the pregnancy or wish to explore that option, I refer them to Dr. James McMahon, a practitioner of the type of abortion that is being singled out to be banned in H.R. 1833 and S. 9322.

Dr. McMahon provides an unusual expertise in the termination of late in gestation flawed pregnancies. Without his help, these women would have to go through a pregnancy knowing their child will be born dead, or worse, will live a horribly damaged life. One concept that seems to be lost on the general public is that these pregnancies can have a significant health risk to the mother. Often fetuses that have physical abnormalities will have increased amniotic fluid that can cause uterine atony and severe maternal bleeding at birth. Fetuses that have fluid in their lungs and bodies can cause mothers to experience the ''mirror syndrome'', where they themselves become bloated and dangerously hypertensive. Abnormal fetuses often require operative deliveries, and this puts the mother at increased risk of infection and death. The usual type of termination of pregnancy is a traumatic stretching of the cervix that then increases a woman's chance for infertility in the future. The procedure that is up for ''banning'' allows very passive dilatation of the cervix and allows gentle manipulation to preserve the very much desired fertility of these distraught women. To put it mildly, this is not just a ''fetal issue'', it is a health care issue for the mother as well.

Who is served by having malformed children born to families that cannot financially or emotionally support them? I know that these decisions are not taken lightly by these families. Some do continue; and they are always back in my office for prenatal diagnosis in their next pregnancy. Raising a damaged child is a sobering experience. Why should families have to go through this once, much less again and again? For those who believe this is ''God's will'' I would challenge them to be that child's caretaker for a day, a week, a month, a lifetime. Frankly, I have the religious conviction that fetal malformations are not ''God's will'' but the devil's work. I cannot believe the Good Lord wants little babies to suffer in this way. And I can't believe the United States of America's Congress is interested in causing families to undergo suffering and pain when they don't have to experience this nightmare. Undergoing a late gestation termination of pregnancy is a terribly heart-wrenching and soul-searching process. Since I refer Dr. McMahon a large number of families, I have gone to his facility and seen for myself what he does and how he does it. The emotional pain that these families suffer will be life-long. But they are comforted by the fact that Dr. McMahon is caring, and gentle, and ultimately life-affirming in his approach to the abortion procedure. Essentially he provides analgesia for the mother that removes anxiety and pain and as a result of this medication the fetus is also sedated. When the cervix is open enough for a safe delivery of the fetus he uses ultrasound guidance to gently deliver the fetal body up to the shoulders and then very quickly and expertly performs what is called a cephalocentesis. Essentially this is removal of cerebrospinal fluid from the brain causing instant brain herniation and death. There is no struggling of the fetus; quite the contrary, from my personal

observation I can tell you that the end is extremely humane and rapid. He provides dignity for all of his patients: the mothers, the fathers, the extended families and finally to the fetuses themselves. He does not ''mangle'' fetuses, rather they are delivered intact and that allows us (a team of physicians at Cedars) to evaluate them carefully, and for families to touch and acknowledge their baby in saying goodbye. We work with Dr. McMahon in evaluating many of the malformed fetuses with careful autopsy, molecular studies, and dysmorphological examinations to try and provide the clearest and most precise diagnosis we can for our families as to why this happened to them. Often we can reassure them that this won't happen again; too frequently we must advise them that they carry a genetic mutation that does have a risk of recurrence.

If Dr. McMahon did not exist I will assure you that most of these families would simply not have children. The divorce and emptiness that would bring is something that, thankfully, is not necessary now. Certainly we all pray that this does not occur again; but if it does the family knows that they can end that pregnancy and try again until finally they achieve what we all want: a healthy, happy, whole baby. That is the essence of family values and I implore each and every person to see beyond their own prejudices and walk in that family's shoes. What would you do if you, your wife, your daughter, or your son's wife had a fetus with half of a brain; a hole where its face should be; a heart malformation so complex that it will require years of painful and ultimately unsuccessful surgery; a lethal chromosome abnormality where your child would never recognize you or itself? Most people are thankful there is another option besides just enduring this.

My goal is for no family to have to experience abortion. I am working as hard as I know how to understand malformation and the wrong signals of our genes. But until my lofty goal is realized, we need individuals like Jim McMahon to provide the competent services to help these families. This is not just an individual freedom issue, it is a basic issue of society. There is enough tragedy in ordinary life; why make more of it if there are clear and safe alternatives? If you decide that Dr. McMahon and his colleagues should no longer be allowed to practice medicine as they know how, you will be denying women and their families the basic right of freedom of choice and the pursuit of happiness. And you will be condemning a generation of malformed newborns to a life of very expensive pain and suffering. The payment due on that bill is going to be very, very costly to the Government because eventually you and I are going to be maintaining these children. But the payment due on the personal grief this will cause can never be adequately paid. I can't imagine that any of you want to contribute to that debt and you don't have to. Just leave Dr. McMahon alone to do what he does best and let us all work toward the day when he isn't needed anymore.

Thank you for allowing me to express my opinion.

Sincerely,

DRU ELAINE CARLSON, M.D.,
Director, Reproductive Genetics.

Mrs. BOXER. Mr. President, the President of the United States has offered us today in his veto message a way to pass a bill that makes an exception for these narrow cases that Senator MURRAY talked about, for the cases of these families whose faces you will see on this floor. We could walk together and do this.

I made a unanimous-consent request that we set aside this veto message, that we pass the bill with a true Hyde life exception and an exception for serious adverse health consequences to the woman, and it was objected to by the Senator from Pennsylvania. I claim, Mr. President, this is politically motivated. Why would they hold this veto override for 5 months and bring it up on the last week?

I urge my colleagues to be courageous. We know what polls show, but I am convinced that when people understand that this bill as it is crafted will lead to the death of women, to the devastation of families, that the American people will side with this courageous decision of the President of the United States of America and those of us who are willing to stand up and fight for these women and their families. I pray to God that we will sustain. Yes, we may have a few people who change. That is inevitable in this controversial issue. But I think we have enough Democrats and Republicans to sustain this veto.

At this time I yield 10 minutes to my colleague from Illinois, Senator SIMON, immediately followed by Senator KENNEDY for 15 minutes.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, I thank my colleague for yielding. One of the things I think all of us who are here ought to consider is the Members of the U.S. Senate who could face this problem are the female Members of this body. If the women in the U.S. Senate were to cast the decisive votes, this bill would never pass. I think that is just one thing to keep in mind.

But these are very practical problems. I would like to read to you, Mr. President, a letter from a woman in Naperville, IL. She and her family have their picture right in back of me.

My name is Vikki Stella. I am writing to thank you for opposing this bill, and courageously standing by families like ours. My husband Archer and I have two daughters, Lindsay and Natalie, as well as a beautiful baby boy named Nicholas Archer. Two years ago I had the procedure that H.R. 1833 would ban when I found out my unborn son Anthony was dying.

I was in the third trimester of a pregnancy my doctor called ''disgustingly normal'' when, at 32 weeks, our world turned upside-down. After amniocentesis and five ultrasounds, the sixth ultrasound found grave problems which had not been detected before. Ultimately, my son was diagnosed with at least nine major anomalies, including a fluid-filled cranium with no brain tissue at all; compacted, flattened vertebrae; congenital hip dysplasia; and skeletal dysplasia; and hypertoloric eyes. He would never have survived outside my womb.

My options were extremely limited because I am diabetic and don't heal as well as other people. Waiting for normal labor to occur, inducing labor early, or having a C-section would have put my life at risk. The only option that would ensure that my daughters would not grow up without their mother was a highly specialized, surgical abortion procedure developed for women with similar difficult conditions. Though we were distraught over losing our son, we knew the procedure was the right option (the very procedure that would be outlawed by H.R. 1833).

And, as promised, the surgery preserved my fertility. Our darling Nicholas was born in December of 1995.

Nicholas is the little boy that she is holding, in the picture.

In our joy over Nicholas' birth, my husband, my daughters and I remember Anthony. The way his short life ended made it possible for this new baby to be born. This beautiful child would not be here today if it were not for Dr. McMahon and the safe and legal surgical procedure he performed.

I have shared Anthony's story to help you understand that the procedure I underwent helped temper my family's sorrow. Thank you for listening to Anthony's story, for understanding the danger of H.R. 1833, and for supporting President Clinton in his veto of this horrible bill.

I think we have to listen to women like Vikki Stella. We are not talking about abstractions. We are talking about real people, people who do not take a baby to that third trimester without the expectation of delivering the baby, but something horrible happens like in this case.

I do not think the U.S. Senate or the Federal Government ought to sit in judgment. That is a decision for the Stella family, their physicians, their spiritual counselors to make. Some people, because of conviction, would not have made that decision.

What I am unwilling to say is the physician who helped them is a criminal and should be sent to prison for 2 years. I am unwilling to say that Vikki and her husband, Archer, are accessories to a crime. I think that decision ought to be made by women and their physicians and their spiritual advisers.

It is interesting that the National Association of Obstetricians and Gynecologists, who are interested in preserving life and having happy families, oppose this legislation.

I think we need to draw down the emotional temper that is here and say, what is happening and why do families feel they are in these desperate straits? The one woman I remember who testified, who faced a more horrible situation, who chairs her local Roman Catholic Church council, just told of her experience.

These are practical things. If this veto is overridden, this will have a practical effect on the lives of a great many people. If this bill had passed, little Nicholas, the happy little boy in this picture, would not be alive today. We are talking about saving lives. We are talking about saving lives like little Nicholas' life. I hope the President's veto is not overridden.

Mrs. BOXER. The Senator from Massachusetts is to immediately follow.

Mr. KENNEDY. Mr. President, I hope our colleagues listened very carefully to our friend and colleague from the State of Washington, Senator MURRAY. She gave one of the finest presentations I have heard in the Senate regarding this subject. She spoke about this issue in such moving terms.

Many of us have seen, over the course of the past days, the real appeal to emotionalism. Attempts to try and portray individual Senators as being more concerned about life or about children or about women's health or other issues than other Senators. I think—having listened to a good many of those statements and comments and being a member of the Judiciary Committee who attended the hearings—Senator MURRAY's very clear and eloquent statement powerfully summarized the very dramatic challenge this issue presents to the Senate. I hope her words and her recommendations and her support of the President's veto will be adhered to.

I thank the Senator from California for her leadership during this debate, her work on this issue, and all of her efforts with regard to women's and children's health issues and health care reform. Although others have shown leadership on these issues, I think no one is more concerned and more diligent in ensuring good health policy for expectant mothers, children, and all Americans, as our friend from California. When she addresses these issues, she brings enormous credibility to her argument. I commend her for it and for her leadership.

I oppose this legislation, and I urge the Senate to sustain the President's veto. The President was right to veto this bill, because it fails to include adequate safeguards for the life or the health of the mother.

It makes no sense to criminalize a medical procedure that has saved the lives and preserved the health of many women. If our Republican colleagues are serious about this difficult and complex issue, they would have included a full exception for the life of the mother instead of the inadequate exception in this bill. They would also have included an exception for serious threats to the health of the mother.

This bill is too harsh and too extreme in both of these areas. Without good faith exceptions for the life and health of the mother, the bill, in addition to being too harsh and too extreme, is unconstitutional under Roe versus Wade.

Because of these serious deficiencies, this bill imposes an unacceptable burden on women and their doctors. Congress should not criminalize a medical procedure needed to deal with cases that threaten the life or the health of the mother. In these difficult and traumatic and heart-rending cases, Congress should not second guess the judgment of the doctor, let alone threaten the doctor with prison.

Our actions on this issue are not abstract or theoretical as we have heard so eloquently from both Senator MURRAY and Senator BOXER. They have real consequences for real families. Listen to the words of Richard Ades. Richard and his wife Claudia were expecting a baby boy when they discovered the baby had a severe chromosomal abnormality and would not live. Claudia's health and life were at risk if the pregnancy continued, and their physician recommended this procedure. Now, Mr. Ades says,

> I have major concerns with this legislation and what it will mean to our wives, our sisters and our daughters. This is not a women's issue. This was my baby too. This is a family issue. This is not a choice issue. This is a health issue for everyone * * * The procedure under assault * * * protected my wife's health and possibly saved her life. It allowed my son's suffering to end. It allowed us to look forward to a growing family. It was the safest medical procedure available to us.

It is a fact that this procedure may well be the safest procedure for women whose pregnancies have gone tragically wrong and whose life or health is in danger. Women in this tragic situation may have other options, but those options involve alternative procedures that are permitted by this legislation yet are more dangerous for the mother. This bill does not stop late-term abortions. It does make such abortions more dangerous to the mother. As Prof. Louis Michael Seidman testified during the Judiciary Committee hearings, ''All this bill does is to channel women from one less risky abortion procedure to another more risky abortion procedure.''

Consider the case of Coreen Costello, who testified before the Senate Judiciary Committee. She told us that when she was 7 months pregnant, her doctor discovered that her baby had a lethal neurological disorder. She still wanted to have her baby. She consulted several specialists. She was told that natural birth or induced labor were impossible, and that a caesarean section would put her health and possibly her life in danger. As she said, ''There was no reason to risk leaving my children motherless if there was no hope of saving the baby.'' And so she had the procedure that this bill would criminalize.

Mrs. Costello's testimony was powerful and moving. In an attempt to undermine it, some of our Republican colleagues questioned whether Mrs. Costello actually had the procedure at issue in this legislation. As she and other women at our committee hearing testified,

> We are shocked and outraged at attempts by you and other members of the Senate to dismiss our significance as witnesses against the partial birth abortion bill. We are not doctors * * * but we do know that the surgical procedure we went through is the method that is insultingly parodied on your charts and in the ads of the Right-To-Life groups.

No major medical association supports this legislation. It is specifically opposed by many leading medical organizations, including the American College of Obstetricians and Gynecologists, the American Public Health Association, the American Medical Women's Association, the American Nurses Association, and the California Medical Association.

The American College of Obstetricians and Gynecologists, which represents 35,000 physicians, opposes this legislation. According to their statement of opposition, they ''find it very disturbing that Congress would take any action that would supersede the medical judgment of trained physicians and criminalize medical procedures that may be necessary to save the life of a woman. Moreover, in defining what medical procedures doctors may or may not perform, H.R. 1833 employs terminology that is not even recognized in the medical community—demonstrating why congressional opinion should never be substituted for professional medical judgment.''

If this bill is enacted into law, Congress will be violating sound medical practice and adding to the pain and misery and tragedy of many women and their families.

I urge the Senate to vote to sustain the President's veto.

Mr. SANTORUM. Mr. President, I yield 10 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Does the Senator from Utah want to go forward first?

Mr. HATCH. If the Senator will yield briefly, yes.

Mr. SANTORUM. I yield, first, to the Senator from Utah.

Mr. HATCH. Mr. President, I rise today to express my disappointment at the President's decision to veto the Partial-Birth Abortion Ban Act. The President's veto was a shocking act. For this President, there are apparently no limits.

While I was very pleased that the House was able to override the President's veto, I know that it will be very difficult for the Senate to muster the two-thirds supermajority needed to override the veto.

That makes the President's veto all the more discouraging, because he has succeeded in preventing Congress from outlawing an indefensible late-term abortion procedure which is disturbingly close to infanticide.

The partial-birth abortion bill received thoughtful consideration in the House and the Senate and was the subject of an informative and in-depth hearing that I chaired in the Judiciary Committee last December.

The bill is a very limited measure and bans one particularly brutal method of late-term abortion that has been performed by only a handful of doctors and that is never medically necessary.

Frankly, I still find it very difficult to believe that anyone could oppose this bill. In fact, even pro-choice Members of Congress supported this bill. One need not be antiabortion to oppose this particularly gruesome procedure.

In the partial-birth abortion procedure, the doctor partially delivers a living fetus so that all but the baby's head remains outside the mother's uterus.

The doctor then uses scissors to make a hole in the baby's skull, inserts a suction catheter into the baby's head, and sucks out the brains. This kills the baby.

The doctor then completes what would otherwise have been a live delivery and removes the dead baby.

I find this procedure indefensible.

The President indicated that he would support this bill if it was amended to provide an exception for the health of the mother.

I would like to point out how illusory that exception is.

As testimony at our Judiciary Committee hearing demonstrated, this procedure is not performed primarily to save the life of the mother or to protect her from serious health consequences.

Instead, the evidence shows that this procedure is often performed in the late second and third trimesters for purely elective reasons.

I acknowledge that there may have been rare cases where this awful procedure was performed and where there was a possibility of serious, adverse health consequences to the mother.

However, even in those cases, a number of other procedures could have been performed. In fact, other procedures would have been performed had the mothers gone to any other doctor than one of the handful of doctors who perform these awful partial-birth abortions.

The former U.S. Surgeon General, C. Everett Koop, recently described his opposition to the partial-birth abortion procedure in an interview with the American Medical News, which was published in its August 19, 1996 issue. Dr. Koop stated:

> I believe that Mr. Clinton was misled by his medical advisers on what is fact and what is fiction in reference to late-term abortions. Because in no way can I twist my mind to see that the late-term abortion as described—you know, partial birth, and then destruction of the unborn child before the head is born—is a medical necessity for the mother. It certainly can't be a necessity for the baby. So I am opposed to . . . partial birth abortion.

That is the view of one of this nation's most distinguished Surgeon Generals ever.

And the fact of the matter is—and this is something that the President has not acknowledged—this reprehensible procedure is being performed primarily where there are only minor problems with the fetus and for purely elective reasons.

It is not the worthy, necessary procedure the President paints it to be.

Dr. Martin Haskell, one of the few doctors who perform this procedure, admitted in testimony given under oath in Federal district court in Ohio that he performs the procedure on second trimester patients for ''some medical'' and ''some not so medical'' reasons.

Transcripts from a 1993 interview with the American Medical News reveal that Dr. Haskell stated ''most of my abortions are elective in the 20–24 week range * * * In my particular case, probably 20 percent are for genetic reasons [and] the other 80 percent are purely elective.''

Dr. Nancy Romer, who is a practicing ob-gyn, a professor in the department of obstetrics and gynecology at the Wright State University School of Medicine, and the vice-chair of the department of obstetrics and gynecology at Miami Valley Hospital, both in Dayton, OH, testified before the Senate Judiciary Committee that she has cared for patients who had received a partial-birth abortion from Dr. Haskell for reasons that were purely based on the woman not wanting a baby—as she put it, for social reasons.

This procedure is simply not being done to protect the health and safety of women. After reviewing all of the evidence that came out of the hearings in the House and Senate on this bill, I don't think there can be any question about that.

However, some of the doctors who perform this procedure disingenuously claim that they do it for the health of the mother.

That is why a health-of-the-mother exception—even one that is, as the President now characterizes it, for ''serious, adverse'' health consequences—would gut this bill and would be easily exploited by the few selected doctors who do this procedure.

Those doctors would be able to justify it under any circumstances—particularly since, under the President's suggestion, they would be the ones to determine what constituted a ''serious, adverse'' health consequence.

Just look at how the doctors who have performed this procedure have already mischaracterized essentially elective reasons for an abortion as health-related reasons.

Dr. McMahon—one of the other doctors who admitted performing this procedure—indicated in a 1995 letter submitted to Congress that although all of the third trimester abortions he performed were ''non-elective,'' approximately 80 percent of the abortions he performed after 20 weeks of pregnancy were ''therapeutic.''

But Dr. McMahon then provided the House Judiciary Committee with a listing of the so-called therapeutic indications for which he performed the procedure. That list is astonishing.

It shows that the single most common reason for which the partial-birth abortion was performed by him was maternal depression.

He also listed substance abuse on the part of the mother as a therapeutic reason for which he performed the procedure.

In terms of so-called fetal abnormalities, Dr. McMahon's own list indicates that he performed the procedure numerous times in cases in which the fetus had no more serious a problem than a cleft lip.

Dr. Haskell has similarly acknowledged that he is not performing the procedure in critical instances of maternal or fetal health.

In Dr. Haskell's testimony in Federal district court in Ohio, Dr. Haskell stated: ''Patients that are critically ill at the time they're referred for termination, I probably would not see. Most of the patients that are referred to me for termination are at least healthy enough to undergo an operation on an outpatient basis or else I would not undertake it.''

When asked about the specific health-related reasons for which he performed the partial-birth abortion procedure, Dr. Haskell specified that he has performed the procedure in cases involving high blood pressure, diabetes, and agoraphobia—fear of going outside—on the part of the mother.

Would we want to entrust these doctors with determining when a ''serious, adverse'' health consequence existed?

Is it any wonder that those who really want to see this horrifying procedure ended see the President's proposed exception for the giant loophole that it really is?

The evidence has shown that in no case is this particularly gruesome procedure necessary for the woman's life or health. Medical testimony in the committee's hearing record indicates that, even if an abortion were to be performed in late pregnancy for a variety of complications, a number of other procedures could be performed, such as the far more common classical D&E—or dilation and extraction procedure or an induction procedure.

When asked whether the exact procedure Dr. McMahon used would ever be medically necessary, several doctors at our hearing explained that it would not. Dr. Nancy Romer stated that she had never had to resort to that procedure and that none of the physicians that she worked with had ever had to use it.

Dr. Pamela Smith, the director of medical education in the department of obstetrics and gynecology at the Mount Sinai Medical Hospital Center in Chicago, stated that a doctor would never need to resort to the partial-birth abortion procedure.

Further, the hearing record refutes the claim that in some circumstances a partial-birth abortion will be the safest option available for a late-term abortion.

An article published in the November 20, 1995 issue of the American Medical News quoted Dr. Warren Hern as stating, ''I would dispute any statement that this is the safest procedure to use.'' Dr. Hern is the author of ''Abortion Practice,'' the Nation's most widely used textbook on abortion standards and procedures.

He also stated in that interview that he ''has very strong reservations'' about the partial-birth abortion procedure banned by this bill.

Indeed, referring to the procedure, he stated, ''You really can't defend it. I'm not going to tell somebody else that they should not do this procedure. But I'm not going to do it.''

In fairness to Dr. Hern, I note that he does not support this bill in part because he feels this is the beginning of legislative efforts to chip away at abortion rights. His opinion on the this procedure, however, is highly informative.

I think Dr. Nancy Romer's testimony explained it best. She said:

If this procedure were absolutely necessary, then I would ask you, why does no one that I work with do it? We have two high-risk obstetricians, and a medical department of about 40 obstetricians, and nobody does it. We care for and do second-trimester abortions, and we have peer review. We are watching each other, and if we truly were doing alternative procedures that were killing women left and right, we would be out there looking for something better. We would be going to Dr. Haskell and saying, please, come help us do this. And we are not. We are satisfied with what we do. We are watching each other and we know that the care that we provide is adequate and safe.

In short, this procedure cannot be justified as needed for the health or safety of women. The President's attempt to characterize it as such is misleading and disingenuous.

Let me be clear that this bill does not penalize the mother if a partial-birth abortion is performed in violation of the bill. Moreover, there is a life-of-the-mother exception in the bill.

President Clinton came into the White House pledging to take a moderate, mainstream course on the abortion issue. But his veto of this legislation reveals his extreme views for what they are.

This veto does not even represent the thoughtful pro-choice position. It represents the abortion anytime, anywhere, under any circumstances, position.

We should be very clear that this horrifying procedure, which is never medically necessary for the life or health of the mother, will continue because of the actions of the President.

He could have taken a compassionate position on this issue, determined that even as a pro-abortion President, this procedure is beyond the pale, and signed this legislation.

Instead, he chose to preserve this procedure. I agree with our colleague Senator MOYNIHAN, who observed that this procedure was ''as close to infanticide as anything I've ever seen.''

The victims of late-term partial birth abortions are children. There can be no question about that.

Thanks to this Presidential veto, if the Senate fails to override it, this procedure will continue to be performed in this country. And that is a sad commentary on just how immune we have become to blood and gore, even when it is performed on innocent babies.

I urge my colleagues to vote to override this veto.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I remember the first time I visited Washington. I was 18 years old and came here with my mother and father and my sister, Mary. It was in the spring and I was a young college student. I remember visiting the Capitol and seeing for the first time the Chamber that we are now in—a memory I have never lost. I came back here 3 years later as a law student.

During my years at Georgetown, I visited the Congress, especially the U.S. Senate, over and over again. I heard so many of the great debates, from civil rights, through Supreme Court nominations, to what the Senate would do following the tragic change of Presidents in 1963.

In those debates, the Senate upheld its role in the continuity of our country and the Senate helped shape the conscience of the Nation.

After law school I went back to Vermont and was fortunate to become a prosecutor in our State's largest county. To many, it may appear that a prosecutor faces cut-and-dried questions. One either broke the law or one didn't.

I quickly learned that it was not quite that easy a choice. The greatest thing a prosecutor possesses besides his or her integrity is prosecutorial discretion. The prosecutor always has to ask if the law is just and does the penalty fit the crime. In 1972 I was faced with a question about Vermont's abortion statute. I long felt that this was a case where the law, even if constitutional, carried a punishment that did not reflect the crime. The law said that there would be significant penalties of 10 years and not less than 3 years for anybody who brought about an abortion at any time during a pregnancy for any reason except to save the life of the mother. To me, such a statute was unrealistic, apparently unconstitutional, and far too strict. I felt this even as one who wished there never would be abortions.

This matter became a Vermont Supreme Court issue in the case of *Beechem* v. *Leahy* (130 VT 1164) decided on February 8, 1972.

The Vermont Supreme Court actually used my argument and said:

We hold that the legislature, having affirmed the right of a woman to abort, cannot simultaneously, by denying medical aid in all but the cases where it is necessary to preserve her life, prohibit its safe exercise. This is more than regulation, and an anomaly fatal to the application of this statute to medical practioners.

The court spoke of the statute being not regulative but prohibitive and in doing that they were a remarkable prelude to Roe versus Wade decided 11 months later.

We Vermonters said the question of having an abortion was a difficult and personal question and one to be decided between a woman and her doctor. The law stepped in only in extraordinary circumstances.

I am proud of the Vermont Supreme Court and proud of my role in their decision because it did protect a woman's right to choose. That has to be one of the most difficult decisions any woman can make.

Today, it is still the most difficult decision, and no legislator and no legislation should interfere, except in the most extreme cases, because a woman must make that decision for herself and for her conscience.

To this day, I recall the awe I felt walking on the Senate floor for the first time. I knew I walked where the giants of all parties who served here had walked. Today, like every day since, I remember the emotion of that first day in the Senate. I also recall the days as a young law student, sitting in the visitor's gallery, and thinking ''This truly is the body where our Nation's conscience resides.''

When I first ran for the Senate, I quoted Edmund Burke when I asked my fellow Vermonters to trust me with this office.

Burke said:

* * * it ought to be the happiness and glory of a representative to live in the strictest union, the closest correspondence, and the most unreserved communication with his constituents. Their wishes ought to have great weight with him; their opinions high respect; their business unremitted attention. It is his duty to sacrifice his repose, his pleasure, his satisfactions, to theirs—and above all, ever, and in all cases, to prefer their interest to his own.

But his unbiased opinion, his mature judgment, his enlightened conscience, he ought not to sacrifice to you, * * * These he does not derive from your pleasure * * * no, nor from the law and the Constitution. They are a trust from Providence, for the abuse of which he is deeply answerable. Your representative owes you, not his industry only, but his judgment; and he betrays, instead of serving you, if he sacrifices it to your opinion.

When the issue before us came up for a vote, I saw a poorly drafted statute; in fact, the suggestions contained in the letter from President Clinton to Senator DASCHLE demonstrate how much better the statute could have been drafted, and I wish this body had followed the suggestion of the distinguished Senator from California, Senator BOXER, who asked that we introduce and pass—as we would almost unanimously—legislation similar to what was suggested by the President. I was also offended by some—although not all—in the debate who looked only to politics and not the protection of a viable fetus. While President Clinton's veto may not be overridden today, I would ask both sides to put politics aside and consider writing legislation similar to what the President suggested. It would get broad bipartisan support.

As I have thought, and rethought that vote, I believe I reacted to a poorly drafted statute and a political debate. Instead, I should have asked, what for me is the ultimate question, what does the conscience of PATRICK LEAHY say?

The Senate can only be our Nation's conscience if we Senators follow ours on these matters. I respect all my constituents and all the Senators who will vote on this override. But on this issue my conscience, and my conscience alone, must determine my vote. I will vote to override.

Mr. President, I yield the floor.

Mr. SANTORUM. Mr. President, I yield 3 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, the issue before us is not about the right of a woman to choose. It is not even about the right to life for unborn children. This debate is about a repulsive procedure which should not be condoned in any civilized society. We are talking about banning a late-term abortion that is carried out through a gruesome procedure where a living baby is delivered through the birth canal feet first—everything except the head—and then the life of the child is terminated. The child is literally 3 inches away from the full constitutional protection of the law.

This is an issue about how civilized our society is and what practices we will allow to be conducted on human beings.

So I hope my colleagues, no matter where they stand on the issue of right to life or the right of a woman to choose, will recognize that this is a special case. This is a gruesome, uncivilized procedure, and this procedure should be banned.

I hope each of us will think through this issue and ponder it—not only in our minds but in our hearts. I believe, if Senators will do that, we will override this veto, and that we will ban this practice that no civilized society should condone.

I yield the remainder of my time.

Mr. SANTORUM. Mr. President, I yield to the Senator from Alaska 3 minutes.

Mr. MURKOWSKI. I thank the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Alaska.

Mr MURKOWSKI. Mr. President, on December 7, 1995, this body passed S. 939, a bill that would place a national ban on the partial-birth abortion procedures, except in cases in which the procedure is necessary to save the life of the mother. On April 10, 1996, President Clinton vetoed that bill. Mr. President, I rise today to urge my colleagues to override the Presidential veto and put an end to the tragic procedure known as a partial-birth abortion.

President Clinton defended his act of vetoing this bill by stating that a partial-birth abortion is a procedure that is medically necessary in certain ''compelling cases'' to protect the mother from ''serious injury to her health'' or to avoid the mother ''losing the ability to ever bear further children.''

President Clinton was misinformed. According to reputable medical testimony and evidence given before this Congress by partial-birth abortion practitioners, partial-birth abortions are: more widespread than its defenders admit; used predominantly for elective purposes; and are never necessary to safeguard the mother's health or fertility.

Mr. President, my Alaskan office has received more mail in the last week on this issue than any other issue this year—over 1,900 calls and letters—imploring the Senate's help to end this tragic procedure.

Mr. President, I note the extraordinary effort by many of our Members to try to take the emotion out of this procedure, and I was particularly moved by statements made by our colleague from Tennessee, who is a medical physician. In his statement, Senator FRIST was specific relative to the reality that this was not a necessary procedure. His statement certainly supports other experts.

Former Surgeon General C. Everett Koop stated that he ''believed that Mr. Clinton was misled by his medical advisers on what is fact and what is fiction in reference to late-term abortions.'' Dr. Koop went on to say, ''In no way can I twist my mind to see that the late-term abortion as described as * * * partial birth * * * is a medical necessity for the mother.''

In an editorial in today's New York Times, C. Everett Koop, added,

> With all that modern medicine has to offer, partial-birth abortions are not needed to save the life of the mother * * *. Recent reports have concluded that a majority of partial-birth abortions are elective, involving a healthy woman and a normal fetus.

Mr. President, I ask that the remainder of Dr. Koop's editorial be printed in the RECORD.

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

[From the New York Times, Sept. 26, 1996]

WHY DEFEND PARTIAL-BIRTH ABORTION?

(By C. Everett Koop)

HANOVER, NH.—The debate in Congress about the procedure known as partial-birth abortion reveals a deep national uneasiness about abortion 23 years after the Supreme Court legalized it. As usual, each side in the debate shades the statistics and distorts the facts. But in this case, it is the abortion-rights advocates who seem inflexible and rigid.

The Senate is expected to vote today on whether to join the House in overriding President Clinton's veto of a bill last April banning partial-birth abortion. In this procedure, a doctor pulls out the baby's feet first, until the baby's head is lodged in the birth canal. Then, the doctor forces scissors through the base of the baby's skull, suctions out the brain, and crushes the skull to make extraction easier. Even some pro-choice advocates wince at this, as when Senator Daniel Patrick Moynihan termed it ''close to infanticide.''

The anti-abortion forces often imply that this procedure is usually performed in the third trimester on fully developed babies. Actually, most partial-birth abortions are performed late in the second trimester, around 26 weeks. Some of these would be viable babies.

But the misinformation campaign conducted by the advocates of partial-birth abortion is much more misleading. At first, abortion-rights activists claimed this procedure hardly ever took place. When pressed for figures, several pro-abortion groups came up with 500 a year, but later investigations revealed that in New Jersey alone 1,500 partial-birth abortions are performed each year. Obviously, the national annual figure is much higher.

The primary reason given for this procedure—that is often medically necessary to save the mother's life—is a false claim, though many people, including President Clinton, were misled into believing this. With all that modern medicine has to offer, partial-birth abortions are not needed to save the life of the mother, and the procedure's impact on a woman's cervix can put future pregnancies at risk. Recent reports have concluded that a majority of partial-birth abortions are elective, involving a healthy woman and normal fetus.

I'll admit to a personal bias: In my 30 years as a pediatric surgeon, I operated on newborns as tiny as some of these aborted babies, and we corrected congenital defects so the could live long and productive lives.

In their strident effort to protect partial-birth abortion, the pro-choice people remind me of the gun lobby. The gun lobby is so afraid of any effort to limit any guns that it opposes even a ban on assault weapons, though most gun owners think such a ban is justified.

In the same way, the pro-abortion people are so afraid of any limit on abortion that they have twisted the truth to protect partial-birth abortion, even though many pro-choice Americans find it reasonable to ban the procedure. Neither AK–47's nor partial-birth abortions have a place in civil society.

Both sides in the controversy need to straighten out their stance. The pro-life forces have done little to help prevent unwanted pregnancies, even though that is why most abortions are performed. They have also done little to provide for pregnant women in need.

On the other side, the pro-choice forces talk about medical necessity and under-represent abortion's prevalence: each year about 1.5 million babies have been aborted, very few of them for ''medical necessity.'' The current and necessarily graphic debate about partial-birth abortion should remind all of us that what some call a choice, others call a child.

Mr. MURKOWSKI. Mr. President, other physicians agree with the former Surgeon General: Three physicians, who treat pregnant women and their babies on a regular basis, submitted an editorial in a September 19, 1996, Wall Street Journal editorial and declared that ''Contrary to what abortion activists would have us believe, partial-birth abortion is never medically indicated to protect a woman's health or her fertility.''

A partial-birth abortion is not only tragic, it is violent. The procedure is one in which four-fifths of the child is delivered before the abhorrent process of killing the child begins. Sadly, throughout this procedure the majority of babies are alive and able to move and may actually feel pain during this ordeal.

Ms. Brenda Schafer, a nurse who observed a partial-birth abortion, made this moving statement before a congressional committee:

> The baby's little fingers were clasping and unclasping, and his little feet were kicking. Then the doctor stuck the scissors in the back of his head, and the baby's arms jerked out, like a startle reaction, like a flinch, like a baby does when he thinks he is going to fall.
>
> The doctor opened up the scissors, stuck a high-powered suction tube into the opening, and sucked the baby's brains out. Now the baby went completely limp.

Mr. President, we have heard much of the brutal reality associated with the

process, but let us not forget this reality: the child is within a few moments or a few inches from being protected by law. The suggestion is that this is a fetus; Mr. President, I suggest that this is a baby.

It is not a fetus. It is a baby.

Mr. President, it's not easy for any here to discuss this topic, but unfortunately, those are the true, stark, and brutal realities of a partial-birth abortion. And Mr. President, I must tell you that as a father of six, I am profoundly affected and disturbed by Ms. Schafer's statement.

I, and others who support this act, sympathize with a woman who is in a difficult and extreme circumstance, but no circumstance can justify the killing of an infant who is four-fifths born. My good friend and colleague Senator MOYNIHAN, who is a pro-choice Democrat declared that this practice of partial-birth abortions is just too close to infanticide.

That is why I hope that this is the one issue that can unite pro-life and pro-choice individuals. Because, Mr. President, the vote today is not an issue of pro-life or pro-choice—it's an issue of putting an end to an abhorrent and inhumane procedure.

Dr. Pamela Smith, in a House hearing on this issue, succinctly stated why Congress must act: ''The baby is literally inches from being declared a legal person by every state in the union. The urgency and seriousness of these matters therefore require appropriate legislative action.''

We are here with an obligation. Mr. President, this matter is urgent. This procedure cannot be defended medically and cannot be defended morally. I profoundly believe that it is a fitting and proper interest of the Government to protect human life—both of the mother and the child—healthy and disable. I strenuously urge my colleagues to vote in favor of overriding President Clinton's veto of the partial-birth abortion ban.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you, Mr. President. I am going to ask that the Senator from Illinois address us for up to 15 minutes, or as much time as she wishes. Before that, I yield myself 2 minutes to respond to a couple of the statements that have been made.

Mr. President, we could reach an agreement by unanimous consent to send a bill to the President that he would sign without all of this procedure but for the life and health of the woman. In fact, I have offered that by unanimous consent, and it was objected to by the Senator from Pennsylvania. He does not believe in that exemption, and he opposes it. He says it is a loophole. We say we can draw it in such a way that it could only be used to save precious lives. And instead of making this a political issue that goes into the election cycle, we could agree today to outlaw this procedure but for saving the life of the woman or to spare her long-term adverse health consequences.

I agree with the Senator from Texas when he says this is about how civilized our society is. And I would ask all Americans to decide for themselves. Is it civilized to outlaw a procedure that saved this woman's life, Coreen Costello? It is one example of many we will talk about. It ensured her fertility so she could have this little baby, Tucker. It seems to me it is uncivilized, indeed. It is cruel and inhumane to take away a tool from a doctor who feels it is, in fact, the only tool he or she may have to save this little life and to spare her husband and her children the tragedy of this situation.

My friend from Ohio says, ''Well, this woman does not know what she is talking about. She didn't have this procedure.'' Well, she just wrote us yesterday. How arrogant can we get? Some Senators down here think they know more than doctors. They think they know more than the American College of Obstetricians and Gynecologists and the American Nurses Association, the national organization representing 2.2 million registered nurses. They think they know more than the American Medical Women's Association. They think they know more than the American Public Health Association, and now they think they know more than this woman. They are telling this woman what procedure she had and didn't have when she and her doctor know very well that if this bill had been the law of the land, she may not be here.

I ask for order in the Chamber, please.

The PRESIDING OFFICER. The Senator from California may proceed.

Mrs. BOXER. Mr. President, I think this is a test of whether or not we are civilized. I think protecting mothers and babies and families is civilized. I think we can join hands here and outlaw this procedure unless the woman's life is at stake or her health is severely threatened.

I yield as much time as she may consume to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. I thank the Senator from California.

Mr. President, the Senate's job is to be as rational as possible in our discussion of volatile issues like this one and to consider what is really at stake. There are many issues in this debate. What is at stake is a woman's personal liberty as guaranteed by our Constitution. What is at stake is the setting of a precedent by the Members of this Congress in making medical decisions and judgments that are better left to physicians.

What is at stake is a determination whether or not Congress should in good conscience prevent a woman from making decisions regarding her own difficult reproductive choices in consultation with her family, her doctor, and her God.

Personal liberty, Mr. President, is something that every American holds dear. It is woven into the fabric of our Nation and our beliefs and represented in our Declaration of Independence and our Constitution. There are certain aspects of our life in which we encourage Government intervention, where we, the people, wish to provide for the common defense and promote the general welfare as stated in the Constitution. We expect the police to come in when we are in trouble; we want our water to be clean and our medicine to be safe.

There are other aspects of our lives in which, however, we expect the Government to honor our inalienable rights and our personal liberty and to refrain from interfering. Who we vote for, what we believe in, where we live are all choices that we make free from Government intervention. We should hope that these decisions will always be private and personal ones without the dictates of the law telling us what we must do.

The ability of a woman to choose whether or not to terminate a pregnancy is, I believe, one of those instances where the Government must refrain—indeed, is required by our Constitution to refrain—from interfering in our personal lives. It is a central issue of a woman's citizenship and goes to the most private matter of her life. The U.S. Supreme Court in Roe versus Wade and Planned Parenthood v. Casey said a State may not prohibit postviability abortions to protect the life or health of a woman. It upheld the woman's equality under the law when such personal matters are concerned and said that a woman, in consultation with her physician, could make a decision about her health, about her life and about her pregnancy.

Women do not always have the luxury of making a popular decision regarding termination of a pregnancy. Indeed, it is probably one of the most difficult matters in anyone's family. But women should have the protection of the law in making a decision that is in the best interests of her health and of her family. I would point out that this is probably the most personal decision and should be one of the most private ones.

I also point out—and this is a point that somehow or other gets lost in this debate all the time—no Member of this Senate can face the trauma that is represented by the issue of late-term abortion—no Member of this Senate. The men of this Senate cannot be pregnant, and I daresay for the women of the Senate pregnancy is a hypothetical matter of nostalgia.

This theoretical debate we are having seems to ignore altogether the very personal issues for those who are of childbearing years. I believe that we have an obligation to consider their views even when those views may be unpopular and make certain that their liberties are not eroded by the passion of this debate.

This bill takes a personal decision and makes it a public one, and it provides for an exception in this instance only for life and then only for life as a way of affirmative defense. Reproductive choice is, in the final analysis, about the relationship of women citizens, of female citizens to their Government. Reproductive choice is central to their liberty.

We are charged in this democracy with doing what is right and not simply what is popular. There is no question but that abortion is a highly charged and volatile issue. Our Constitution guarantees the right to hold views and opinions that may not always be popular ones. Protection of those minority views is also central to our liberty. A family in crisis with a late-term pregnancy may not be able to consider the debate that we have here but they will very much consider what is going on in their family, what is going on with their life and the practical effect that it may have on not just the life but the health of the people involved.

I think it is very important for us to take a look at and to consider for a moment what is at stake with regard to those who have gone through the late-term abortion trauma that is reflected in this debate.

One of the issues that was raised by the senior Senator from Illinois had to do with an Illinois woman, Vikki Stella. This is her picture with her family. It has been on the floor for a while. Vikki Stella's story is one of tragedy and of courage. She and her husband were expecting their third child. At 32 weeks, she had her second sonogram. When the technician asked her to come upstairs and talk to the doctor, Vikki thought maybe it was because the baby was a breech. She is a diabetic, and she knew that any complications could be serious. After the second ultrasound, however, Vikki and her husband learned from the doctor that the child she was carrying had no brain. Vikki had to make the hardest decision of her life, and this is how she explains it. She said, I had to remove my son from life support and that was me.

Vikki did the hardest thing that a parent can do. She watched her child abort. She says in a letter which has been read on the floor but I want to have it accepted for the record, and I quote:

> My options were extremely limited because I am diabetic and don't heal as well as other people. Waiting for normal labor to occur, inducing labor early, or having a C-section would have put my life at risk. The only option that would ensure that my daughters would not grow up without their mother was a highly specialized, surgical abortion procedure developed for women with similar difficult conditions. Though we were distraught over losing our son, we knew the procedure was the right option (the very procedure that would be outlawed by H.R. 1833).

So I tell the story to my colleagues because it is a true story about a real woman, about a real family handling an awful situation in the best way that they knew how. This is exactly the kind of case where my colleagues who want to override this veto want to substitute their judgment for the judgment of the family and their doctor.

I have told the story before in the Chamber and I would point out that just yesterday—just yesterday—I had occasion to speak with another woman in my office, Claudia Ades, a woman who lived in Illinois at one point and she now lives in California. This woman described a situation in which she and her husband desperately wanted their baby and learned only at the late term that the baby could not live if born and she would give up any ability she might have to carry a subsequent child to term if she did not abort. So she had to make a similar difficult decision.

She sat in my office with tears in her eyes and she wondered why she had to go through this. She asked the Lord, ''Why me?'' She had come to the conclusion that she had had to go through that precisely so she could tell the story to help save the lives of other women who would be faced with the same situation, and that her child had been a sacrifice which she hoped would mean that other women would be able to hold on to their personal liberty, would be able to hold on to their right to make their own medical decision regarding a pregnancy.

We are with this attempt to override trying to substitute the judgment of a group of people who do not have to go through this, who do not have to go through this in life, or not have it even touch their lives, and yet we are becoming physicians and we are becoming experts and we are speaking about this issue in terms which frankly appeal to the popular consciousness because this procedure is not an easy one to look at, to hear about, to talk about.

It is almost embarrassing to stand on this floor and talk about the vaginal cavity and the procedure that is performed, but I daresay if we talked about the harm we may well do by stepping in where we have no right, by taking liberties away from people to make their own private decisions, we will do more harm to our country and to women who are faced with this decision and their families than anything else.

Mr. President, I have to tell you, I do not personally, and I have said this on the floor before as well, I do not favor abortion. My own religious beliefs hold life dear, and I would prefer that every potential child have a chance to be born. But the personal, fundamental right of freedom and liberty that we hold dear in this country dictates to me that we must not intervene with the most personal of all decisions, and that is a decision about whether or not to carry a traumatic pregnancy to term.

I am not prepared to substitute the Government's judgments for the judgments of women, of their families, and of their physicians in this decision. I am not prepared to say that a woman's life is worth less because she is carrying a pregnancy. I do not believe that the State has a right to intervene in the relationship between a woman and her body, her doctor, and her God. I urge my colleagues to vote to uphold this veto.

This difficult issue has a lot of aspects to it, but one that I hope that my colleagues will consider is the constitutional liberty that is at stake here today, the delicate balance between the rights of a woman to make decisions about her health and her body and the rights of the State.

At the end of the drafting of our Constitution there was a colloquy. At the close of the Constitutional Convention of 1787, Benjamin Franklin was asked, ''Well, Doctor. what have we got * * *?'' And Benjamin Franklin answered, ''A Republic, if you can keep it.''

I believe that our Republic stands for the inalienable rights that we enjoy as human beings and, as citizens of this great country, those include the right of a woman and her family to make a decision about her health and her body and whether or not she will carry a difficult pregnancy to term. I do not believe that it is consistent with our constitutional responsibilities, that it is consistent with the scope of our understanding, that we intervene in this very difficult and personal and private decision; that we take the liberty from women to make this decision. I encourage my colleagues to uphold the veto in this emotionally charged case.

I yield the floor to the Senator from California.

Mrs. BOXER. Mr. President, is there any time remaining on the 15 minutes of mine?

The PRESIDING OFFICER. The Senator used about 12 minutes.

Mrs. BOXER. Mr. President, I yield myself the 3 minutes that Senator MOSELEY-BRAUN did not use, to talk about her remarks for a moment. Then I intend to yield 5 minutes to the Senator from New Jersey, Senator LAUTENBERG.

Let me say, before my friend and colleague has to leave the floor, Senator MOSELEY-BRAUN, because I know she has people waiting in her office but I just want to thank her so much for participating at this point. I think both Senators from Illinois did a very special service to this body by bringing the issue out of theory, out of cartoon drawings of women's bodies which, frankly, many of us find offensive on the floor, to the reality of what happens in families today. The story she has told about Vikki Stella is a story that, unfortunately, too many of our families go through.

A loving family, a wanted and loved child, suddenly learning at the end of a pregnancy that something has gone terribly wrong, danger to the woman, danger to her family, and at that point I think what the Senator has put in

such good terms in this debate: Who do we want to make the decision of what is best for her? Do we want that family, that doctor, and their God to make this decision? Or do we want a U.S. Senator to make that decision and take a tool away from a physician, a physician who says he or she needs that tool to save that mother's life?

I think the answer is clearly, if we are a civilized society, we can walk down together on this bill. We can say this procedure should only be allowed in just those circumstances that the Senator described. The President has said that. The President has offered that. He has held out his hand. He has said he would sign such a bill that made a true life exception and a health exception. He, in fact, outlawed late-term abortion when he was the Governor of Arkansas, but for life and health. So I thank my colleague. Before she left, I wanted to thank her so much for her participation.

I also want to say that, again, it seems to me arrogant of some who would, in fact, substitute their own judgment for the judgment of families and physicians. I want to quickly quote, in the time I have remaining, from some of the finest doctors, from some of the finest medical schools in this United States of America.

From Boston University, a doctor says, ''This bill eliminates the therapeutic choice for physicians and imposes a politically inspired risk to the health and safety of a pregnant woman.''

From Cedar-Sinai Medical Center in Los Angeles, one of the most respected institutions in California. I am going to read this quote much later, but just in part it basically says if you outlaw this procedure you cannot help distraught women.

I yield myself an additional minute.

The PRESIDING OFFICER. The Chair informs the Senator there is a unanimous-consent order we would vacate the Chamber at 12:30.

Mrs. BOXER. I set this aside, and yield the floor to Senator LAUTENBERG.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I will be brief because I have listened to the debate as it has gone on. I must at the outset say that I hope we will support the President's veto. The case has been made by those with whom I disagree, obviously, I think very carefully, very articulately. I think there is one thing we can agree upon. That is, neither side accepts late-term abortions as something they would like to see done routinely; neither side. Not this side, for sure. I say, this side, I am not talking about the party side of the aisle. I am talking about those on this side of the debate. It is a terrible thing to contemplate. The problem is, this bill is a confrontation of a problem that is very serious, being judged, in my view, by the wrong folks in the wrong place. The decision has to be made in the privacy of a discussion between a woman, her conscience, and her physician.

President Clinton has, along with many of us here, argued that this bill should be modified to take account of women's health needs. One of the most extreme elements of this bill is the failure to include the exception in which the health of the mother is at risk. My friend and colleague, who is managing the support for the President, has so clearly said so many times: Give the doctors and families a chance to make the decision that includes an analysis of the mother's health requirements and you would not have any problem obtaining support for that legislation. I commend her for her courage, for her determination in leading this effort.

To try to cloak this in terms of whimsical or casual decisionmaking is really unfair. This is not something where a woman carries the fetus 6 months and then, in the later stage, would one think, anyone think, rationally, that she would just like to say, ''OK, it's time. I want to get rid of this. I am tired of carrying it.'' No. Those decisions are not casual or careless. Those decisions are very weighty decisions and they have to be taken in that context. They are about the life and health of women.

My youngest daughter, one of my three daughters, carried her first pregnancy 7 months. We were all elated at the prospect of her having a child. She would have been—all three daughters now have children, this one included. After 7 months she called me up and in very tearful terms said to me, ''Daddy, the baby died.'' Seven months—the child got twisted in the cord and expired.

I know from talking to physicians that there was always the worst possibility, that that child could wind up brain damaged and cause, in fact, a collateral risk to her health.

She has since had the most beautiful child in the whole world, and I know that. None of us who are defending the President's veto are casual about life. It is unfair to cast us that way.

The argument, Mr. President, I think, has unfairly been made in pictorial terms. The most simple operation, the simplest procedure is ugly to witness—ugly to witness—whether it is an appendectomy, or whatever have you. If you are not a professional, to see the blood, to see the tissue torn, et cetera, is a hideous sight to behold.

The picture that ought to be taken for the nonprofessional is the one that is postoperative, the one that shows a woman's health, the one that shows vibrancy, the one that shows the future. That is the picture that has to be taken.

I know time is limited, and we are forced by conditions here to conclude our debate momentarily. I will just say, for goodness sake, don't, in this room where politics dominates the discussion, take away the right of a woman, with her conscience fully included in her decision, to make this important decision in consultation with a physician. Let's not interfere in this difficult decision. This bill is not fair to American women and I hope we will stick with the President and his veto of this legislation.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I ask the Senator from New Jersey the question I asked the Senator from California.

Mrs. BOXER. Reserving the right to object. Was time to be up at 12:30?

The PRESIDING OFFICER. The Senator is correct.

Mrs. BOXER. If so, I ask unanimous consent that the Senator from Pennsylvania be given a minute and the Senator from California be given a minute and then we close down.

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

Mr. SANTORUM. Mr. President, if that baby at 24 weeks was delivered accidentally, just like that, but instead of the head being held in by the physician, the head was accidentally delivered by mistake, would the doctor and the mother have a right to kill that baby?

Mr. LAUTENBERG. My colleague from Pennsylvania can cloak it in any terms. What I support is a ban on late-term, healthy conditions.

Mr. SANTORUM. Answer the question.

Mr. LAUTENBERG. No, frame the question——

Mr. SANTORUM. If the baby was delivered and the head slipped out, would you allow the doctor to kill the baby?

Mr. LAUTENBERG. I am not making the decision.

Mr. SANTORUM. But that's what we are doing here, we are making decisions.

Mr. LAUTENBERG. You are making decisions that say a doctor doesn't——

Mr. SANTORUM. Three inches doesn't make the difference as to whether you answer the question?

Mr. LAUTENBERG. Someone has the knowledge, intelligence, and experience making the decision, as opposed to a graphic demonstration that says this is the way we are going to do it.

Mr. President, I would just like to make a few other comments about this bill. When the Senate originally considered this bill, it failed to pass the Boxer amendment. That amendment would have created an exception to the ban on late term abortions, where necessary to ''avert serious adverse health consequences to the woman.''

As a result, if a doctor expects that a woman would otherwise become permanently disabled, sterile, or seriously impaired, under this bill, the doctor would still be prohibited from performing this procedure. A doctor would have to feel absolutely certain that carrying a fetus to term would endanger the life of the mother, or the doctor

could not provide the medical services to avoid this consequence.

Mr. President, this issue is a question of trust. Do you trust politicians to make complicated medical decisions affecting women's lives? Or do you trust medical experts consulting with families? This bill says: politicians know best. I say: let's trust the doctors and the families.

Mr. President, let me say that I know there are many Americans who feel very strongly about the issue of abortion. It's a deeply personal and emotional issue, on both sides. I have the greatest respect for many of our citizens who hold different views on this matter. But I would not try to intrude on these complicated decisions, or tell a woman focusing on serious health or fertility risks how to make this difficult decision.

Mr. President, I urge my colleagues to oppose this intrusion into the doctor-patient relationship. Let's give families, not politicians, the right the choose.

Mr. President, during this debate some Members supporting this measure have been citing statistics that appeared in a recent Bergen Record article on late term abortions. I ask unanimous consent to insert a letter from Metropolitan Medical Associates of Englewood, NJ, that directly refutes the accuracy of those figures.

Mr. President, I yield the floor.

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

METROPOLITAN MEDICAL ASSOCIATES,
Englewood, NJ, September 23, 1996.

Mr. GLENN RITT,
Editor, The Record, Hackensack, NJ.

DEAR MR. RITT, We, the physicians and administration of Metropolitan Medical Associates, are deeply concerned about the many inaccuracies in the article printed in September 15, 1996 titled ''The Facts on Partial-Birth Abortions''.

The article incorrectly asserts that MMA ''performs 3,000 abortions a year on fetuses between 20 and 24 weeks, of which at least half are by intact dilation and evacuation.'' This claim is false as is shown in reports to the New Jersey Department of Health and documents submitted semiannually to the New Jersey State Board of Medical Examiners. These statistics show that the total annual number of abortions for the period between 12 and 23.3 weeks is about 4,000, with the majority of these procedures being between 12 and 16 weeks. The intact D&E procedure (erroneously labeled by abortion opponents as ''partial birth abortion'') is used only in a small percentage of cases between 20 and 23.3 weeks, when a physician determines that it is the safest method available for the woman involved. Certainly, the number of intact D&E procedures performed is nowhere near the 1,500 estimated in your article. MMA perform no third trimester abortions, where the State is permitted to ban abortions except in cases of life and health endangerment.

Second, the article erroneously states that most women undergoing intact D&E procedures have no medical reason for termination. The article then misquotes a physician from our clinic stating that ''most are Medicaid patients * * * and most are for elective, not medical, reasons * * * Most are teenagers.'' This is a misrepresentation of the information provided to the reporter. Consistent with Roe v. Wade and New Jersey State law, we do not record a woman's specific reason for having an abortion. However, all procedures for our Medicaid patients are certified as medically necessary as required by the New Jersey Department of Human Services.

Because of the sensitive and controversial nature of the abortion issue, we feel that it is critically important to set the record straight.

The Management of Metropolitan Medical Associates.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Thank you, Mr. President. The Senator from New Jersey has spoken, as he always does, with intelligence and with compassion. He is the proudest grandfather I have ever met. A close second is my husband.

Mr. LAUTENBERG. You haven't seen my grandchildren.

Mrs. BOXER. And I say to my friend, his participation in this debate is welcome. It is a welcome part of this debate, because he went through the trauma that these women have gone through, as far as being in a family where such a circumstance occurred.

I say to my colleague from Pennsylvania who stands up and asks the same question, he got his answer. All of us on this side who support the President oppose late-term abortion. We could pass a bill that would ban this procedure but for life and health. I ask him again to do that. Clearly, he prefers this bill with no real exceptions.

I thank the President for his forbearance, and we will continue this debate after the lunch break.

RECESS

The PRESIDING OFFICER. Pursuant to a previous unanimous-consent agreement, the Senate will now stand in recess until 1:30 p.m.

Thereupon, at 12:34 p.m., the Senate recessed until 1:29 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GRAMM).

The PRESIDING OFFICER. The Chair, in my capacity as a Senator from the State of Texas, suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business.

OCTOBER 1966 QUARTERLY REPORTS

The mailing and filing date of the October quarterly report required by the Federal Election Campaign Act, as amended, is Tuesday, October 15, 1996. All principal campaign committees supporting Senate candidates in the 1996 races must file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116. Senators may wish to advise their campaign committee personnel of this requirement.

The Public Records Office will be open from 8 a.m. until 7 p.m. on October 15, to receive these filings. For further information, please contact the Office of Public Records on (202) 224–0322.

TWELVE-DAY PRE-GENERAL REPORTS

The filing date of the 12-Day Pre-General Report required by the Federal Election Campaign Act, as amended, is Thursday, October 24, 1996. The mailing date for the aforementioned report is Monday, October 21, 1996, if postmarked by registered or certified mail. If this report is transmitted in any other manner it must be received by the filing date. All principal campaign committees supporting Senate candidates in the 1996 races must file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116. Senators may wish to advise their campaign committee personnel of this requirement.

The Public Records Office will be open from 8 a.m. until 7 p.m. on Thursday, October 24, to receive these filings. For further information, please contact the Office of Public Records on (202) 224–0322.

THIRTY-DAY POST-GENERAL REPORTS

The mailing and filing date of the 30-Day Post-General Report required by the Federal Election Campaign Act, as amended, is Thursday, December 5, 1996. All principal campaign committee supporting Senate candidates in the 1996 races must file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116. Senators may wish to advise their campaign committee personnel of this requirement.

The Public Records Office will be open from 9 a.m. until 5 p.m. on December 5, to receive these filings. For further information, please contact the Office of Public Records on (202) 224–0322.

FORTY-EIGHT-HOUR NOTIFICATIONS

The Office of Public Records will be open on three successive Saturdays and Sundays from 12 noon until 4 p.m. for the purpose of accepting 48-hour notifications of contributions required by

the Federal Election Campaign Act, as amended. The dates are October 19 and 20, October 26 and 27, and November 2 and 3. All principal campaign committee supporting Senate candidates in 1996 must notify the Secretary of the Senate regarding contributions of $1,000 or more if received after the 20th day, but more than 48 hours before the day of the general election. The 48-hour notifications may also be transmitted by facsimile machine. The Office of Public Records FAX number is (202) 224–1851.

REGISTRATION OF MASS MAILINGS

The filing date for 1996 third quarter mass mailings is October 25, 1996. If a Senator's office did no mass mailings during this period, please submit a form that states ''none.''

Mass mailing registrations, or negative reports, should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116.

The Public Records Office will be open from 8 a.m. to 6 p.m. on the filing date to accept these filings. For further information, please contact the Public Records Office on (202) 224–0322.

THE RETURN OF STS–79 AND ASTRONAUT SHANNON LUCID

Mr. GLENN. Mr. President, earlier this morning, in fact, 8:13 this morning to be exact, the crew of the space shuttle *Atlantis* returned to Earth having completed another successful docking mission with the Russian *Mir* space station. I want to extend my heartiest congratulations to the *Atlantis* and the *Mir* crews, as well as the thousands of NASA employees and contractors who brought this mission to completion.

Mr. President, this mission is one for the record books. When docked with the *Mir,* the shuttle-*Mir* structure represented the largest manmade structure ever put in orbit. It weighed more than 240 tons. The *Atlantis* crew also set a record by transferring nearly 5,000 pounds of equipment and supplies and water to the *Mir,* and returning with more than 2,150 pounds of *Mir* equipment, along with the experiments and, of course, some of the things they did not want to toss overboard, some of the trash.

In addition, the return of STS–79 concludes a mission of experiments in a number of different fields. I think we too often lose sight of some of the things going on in the program. We think of the human experience up there, and we try to emote to that and think what it is like to be up there as long as some of the people were on this particular flight.

But these missions are all to do research. They are basic, fundamental research. The experiments that they had on this mission included things in the fields of advanced technology, Earth sciences, fundamental biology, human life sciences, microgravity, and space sciences. These are things largely that will be of benefit to people right here on Earth.

Data from this mission also will supply the insight for the planning and development of the international space station, Earth-based sciences of human and biological processes, and the advancement of commercial technology. In other words, this sets the stage for even more ambitious programs, and ones that I think will be even more productive.

However, by far, the most significant event is the return of Astronaut Shannon Lucid. Dr. Lucid now has more time in space than any other U.S. astronaut. She is a veteran of six shuttle missions, including the latest STS–79. She has logged, as a grand total, including this mission, a little over 223 days in space, including 188 days on this most recent mission. She has more cumulative time and more continuous time in space than any other U.S. astronaut.

Now, we have to put this in perspective. She traveled on this flight some 75 million miles, the same as 157 round trips to the Moon and back, and she has completed on this mission and the others she was on, a total of 3,008 orbits of the Earth.

Furthermore, when Dr. Lucid began her mission on *Mir,* she kicked off a 2-year period of continuous U.S. presence on the *Mir* spacecraft. This is a feat of a rather remarkable woman.

I would like to provide my colleagues with a little background. Shannon Lucid, Dr. Lucid, was born January 14, 1943, in Shanghai, China. I believe her parents were missionaries. She considers Bethany, OK, to be her hometown. She is married with three children. She graduated from Bethany High School, Bethany, OK, in 1960, and received a bachelor of science degree in chemistry from the University of Oklahoma in 1963, and a master of science and doctor of philosophy degrees in biochemistry from the University of Oklahoma in 1970 and 1973, respectively.

As I mentioned earlier, Lucid holds the endurance record for American astronauts in space. STS–79 is her sixth space shuttle mission, having flown previously on STS 51–G in 1985, STS–34 in 1989, STS–43 in 1991, STS–58 in 1993, and STS–74 in 1996.

Dr. Lucid began her record-setting mission when she joined the *Mir 21* crew with the March 24, 1996, docking of STS–76.

In a recent interview, Dr. Lucid was asked the following question: What motivated you to get involved in the space program? I thought her answer was very interesting and I think we all may be able to learn a little from it.

She said:

> You have to go way back to when I was a little girl. When I was a little girl I was very interested in being a pioneer like in the American West and I really liked those stories and I thought, ''Well, I was born in the wrong time.'' And then I thought, ''Well, I can just be an explorer,'' but then I thought, ''When I grow up all the Earth will be explored.'' And then I started reading about Robert Goddard and the rockets he had done and so I read a little about that. And then I started reading about science fiction. This was when I was in fourth and fifth grade and I thought, ''Well, that is what I can do when I grow up. I can grow up and explore space.'' And of course when I talked to people about this they thought that would be rather crazy because that was long before America even had a space program. So I just think it's pretty remarkable things turned out the way they did.

That is a quote from Shannon Lucid. I think it is pretty remarkable, too. I think Dr. Lucid is truly a space pioneer and a hero for our young people. I think she represents what is best about our space program. She demonstrates setting goals, pursuing them, thinking about them, studying them, and with hard work and education can bring about truly momentous results.

Mr. President, I welcome Dr. Lucid and the rest of the STS–79 crew back to Earth. In addition to Dr. Lucid, the STS–79 crew includes: Jay Apt, Terry Wilcutt, the pilot, William Readdy as the commander, Tom Akers, Carl Walz, John Blaha, who is replacing Dr. Lucid on *Mir.* Now, John Blaha will go ahead with the experiments that were left up there and some they took up just for him.

I read from Aviation Week and Space Technology of September 9:

> After *Atlantis* departs, Blaha on *Mir* will begin work on 38 science investigations, including 26 being continued from Lucid's mission. His major science topics and the number of investigations planned in each includes: Advanced technology (3); Earth remote sensing (8); biology (2); human life sciences (10); microgravity/biotechnology (9), and tests to reduce international station design risks (6).
>
> Blaha will also do significant *Mir* systems work, including piloting attitude maneuvers and changing solar array angles when his two Russian colleagues are working outside the station. He is to remain on board *Mir* until picked up by shuttle Mission 81 in mid-January.

Mr. President, this was indeed a great transfer and it sets the stage for the space station. Some of the hardware on the space station will begin to be put up by the end of next year by 1997 if everything remains on schedule, and we certainly hope it does.

All on this mission, and John Blaha, who is up there now, we wish him well, of course, and we welcome this whole crew back to Earth. Congratulations to them. From Dan Goldin at the top of NASA, the Administrator of NASA, to all the employees down the line, they all deserve a great round of applause from all of us. They deserve our thanks and congratulations on a job well done.

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

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

GUN POSSESSION

Mr. LAUTENBERG. Mr. President, I want to talk about a piece of legislation that I have proposed that was approved here in this body by a vote of 97 to 2. They approved an amendment that I sponsored to ban wife beaters and child abusers from owning guns, from possessing guns. Yet, over the past couple of days, behind closed doors, there has been a determined effort to gut my proposal and to expose the battered woman and the abused child to an enraged man with a gun in his hand.

As I explained yesterday, there has been an attempt to undermine the proposal in four primary ways:

First, some sought to exclude child abusers from the ban by limiting its application only to ''intimate partners.''

Second, they sought to effectively give a waiver to every wife beater and child abuser who was convicted before this legislation goes into effect.

Third, they sought to render the ban entirely ineffective in the future by excusing anyone who did not get notice of the firearm ban when they were originally charged. So that includes all of those who committed domestic abuse, beat up their wives, beat up their kids who weren't told in advance there may be a serious penalty to take away their guns. What a pity. Instead, what they want to do, realistically, is make it prospective only. For those who didn't get notice, they can perhaps dodge out of a charge by saying, well, I did not get effective notice. It is a pity. Under my proposal—the language was in there very specifically, and we are going to insist it be retained.

Fourth, the watered-down language would excuse from the firearm ban anyone who was convicted in a trial heard by a judge only, as opposed to a jury. Now, this also, by itself, would render the gun ban largely meaningless, since most domestic violence cases are heard by judges and not juries.

Mr. President, faced with public criticism, opponents of a real ban have apparently retreated on one of these gutting provisions. They have agreed to language that ostensibly would put child abusers back within the ban.

Mr. President, it is critical to understand that this latest change is merely a figleaf. It is designed to obscure the fact that the watered-down proposal would leave virtually all wife beaters and child abusers with the ability to legally possess guns. It is purely a legislative sham, and no one should be fooled into believing otherwise.

Let me tell those who are within earshot what this sham is all about. First, under their proposed modifications of my legislation, no wife beater or child abuser would be prohibited from having firearms unless they had been told about the ban when they were originally charged. What a device for a clever defense—well, he didn't hear it, he didn't understand it, or his language wasn't up to snuff. My goodness.

The first effect of this language, Mr. President, is to completely excuse every wife beater and child abuser who has been convicted until this time. They would all be off the hook completely. We didn't know, we weren't aware, we weren't told; so, therefore, forget it. OK, be careful next time you hit your wife. Next time, don't have a gun present. They would all be off the hook completely. All of their battered wives and abused children would remain at risk of gun violence.

Mr. President, it would be bad enough if this extreme proposal only grandfathered in all currently convicted wife beaters and child abusers. But this notification language goes much further. It would also, in effect, leave most future wife beaters and child abusers free to have guns.

There is nothing in the watered-down language that requires anyone to tell the accused wife beaters and child abuser that they could lose their guns. As a matter of fact, with a wink of the eye, they can say, ''He isn't a bad guy.'' As a practical matter, most abusers are unlikely to get such advance notice. Under this latest proposal, they would, thus, remain entirely free to keep their guns.

Nor is there any reason to limit the ban to those who get advance notice, Mr. President. After all, we do not make a requirement for anyone else accused of a crime to have previous knowledge of the prospective penalty. Felons are prohibited from having guns, regardless of whether they have been officially given notice or not. For them, ignorance of the law is no excuse. But under this latest proposal, it would be an excuse for a wife beater.

Mr. President, in essence, what has happened here is we proposed that no wife beater, no child abuser, whether retrospectively, retroactively, or in the future, ought to be able to have a gun, because we learned one thing—that the difference between a murdered wife and a battered wife is often the presence of a gun. In the couple of million cases every year that are reported about domestic abuse, in 150,000 cases that we are aware of, a gun was present, a gun was held to the temple of a battered wife or perhaps a child. And if that isn't trauma enough, the prospect of the pulled trigger could finally complete the task.

So, Mr. President, when we proposed this, and it was voted 97 to 2 favorably on this floor, and a couple of months before, in July, it had gone through here 100 to 0. It was unanimous, and it was a voice vote.

I hope those who would defeat this legislation are willing to face the American public and tell the truth of what they are about. They are supporting the NRA, and not the families of America.

I thank the Chair.

CIVIL JUSTICE REFORM: STILL DESPERATELY NEEDED

Mr. HATCH. Mr. President, I rise today to speak about civil justice reform. Many of us had high hopes for tort reform in the 104th Congress, which has been desperately needed for so many years. Unfortunately, President Clinton has blocked our litigation reform efforts with his stubborn defense of the status quo.

I was deeply disappointed with President Clinton's decisions to veto the securities litigation reform bill and then the product liability reform bill. Fortunately, Congress was able to override the securities veto and those important reforms became law over the President's tenacious opposition.

That was not the case with product liability reform. Despite over 15 years of bipartisan work in the Congress and despite the tireless efforts of Democrats like Senators ROCKEFELLER and LIEBERMAN, along with Republicans like Senators GORTON and PRESSLER, we have not been able to make one iota of progress in addressing the product liability crisis facing Americans.

Unfortunately, we have learned that President Clinton is unalterably opposed to tort reform and other litigation reform measures, no matter how badly needed they may be and no matter how much litigation is costing American consumers.

We should all be very clear about what happens here: Each time President Clinton sides with America's extremely powerful trial lawyers, America's consumers lose. And once again, President Clinton's rhetoric dismally fails to match his actions.

Litigation reforms are no less needed now than at the start of the 104th Congress. We simply have got to take some steps forward to alleviate the litigation tax that burdens American consumers, workers, small businesses, and others who ultimately pay the price imposed by high-cost lawsuits.

Litigation reform continues to be supported by the overwhelming majority of Americans. They have indicated their frustration over crazy lawsuits, outrageous punitive damage awards, and abusive litigation. They want change from a status quo that has been unfair and that has encouraged irresponsible litigation in this country. But because of the President's actions, they will not get the meaningful litigation relief they need from this Congress.

The costs of lawsuits in this country are extreme and are eating up valuable resources. These costs are passed along to consumers in the form of higher prices and higher insurance premiums. They are passed along to workers in the form of fewer job opportunities, and fewer and lesser pay and benefit increases. They are passed along to shareholders in the form of lesser dividends. These costs stifle the development of new products. Everyone in America pays a steep price for President Clinton's stubborn defense of a

small but powerful group of trial lawyers.

When the product liability bill was on the floor last spring, we heard that 20 percent of the price of a ladder goes to pay for litigation and liability insurance, that one-half of the price of a football helmet goes to liability insurance, that needed medical devices are not on the market because of liability concerns and on and on. We heard about millions of dollars for spilled coffee and millions for a refinished paint job on a BMW.

I can go on and on about ridiculous liability cases that Americans are sick and tired of. I have spoken at length about such cases on the floor before.

What is frustrating to me is that little has changed. We pass legislation to deal with this abuse of our legal system, but the President vetoes it.

And it is not surprising that those who benefit from this litigation explosion—the trial lawyers—think they have found a safe harbor at 1600 Pennsylvania Avenue. They think they can get away with business as usual because President Clinton will veto any attempt to stop them.

They obviously don't get it.

Let me just mention a few examples of developments in the case law following the President's May 10 veto of product liability reform.

In June, a Pennsylvania appellate court upheld an absolutely outrageous punitive damage award. In the case, a former Kmart worker in Pennsylvania won $1.5 million in damages from Kmart after being fired for allegedly eating a bag of the store's potato chips without paying for them.

The plaintiff had sued for defamation of character based on her employer's telling her coworkers that she had eaten the potato chips without paying for them—which constituted stealing in violation of company policy. She was awarded $90,000 in compensatory damages, and an astonishing $1.4 million in punitive damages. That is absolutely outrageous and unjustified.

Even if the employer had said anything wrongfully about her and the potato chips—and I say even if, because I do not think it is clear that the employer did anything wrong—I submit that there is simply no way to justify an award of $1.5 million for saying that you thought someone ate a bag of potato chips without paying for it. That is just crazy.

On appeal, the court upheld the award. The dissenting judge, Judge Popovich, called the punitive damages award ''patently unreasonable given the facts before us.''

Judge Popovich got right to the heart of it when he wrote, ''I do not understand how appellant's act of informing appellee's co-workers that she was dismissed for misappropriating a bag of potato chips was sufficiently outrageous conduct to warrant a punitive damages award of $1.4 million.'' That judge is absolutely correct.

I wish that was it, but there are more cases.

In a case in Alabama in June, the Liberty National Life Insurance Co. was held liable in a case in which the plaintiff claimed that the company failed to pay her $20,000 in death benefits following her husband's death.

The company claimed that it was not liable to pay the $20,000 in benefits because the couple had not disclosed the husband's health problems when they obtained the life insurance policy about a year before the husband died.

The jury found the insurer liable and awarded the plaintiff $330,000 in compensatory damages, including emotional distress. There may be an argument that this may be a bit high on its own, but what happened in terms of punitive damages is truly astonishing.

The jury went on to award the plaintiff a mind-boggling $17.2 million in punitive damages.

Now, the insurance company in this case may have been right or it may have been wrong. My point is that even if the company was wrong and even if the company should have paid out the $20,000 in death benefits, an award of $17.2 million in punitive damages—17.2 million dollars—on the basis of these facts is outrageous and simply cannot be justified.

And people wonder why their insurance premiums are so high. Personally, I find it hard to swallow that even one dime of an individual's insurance premium is subsidizing court ordered windfalls like this one.

Take another case. This one came down in August.

A jury awarded a plaintiff $7 million in punitive damages on a claim that the defendant had sold the plaintiff unnecessary insurance on a mobile home; compensatory damages were $100,000.

Seven million dollars for selling unnecessary insurance and causing at most—at most—$100,000 worth of harm? How can that be?

In another highly publicized and widely criticized case, which also came down following the President's veto of product liability reform legislation, the largest damages verdict ever rendered against General Motors was handed down by an Alabama jury.

In that case, the plaintiff was seriously injured when he had an accident in his Chevy Blazer.

I do not dispute that the plaintiff's injuries were severe or that his accident was a tragedy.

However, there was evidence that the plaintiff had been drinking before the accident and was not wearing a seatbelt. The plaintiff told the first person on the scene and others that he had fallen asleep at the wheel. The plaintiff's lawyers' principal argument to the jury was that, even though the plaintiff was not wearing a seatbelt, the plaintiff was thrown out of the car because the door latch allegedly failed.

However, there was evidence that the door latch worked fine after the accident and that the plaintiff was actually thrown out through the car window. This is also a vehicle that had passed federal safety standards.

But let's say there was some sort of problem with the plaintiff's particular door latch. I am even willing to assume that. My problem is with the shocking amount of punitive damages that were awarded.

The jury awarded not only $50 million in compensatory damages, but went on to award $100 million—you heard it correctly—$100 million in punitive damages.

Punitive damages are designed to punish egregious conduct, and I just don't see the showing of egregious conduct here. The very equivocal evidence in that case just cannot warrant such a shocking amount of punitive damages. Where is the egregious conduct here?

I just don't see it. Instead, I see one more example of a punitive damage system that is out-of-control. And there are more examples like these, many of them in the past few months.

The sobering fact is that this problem isn't going away. Instead, it is snowballing out-of-control.

I know that it is too late during this Congress to do anything more about the litigation crisis. And, it is too futile given the President's commitment to vetoing civil justice reform.

But I implore my colleagues to come back next Congress committed to addressing the problem of out-of-control punitive damages and other abuses in our civil justice system.

Our large and small businesses and our consumers and workers are being overwhelmed with litigation abuse. The vice president of the Otis Elevator Corp. provided us with information indicating that his company is sued on the average of once a day. Once a day.

We cannot address these problems comprehensively without a uniform, nationwide solution to put a ceiling on at least the most abusive litigation tactics.

We need to protect citizens of some States from the litigation costs imposed on them by other States' legal systems.

In May, in the BMW versus Gore case, the U.S. Supreme Court recognized that excessive punitive damages ''implicate the Federal interest in preventing individual States from imposing undue burdens on interstate commerce.''

While that decision for the first time recognized some outside limits on punitive damage awards, legislative reforms are desperately needed to set up the appropriate boundaries.

The Supreme Court's decision in the BMW versus Gore case leaves ample room for legislative action. That case acknowledged that there are constitutional bounds beyond which extreme punitive damage awards will violate due process; at the same time, the decision reinforces the legitimacy and primacy of legislative decisionmaking in regulating the civil justice system.

The BMW versus Gore case was brought by a doctor who had purchased a BMW automobile for $40,000 and later discovered that the car had been partially refinished prior to sale. He sued

the manufacturer in Alabama State court on a theory of fraud, seeking compensatory and punitive damages.

The jury found BMW liable for $4,000 in compensatory damages and an astonishing $4 million in punitive damages. On appeal, the Alabama Supreme Court reduced the punitive damages award to $2 million.

The Supreme Court held, in a 5 to 4 decision, that the $2 million punitive damages award was grossly excessive and therefore violated the due process clause of the 14th amendment. The Court remanded the case. The majority opinion set out three guideposts for assessing the excessiveness of a punitive damages award: the reprehensibility of the conduct being punished; the ratio between compensatory and punitive damages; and the difference between the punitive award and criminal or civil sanctions that could be imposed for comparable conduct.

Justice Breyer, in a concurring opinion joined by Justices O'Connor and Souter, emphasized that, although constitutional due process protections generally cover purely procedural protections, the narrow circumstances of this case justify added protections to ensure that legal standards providing for discretion are adequately enforced so as to provide for the ''application of law, rather than a decisionmaker's caprice.''

Congress has a similar responsibility to ensure fairness in the litigation system and the application of law in that system. Notably, Justice Ginsburg's separate dissent, joined by the Chief Justice, argued not that the amount of punitive damages awarded in the case was proper, but suggested instead that the majority had intruded upon matters best left to State courts and legislatures.

Clearly, it is high time for Congress to provide specific guidance to courts on the appropriate level of damage awards and to address other issues in the civil litigation system.

We need to encourage common sense, responsible and fair litigation by reforming the system that leads to sky-high punitive damages in cases of little actual loss and by introducing fairness into the system.

These lawsuits-for-profit demean the lofty ideals of our judicial system. There are people out there with legitimate grievances that deserve the time and attention of judges and juries, but the courts are clogged up with these ridiculous cases and claims. That isn't fair.

The American people should know that we have been unable to enact meaningful civil justice reform because the President chooses to stand with this Nation's trial lawyers. His action is permitting litigation abuses and excesses to go on.

When the American people can't buy new products, can't get needed medical devices, lose jobs they might have had if companies were permitted to grow, or can't afford their insurance costs, they should know that the President chose to do nothing about the litigation explosion in this country.

Let me just close with an example of litigation reform that worked—and one that should have been a model this Congress. That example is the statute of repose for piston-driven aircraft.

In August 1994, Congress passed an 18-year statute of repose for small, general aviation aircraft. At that time, around 90 percent of employment in the piston-driven aircraft industry was gone; around 90 percent of production had disappeared due to product liability lawsuits.

Today, a striking recovery is already underway in that industry. Aircraft manufacturers are planning and constructing new plants, and production and employment have grown tremendously. Cessna alone has created about 3,000 new jobs due to the enactment of that one statue of repose.

When the American people consider the President's vetoes, they should ask themselves: How many new plants and factories will never open? How many new jobs has the President squandered? How many medical innovations won't we see? How much are insurance premiums going to go up?

The bottom line is that I just don't think we can take much more of the present system. I hope we won't have to. I expect litigation reform to be an important part of the agenda of the next Congress, and I want to repeat my commitment to work toward that end.

INSURANCE COVERAGE FOR DRUG TREATMENT

Mr. KENNEDY. Mr. President, Congress has passed and President Clinton will soon sign historic legislation to improve health insurance coverage for individuals with mental illness. This initiative represents a major step forward to eliminate unjustified discrimination between mental health and physical health in insurance coverage.

I especially commend my colleagues, Senator DOMENICI and Senator WELLSTONE, on their legislative success. Through tireless advocacy and effective leadership, they have convinced the Senate of the wisdom of ending insurance discrimination against the mentally ill.

Enactment of this measure is gratifying, but it is only a first step. Our work in this area is far from complete. When the Labor Committee reported a health insurance bill in 1994, our provision on mental health parity included coverage for the related disorder of substance abuse. Regrettably, that aspect of the earlier proposal was dropped in the recent compromise.

Every year, despite a desperate desire to overcome their addiction, a large number of Americans forgo needed treatment for substance abuse because their health insurance does not cover the cost of this treatment. Despite faithful and regular payment of their premiums, these citizens are denied coverage for this debilitating and chronic illness.

Ironically, such coverage was dropped, even though the war on drugs is once again the subject of intense media attention in this election year. Government surveys report that teenage drug use is on the rise. While resources for law enforcement efforts to reduce the supply of drugs have grown dramatically in recent years, resources for treatment have decreased. In 1996, Congress slashed substance abuse treatment and prevention programs by 60 percent, and attempted to cut the Safe and Drug Free Schools Program in half. The House has proposed only minimal increases for fiscal year 1997 over these drastically reduced levels.

Publicly supported treatment will never meet the needs of all those who would benefit from treatment. The private sector must play a significant role through insurance coverage for such treatment.

More than 70 percent of drug users are employed. Many of these drug users have private health insurance. Yet, treatment for their addiction is rarely covered. Even when private plans cover treatment for substance abuse, benefits are limited. Since drug use is a chronic, recurrent condition, like diabetes or hypertension, addicts quickly exceed their coverage limit. Due to the nature of substance abuse, those who do not obtain treatment often lose their jobs. They are then forced into the already over-burdened public treatment system.

Extending insurance coverage to those seeking to free themselves from substance abuse would improve productivity and decrease drug-related crime. That would constitute real progress in the war on drugs.

Parity for treatment of substance abuse would also be cost effective. A 1994 study by the State of California shows that for every $1 spent on treatment, $7 in costs are saved. Treatment reduces employer health care costs, because treated employees and members of their families use fewer health services.

Parity would also drive down non-health care costs to the employer by reducing absenteeism, disability payments and disciplinary problems.

These benefits come at a bargain price. According to the actuarial firm of Milliman and Robertson, substance abuse parity will increase overall health insurance premiums by only one-half of 1 percent.

Again, I congratulate my colleagues for passage of the mental health parity compromise. I look forward to working with them to build on this achievement. I hope that one of our highest priorities in the next Congress will be to take this needed step to fight drug abuse.

Mr. COVERDELL. Madam President, I ask unanimous consent that the period for morning business be extended for up to 4 minutes.

The PRESIDING OFFICER (Ms. SNOWE). Is there objection? Without objection, it is so ordered.

VALUJET

Mr. COVERDELL. Madam President, yesterday I came to the floor of the Senate to describe the predicament that faces a major corporation in my home State, ValuJet.

I will not repeat everything I said yesterday, but I pointed out we all have grieved over the tragedy, and we understand that safety in the air is a preeminent goal of the Federal Aviation Administration, and all of us. This corporation underwent the most exhaustive and thorough review possible and, in late August, was certified as flight-worthy by the FAA.

Subsequently, the airline had been confronted once again with bureaucratic delays and the like that are so typical of this city. Now it is the Department of Transportation.

I might point out that 4,000 families are not receiving their paychecks and can't make their mortgage payments. They can't make their car payments. They have been pushed out on the street. And we are about to fire 400 more even though the airline is now certified as worthy to fly.

Yesterday, I received a phone call—I want to add this to the RECORD—from Mr. Kent Sherman, who owns a company called Sky Clean, in College Park, right near the airport. This story illustrates and brings home the impact of this shutdown and how it goes beyond ValuJet itself. Sky Clean provides a cleaning service for airplanes cleaning the interior and exterior, and the largest client was ValuJet. If ValuJet is not in the air, this company will close and all of their employees are also put out on the street.

So there are peripheral companies that surround this corporation, all of whom are facing shutdowns and layoffs. This is an interesting story. It was founded 4½ years ago with $122. They spent most of it on fliers and business cards, and had $15 left to buy cleaning chemicals. They put their profits into more chemicals and rags and brushes, and went in there, and eventually had enough to buy a pressure washer. One year ago they got the breakthrough. They got a contract with ValuJet. Their motto is ''Just Plane Spotless.''

Today, they have 28 employees. Last year, they had $740,000 in revenues, up from $40,000 3 years ago. He said, ''We have been incredibly blessed. This has been the dream of a lifetime.''

In June, the company had $3 shy of $100,000 in their savings account. There are no savings today. They met their last payroll. If ValuJet shuts its doors, Sky Clean is finished.

It is absolute nonsense, Madam President. FAA has gone through that thing with a microscope. The airline is ready to fly. It is ready to get the paychecks going to those 4,000 families and, yes, to this small company in College Park, GA. It is time for the bureaucrats and their 9-to-5 attitude to get this job done and get that airline in the air.

I yield back whatever time I have.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Ms. SNOWE). The time for morning business has expired.

PARTIAL-BIRTH ABORTION BAN ACT OF 1995—VETO

The PRESIDING OFFICER. Who yields time?

Mr. SANTORUM. Madam President, I yield 7 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Thank you, Madam President. I thank the Senator from Pennsylvania, who has been doing an outstanding job helping us to have an opportunity to express our views on the partial-birth abortion override measure which is before us. It is pretty important for us to understand this isn't a pro-choice or pro-life measure. This is not an argument against abortions generally. It is not even an argument against late-term abortions. It is merely an argument against the brutality which takes place in a specific type of abortion, which has been described adequately here on the floor of the Senate. But it is one of those things which, obviously, is uncomfortable for people to talk about.

It is a brutality that results when a child which is all but born is being killed in the process of birth. And there has been the side issue raised here, that somehow this has to do with the health of the mother, and that if we didn't kill the child at this point, the mother's health would be impaired.

This has been contradicted by the best medical experts—not the least of which is C. Everett Koop, the former Surgeon General of the United States, who basically says medical necessity does not come into these cases. Since the child is already born, really, we are talking about what happens to the child—virtually already born—not what happens to the mother.

But I would like to add something to the debate. I would like to a add a few questions that I think we ought to ask ourselves. One question is: What are we signaling? What are we telling the rest of the world when we say that we as a people are indifferent to this kind of brutality toward a child that is all but born, except for the last, say, 3 inches of its body? That since it has technically part of its body still in the mother, that it is subject to being killed? It is very difficult for me to understand what we are saying to the rest of the world when we are allowing this type of gruesome procedure to occur in this country.

What do we say to China when we try to shape their human rights policy? We say that you ought to have a high regard for your citizens; that you should not be oppressive; that you should not abuse people; that you should not persist in practices which are against human dignity. How do we say that to China when we enshrine or institutionalize this procedure and decide that the brutalization of children in this way is still acceptable when there are clear alternatives? How can we question the practice of child slavery in other nations around the world when our own Nation's lawmakers cast cavalier votes that really result in brutality?

Let me be clear. The signals we send as a world leader do not trouble me as much as the signals that we are sending to our young people. In our society, the biggest crime problem we have is violent crime among young people who seem to have no regard for the lives of victims, who seem to view dismemberment or brutality as a matter-of-fact thing. What are we telling our own youngsters? What values are we teaching them when we say that the difference between a partial-birth abortion and a homicide is merely whether the head is all the way out or just part of the way out? We have said that it is OK to be involved in a partial-birth abortion because the child isn't totally born, but if there were just another 3 or 4 seconds of process, the child would be born and then it would be homicide.

I do not think we are sending the right signals to our young people about tomorrow. What values do we send the young people when we suggest that there is more concern to be shown for animals and our environment than there is for young people?

For example, H.R. 3918 was introduced by a Member of this body when that Member was in the U.S. House of Representatives. The bill protects animals from acute toxic tests in laboratories. What are we saying when we are concerned about protecting animals from toxic tests designed to save lives and we are not willing to protect children from a brutal procedure designed to end their life?

What are we saying when another Member of this body introduces a measure which prescribes criminal penalties for the use of steel jaw leghold traps on animals, saying that it is brutal to catch an animal with a trap that clamps down on the leg of the animal? A sponsor of the bill stated in the Chamber, ''While this bill does not prohibit trapping, it does outlaw a particularly savage method of trapping.''

If we are willing to do that to protect animals from a kind of brutality and abuse, I have to ask myself, have we not missed something if we are unwilling to take a step to prohibit a kind of brutality against children that medical experts acknowledge is a brutality which is totally unnecessary?

There seems to be a blind spot in the Senate's conscience when it comes to things that are abortion related, but we cannot let the debate over abortion

generally obscure the fact that what we are trying to do here is just what the Senator from Rhode Island said he was trying to do with steel jaw traps. He was trying not to prohibit trapping but to prohibit a particularly savage method of trapping. This is not a bill to outlaw abortion, but it is a bill to curtail a practice of brutality committed against children under the guise of abortion, and abortions would still persist even if the bill were passed or if the override were to be undertaken.

This takes me back to the beginning. The emotion and strife of the abortion debate are blinding and confusing some of us as Members. The choice for us is clear. This is not a choice of pro-life or pro-choice. This is a choice about whether or not we as a culture are willing to say that we will be against brutality of infants in the same measure we have been against brutality of animals for experimentation, that we will have a kind of culture which we can recommend around the world and to our own children. That we will have respect for life and that brutality, especially when it is unnecessary, we will not tolerate.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. I yield 3 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I thank the Chair.

Madam President, when President Clinton vetoed the Partial-Birth Abortion Ban Act on April 10, he said there are ''rare and tragic situations that can occur in a woman's pregnancy in which, in a doctor's medical judgment, the use of this procedure may be necessary to save a woman's life or to protect her against serious injury to her health.''

The former Surgeon General of the United States, Dr. C. Everett Koop—a man who President Clinton singled out for praise on August 23 as someone trying ''to bring some sanity into the health policy of this country''—has said that ''partial-birth abortion is never medically necessary to protect a mother's health or future fertility.'' Let me say that again: it is never necessary.

That is consistent with testimony that the Judiciary Committee received from other medical experts last fall. Dr. Nancy Romer, a practicing OB-GYN from Ohio, testified that in her 13 years of experience, she has never felt compelled to recommend this procedure to save a woman's life. ''In fact,'' she said, ''if a woman has a serious, life threatening, medical condition this procedure has a significant disadvantage in that it takes 3 days.''

Dr. Pamela Smith asked during her testimony before the Committee:

> Why would a procedure that is considered to impose a significant risk to maternal health when it is used to deliver a baby alive, suddenly become the ''safe method of choice'' when the goal is to kill the baby? And if abortion providers wanted to demonstrate that somehow this procedure would be safe in later-pregnancy abortions, even though its use has routinely been discouraged in modern obstetrics, why didn't they go before institutional review boards, obtain consent to perform what amounts to human experimentation, and conduct adequately controlled, appropriately supervised studies that would insure accurate, informed consent of patients and the production of valid scientific information for the medical community?

Even Dr. Warren Hern, the author of the Nation's most widely used textbook on abortion standards and procedures, is quoted in the November 20, 1995 edition of American Medical News as saying that he would ''dispute any statement that this is the safest procedure to use.'' He called it ''potentially dangerous'' to a woman to turn a fetus to a breech position, as occurs during a partial-birth abortion.

Defending the indefensible is an understandably difficult task for President Clinton and other defenders of this procedure. What decent person does not get a shiver up the spine upon hearing a description of a partial-birth abortion, a procedure that was characterized by a member of the American Medical Association's legislative council as ''basically repulsive'' and ''not a recognized medical technique.'' I suspect that was why the council went on to vote unanimously to endorse the partial-birth abortion ban just over a year ago.

It is because the procedure is so difficult to defend that some have tried to suggest that it is used only in cases that threaten a mother's life or health. Let me note, then, the words of Dr. Martin Haskell, who authored a paper on the subject for the National Abortion Federation. In an interview with American Medical News, Dr. Haskell said, ''in my particular case, probably 20 percent (of the instances of this procedure) are for genetic reasons. And the other 80 percent are purely elective.'' Eighty percent are elective—not medically necessary—but elective.

Another doctor, Dr. James McMahon, who performed at least 2,000 of these procedures, told American Medical News that he used the method to perform elective abortions up to 26 weeks and non-elective abortions up to 40 weeks. His definition of ''non-elective'' was expansive, including ''depression'' as a maternal indication for the procedure. More than half of the partial-birth abortions he performed were on healthy babies.

And what did the Record of Bergen County, NJ, find when it published an investigative report on the issue just last week? It reported that in New Jersey alone, at least 1,500 partial-birth abortions are performed each year, far more than the 450 to 500 such abortions that the National Abortion Federation claims occur across the entire country.

According to the Record, doctors it interviewed said that only a ''minuscule amount'' of these abortions are performed for medical reasons.

The medical experts tell us that this procedure is neither necessary nor safe. It is not done out of medical necessity, but largely for elective reasons. That is why so many people around this country are opposed to this procedure, and why even its most ardent defenders are uncomfortable discussing it.

In his recent book, Judge Robert Bork wrote about the squandering of our common cultural inheritance in the name of radical individualism. What could be more radical than suggesting that individuals can interrupt the birth process and suction the brains out of a healthy viable child, all in the name of free choice? Does not sanctioning the death of a child for no reason other than convenience denigrate the idea that there is inherrent value in every person?

Judge Bork wrote that ''security has become a religion.'' ''We demand it not only from government,'' he said, ''but from schools and employers. We demand to be protected, he goes on to say, ''not only from major catastrophe but from minor inconvenience.''

There are striking parallels here with the procedure we are discussing. In its report on partial-birth abortion, the New Jersey RECORD found that the procedure was performed mostly on people ''who didn't realize, or didn't care, how far along they were.'' Is choice, free of consequence or responsibility, truly free? Or are we simply putting government more in charge of our choice and freedom by protecting us from the consequences of our own actions?

It seems to me that people of good faith can debate when, during a pregnancy, life begins—whether it is at conception, at the end of the first trimester, or at some other point. But I think it is very difficult to make the case that life has not begun once a pregnancy is well along when a baby can be delivered either to be saved and live, or just before completely born to be brutally killed. If a doctor performing a partial-birth abortion happened to allow the child to completely clear the mother's body, it would have the same protections under our Constitution that any other human being would have. The difference between life and death here is literally a matter of inches. The hands and feet are in this world and are living and moving. The chest is visibly breathing. Only the head remains in the birth canal; and it is dismembered in this procedure.

Madam President, President Clinton has taken the position that abortion is justified for any reason, under any circumstance, no matter how far along the pregnancy. I intend to vote to override the veto. I encourage my colleagues to do the same, and put an end to this cruel and barbaric procedure.

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

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mrs. BOXER. May I ask the Senator how much time he would like to have?

Mr. FEINGOLD. I ask the Senator from California to yield me up to 10 minutes.

Mrs. BOXER. The Senator is yielded 10 minutes, immediately followed by, if it is all right with my colleague, Senator ROBB for 15 minutes.

The PRESIDING OFFICER. Is there any objection?

Mrs. BOXER. I would amend that. Senator COVERDELL would like 2 minutes in between the two speakers on my side.

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

The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, this is a difficult issue for everyone concerned. No one likes abortions, whatever procedure is used.

It is a difficult subject to discuss, perhaps most difficult for those who have had abortions or have had to face the choice of an abortion.

Madam President, I will vote to sustain the President's veto because I believe, fundamentally, that the decision about whether to choose an abortion should remain a personal, private decision by the woman involved, and the decision about what procedure is necessary to protect the health and life of a woman is one that should be made between the woman and her physician, not by the Federal Government.

Before I briefly address the specifics of this bill, I wish to take a moment to pay tribute to the Senator from California [Mrs. BOXER], who has been such a courageous leader on this issue, as have a number of other Members of the Senate.

I also praise the Senator from Washington [Mrs. MURRAY], who this morning expressed her outrage at the tenor of this debate where individual Senators talked about the joy of being in the delivery room with their wives, as if that gave them the authority to dictate to the women of this country what options should be available to them in a time of distress and urgency. I share that concern.

For that reason, I come to the floor this afternoon to take a little time to underscore why this legislation is wrong and why President Clinton was courageous and correct in his decision to veto it.

Madam President, let me say again, no one likes abortion. No one wants to talk about abortion or the procedure. We ought to clearly understand what the effort behind this legislation is. It is to ban abortions entirely, not just this one particular procedure. I know this firsthand from the Judiciary hearings on this bill where I had a chance to ask one of the proponents what the position of her organization was on a variety of other abortion procedures.

The response I received was very clear. The witness admitted that their goal was to outlaw and criminalize every single kind of procedure. That is why the underlying push behind this legislation is clear. It is not, and I repeat not, to ban just one form of abortion. It is to outlaw all forms of abortion, from taking a pill such as RU–486 within the first several weeks after conception to this rarely used procedure, the late-term abortion.

If proponents of this legislation wanted to ban only this form of abortion, they could have done so by accepting the amendment of the Senator from California which would allow a physician to use this technique only if necessary to protect the life of a woman or to avoid serious adverse health consequences to the woman.

The President said in his veto message that he was vetoing the bill because it ''does not allow women to protect themselves from serious threats to their health'' and because it refuses ''to permit women, in reliance on their doctor's best medical judgement, to use this procedure when their lives are threatened or when their health is put in serious jeopardy.''

The amendment offered by my friend from California, Senator BOXER, would actually impose an even stronger standard than contained in Roe versus Wade, which speaks only to the health of a woman. The Boxer amendment would have allowed this procedure to be banned unless it was necessary to avoid a serious adverse health consequence to the woman.

If the proponents of this legislation would accept that amendment, this bill could be passed and sent to the President, as the Senator from California has said, within hours, and he would sign it into law.

The fact that the proponents of this legislation refuse to accept an amendment to allow a physician to use this procedure if necessary to avoid a serious adverse health consequence reveals what this debate is really about: it is about scoring political points, confusing the public, and beginning a process aimed at outlawing all forms of abortion.

I want to respond briefly to the claims made that this procedure is never medically necessary.

I attended the Judiciary Committee hearings and what I heard was that different physicians have different opinions about whether this procedure is more or less safe for a woman than other procedures, whether the procedure may be necessary in a particular situation to protect a woman's future ability to bear children, and precisely what the procedure is that would be banned under this legislation.

So, what I heard was a professional disagreement among members of the medical community on the efficacy and risks associated with various abortion procedures.

Each side of this debate can quote from the medical expert they prefer as to the safety or necessity of the particular procedure. That medical professionals have different opinions on these issues is both understandable and expected.

But that, Mr. President, is precisely why trained physicians and their patients, not Members of Congress, should make the decisions about what course of treatment is appropriate in an individual situation.

Without going through a detailed description of the different opinions, some physicians told the committee that there were a number of situations where alternative abortion procedures had a higher risk to the woman.

For example, testimony was presented indicating that a woman was 14 times as likely to die from a cesarean hysterotomy than from a D&E procedure.

There was also testimony about certain alternative procedures that can cause a traumatic stretching of the cervix that increases a woman's chances for infertility in the future. Others disagreed.

Again, what this debate told me is that there is room for disagreement between physicians about specific medical procedures.

It should not be the role of Congress to decide or determine which side of this debate is right or wrong. These are medical questions that ought to be decided by medical professionals, not Members of Congress.

One woman who had made the difficult choice of choosing this procedure when a much wanted pregnancy had turned into a tragedy told our committee, as follows:

> It deeply saddens me that you are making a decision having never walked in our shoes. When families like ours are given this kind of tragic news, the last people we want to seek advice from are politicians. We talk to our doctors, lots of doctors. We talk to our families and other loved ones, and we ponder long and hard into the night with God.

We ought to listen to those words. These decisions are private, personal, painful decisions to be made by the families involved, guided by their physicians.

Congress ought to leave these decisions with the people involved.

To tell a woman and her family that Congress will not allow her doctor to use a procedure which will allow her a greater chance to be able to have another pregnancy and bear a child in the future is cruel and unconscionable.

To tell a woman and her family that Congress will not allow a physician to use this procedure if necessary to protect her from serious, adverse health consequences is just wrong.

Let me say one more time: If the aim of this legislation was simply to restrict the use of this particular procedure, they would have accepted the Boxer amendment.

But this is not the goal of the proponents of this bill.

The goal is to outlaw each and every abortion procedure, one by one. That is what is at stake. The President's veto should be sustained.

Mr. SANTORUM. Will the Senator from Wisconsin yield for a question?

Mr. FEINGOLD. I will.

Mr. SANTORUM. The Senator from Wisconsin says that this decision

should be left up to the mother and doctor, as if there is absolutely no limit that can be placed on what decision they make with respect to that.

The Senator from California is going to go up to advise you of what my question is going to be, and I will ask it anyway. My question is this: If that baby were delivered breech style and the head—everything was delivered except for the head, and for some reason that that baby's head would slip out so that the baby was completely delivered, would it then still be up to the doctor and the mother to decide whether to kill that baby?

Mr. FEINGOLD. I would simply answer the question by saying under the Boxer amendment the standard of saying it has to be a determination, by a doctor, of health of the mother, is a sufficient standard that would apply to the situation covered by this bill. That would be an adequate standard.

Mr. SANTORUM. That doesn't answer the question. Let's assume the procedure is being performed for the reason you stated.

The PRESIDING OFFICER. The Senator from Wisconsin has the floor.

Mr. SANTORUM. Would you allow the doctor to kill the baby?

Mr. FEINGOLD. That's not the question. What this bill is about is a question that should be answered by a doctor and the woman who receives the advice of the doctor. Neither I nor is the Senator from Pennsylvania is truly competent to answer those questions. That is why we should not be making those decisions here on the floor of the Senate.

The PRESIDING OFFICER. The 10 minutes of the Senator has expired.

The Senator from Georgia is recognized.

Mr. COVERDELL. Madam President, the Senator from Wisconsin has asserted that proponents of this legislation are simply trying to ban every form of abortion. I rise as a classic example of that not being the case. I support Georgia law, which grants broad latitude in the first trimester, subject to changes in conditions as we go on through, and I supported that law.

I find this medical procedure repugnant almost to the point of unbelievable—I cannot even believe we are debating whether it should occur, here.

However, after learning about it, I did call a prominent doctor in my State, familiar with this aspect of medicine, and asked her. I gave her my instinct, but I said, ''Give me your professional judgment.'' I will report that for the debate before the Senate. She says:

> It is never necessary to do a partial-birth abortion of a live fetus. In the extremely rare case of a severe fetal abnormality which mechanically precludes normal vaginal delivery, the partial-birth method is justifiable but certainly not necessary, as C-section can be employed. Even when the life of the mother is endangered, the partial-birth method should not be used—

This is an exception, incidentally, to the partial-birth abortion ban—life of the mother.

> Because, if the mother's life is in danger you would want to deliver the baby as soon as possible. It does not make sense to use the more time consuming partial-birth abortion procedure when you can use a C-section to remove the infant quickly.

The PRESIDING OFFICER. The 2 minutes of the Senator has expired.

Mr. COVERDELL. I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 15 minutes.

Mr. ROBB. Madam President, I will yield to the Senator from California for 1 minute.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I thank my friend for coming over to participate in this debate. I am looking forward to his remarks. I know he has given extensive thought to this.

I thank my friend, Senator FEINGOLD, for coming over to participate in this debate. We sent this issue to the Judiciary Committee, where he sat and listened intently to all of the testimony.

It is important to note that I made a unanimous-consent request—I will do so again—to ban this procedure except where the woman's life is at stake or if she faces serious adverse health consequences. The Senator from Pennsylvania said no.

We could walk down the aisle together, ban this procedure but for those circumstances. But I think what is behind all this is not the life of a woman, a woman like Vikki Stella, who could have been rendered sterile and not been able to have her latest little child, Nicholas, if this procedure was not available to her. We are putting a woman's face, a family's face on this issue.

We have drawings of parts of a woman's body that we have seen here before in the debate. We may see it again. Some of us find it offensive. We want to show the faces of the families who are in these very difficult situations. I thank my friend for partaking in this debate.

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

The Senator from Virginia.

Mr. ROBB. Mr. President, the argument I'm about to make is not directed toward those who consistently vote what they believe to be the pro-life position on issues affecting reproductive rights. This is an easy vote for them—even though it might not be if they focused on the implications of the actual bill language rather than the emotions it has stirred. Instead, my argument is directed to those who had the courage to oppose this legislation originally, but have since been subjected to enormous pressure to change their vote and override the President's veto.

I know how tough this vote is for pro-choice Senators and I can't promise anyone there won't be a political price to pay. This issue was designed from the start to fracture the pro-choice coalition and undermine support for a woman's right to reproductive freedom. To that end, this veto override attempt was deliberately delayed until today for maximum voter impact before the election. But I urge you not to succumb. Our Forefathers envisioned a Senate with enough backbone to withstand the passions of the moment—and of the other body—and on this vote we're being put to the test.

Mr. President, let's be clear as to what this attempt to override the President's veto of the so-called partial birth abortion ban is all about—and what it's not about. It's not about whether to have an abortion. It's not about when to have an abortion. It's only about how to have an abortion—and whether the Government ought to intervene and restrict a physician's professional judgment.

As noted in yesterday's Philadelphia Inquirer, one critic of the bill, Georgetown University law professor Louis Michael Seidman, told the Senate Judiciary Committee last fall that the proposed law ''does nothing to discourage abortion per se. It does nothing to protect the rights of fetuses, nothing to protect potential life, and nothing to protect actual life.'' As long as there are other legal methods to obtain an abortion, Dr. Seidman says that the bill's only effect is to force women ''to choose a more risky abortion procedure over a less risky one.''

Even proponents ought to be troubled by the fact that nothing in this bill would prevent a woman from having an abortion. It wouldn't even prevent a woman from having a third trimester abortion. All it would do is prevent a doctor from using a procedure that might be necessary to protect the woman's health or future reproductive capacity. And I don't believe the Government ought to intervene in that decision, Mr. President. To me, decisions on how best to protect a woman's health are better left to physicians.

And while I strongly oppose third trimester abortions except to protect the life or health of the mother, this bill would make no exceptions for the health of the mother. In fact, the bill's proponents defeated an amendment to grant an exception to protect the health of the mother, claiming it would gut the bill. They did it knowing it would have made the bill acceptable to many more Members of this body—and to the President—therefore eliminating the bill's potency as a political issue. Pulitzer Prize winning author David Garrow made this point in yesterday's' Philadelphia Enquirer when he wrote: ''How could adding a 'serious health risks' exception 'gut' a measure intended to curtail supposedly 'elective' or unnecessary procedures?''

Mr. President, I have always been pro-choice, but I have never been pro-abortion. As far as I'm concerned, abortions ought to be safe, legal, and rare. While this bill wouldn't make late term abortions more rare—in fact, there's no evidence they constitute more than an infinitesimal percentage of abortions actually performed in the

United States—it could make them significantly less safe.

Mr. President, I respect the convictions of those who believe we ought to choose life over abortion, and I applaud those who remind us, lawfully and peacefully, of the consequences of our choice. And like the vast majority of our fellow citizens I find the graphics used to depict the procedure in question repulsive. But I doubt that many of us would find an explicit portrayal of any procedure to terminate a pregnancy any less disturbing.

I was not comfortable voting against this bill originally, because I don't want to encourage abortions at any stage of a pregnancy and I'd like to eliminate them altogether in the third trimester—except when the life or health of the mother is threatened. But this bill wouldn't prohibit a single abortion from taking place, even in the third trimester. It would only increase the risks for women who already have difficult and sometimes tragic circumstances to deal with—and I believe that when faced with those circumstances, the woman and not the Government should decide. On this bill, the President made a gutsy call, but he made the right call and I hope at least 34 of us have the courage to stick with him and uphold his veto.

With that, Madam President, I yield whatever time I have remaining back to the Senator from California.

Mrs. BOXER. Thank you.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. How much time is left in Senator ROBB's time?

The PRESIDING OFFICER. The Senator has 30 minutes, 30 seconds.

Mrs. BOXER. In Senator ROBB's 15 minutes, how much time is remaining?

The PRESIDING OFFICER. Eight minutes.

Mrs. BOXER. Madam President, I shall not take the 8 minutes. But before the Senator from West Virginia leaves, I want to thank him. I applaud him for his real courage, for him coming to this floor and saying the real truth, which is this: There is no reason that we are taking this bill up today in the last week of the session, or the last few days of the session, other than for strictly political reasons.

There is no reason why this Congress sat on this issue for 5 long months. If we had sat down and worked it out and the amendment which I offered, which got 47 votes in our last debate, could be worked on, we could have a bill, as my friend said, that we could all vote for, that would outlaw this procedure except where the woman's life is at stake or she faced serious adverse health consequences. The Senator would join me in that bill. The President would sign that bill.

I just want to say to my friend, it takes courage to come here and speak the truth. You have done so, and I thank you very much.

Further, I would like to say, again, that the President, before he wrote his veto message, thought long and hard about it. This is a President who will sign a law that outlaws late-term abortion except for cases where the life and health of the mother are endangered. This is a President who wants to sign a bill that would, in fact, outlaw this procedure except for those rare, tragic circumstances, circumstances like the one of Vikki Stella.

I want to point out, as we put the woman's face on this issue and we put the family face on this issue, Madam President—and I know you are aware of the face that we tried to put on this issue—we find out that these women and their families are not political people. For them it is not a partisan issue. Some are Republican, some are Democrat, some are pro-choice, some are anti-choice, some really never thought about it much.

They are American families. They want their babies. They find out in the end something went drastically wrong, and the shock and the pain and the horror of that seems to be overlooked by those who would look at this woman and say to her, say to her husband and say to her children, ''You know, it really doesn't matter about you. It doesn't matter about you.'' I do not understand how those holding that position can really look at this woman, in her eyes, and tell her that she did the wrong thing to follow her doctor's advice, to follow her God, to discuss it with her family, to preserve her life, her fertility, her health. I do not know how Senators could do it.

So now what we have here is, every time one of these stories is told, a Senator stands up and says, ''Oh, but not her. We didn't mean her. She didn't have that procedure.'' Then we have the letters from the women saying, ''Wrong, Senator. You don't know everything. I did have this procedure. I know the procedure I had.''

To me, Madam President, it is a portrayal—I do not know how else to put it—of arrogance. If I put the best light on it, I will call it well-meaning, but even that I wonder about, because why wait until the last week to make this point?

I share the feelings of Senator PATTY MURRAY, and I urge my colleagues, if they did not hear her, to talk to her, because I honestly feel that there is a certain arrogance in this debate, arrogance on the part of Senators who think they know more than doctors, arrogance on the part of Senators who think they know more than Vikki Stella and her husband and her kids.

We even had one case of a woman who consulted with her priest on the issue of what she and her husband should do. Her parish priest supported her decision to terminate the pregnancy. The priest told her to follow the advice of her physician, so she could live for her family and for her children.

So I just cannot understand how colleagues feel that they can outlaw a procedure, make no true life exception, as the New York Times said today, so narrow it could never be used, make absolutely no health exception, and think they are doing something to help life. It is not helping life if a woman like this dies in the prime of her life. These pregnancies are fatally flawed. They are dangerous to the women. If these babies were to survive, we know from testimony they would live moments, maybe seconds in agony.

So I think, my colleagues, as we come down to this vote and all its implications, we need to decide what is the role of a U.S. Senator? Is it to be a doctor? Is it to be God? What is it to be? I think there are certain things that are best left to these families in their anguish, to these doctors who know the facts. I hope and I do believe we will have enough colleagues to stand for these women and for their families.

Madam President, I ask unanimous consent that following the next Republican speaker, Senator LIEBERMAN be recognized to speak.

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

Mrs. BOXER. I yield the floor.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Madam President, I ask unanimous consent to have printed in the RECORD a letter from Dr. Pamela Smith describing Ms. Stella's condition as she knows it, and suggesting that this procedure was not appropriate for her to go through, that there was a safer medical procedure, and also to have printed in the RECORD a copy of ''Williams Obstetrics'' which is the authority on obstetrics, also describing what is medically recommended in cases where Mrs. Stella had her procedure. There were alternatives, safe alternatives, safer alternatives for her to go through.

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

PHYSICIANS' AD HOC
COALITION FOR TRUTH,
Alexandria, VA, September 23, 1996.

DEAR SENATOR SANTORUM: My name is Dr. Pamela E. Smith. I am founding member of PHACT (Physicians' Ad hoc Coalition for Truth). This coalition of over three hundred medical providers nationwide (which is open to everyone, irrespective of their political stance on abortion) was specifically formed to educate the public, as well as those involved in government, in regards to disseminating medical facts as they relate to the Partial-Birth Abortion procedure.

In this regard, it has come to my attention that an individual (Ms. Vicki Stella, a diabetic) who underwent this procedure, who is not medically trained, has appeared on television and in Roll Call proclaiming that it was necessary for her to have this particular form of abortion to enable her to bear children in the future. In response to these claims I would invite you to note the following:

1. Although Ms. Stella proclaims this procedure was the only thing that could be done to preserve her fertility, the fact of the matter is that the standard of care that is used by medical personnel to terminate a pregnancy in its later stages does not include

partial-birth abortion. Cesarean section, inducing labor with pitocin or protoglandins, or (if the baby has excess fluid in the head as I believe was the case with Ms. Stella) draining the fluid from the baby's head to allow a normal delivery are all techniques taught and used by obstetrical providers throughout this country. These are techniques for which we have safety statistics in regards to their impact on the health of both the woman and the child. In contrast, there are no safety statistics on partial-birth abortion, no reference of this technique in the national library of medicine database, and no long term studies published that prove it does not negatively affect a woman's capability of successfully carrying a pregnancy to term in the future. Ms. Stella may have been told this procedure was necessary and safe, but she was sorely misinformed.

2. Diabetes is a chronic medical condition that tends to get worse over time and that predisposes individuals to infections that can be harder to treat. If Ms. Stella was advised to have an abortion most likely this was secondary to the fact that her child was diagnosed with conditions that were incompatible with life. The fact that Ms. Stella is a diabetic, coupled with the fact that diabetics are prone to infection and the partial-birth abortion procedure requires manipulating a normally contaminated vagina over a course of three days (a technique that invites infection) medically I would contend of all the abortion techniques currently available to her this was the worse one that could have been recommended for her. The others are quicker, cheaper and do not place a diabetic at such extreme risks for life-threatening infections.

3. Partial-birth abortion is, in fact, a public health hazard in regards to women's health in that one employs techniques that have been demonstrated in the scientific literature to place women at increased risks for uterine rupture, infection, hemorrhage, inability to carry pregnancies to term in the future and maternal death. Such risks have even been acknowledged by abortion providers such as Dr. Warren Hern.

4. Dr. C. Everett Koop, the former Surgeon General, recently stated in the AMA News that he believes that people, including the President, have been misled as to ''fact and fiction'' in regards to third trimester pregnancy terminations. He said, and I quote, ''in no way can I twist my mind to see that the late term abortion described . . . is a medically necessity for the mother . . . I am opposed to partial-birth abortions.'' He later went on to describe a baby that he operated on who had some of the anomalies that babies of women who had partial-birth abortions had. His particular patient, however, went on to become the head nurse in his intensive care unit years later!

I realize that abortion continues to be an extremely divisive issue in our society. However, when considering public policy on such a matter that indeed has medical dimensions, it is of the utmost importance that decisions are based on facts as well as emotions and feelings. Banning this dangerous technique will not infringe on a woman's ability to obtain an abortion in the early stage of pregnancy or if a pregnancy truly needs to be ended to preserve the life or health of the mother. What a ban will do is insure that women will not have their lives jeopardized when they seek an abortion procedure.

Thank you for your time a consideration.

Sincerely,

PAMELA SMITH, M.D.,
Department of Obstetrics and Gynecology, Mt. Sinai Medical Center, Chicago, IL.

EXCERPT FROM WILLIAMS OBSTETRICS, 19TH EDITION

Method of Delivery. In the diabetic woman with an A or B White classification, cesarean section has commonly been used to avoid traumatic delivery of a large infant at or near term. In women with advanced classes of diabetes, especially those associated with vascular disease, the reduced likelihood of inducing labor safety, remote from term also has contributed appreciably to an increased cesarean delivery rate. Labor induction may be attempted when the fetus is not excessively large, and the cervix is considered favorable for induction. In the reports cited above with low perinatal mortality, the cesarean section rate was more than 50 percent in Melbourne (Martin and colleagues, 1987), 55 percent in Los Angeles (Gabbe and colleagues, 1977), 69 percent in Boston (Kitzmiller and associates, 1978), 70 percent in a midwestern multicenter study (Schneider and co-workers, 1980), and 81 percent in Dallas (Leveno and associates, 1979). At Parkland Hospital, the cesarean delivery rate for all diabetic women, including class A, was 45 percent from 1988 through 1991, but for overtly diabetic women, it has remained at about 80 percent for the past 20 years.

Mr. SANTORUM. Madam President, I also ask unanimous consent to have printed in the RECORD a letter from Bill and Teresa Heineman who had children who had severe abnormalities, fetal abnormalities, went through and had the children with abnormalities similar to the ones discussed here, and did so healthily and able to have children afterward.

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

WILLIAM J. & TERESA M. HEINEMAN,
Rockville, MD.

We have noted with concern statements made by several couples suggesting, from their very personal and very tragic experiences, that the partial birth abortion is the only procedure available to a woman when the child she is carrying is diagnosed with a severe abnormality.

We have had experiences that were very similar and yet so very different. We have had three children biologically and have adopted three more. Two of our children were born with a genetic abnormality—5-p Trisomy. One also had hydrocephalus. The medical prognosis for these children was that they would have at best a short life with minimal development. Some medical professionals recommended abortion; others were ready to help support their lives. We chose life. That decision carried some hardships. However, God blessed us immeasurably through their short lives.

Our first child, Elizabeth, was diagnosed after her birth. We were deeply saddened but desired to give her the best life we could. Though she never could say a word and could not sit up on her own, she clearly knew us. She learned to smile, laugh, and clap her hands. She was a joy to us for two and one half years. We clearly saw how many lives she had touched with over 200 people attended her Memorial Mass! One child was touched in a very personal way when he received Elizabeth's donated liver. Two others received sight through her eyes.

Our third child, Mary Ann, had been diagnosed with hydrocephalus in utero and shortly after birth with the same genetic abnormality that our oldest daughter had. (We could have known this during pregnancy via amniocentesis, but refused the procedure due to the risk to the baby). Terry's obstetrician said that we were fortunate, though, that Mary Ann would have the chance to go home with us. We learned to feed her through a gavage tube as she was unable to suck to receive nourishment. Our son, Andrew, developed a special bond with his sister. We spend the next five months as a family, learning, growing and caring for our children. When our precious daughter died, we celebrated her life at a Memorial Mass with family and friends.

Our belief in Jesus Christ and His gift of salvation provided comfort for us as our daughters entered their new home in heaven. They remain a part of our family and are always in our hearts. They enriched our lives and touched the lives of many others. Our Creator sent these children to us and we were privileged to love and care for them. What a tremendous loss to all of us who know them to terminate their lives because they were not physically perfect. We look forward to a joyous reunion with them in heaven.

It is so easy to see the half of the glass that is empty when we face difficult problems; will we have the courage to allow our children to have the half of the glass that is full? We pray for other mothers and fathers who are faced with agonizing decisions that they will remain open to the gift being entrusted to them. God's love is ever-present during our times of joy and sadness. He is with us now as well are parents to Andrew, now nine years old, and three children: Maria, Christina, and Joseph; ages 11, 9 and 7, who joined our family through adoption.

Mr. SANTORUM. I yield to the Senator from Michigan 3 minutes.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. I thank the Senator from Pennsylvania.

I had hoped there would be a little more time today for me to address the Senate on this issue, but we have so many speakers we are all going to have to condense our remarks. I thought I would just highlight more of a personal experience of my own and my family's trying to put this in perspective and at least outline where my views are on this issue.

I have sort of an interesting distinction in that of all of the Members of this body, I am the parent with the youngest child as of this moment, a 3-week-old son who, of course, we are very excited about and love very much. He was born 3 weeks ago today. I was there for the delivery. While it was happening, my wife and I both thought a lot about the birth of our twin daughters who were born 3 years and 3 months ago.

They were born prematurely. They had to stay in a hospital for several weeks in a neonatal intensive care unit. We experienced firsthand the kinds of miracles that go on today all across this country with the births, at very early stages, of babies who survive. In that neonatal unit there were children who were born weeks and weeks, including months, early and had been born with birth weights slightly over a pound who were in the hospital for many months who survived.

The fact is, those were babies exactly like the babies who, in a partial-birth abortion, do not survive. We, I think, came away from that experience even more committed than ever before, both

my wife and I, to the notion that we cannot allow practices like the partial-birth abortion to occur in this country. It is a deplorable, deplorable practice. It seems to me that we have to take a stand as a matter of our moral faith and beliefs as a nation in opposition to it.

I have heard a lot of talk from people on all sides of this issue, none of which persuaded me in any sense that I should change the vote I cast some months ago.

I also say this in conclusion. For a lot of people who say they believe in the pro-choice side of this debate but also are not pro-abortion, I believe they are sincere in that feeling. But I also hear them say so often they want to make abortion rare. I cannot believe that if that is the case, if you truly want to make abortion rare, that you would stand in the way of this legislation. If you truly believe that there should be fewer abortions, it seems to me you begin with the ones that are the most deplorable and the least justifiable. Certainly partial-birth abortion is the exact definition of that category.

I hope our colleagues will join us today in overriding this veto. I thank you very much. I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, before I yield to Senator LIEBERMAN, I ask for one moment, 1 minute.

The Senator from Pennsylvania placed in the RECORD an analysis of a doctor's opinion on Vikki Stella's procedure. I really take offense at this. That doctor has never seen Vikki Stella's medical records. Vikki Stella never granted permission for her medical records to be seen by anyone other than her family and her physician.

Mr. DEWINE. Will the Senator yield?

Mr. SANTORUM. Yet you are to base your decision on this? You can't have it both ways. You can't argue with any——

Mrs. BOXER. I will not yield.

The PRESIDING OFFICER. The Senator from California has the floor.

Mrs. BOXER. Thank you, Madam President.

Not one of these women who have courageously come forward to tell her story——

Mr. SANTORUM. Is a doctor.

Mrs. BOXER. To my knowledge, not one of these women who has come forward to tell her story has shared her medical records detailing one of the greatest tragedies that her family has ever faced with anyone other than her family, her God, and her own personal physician. I believe that to place in the RECORD testimony of a physician who never saw those records, which implies in many ways that these women are not telling the truth about——

Mr. DEWINE. Will the Senator yield for a question?

Mrs. BOXER. No. I will not yield at this time.

Madam President, we have been debating this for a very long time. I think we have kept our emotions under control. I can personally tell you that there are emotions on both sides. I hope that we can respect each other. We have had hours of debate. We agreed to have hours of debate.

There were days when my colleagues were down here presenting what they said was my position, and that was not proper. I did not complain, I only asked them to stop it. I would like to make a point and then turn to my colleague from Connecticut.

My point is this, the women who have come forward from all over this great Nation of ours to tell their stories are reliving the most painful moments of their lives. To place into the RECORD medical opinions of doctors who never saw the women's medical records, I happen to think is absolutely wrong. It is one Senator's opinion and I just wanted to so state it.

The important thing, it seems to me, is this: All of us today could have a bill, we could have a bill, if we had a true life exception and a narrowly drawn health exception. We could pass a bill, we could send it to this President, who signed a law in Arkansas to outlaw late-term abortions with an exception only for endangerment to the life or health of the woman. We could do this together. I hope we would refrain from casting aspersions on the character and the truthfulness and the integrity of American families like this.

I yield to my colleague and I appreciate his forbearing.

Mr. LIEBERMAN. I thank my friend and colleague from California.

Madam President, the bill which is the subject of the Presidential veto that is before the Senate is limited to a particular medical procedure, but for me, and I guess for many other Members of the Senate, it raises once again the most difficult issues in the debate over abortion.

The opponents of this medical procedure have raised facts that all of us, whether generally pro-life or generally pro-choice, must acknowledge as relevant and troubling.

In protecting a woman's right to choose, a constitutionally protected woman's right to choose, we are for the most part presenting the right to have an abortion early in pregnancy. The fact is that over 90 percent of abortions are performed by the end of the first 12 weeks of pregnancy. A small portion of abortions, estimated by at least one authority as less than one-half of 1 percent, occur after 26 weeks of gestation.

This debate on this veto of this bill, H.R. 1833, involves an abortion procedure that is used later in pregnancies. Questions that are settled for the bulk of early-performed abortions, to me, are less clear for this small minority of later abortions.

In particular, I must say since the Senate adopted this legislation earlier, I have been reading a number of commentaries, studies, and articles, particularly one very long and thoughtful article by David Brown, of the Washington Post, who, I gather, is a doctor. Together, they call into question such basic facts as the number, timing, and motivations for abortions performed using this procedure.

The controversy over this matter has, of course, not been confined to the press. Like most of my colleagues in the Chamber, I have heard from many—including many constituents—who have said to me that partial-birth abortions are only performed in very rare situations where a woman's life is in danger. Others have said literally thousands of late-term partial-birth abortions are performed on a purely elective basis without medical necessity. The medical community itself has expressed conflicting opinions about the quantity, safety, and efficacy of this particular abortion procedure.

Madam President, these conflicting opinions and questions are crucial to our determination of whether and how we should legislate regarding late-term abortions. I, for one, believe, the record before the Senate raises sufficient concerns to compel not only further study but another attempt to legislate. I know that this effort will not be easy because it raises the various difficult questions of whether there are any limitations that we believe should be put on late-term abortions.

In Doe versus Bolton, which was decided together with Roe versus Wade, the Supreme Court acknowledged the right of the States to ''readjust its views and emphases in the light of the advanced knowledge and techniques of the day.'' These two historic Supreme Court decisions, Doe versus Bolton and Roe versus Wade, together, effectively prevented the States from limiting a woman's right to choose before fetal viability, but as I read them, permitted State intervention after viability.

The question, then, is whether and how we as lawmakers and our colleagues in State legislatures choose to intervene. Procedures that involve abortions, late into pregnancy, put our concern with the health and freedom of choice of the mother in conflict with the viability of the fetus which advances in medical science continue to move earlier in pregnancy.

Madam President, the evidence that some partial-birth abortions are being performed not only late in pregnancy but electively—which is to say, without medical necessity, let alone without life-threatening circumstances to the mother—make a hard case ultimately and profoundly unacceptable.

In the context of these very difficult questions that demand careful balancing and the most thoughtful and well-defined legislating, I continue to find the wording of the bill before the Senate much too broad, particularly since it imposes criminal penalties. It would subject doctors to jail for medical decisions they make. It would criminalize abortions performed using

this medical procedure at any time in a pregnancy under all circumstances except, ''When a partial-birth abortion * * * is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury.''

Madam President, I repeat, I find that language too broad and too absolute to justify criminal penalties in the very difficult and complicated circumstances that reality provides in this case.

I will therefore vote to sustain the President's veto of H.R. 1833, the Partial-Birth Abortion Act of 1995.

However, I will do so with a growing personal anxiety that I know I share with Members of the Senate that something very wrong is happening in our country, that there are abortions being performed later in pregnancies that are not medically necessary, and that we all have an interest in working together, through the law, to stop this.

Whether we are pro-choice or pro-life, on this one I think we have to all reach for a common ground in the weeks and months ahead where we will lower our voices, find our common values and raise our sights so that we can find a way to better protect fetal life in the latter stages of pregnancy without unfairly denying the constitutional rights of pregnant women to choose.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mrs. BOXER. Madam President, I yield 2 minutes to the Senator from Illinois. And then, after that, I will ask the Senator from Pennsylvania to use up as much time as he would like.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. I thank the Senator from California. I rise really on a point of personal privileges. Vikki Stella, the person in this picture, is a constituent of mine. She is in Illinois. I spoke of her situation and the trauma that she experienced in having a late-term abortion of a child that she very much wanted to have and the trauma that it caused her. She, as well as her family, was traumatized. But the fact that she was able to preserve her fertility gave them a new baby in that family.

A point I touched on in my remarks this morning had to do with the issue of personal liberty and, as a subset of that, one's personal privacy. Here we have Vikki Stella, who expressed her own personal circumstance, something that happened in real life to her, something that wasn't theoretical, hypothetical, or conjecture, it was very real and traumatic for her and her family. Yet, we find, as part of this debate, her testimony and the privacy around her own health being debated by physicians who have never met her or saw her, never examined her, and her medical records being challenged on the floor of the U.S. Senate. I think that is extraordinary.

I, frankly, call attention to this notion. As we look at this debate, ask yourself if you really want to have the Government going as far as to a debate about your own personal medical records, in something as traumatic as, no doubt, this situation was for Vikki Stella and her family. If there is one thing about which we can have a consensus—and I refer to the statement of my colleague from Connecticut—I believe there is consensus that one's medical record and condition is about as private as you are going to get. That falls within the zone of privacy that is constitutionally protected for every American.

Yet, we have a letter introduced, as I understand it, into the RECORD today taking issue with the medical records and the medical history of Vikki Stella. I think that is extraordinary, and I think it falls outside of the purview of accepted practice and certainly outside the purview of the debate that should be taking place in this Senate.

I thank the Chair and I thank the Senator from California.

Mrs. BOXER. I thank my colleague.

Mr. SANTORUM. I yield the Senator from Idaho 2 minutes.

Mr. KEMPTHORNE. Madam President, a partial-birth abortion is exactly what its name implies—a baby that is inches from being born has its life terminated.

Many of the colleagues on the floor have said that in listening to the details of how the procedure is rendered, seeing the graphics, they find it offensive and grotesque. I agree, but, unfortunately, that is the procedure.

It is hard to recite these facts. I believe this statement made by Senator PATRICK MOYNIHAN perfectly reflects my own thinking:

> I think this is just too close to infanticide. A child has been born and it has exited the uterus, and what on Earth is this procedure?

''Just too close to infanticide.'' The truth is that a victim of this procedure is a baby who is mere inches, and literally seconds away from being born and, if born, would be entitled to all of the legal protections that govern the taking of human life.

What is this procedure and why would it ever be used? Proponents claim that it may be needed to protect the life and health of the mother. Proponents say that the bill's life-of-the-mother exception does not go far enough to protect the health of the mother. On this point I found persuasive the views of 300 physicians, most of whom are obstetricians, gynecologists, and pediatricians who wrote in their September 18 letter to Congress the following:

> There are simply no obstetrical situations which require a partially delivered human fetus to be destroyed to protect the life, health, or future fertility of the mother. The partial birth abortion procedure itself can pose both an immediate and significant risk to a woman's health.

It is also persuasive to me that those who are pro-choice and early supporters of partial birth abortions have now reversed their view. After reviewing additional facts made available, Washington Post Columnist Richard Cohen changed his mind and now urges the Senate to override the President's veto. Here is what he now says:

> I was led to believe that these late-term abortions were extremely rare and performed only when the life of the mother was in danger or the fetus irreparably deformed. I was wrong, my Washington Post colleague, David Brown—a physician himself—after interviewing doctors who performed late-term abortions and surveying the literature, wrote: ''These doctors say that while a significant number of their patients have late abortions for medical reasons, many others—perhaps the majority—do not.''

Richard Cohen concludes with this statement: ''Society has certain rights, too, and one of them is to insist that late term abortions—what seems pretty close to infanticide—are severely restricted.''

We vote on this issue because majorities of the House and Senate approved this legislation. President Clinton vetoed it. The House of Representatives voted to override the President's veto.

The Senate will decide today whether this bill becomes law. The Senate will decide if this procedure is ''just too close to infanticide'' and should be restricted.

Because it is ''just too close to infanticide'' I will vote to override this veto. I will vote to restrict partial birth abortions out of concern that this procedure may adversely affect the health of women and out of conviction that we must protect innocent infants whose births are and should be imminent. Not their deaths. Death should not come seconds before birth.

On many issues all of us in the Senate must vote on issues of where to draw the line, of what is legally and morally right or wrong. In this case, my view is this bill draws the line where it should be. My vote will be to override the President's veto. My prayer will be for this bill to become law.

Mr. SANTORUM. Madam President, I yield 2 minutes to the Senator from Missouri.

Mr. BOND. Madam President, I rise today to express my strong support for the override of President Bill Clinton's veto of the partial-birth abortion bill. Rarely have we seen a President so willing to ignore the wishes of the overwhelming majority of the American people. Having talked to and listened to the people of Missouri over the last few weeks, I can say that there is an overwhelming majority opposed to this heinous procedure.

The President has told us that the procedure is rare and only done to save the life of the mother. But that is not true. Surveys of practitioners of abortion in several States show that the procedure is often elective, not essential. Right in the bill is a provision that the procedure can be performed to save the life of the mother. So President Clinton cannot hide behind this reason in choosing to veto this bill.

Many reporters have asked me why we are holding a vote on this issue in

the Senate today when we are, unfortunately, likely to fall short of what is needed to override the veto.

Here is the reason: The American people are asking us to override the veto.

I have been home in Missouri these past weekends, and there is no issue I have heard more about where the feelings are strong. Since July, I have received more than 27,000 cards and letters from Missourians who are strongly opposed to this. So we are holding this vote because the President made a terrible mistake in vetoing this bill, and it is up to Congress, representing the people, to reverse it.

As has been stated, several Senators who have studied this issue since we first voted have already had a change of heart. The people want this bad decision by the President overturned. Now is the time to do it. It has to be done.

I yield the floor.

Mrs. FEINSTEIN. Mr. President, I oppose the override of the veto of H.R. 1833, a bill banning emergency late-term abortions.

This bill is unnecessary. It is an unprecedented intrusion by the Federal Government into medical decision-making and it represents a direct constitutional challenge to safe and legal abortion as protected under the Roe versus Wade Supreme Court decision which has been the law of the land for 23 years.

There are several reasons why this is a flawed bill.

First, this bill attempts to ban a specific medical procedure, called by opponents, partial-birth abortion, but there is no medical definition of ''partial-birth abortion.''

Second, the language in this bill is so vague that it could affect far more than the one particular procedure it seeks to ban. As such, it undermines Roe versus Wade.

Third, there is no exception to protect the health of the woman. This bill would be a blanket ban on the use of a type of medical procedure regardless of whether it is the safest procedure under a particular set of circumstances.

Fourth, this bill presumes guilt on the part of the doctor and forces physicians to prove that they did not violate the law.

Fifth, this bill is unnecessary Federal regulation, since 41 States have already outlawed postviability abortions except to save a woman's life or health.

Sixth, this is an ineffective bill because most cases not affected by it.

NO MEDICAL TERM FOR PARTIAL-BIRTH ABORTION; DOCTORS VULNERABLE TO PROSECUTION

H.R. 1833 seeks to outlaw a medical procedure called, by the bill, partial-birth abortion. This procedure does not appear in medical textbooks. It does not appear in the medical records of doctors who are said to have performed this procedure.

The doctors who testified before the Senate Judiciary Committee could not identify, with any degree of certainty or consistency, what medical procedure this legislation refers to.

For example, when asked to describe in medical terms what a ''partial-birth abortion'' is, Dr. Pamela Smith, director of ob/gyn medical education at Mt. Sinai Hospital in Chicago called it ''* * * a perversion of a breech extraction.''

Dr. Nancy Romer, a practicing ob/gyn and assistant professor at Wright State University School of Medicine, who said the doctors at her hospital had never performed the procedure, had to quote another doctor in describing it as ''a Dilation and Extraction, distinguished from dismemberment-type D&Es.''

When the same question was posed to legal experts in the Judiciary Committee hearings—to define exactly what medical procedure would be outlawed by this legislation—the responses were equally vague.

The vagueness of exactly what medical procedures would be criminalized under this bill is striking and it may be vague for very deliberate reasons.

By leaving the language vague every doctor that performs even a second trimester abortion could face the possibility of prosecution under this law.

Senator HATCH said in our previous debate that every woman testifying in the committee who thought they were testifying about a ''partial birth abortion,'' were not affected by this legislation.

This is evidence of the confusing and nonspecific nature of this so-called partial birth procedure.

THIS BILL COULD AFFECT OTHER LEGAL PROCEDURES

The language in this bill is so vague that, far from outlawing just one, particular abortion procedure, the way this bill is written virtually any abortion procedure could fall within its scope.

I asked the legal and medical experts who testified at the Judiciary Committee hearing if this legislation could affect abortion—not just late-term abortions—but earlier abortions of nonviable fetuses as well.

Dr. Louis Seidman, professor of law from Georgetown University, gave the following answer:

> As I read the language, in a second trimester pre-viability abortion where the fetus will in any event die, if any portion of the fetus enters the birth canal prior to the technical death of the fetus, then the physician is guilty of a crime and goes to prison for 2 years.

Dr. Seidman continued his testimony concluding that:

> If I were a lawyer advising a physician who performed abortions, I would tell him to stop because there is just no way to tell whether the procedure will eventuate in some portion of the fetus entering the birth canal before the fetus is technically dead, much less being able to demonstrate that after the fact.

Dr. Courtland Richardson, associate professor of gynecology and obstetrics at Johns Hopkins University School of Medicine, in testimony before a House committee, said,

> [the language] ''partially vaginally delivers'' is vague, not medically oriented, and just not correct.
>
> In any normal 2nd trimester abortion procedure by any method, you may have a point at which a part, a one inch piece of [umbilical] cord for example, of the fetus passes out of the cervical [opening] before fetal demise has occurred.

So, contrary to proponents' claims, this bill could affect far more than just the few abortions performed in the third trimester, and far more than just the one procedure being described.

PRESUMES GUILT; AFFIRMATIVE DEFENSE

Another troubling aspect of this legislation to me is that it violates a fundamental tenet of our legal system—the presumption of innocence. This bill does exactly the opposite—it presumes guilt.

This legislation provides what is known as affirmative defense—whereby an accused physician could escape liability only by proving that he or she ''reasonably believed'' that the banned procedure—whatever that procedure proves to be—was necessary to save the woman's life and that no other procedure would have sufficed.

It also opens the door to prosecution of doctors for almost any abortion by forcing them to prove they did not violate a law that can be interpreted in many, many different ways.

NO HEALTH EXCEPTION

This legislation has no exemption or protection for the health of the mother and, as such, would directly eliminate that protection provided by the Supreme Court in Roe versus Wade and Planned Parenthood versus Casey.

If this legislation were law, a pregnant woman seriously ill with diabetes, cardiovascular problems, cancer, stroke, or other health-threatening illnesses would be forced to carry the pregnancy to term or run the risk that the physician could be challenged and have to prove in court what procedure he used, and whether or not the abortion ''partially vaginally-delivered'' a living fetus before death of that fetus.

It is also important to point out that, on the extremely rare occasions when a third trimester abortion is performed, it is virtually always in cases where there is severe fetal abnormality or a major health threat to the mother. This procedure is less risky for the mother than other procedures—such as a cesarean delivery, induced labor, or a saline abortion—because there is less maternal blood loss, less risk of uterine perforation, less operating time—thus cutting anesthesia needs—and less trauma to the mother. Trauma, for example, can lead to an incompetent cervix which can cause repeated pregnancy loss.

The sad fact is, while our technology allows many genetic disorders to be detected early in pregnancies, all cannot be detected.

While many women undergo sonograms and other routine medical examinations in the earliest weeks of pregnancy to monitor fetal development, and, if a woman is over 35 years

of age, she may undergo amniocentesis, these tests are not routine for women under 35 because of the potential risk to the fetus with amniocentesis, plus the additional cost involved.

Ultrasound testing would provide further early detection of fetal anomalies, but these tests also are not routinely used until late pregnancy. As a result, some women carry fetuses with severe birth defects late into the pregnancy without knowing it.

According to obstetricians, some of the severe fetal anomalies that would cause a woman to end a pregnancy at this late stage are tragic: Cases where the brain forms outside the skull; cases where the stomach and intestines form outside the body or do not form at all; fetuses with no eyes, ears, mouths, legs, or kidneys—sometimes, tragically, unrecognizable as human at all.

But even with advanced technology, many serious birth defects can only be identified later, often in the third trimester or when the fetus reaches a certain size.

Anomalies such as hydrocephaly may not even be detected with an early ultrasound examination.

Other abnormalities such as polyhydramnios—too much amniotic fluid—does not occur until the third trimester—and may require an abortion.

The delivery of these babies can often endanger the mother's life.

The families who face these unexpected tragedies do not make hasty or careless decisions about their options.

In addition to the obstetrician, they seek second and third opinions, often consulting specialists, including perinatalogists, genetic counselors, pediatric cardiologists, and pediatric neurosurgeons—who explore every available option to save this baby that they very much want.

The Federal Government has no place interfering, making this tragic situation any more difficult or complicated for these families.

ROE VERSUS WADE ALREADY ALLOWS STATES TO BAN LATE-TERM ABORTIONS

Why is this legislation even necessary?

Roe versus Wade unequivocally allows States to ban all postviability abortions unless they are necessary to protect a woman's life or health. Forty-one States have already done so.

The whole focus of this Congress has been to give power and control back to the States and getting the Federal Government out of people's lives.

Surely anyone who believes in States' rights must question the logic of imposing new Federal regulation on States in a case such as this, in areas where States have already legislated.

MOST CASES NOT AFFECTED

As drafted, this bill is meaningless under the Constitution's commerce clause, because it would only apply to patients or doctors who cross State lines in order to perform an abortion under these circumstances.

The vast majority of cases would even be affected by this law. So what is the point?

The point is that this legislation has little or nothing to do with stopping the use of some horrific and unnecessary medical procedure being performed by evil or inhumane doctors.

If that were the case we would all be opposed.

CONCLUSION

This is a vague, poorly constructed, badly intended bill.

It attempts to ban a medical procedure without properly identifying that procedure in medical terms.

It is so vague that it could affect far more than the procedure it seeks to ban.

It presumes guilt on the part of the doctor.

And it ignores the vital health interests of women who face tragic complications in their pregnancies.

But the strongest reason to vote against this bill, in my view, is that it is not the role of the Federal Government to make medical decisions.

I urge my colleagues to vote to sustain the President's veto.

Mr. SPECTER. Mr. President, this is among the most difficult of the 6,003 votes I have cast in the Senate because it involves a decision of life and death on the line between when a woman may choose abortion and what constitutes infanticide.

In my legal judgment, the issue is not over a woman's right to chose within the constitutional context of Roe versus Wade or Planned Parenthood versus Casey. If it were, Congress could not legislate. Congress is neither competent to micromanage doctors' decisions nor constitutionally permitted to legislate where the life or health of the mother is involved in an abortion.

In my legal judgment, the medical act or acts of commission or omission in interfering with, or not facilitating the completion of a live birth after a child is partially out of the mother's womb constitute infanticide. The line of the law is drawn, in my legal judgment, when the child is partially out of the womb of the mother. It is no longer abortion; it is infanticide.

This vote does not affect my basic views on the pro-choice/pro-life issue. While I am personally opposed to abortion, I do not believe it can be controlled by the Government. It is a matter for women and families with guidance from ministers, priests, and rabbis.

Having stated my core rationale, I think it appropriate to make a few related observations:

Regrettably, the issue has been badly politicized. It was first placed on the calendar for a vote without any hearing and now the vote on overriding the President's veto has been delayed until the final stages of the Presidential campaign.

We had only one hearing which was insufficient for consideration of the complex issues. After considerable study and reflection on many factors including the status of the child partly out of the womb, I have decided to vote for the bill and to override the President's veto. As I view it, it would have been vastly preferable to have scheduled the vote in the regular course of the Senate's business without delaying it as close to the election as possible.

From mail, town meetings and personal contacts, I have found widespread revulsion on the procedure on partial-birth abortions. This has been voiced by those who are pro-choice as well as pro-life. Whatever the specifics of the procedure, if it is permitted to continue, it may be sufficiently repugnant to create sufficient public pressure to pass a constitutional amendment to reverse Roe.

It has been hard to make a factual determination because of the conflicting medical claims on both sides of the issue.

Solomon would be hard pressed to decide between two beautiful children: First one whose mother had a prior partial-birth abortion and says that otherwise she would have been rendered sterile without the capability to have her later child; second, one born with a correctable birth defect where the mother had been counseled to abort because of indications of major abnormalities. Human judgment is incapable of saying which is right. We do see many children with significant birth defects surviving with a lesser quality and length of life, but with much love and affection between parents and children and much meaning and value to that life. No one can say how many children are on each side of that equation.

If partial-birth abortions are banned, women will retain the right to choose during most of pregnancy and doctors will retain the right to act to save the life of the mother.

After being deeply involved in the pro-life/pro-choice controversy for three decades as a district attorney and Senator, I believe we should find a better way to resolve these issues than through this legislative process.

Ms. MIKULSKI. Mr. President, I will vote to sustain the President's veto of H.R. 1833, the late term abortion ban bill. I do so recognizing the gravity of the issue.

I do so for a very basic reason. I believe that women, in consultation with their physicians, must make decisions on what is medically necessary in reproductive matters. It must be a medical decision not a political decision.

At the very core of this vote is a very basic question. Who decides? Who decides whether a difficult pregnancy threatens a woman's life? Who decides whether a woman's physical health will be seriously harmed if a pregnancy is continued? Who decides what is medically necessary for a particular woman in her unique circumstances? Who decides?

The answer must be that doctors decide. Doctors, not politicians, must make these decisions. The women

themselves must decide. But politicians should not be making these medical decisions.

If this bill is enacted, Congress will be shackling physicians. As one witness on this bill testified, Congress will be ''legislating malpractice.''

Doctors will be faced with an impossible choice. They can deny to their patients a procedure that they believe to be medically necessary. Or they will face criminal prosecution. We should not make criminals out of doctors acting in the best interests of their patients.

There are some significant misunderstandings about what this bill provides. Let me speak about two of them.

First of all, this bill does not provide a true exception for cases where the woman's life is endangered. It is not like the Hyde amendment, with which most of us are familiar.

The Hyde amendment, which deals with Federal funding of abortion, provides an exception where the life of the woman would be threatened if the fetus were carried to term. That is not what this bill does.

This bill provides an exception only when a woman's life is threatened by a physical disorder, illness or injury and no other medical procedure would suffice to save the woman's life.

In other words, where there is a preexisting condition which the pregnancy would aggravate. It does not provide a life exception when it is the very pregnancy itself that threatens the woman's life.

Let me name a few of those conditions. If carrying the fetus to term would result in a ruptured cervix, severe hemorrhaging, or the release of toxins from the dead fetus, the life exception in this bill would not apply.

But even in the case of a preexisting condition, the life exception only applies if no other medical procedure would suffice. This would require a physician to use an alternative procedure, so long as the woman would survive. Even though a safer procedure—the procedure this bill seeks to ban—might be the better medical decision.

Let me talk about a second misunderstanding about this bill. This bill provides no exception for cases where the woman's health would be seriously impaired by carrying the fetus to term.

A health amendment was offered during our debate. It provided an exception in cases where the physician acts to avert serious, adverse health consequences to the woman. That amendment was rejected.

And that is a shame. Many of us who oppose this bill would have supported it if there were a true life and health exception. President Clinton would have signed such a bill.

We would not be here today debating this if this health exception had been adopted. It is too bad that some decided they would rather have a political issue than a signable bill.

Why is this health exception so important? Because there are cases where women will suffer serious, long-term, dire consequences to their health if the procedure banned by this bill is not available to them.

Women with diabetes or other kidney related diseases could see their condition escalated by being denied the procedure that is medically necessary in their case. Women could suffer debilitating impairments of their reproductive systems, or the loss of their future fertility.

These are not minor medical considerations. These are not whims. These are cases where a woman's future physical well-being is seriously threatened. Where her life could be shortened because a serious medical condition like diabetes has been aggravated. The lack of a health exception in this bill for these women is unacceptable to me.

Mr. President, let me speak for a moment about the larger issue of abortion. Let me say plainly that I am appalled that there are some 1.5 million abortions every year. This troubles me. It should trouble every Member of this body.

We have to do a better job in preventing unplanned pregnancies. We can do better in educating young people and in teaching them about the importance of abstinence. We need to do more to give them a sense of hope for their futures, and an understanding of how a teenage pregnancy robs them of that future.

So yes, we should be appalled that there are over a million abortions every year. And each of us has an obligation to address that.

But let me get back to my original point and my original question. Who decides? Women, in consultation with their physicians, must make the decisions on reproductive matters. Physicians must be free to determine what is medically necessary. And politicians should not prevent them from acting in the best interests of their patients.

So I will vote to uphold the President's veto of this legislation.

Mr. MOYNIHAN. Mr. President, it happens I was ill on December 7, 1995, when the measure before us now was first voted on by the Senate. Had I been present, I would have voted in favor of the bill, and today I will vote to override the President's veto.

Some while later, I was asked about the matter. I referred to the particulars of the medical procedure, as best I understood them. In an article in this morning's New York Times, our former Surgeon General C. Everett Koop writes:

> In this procedure, a doctor pulls out the baby's feet first, until the baby's head is lodged in the birth canal. Then, the doctor forces scissors through the base of the baby's skull, suctions out the brain, and crushes the skull to make extraction easier. Even some pro-choice advocates wince at this, as when Senator Daniel Patrick Moynihan termed it ''close to infanticide.''

It is the terrible fact of our national debate over abortion that there has seemed no possibility of compromise as between opposing views; as if we are consigned to unceasing conflict. More than two centuries ago—270 years, to be precise—Dean Swift saw this as the condition of certain societies—that of the ''Big-Endians'' and the ''Little-Endians'' engaged in ''a most obstinate War for six and thirty Moons past''—and woe it was to them. Dr. Koop, however, argues that there are points that those of opposing views can concede without surrender of principle, and that there are measures which lend credence to those principles which are too often slighted. He writes:

> Both sides in the controversy need to straighten out their stance. The pro-life forces have done little to help prevent unwanted pregnancies, even though that is why most abortions are performed. They have also done little to provide for pregnant women in need.

I would suggest, for example, that there could be few measures more likely to encourage abortion than our decision just last month to impose severe time limits on eligibility for what had been title IV–A of the Social Security Act, aid to families with dependent children. Indeed, we repealed AFDC. It is the sorry fact, then, that of the 285 Members of the House of Representatives who voted to override the President's veto of H.R. 1833, all but 23 also voted to repeal aid to families with dependent children.

Once again, in my view, the honorable stance has been that of religious leaders who opposed both the welfare bill we have enacted and the procedure that we now seek to ban.

One notes that the present bill ''shall not apply to a partial-birth abortion that is necessary to save the life of a mother * * *.'' That said, however, the fact is that we are providing by statute for the possible imprisonment of medical doctors. This, surely, is deplorable. In a great age of medical discovery, far beyond the comprehension of all but a very few Members of Congress, it is supremely presumptuous of lawmakers to impose their divided judgment on the practice of a sworn profession whose first commitment is to preserve life. Can we not stop this ugliness before it begins to show on the national countenance? Is there no better way to resolve these issues? Surely, this wrenching experience should encourage us to seek one—or many.

Mr. FAIRCLOTH. Mr. President, I rise to urge my colleagues to vote to override President Clinton's veto of the Partial-Birth Abortion Ban. I do not believe this is simply an issue of a woman's right to choose whether or not to have a child. It is also an issue of protecting the life of an unborn child. It seems to me that, however much we may disagree about the issue of when life begins, when it comes to late-term abortions, we are clearly talking about a baby. And it is entirely reasonable to place restrictions on such abortions, especially when the procedure in question is as barbaric as

this one. I agree with my colleague from Pennsylvania that partial-birth abortion is infanticide.

The lead editorial in today's Wall Street Journal points out:

''Up till now the abortion debate, if you'll pardon the metaphor, has managed to ignore the 800-pound gorilla in the room. For the first time, people are also talking about the fetus, not about women alone. A fetus may or may not be human, but on the other hand, it's not nothing. At 20 weeks of gestation, when the partial-birth abortion debate begins, a fetus is about nine inches long and is clearly becoming human.''

Opposition to the effort to ban this procedure has been based largely on false claims about the relative safety and medical necessity of this procedure. Even former Surgeon General Everett Koop, an authority on the subject of fetal abnormalities, has stated in today's New York Times that, ''With all that modern medicine has to offer, partial-birth abortions are not needed to save the life of the mother * * *.''

Opponents of the ban have also claimed that this procedure is performed only in the rarest of circumstances and only in life-threatening situations. But those claims, too, have proven to be false. In fact, in the State of New Jersey alone, some 1,500 such abortions are performed yearly. And the doctor who invented the procedure has admitted that 80 percent of these procedures he has performed were purely elective.

Mr. President, the truth is that, in the name of so-called freedom of choice we have created a situation in which abortion on demand—at any time during pregnancy, for any reason—is the norm. It is time we decided where we are going to draw the line. This is a good place to draw it. I urge my colleagues to vote to override this veto.

Mr. HELMS. Mr. President, regardless of the outcome, when the Senate votes on the question of whether to override President Clinton's veto of the Partial-Birth Abortion Ban Act, the impact will have grave consequences. For those who care deeply about the most innocent and helpless human life imaginable, failure to override the Clinton veto will border on calamitous. But it will have focused the abortion debate on the baby.

The spotlight will no longer shine on the much-proclaimed right to choose. Senators have been required to consider whether an innocent, tiny baby—partially-born, just 3 inches from the protection of the law—deserves the right to live, and to love and to be loved. The baby is the center of debate in this matter.

On December 7, 1995, the Senate voted, 54 to 44, to outlaw the inhuman procedure known as a partial-birth abortion, as the House of Representatives had done the previous November 1. But the President, taking his cue from the radical feminists and the National Abortion Rights Action League, vetoed the bill.

President Clinton, and other opponents of the Partial-Birth Abortion Ban Act, have sought to explain the necessity of a procedure that allows a doctor to deliver a baby partially, feet-first from the womb, only to have his or her brains brutally removed by the doctor's instruments. The procedure has prompted revulsion across the land, even among many who previously had supported the freedom-of-choice rhetoric.

Many Americans view the President's veto in terms of a character lapse and a regrettable failure of moral judgment. Now Senators must stand up and be counted, for or against the President's veto, with him or against him, for or against the destruction of innocent human life in such a repugnant way.

In my view, the President was wrong, sadly wrong. His veto by any civilized standards, let alone by any measurement of decency and compassion, is wrong, wrong, wrong. The Senate must override the President's cruel error of judgment.

Mr. President, I ask unanimous consent that a September 24 Washington Post column by Richard Cohen, headed ''A New Look at Late-Term Abortion,'' be printed in the RECORD at the conclusion of my remarks. Likewise, I ask unanimous consent a Bergen County, NJ, Sunday Record article of September 15, 1996, headed ''The Facts on Partial-Birth Abortion'' be printed in the CONGRESSIONAL RECORD.

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

[From the Washington Post, Sept. 24, 1996]

A NEW LOOK AT LATE-TERM ABORTION

A RIGID REFUSAL EVEN TO CONSIDER SOCIETY'S INTEREST IN THE MATTER ENDANGERS ABORTION RIGHTS

(By Richard Cohen)

Back in June, I interviewed a woman—a rabbi, as it happens—who had one of those late-term abortions that Congress would have outlawed last spring had not President Clinton vetoed the bill. My reason for interviewing the rabbi was patently obvious: Here was a mature, ethical and religious woman who, because her fetus was deformed, concluded in her 17th week that she had no choice other than to terminate her pregnancy. Who was the government to second-guess her?

Now, though, I must second-guess my own column—although not the rabbi and not her husband (also a rabbi). Her abortion back in 1984 seemed justifiable to me last June, and it does to me now. But back then I also was led to believe that these late-term abortions were extremely rare and performed only when the life of the mother was in danger or the fetus irreparably deformed. I was wrong.

I didn't know it at the time, of course, and maybe the people who supplied my data—the usual pro-choice groups—were giving me what they thought was precise information. And precise I was, I wrote that ''just four one-hundredths of one percent of abortions are performed after 24 weeks'' and that ''most, if not all, are performed because the fetus is found to be severely damaged or because the life of the mother is clearly in danger.''

It turns out, though, that no one really knows what percentage of abortions are late-term. No one keeps figures. But my Washington Post colleague David Brown looked behind the purported figures and the purported rationale for these abortions and found something other than medical crises of one sort or another. After interviewing doctors who performed late-term abortions and surveying the literature, Brown—a physician himself—wrote: ''These doctors say that while a significant number of their patients have late abortions for medical reasons, many others—perhaps the majority—do not.''

Brown's findings brought me up short. If, in fact, most women seeking late-term abortions have just come to grips a bit late with their pregnancy, then the word ''choice'' has been stretched past a reasonable point. I realize that many of these women are dazed teenagers or rape victims and that their anguish is real and their decision probably not capricious. But I know, too, that the fetus being destroyed fits my personal definition of life. A 3-inch embryo (under 12 weeks) is one thing; but a nearly fully formed infant is something else.

It's true, of course, that many opponents of what are often called ''partial-birth abortions'' are opposed to any abortions whatever. And it also is true that many of them hope to use popular repugnance over late-term abortions as a foot in the door. First these, then others and then still others. This is the argument made by pro-choice groups: Give the antiabortion forces this one inch, and they'll take the next mile.

It is instructive to look at two other issues: gun control and welfare. The gun lobby also thinks that if it gives in just a little, its enemies will have it by the throat. That explains such public relations disasters as the fight to retain assault rifles. It also explains why the National Rifle Association has such an image problem. Sometimes it seems just plain nuts.

Welfare is another area where the indefensible was defended for so long that popular support for the program evaporated. In the 1960s, '70s and even later, it was almost impossible to get welfare advocates to concede that cheating was a problem and that welfare just might be financing generation after generation of households where no one works. This year, the program on the federal level was trashed. It had few defenders.

This must not happen with abortion. A woman really ought to have the right to choose. But society has certain rights, too, and one of them is to insist that late-term abortions—what seems pretty close to infanticide—are severely restricted, limited to women whose health is on the line or who are carrying severely deformed fetuses. In the latter stages of pregnancy, the word abortion does not quite suffice; we are talking about the killing of the fetus—and, too often, not for any urgent medical reason.

President Clinton, apparently as misinformed as I was about late-term abortions, now ought to look at the new data. So should, the Senate, which has been expected to sustain the president's veto. Late-term abortions once seemed to be the choice of women who, really, had no other choice. The facts now are different. If that's the case, then so should be the law.

[From the Sunday Record, Sept. 15, 1996]

THE FACTS ON PARTIAL-BIRTH ABORTION

BOTH SIDES HAVE MISLED THE PUBLIC

(By Ruth Padawer)

Even by the highly emotional standards of the abortion debate, the rhetoric on so-called ''partial-birth'' abortions has been exceptionally intense. But while indignation has been abundant, facts have not.

Pro-choice activists categorically insist that only 500 of the 1.5 million abortions performed each year in this country involve the

partial-birth method, in which a live fetus is pulled partway into the birth canal before it is aborted. They also contend that the procedure is reserved for pregnancies gone tragically awry, when the mother's life or health is endangered, or when the fetus is so defective that it won't survive after birth anyway.

The pro-choice claim has been passed on without question in several leading newspapers and by prominent commentators and politicians, including President Clinton.

But interviews with physicians who use the method reveal that in New Jersey alone, at least 1,500 partial-birth abortions are performed each year—three times the supposed national rate. Moreover, doctors say only a ''minuscule amount'' are for medical reasons.

Within two weeks, Congress is expected to decide whether to criminalize the procedure. The vote must override Clinton's recent veto. In anticipation of that showdown, lobbyists from both camps have orchestrated aggressive campaigns long on rhetoric and short on accuracy.

For their part, abortion foes have implied that the method is often used on healthy, full-term fetuses, an almost-born baby delivered whole. In the three years since they began their campaign against the procedure, they have distributed more than 9 million brochures graphically describing how doctors ''deliver'' the fetus except for its head, then puncture the back of the neck and aspirate brain tissue until the skull collapses and slips through the cervix—an image that prompted even pro-choice Sen. Daniel P. Moynihan, D–N.Y., to call it ''just too close to infanticide.''

But the vast majority of partial-birth abortions are not performed on almost-born babies. They occur in the middle of the second trimester, when the fetus is too young to survive outside the womb.

The reason for the fervor over partial birth is plain: The bill marks the first time the House has ever voted to criminalize an abortion procedure since the landmark Roe vs. Wade ruling. Both sides know an override could open the door to more severe abortion restrictions, a thought that comforts one side and horrifies the other.

HOW OFTEN IT'S DONE

No one keeps statistics on how many partial-birth abortions are done, but pro-choice advocates have argued that intact ''dilation and evacuation''—a common name for the method, for which no standard medical term exists—is very rare, ''an obstetrical non-entity,'' as one put it. And indeed, less than 1.5 percent of abortions occur after 20 weeks gestation, the earliest point at which this method can be used, according to estimates by the Alan Guttmacher Institute of New York, a respected source of data on reproductive health.

The National Abortion Federation, the professional association of abortion providers and the source of data and case histories of this pro-choice fight, estimates that the number of intact cases in the second and third trimesters is about 500 nationwide. The National Abortion and Reproductive Rights Action League says ''450 to 600'' are done annually.

But those estimates are belied by reports from abortion providers who use the method. Doctors at Metropolitan Medical in Englewood estimate that their clinic alone performs 3,000 abortions a year on fetuses between 20 and 24 weeks, of which at least half are by intact dilation and evacuation. They are the only physicians in the state authorized to perform abortions that late, according to the state Board of Medical Examiners, which governs physicians' practice.

The physicians' estimates jibe with state figures from the federal Centers for Disease Control, which collects data on the number of abortions performed.

''I always try an intact D&E first,'' said a Metropolitan Medical gynecologist, who, like every other provider interviewed for this article, spoke on condition of anonymity for fear of retribution. If the fetus isn't breech, or if the cervix isn't dilated enough, providers switch to traditional, or ''classic,'' D&E—in utero dismemberment.

Another metropolitan area doctor who works outside New Jersey said he does about 260 post-20-week abortions a year, of which half are by intact D&E. The doctor, who is also a professor at two prestigious teaching hospitals, said he has been teaching intact D&E since 1981, and he said he knows of two former students on Long Island and two in New York City who use the procedure. ''I do an intact D&E whenever I can, because it's far safer,'' he said.

The National Abortion Federation said 40 of its 300 member clinics perform abortions as late as 26 weeks, and although no one knows how many of them rely on intact D&E, the number performed nationwide is clearly more than the 500 estimated by pro-choice groups like the federation.

The federation's executive director, Vicki Saporta, said the group drew its 500-abortion estimate from the two doctors best known for using intact D&E, Dr. Martin Haskell in Ohio, who Saporta said does about 125 a year, and Dr. James McMahon in California, who did about 375 annually and has since died. Saporta said the federation has heard of more and more doctors using intact D&E, but never revised its estimate, figuring those doctors just picked up the slack following McMahon's death.

''We've made umpteen phone calls [to find intact D&E practioners],'' said Saporta, who said she was surprised by The Record's findings. ''We've been looking for spokespeople on this issue. . . . People do not want to come forward [to us] because they're concerned they'll become targets of violence and harassment.''

WHEN IT'S DONE

The pro-choice camp is not the only one promulgating misleading information. A key component of The National Right to Life Committee's campaign against the procedure is widely distributed illustration of a well-formed fetus being aborted by the partial-birth method. The committee's literature calls the aborted fetuses ''babies'' and asserts that the partial-birth method has ''often been performed'' in the third trimester.

The National Right to Life Committee and the National Conference of Catholic Bishops have highlighted cases in which the procedure has been performed well into the third trimester, and overlaid that on instances in which women have had less-than-compelling reasons for abortion. In a full-page ad in the Washington Post in March, the bishops' conference illustrated the procedure and said women would use it for reasons as frivolous as ''hates being fat,'' ''can't afford a baby and a new car,'' and ''won't fit into prom dress.''

''We were very concerned that if partial-birth abortion were allowed to continue, you could kill not just an unborn, but a mostly born. And that's not far from legitimizing actual infanticide,'' said Helen Alvare, the bishops' spokeswoman.

Forty-one states restrict third-trimester abortions, and even states that don't—such as New Jersey—may have no physicians or hospitals willing to do them for any reason. Metropolitan Medical's staff won't do abortions after 24 weeks of gestation. ''The nurses would stage a war,'' said a provider there. ''The law is one thing. Real life is something else.''

In reality, only about 600—or 0.04 percent—of abortions of any type are performed after 26 weeks, according to the latest figures from Guttmacher. Physicians who use the procedure say the vast majority are done in the second trimester, prior to fetal viability, generally thought to be 24 weeks. Full term is 40 weeks.

Right to Life legislative director Douglas Johnson denied that his group had focused on third-trimester abortions, adding, ''Even if our drawings did show a more developed baby, that would be defensible because 30-week fetuses have been aborted frequently by this method, and many of those were not flawed, even by-an expensive defintion.''

WHY IT'S DONE

Abortion rights advocates have consistently argued that intact D&Es are used under only the most compelling circumstances. In 1985, the Planned Parenthood Federation of America issued a press release asserting that the procedure ''is extremely rare and done only in cases when the woman's life is in danger or in cases of extreme fatal abnormality.''

In February, the Nation Abortion Federation issued a release saying, ''This procedure is most often performed when women discover late in wanted pregnancies that they are carrying fetuses with anomalies incompatible with life.''

Clinton offered the same message when he vetoed the Partial-Birth Abortion Ban Act in April, and surrounded himself with women who had wrenching testimony about why they needed abortions. One was an anti-abortion marcher whose health was compromised by her 7-month-old fetus' neuromuscular disorder.

The woman, Coreen Costello, wanted desperately to give birth naturally, even knowing her child would not survive. But because the fetus was paralyzed, her doctors told her a live vaginal delivery was impossible. Costello had two options, they said: abortion or a type of Caesarean section that might ruin her chances of ever having another child. She chose an intact D&E.

But most intact D&E cases are not like Coreen Costello's. Although many third-trimester abortions are for heart-wrenching medical reasons, most intact D&E patients have their abortions in the middle of the second trimester. And unlike Coreen Costello, they have no medical reason for termination.

''We have an occasional amnio abnormality, but it's a minuscule amount,'' said one of the doctors at Metropolitan Medical, an assessment confirmed by another doctor there. ''Most are Medicaid patients, black and white, and most are for elective, not medical, reasons; people who didn't realize, or didn't care, how far along they were. Most are teenagers.''

The physician who teaches said: ''In my private practice, 90 to 95 percent are medically indicated. Three of them today are Trisomy-21 [Down syndrome] with heart disease, and in another, the mother has brain cancer and needs chemo. But in the population I see at the teaching hospitals, which is mostly a clinic population, many, many fewer are medically indicated.''

Even the Abortion Federation's two prominent providers of intact D&E have showed documents that publicly contradict the federation's claims.

In a 1992 presentation at an Abortion Federation seminar, Haskell described intact D&E in detail and said be routinely used it on patients 20 to 24 weeks pregnant. Haskell went on to tell the American Medical News, the official paper of the American Medical Association, that 80 percent of those abortions wre ''purely elective.''

The federation's other leading provider, Dr. McMahon, released a chart to the House

Judiciary Committee listing ''depression'' as the most common maternal reason for his late-term non-elective abortions, and listing ''cleft lip'' several times as the fatal indication. Saporta said 85 percent of McMahon's abortions were for severe medical reasons.

Even using Saporta's figures, simple math shows 56 of McMahon's abortions and 100 of Haskell's each year were not associated with medical need. Thus, even if they were the only two doctors performing the procedures, more than 30 percent of their cases were not associated with health concerns.

Asked about the disparity, Saporta said the pro-choice movement focused on the compelling cases because those were the majority of McMahon's practice, which was mostly third-trimester abortions. Besides, Saporta said, ''When the Catholic bishops and Right to Life debate us on TV and radio, they say a woman at 40 weeks can walk in and get an abortion even if she and the fetus are healthy.'' Saporta said that claim is not true. ''That has been their focus, and we've been playing defense ever since.''

WHERE LOBBYING HAS LEFT US

Doctors who rely on the procedure say the way the debate has been framed obscures what they believe is the real issue. Banning the partial-birth method will not reduce the number of abortions performed. Instead, it will remove one of the safest options for mid-pregnancy termination.

''Look, abortion is abortion. Does it really matter if the fetus dies in utero or when half of it's already out? said one of the five doctors who regularly uses the method at Metropolitan Medical in Englewood. ''What matters is what's safest for the woman,'' and this procedure, he said, is safest for abortion patients 20 weeks pregnant or more. There is less risk of uterine perforation from sharp broken bones and destructive instruments, one reason the American College of Obstetricians and Gynecologists has opposed the ban.

Pro-choice activists have emphasized that nine of 10 abortions in the United States occur in the first trimester, and that these have nothing to do with the procedure abortion foes have drawn so much attention to. That's true, physicians say, but it ducks the broader issue.

By highlighting the tragic Coreen Costellos, they say, pro-choice forces have obscured the fact that criminalizing intact D&E would jettison the safest abortion not only for women like Costello, but for the far more common patient: a woman 4½ to 5 months pregnant with a less compelling reason—but still a legal right—to abort.

That strategy is no surprise, given Americans' queasiness about later-term abortions. Why reargue the morality of or the right to a second-trimester abortion when anguishing examples like Costello's can more compellingly make the case for intact D&E?

To get around the bill, abortion providers say they could inject poison into the amniotic fluid or fetal heart to induce death in utero, but that adds another level of complication and risk to the pregnant woman. Or they could use induction—poisoning the fetus and then ''delivering'' it dead after 12 to 48 hours of painful labor. That method is clearly more dangerous, and if it doesn't work, the patient must have a Caesarean section, major surgery with far more risks.

Ironically, the most likely response to the ban is that doctors will return to classic D&Es, arguably a far more gruesome method than the one currently under fire. And, pro-choice advocates now wonder how safe from attack that is, now that abortion foes have American's attention.

Congress is expected to call for the override vote this week or next, once again turning up the beat on Clinton, barely seven weeks from the election.

Legislative observers from both camps predict that the vote in the House will be close. If the override succeeds—a two-thirds majority is required—the measure will be sent to the Senate, where an override is less likely, given that the initial bill passed by 54 to 44, well short of the 67 votes needed.

Mr. DOMENICI. Mr. President, some time ago, the Congress passed a ban on the procedure known as the partial-birth abortion.

The President vetoed the bill on the grounds that it would threaten the lives and health of American women.

This, despite clear language in the bill allowing the procedure when the life of the mother was in danger.

Many voted against the ban because they thought the data showed that the partial-birth procedure was used sparingly, when no other procedure would suffice, and almost exclusively when the child was severely malformed or the life of the mother was in danger.

We heard that this procedure was used only in the most crucial and desperate situations, and should therefore be allowed to continue.

Since the veto, however, we have acquired much more data, and much more accurate data.

What we are finding is that this procedure is vastly more common than once thought—in fact, hundreds and perhaps thousands are performed each year.

In New Jersey alone, at least 1,500 of these are done each year.

The vast majority of these procedures are done electively, on normal fetuses—they are not performed to protect the life of the mother or because the fetus is profoundly disabled.

The doctors performing this procedure report that only a minuscule amount of these procedures are done for medical reasons—i.e. fetal malformation or concerns about a threat to the mother.

A group of physicians who state emphatically that the partial-birth procedure is never medically necessary.

Former Surgeon General C. Everett Koop was quoted as saying ''partial-birth abortion is never necessary to protect a mother's health or her future fertility.''

This procedure may actually increase the chances of harm to the mother, such as perforation of the uterus or long-term damage to the cervix.

So even though the bill still contains the exception for the life of the mother, it is highly doubtful this procedure is ever needed for medical reasons.

Had the Senate had this information, I believe the result of the vote might have been different.

Some in this body have come to reconsider their position in light of these facts.

My friend from New York, Senator MOYNIHAN, said ''I think this is just too close to infanticide. A child has been born and it has exited the uterus and, what on earth is this procedure?''

I share his opinion of this procedure, and I believe, in light of these facts, the proper and decent thing to do to override the President's veto.

Mr. MCCONNELL. Mr. President, the issue of abortion and the sanctity of life are matters of conscience for me. My views are well known, and deeply held, although I am not an individual known to wear my heart on my sleeve, as the saying goes. However, the vote we will soon take—on overriding the President's veto of the partial-birth abortion ban—presents a very compelling case for restricting a particular kind of abortion that offends our sensibilities as a civilized society.

I won't dwell on the kind of procedure it is. There are others who have described it in its horrific detail. I won't repeat it, but it is important that it be said. So, I commend Senator SMITH, as well as Senator SANTORUM and Senator NICKLES for their leadership in shining the bright light of public debate on the partial-birth abortion issue.

But I would like to speak briefly to explain the significance of this issue. In the Senate, we devote a great deal of time, energy and effort to debating and protecting the rights of those who are at the margins of society, the less fortunate, and the powerless. We do this because we are a caring nation of individuals, families and communities. And, we do this because we have a strong history and tradition of giving opportunity to the weakest in the world: the persecuted, the oppressed and the down-trodden. This uniquely American heritage has made us a strong and successful nation. And, it is the hallmark of our civilized society.

Now, we have before us a bill that would give protection to the most fragile and defenseless among us—the almost-born. What could be more American, than protecting those who have no voice or power?

Abortion steals human potential and possibility, the very definition of what America has meant to so many. On the eve of birth, this theft of the potential and possibility of life seems particularly cruel, inhumane, and even barbaric. It is the antithesis of what this Nation represents and what it stands for.

This is, no doubt, a matter of conscience for each Member of the Senate. But as we look into the depths of our souls, we should understand that unless we speak up on their behalf, those yet-to-be born, and all of the possibilities they represent, will be deprived—in a most inhumane way—of the basic right to begin life.

How many have come to this land, from every corner of the Earth, to begin their lives? Should we not now afford that same opportunity to the almost-born?

I will vote to override the President's veto, and I urge my colleagues to do the same.

Mr. LEVIN. Mr. President, the American College of Obstetricians and Gynecologists have urged Congress to oppose the so-called partial birth abortion bill and the Michigan Section of the American College of Obstetricians

and Gynecologists has also written me to express their opposition to this bill and their support of President Clinton's veto.

The Michigan section's letter states that they ''find it very disturbing that Congress would take any action that would supersede the medical judgement of trained physicians and criminalize medical procedures that may be necessary to save the life of a woman.'' I ask unanimous consent that the letter be printed in the RECORD.

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

THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS,
Grand Rapids, MI, September 23, 1996.

Senator CARL LEVIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEVIN: The Michigan Section of the American College of Obstetricians and Gynecologists is made up of over 1200 physicians dedicated to improving women's health care. The Advisory Council for the Michigan Section met on September 10, 1996, and discussed H.R. 1833, the Partial-Birth Abortion Ban Act of 1995. The Council does not support this bill, and does support President Clinton's veto. We find it very disturbing that Congress would take any action that would supersede the medical judgment of trained physicians and criminalize medical procedures that may be necessary to save the life of a woman. Moreover, in defining what medical procedures doctors may or may not perform, H.R. 1833 employs terminology that is not even recognized in the medical community.

Thank you for considering our views on this important matter.

Sincerely,

CHARLES W. NEWTON, MD,
Chair, Michigan Section.

Mr. LEVIN. The Supreme Court has held that the Constitution allows States to prohibit abortions during the third trimester, except to protect the life or health of the woman.

Many States have banned late term abortions, by whatever method, and included the constitutionally required exception allowing a physician to consider threats to a woman's life or health.

The vetoed bill prohibits one type of rarely used abortion procedure. But the bill doesn't allow consideration of serious health impairment. When this bill came before the Senate for consideration, I supported an amendment to the bill which would have banned this procedure except when a physician determines that a woman's life is at risk or is necessary to prevent serious adverse health consequences to the woman.

The amendment failed. And with it the chance of acting constitutionally and in accordance with the medical judgement of the American College of Obstetricians and Gynecologists.

Under these circumstances I will vote to sustain the President's veto of H.R. 1833.

Mr. DODD. Mr. President, I speak today with a very heavy heart about the vote on whether to override the President's veto of H.R. 1833, known as the Partial-Birth Abortion Ban Act.

First let me say, Mr. President, that the blatantly political nature of this bill during this year, and specifically this override vote at this time, escapes no one. It is very clear that we are having this debate at this time for purely political purposes.

Mr. President, I am deeply upset and greatly disturbed by this late-term abortion procedure. But the President has made clear, and I have made clear, that if this bill contained an appropriate, narrowly tailored exception for both the life and health of the mother, it would not be objectionable.

I am extremely distressed by the possibility that this procedure is not always performed to protect the health or life of the mother. In my view, when this late-term abortion procedure is performed for reasons other than to save the mother's life or avert serious health effects, it is inappropriate. And it is not just the method employed in this procedure that disturbs me. It is also the fact that it is often a third trimester abortion. I must say that I am bothered by any third trimester abortion that is not performed to save the life of the mother or to avert serious, adverse health consequences.

I am not one of those who believes, Mr. President, that abortions should be available at any time for any reason. I also don't think that all abortions should be banned. I have a long record supporting a woman's right, in consultation with her doctor, to choose. But I do believe that it is reasonable to restrict third trimester abortions to those necessary to save the mother's life or to avert serious health effects. This bill would allow third trimester abortions conducted by other methods to continue.

For the millions of Americans who neither favor abortion under all circumstances nor want to totally remove a woman's right to choose, we should be working together in a non-political way, along with the administration and the medical profession, to narrowly tailor medical exceptions to third trimester abortions. But we are not doing that in this political year, making the political motives of this bill's proponents crystal clear.

Still, Mr. President, sometimes this procedure is necessary to protect a woman's life or to avert serious health consequences, and an exception must be made for those cases. The Senate voted on such an exception—it was an exception for the life of the mother and for serious, adverse health consequences, only. I voted for that exception along with 46 other Senators, and if that exception had passed, I would have voted for the bill, and the President would have signed it. We would not be having this debate at all if that appropriate exception had been included.

Mr. President, there are some cases in which this is the safest, and in other cases only, medical procedure that will avert serious health consequences to a woman or even save her life. I sympathize with the women who find themselves in such tragic circumstances, I realize that their decisions are painful ones to have to make, and I believe that Congress must not supersede the medical judgement of the doctors who believe that this is the best way to treat these patients.

So I believe Mr. President, that there must be an exception to save a woman's life or avert serious health consequences. It must be a limited exception geared only toward serious medical circumstances, but a true exception nonetheless. And it is my hope that Congress and the administration, working with the medical profession, can work together to find a limited way to allow this procedure only to protect the life and health of the mother.

Mr. President, I say again that I am deeply disturbed by this procedure. And so Mr. President, this is not an easy vote for me to cast. But I remain hopeful that a limited exception for this and all third trimester abortions can be developed, and that we can come together and find some unity in this terribly troubling and divisive issue.

Mr. KERRY. Mr. President, today I will support the President in his veto of the late-term abortion bill. But I want to make several points about this debate.

Mr. President, this bill does not clearly define which procedures would be banned because the term ''partial birth'' is not a medical term. The bill defines ''partial birth'' abortion as ''an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.'' This vague definition in the bill would, for the first time, impose limits on the Roe versus Wade right of a woman to choose an abortion. This language easily could be interpreted to ban other medical procedures used in the second trimester which are—and should remain—completely legal. The bill would also ban procedures used in the third trimester to save the health or future fertility of the mother. This would overturn the Supreme Court ruling in Roe versus Wade that states in the third trimester can ban abortion procedures except those saving the life or protecting the health of the mother.

Mr. President, I am personally opposed to abortion in the third trimester—except when the life or health of the woman is at risk. But that is the law of the land today. There is no question that late-term abortion procedures are gruesome. But this procedure is considered safer and less traumatic in some cases than alternative late-term procedures. The bill that I voted against and the President vetoed failed to provide exceptions for cases in which a woman's health or future fertility are at risk. To ban a medical procedure that a trained physician concludes will best preserve a woman's chance to have a healthy pregnancy in the future is wrong.

Mr. President, there are only 600 third-term abortions performed in the entire country each year, according to the best statistics we have available from the Alan Guttmacher Institute. In fact, there are only two doctors in the entire United States, located in Colorado and Kansas, who are known to perform abortions during the last 3 months of pregnancy.

In April, President Clinton was joined by five women who had required late-term abortions. One of them described the serious risks to her health that she faced before she had the abortion: ''Our little boy had . . . hydrocephaly. All the doctors told us there was no hope. We asked about in utero surgery, about shunts to remove the fluid, but there was absolutely nothing we could do. I cannot express the pain we still feel.'' But she went on to say that having the late-term abortion ''was not our choice, for not only was our son going to die, but the complications of the pregnancy put my health in danger as well.'' In the haste of some in this chamber to substitute their medical judgement for that of licenced physicians, it appears to me that the anguished circumstances of women such as this and their families are being cavalierly shoved aside.

I support Roe versus Wade's ban of third trimester abortions except where a woman faces real, serious risks to her health. Although there is no evidence that this procedure is used in situations where a woman's health is not seriously at risk, I oppose this procedure if used in circumstances that do not meet that standard and would support appropriate legislation to ban them. At the same time, I believe it would be unacceptable to ban a procedure which competent medical doctors in some cases conclude represents the best hope for a woman to avoid serious risks to her health.

I will uphold the President's veto of this bill. I believe that it would be a major mistake for the Federal Government to try to practice medicine in order to make an ideological point. Trained doctors, after consulting with their patients, should make these decisions. I urge my colleagues to support the President on this difficult issue.

Ms. SNOWE. Mr. President, I rise to speak in opposition to this effort to override the President's veto of H.R. 1833.

Mr. President, this is our very last chance to ensure that this punitive legislation does not have the effect of putting women's lives and health on the line. For that is exactly what will happen if we override the President's veto today. Women's lives and health will be put at tragic risk. And Congress will be substituting its judgment for that of doctors, by outlawing a medical procedure for the first time since Roe versus Wade.

There is no question that any abortion is an emotional, wrenching decision for a woman. When a woman must confront this decision during the later stages of a pregnancy because she knows that the pregnancy presents a direct threat to her own life or health, such a decision becomes a nightmare.

Mr. President, 22 years ago, the Supreme Court issued a landmark decision in Roe versus Wade, carefully crafted to be both balanced and responsible while holding the rights of women in America paramount in reproductive decisions.

This decision held that women have a constitutional right to an abortion, but after viability, States could ban abortions as long as they allowed exceptions for cases in which a woman's life or health is endangered.

Let me repeat—as long as they allowed exceptions for cases in which a woman's life or health is endangered.

The Supreme Court has reaffirmed this decision time and time and time again. And to date, 41 States—including my home State of Maine—have exercised their right to impose restrictions on post-viability abortions. All, of course, provide exceptions for the life or health of the mother, as constitutionally required by Roe.

This legislation, as drafted, does not provide an exception for the health of the mother, and provides only a very narrow life exception. It is narrow because it only allows a doctor to perform this late term procedure to save a woman's life, and I quote, 'if no other procedure would suffice.'' So this means that if another procedure carries 4 times the risk of this procedure, but it might suffice, the doctor will be compelled to perform the more risky procedure. If a hysterectomy, rather than this procedure, will suffice, the doctor will be compelled to perform it instead.

Above all, both the Constitution and the health of women across this Nation demand that we add a health exception. But this Chamber rejected an amendment to do just that.

Without such a health exception, this legislation represents a direct, frontal assault on Roe and on the reproductive rights of women everywhere. And make no mistake, innocent women will suffer. We learned this at the Judiciary Committee hearing from women who underwent the procedure.

Make no mistake—this procedure is extremely rare, and, when performed in the third trimester, only when it is absolutely necessary to preserve the life or health of the woman, or when a fetus is incompatible with life. In his September 24, 1996, letter to Congress, Dr. Warren Hern of the Boulder Abortion Clinic said: ''I know of no physician who will provide an abortion in the seventh, eighth or ninth month of pregnancy, by any method, for any reason except when there is a risk to the woman's life or health, or a severe fetal anomaly.

Not since prior to Roe v. Wade have there been efforts to criminalize a medical procedure in this country. But that's exactly what this bill does.

This legislation is an unprecedented expansion of Government regulation of women's health care. Never before has Congress intruded directly into the practice of medicine by banning a safe and legal medical procedure that is absolutely vital in some cases to protect the health or life of women.

The supporters of this bill are substituting political judgment for that of a medical doctor regarding the appropriateness of a medical procedure. Regrettably, politicians are second-guessing medical science.

Mr. President, who are we here on this floor to say what a doctor should and should not do to save a woman's life or preserve her health? Who are we to legislate medicine?

The proponents of this legislation are willing to risk the lives and health of women facing medical emergencies. According to physicians—not politicians—this procedure is actually the safest and most appropriate alternative for women whose lives and health are endangered by a pregnancy. As Dr. Robinson testified during the hearing before the Judiciary Committee, telling a doctor that it is illegal for him or her to perform a procedure that is safest for a patient is tantamount to legislating malpractice.

I oppose this bill because I believe in protecting women's health and upholding the Constitution. For central to both Roe and Casey is the premise that the determination whether an abortion is necessary to preserve a woman's health must be made by a physician in consultation with his patient.

Without an exception which allows these late term procedures in order to save the health of the mother, doctors will be unwilling to take the safest and most appropriate steps to protect a woman's health.

As today's editorial in the New York Times states:

> The bill should be rejected as an unwarranted intrusion into the practice of medicine. It would mark the first time that Congress has outlawed a specific abortion procedure, thus usurping decisions about the best method to use that should properly be made by doctor and patient. The bill would actually force doctors to abandon a procedure that might be the safest for the patient and resort to a more risky technique.

We must never overlook the fact that women's lives and health are at stake. They hang in the balance. Women who undergo these procedures face the terrible tragedy of a later-stage pregnancy that has through no fault of their own gone terribly, tragically wrong. These women will face the horrible truth that carrying their pregnancy to term may actually threaten their own life and their own health.

Now, I want to say something in response to some of the graphics that you have seen on the floor today and in previous debates in this Chamber—graphics that my colleagues have displayed about this traumatic and difficult procedure.

They say a ''picture paints a thousand words.'' But the truth is, these pictures just don't tell the whole story.

They don't tell you the story of the mothers involved. They don't tell you

the woman's side of the story. They certainly don't tell you her family's story.

They don't show you the faces of the mothers who are devastated because they must undergo this procedure in order to save their own lives and health.

These pictures don't tell the story of Vikki Stella, who learned 32 weeks into her pregnancy that her fetus had nine severe abnormalities, including a fluid-filled skull with no brain tissue at all. However, Vikki is a diabetic, and this procedure was the safest option to protect her life and health. Without it, she could have died.

These pictures don't tell the story of Viki Wilson—a nurse who testified that she found out in her 8th month of pregnancy that her fetus suffered a fatal condition causing two-thirds of the brains to grow outside of the skull. Viki testified that carrying the pregnancy to term would have imperiled her life and health. The fetus' malformation would have caused her cervix or uterus to rupture if she went into labor. She described this legislation as a ''cruelty to families act''.

And let us not forget the poignant testimony of Colleen Costello, who described herself as a conservative pro-life Republican, and who found out when she was 7 months pregnant that her baby had a fatal neurological disorder, was rigid, and had been unable to move for 2 months. Although she wanted to carry the baby to term, it was stuck sideways in her uterus. Her doctors did not want to perform a C-section, because the risks to her health and life were too great. Due to the safety of this procedure, Ms. Costello has recently given birth to a healthy son.

And these pictures certainly don't show you the pictures of women who died in back alleys in the dark days before Roe versus Wade. They don't show what the consequences will be for women if this legislation is signed into law, for that very small group of women each year who desperately need a late-term abortion in order to save their own lives and health.

Congress should not be in the position of forcing doctors to perform more dangerous procedures on women than necessary. As Dr. Campbell testified, the alternatives are significantly more dangerous for women and far more traumatic. Dr. Campbell, an OBGYN, listed these alternatives, which include:

> C-sections, which cause twice as much bleeding and carry four times the risk of death as a vaginal delivery. In fact, a woman is 14 times more likely to die from a C-section than from the procedure that this legislation seeks to outlaw. . .
>
> Induced labor, which carries its own potentially life-threatening risks and threatens the future fertility of women by potentially causing cervical lacerations. . .
>
> And hysterectomies, which leave women unable to have any children for the rest of their lives. . .

In the end, this legislation would order doctors to set aside the paramount interests of the woman's health, and to trade-off her health and future fertility in order to avoid the possibility of criminal prosecution.

As Professor Seidman, a constitutional expert at Georgetown University, testified during the hearing, the only thing that this procedure does is to channel women from one less risky abortion procedure to another more risky abortion procedure. He argued that the Government does not have a legitimate interest in trying to discourage women from having abortions by deliberately risking their health. This view is supported by Dr. Allan Rosenfield, Dean of the Columbia School of Public Health, who stated the following in a September 25 letter to the Editor of the Washington Post:

> [The bill's] only effect will be to prohibit doctors from using what they determine, in their best medical judgment, to be the safest method available for the women involved. * * * In sum, this bill is bad medicine.

Is this the legacy that the 104th Congress will bequeath to American women?

I urge my colleagues to oppose this effort to override the President's veto. It is necessary not only to uphold the Constitution, but first and foremost, it is critical to actually save women's lives and protect their health.

Mr. SIMPSON. Mr. President, I would like to take a few minutes of the Senate's time to speak on this most contentious and divisive issue. I was one of the 44 Members of this body who voted ''no'' when the Senate approved the Partial Birth Abortion Ban Act back on December 7.

As a longtime supporter of the ''right to choose,'' I do not believe either the Congress or the Federal Government should interfere with the deeply personal and private decisions that women sometimes face regarding unintended or crisis pregnancies. In fact, I have always questioned why men in the legislative bodies even vote on these terribly anguishing and intimate issues.

I am deeply troubled that this legislation does not provide an exception from the proposed ban in situations where the health of a woman is ''at risk.'' It is perplexing to me that this Senate rejected an amendment last December that would have granted an exception when a woman's health is endangered. If it was really true—as so many of the anti-choice activists claim—that this procedure is ''hardly ever used'' for health-related reasons, I believe my colleagues would have been much more receptive to such an exception.

The reality is that women's health is at the very core of this issue. I was present when the Senate Judiciary Committee held hearings on this legislation last November. I entered that hearing room with an open mind, and I listened carefully to witnesses who spoke both for and against the bill. What I found most compelling was the testimony of two women who had been faced with the heart-wrenching decision to have late-term abortions because their own health and well-being was imperiled by severely deformed fetuses that had no possible chance of surviving. In both cases, their doctors used the procedures that would be banned by this legislation.

These women were devastated when they learned that the fetuses they carried had no ability to live outside the womb. They agonized and even grieved over their decisions. One of them—who spoke poignantly about her ''deeply held Christian beliefs''—went on to give birth to a healthy baby boy just 14 months later. Anyone who ever listened to her testimony would know that she was not someone who simply decided that having a baby would be inconvenient or ''too much trouble.''

Unfortunately, the bill before us would limit the options a woman has for dealing with a crisis pregnancy. It is a classic example of heavyhanded government intrusiveness. This legislation sharply collides with the rhetoric of those who continually profess a fierce commitment to making the government less meddlesome and less intrusive. It is the ultimate irony, in my mind, that this legislation is being advanced by a Congress that has distinguished itself again and again by rejecting the misguided notion that ''Government Knows Best.''

I am very proud to be a Member of the 104th Congress. Collectively, we have taken some gutsy and courageous stands on a wide range of issues. Sadly, on the singular issue of abortion, many of my good friends in both the Senate and the House seem to be taking the attitude that Government does know best and that individual Americans are somehow incapable of thinking and deciding for themselves. I do not share this attitude in any way.

I am well aware that the anti-abortion ''groups'' are fully energized on this issue. They have done a remarkable job of mobilizing their members to write letters and place phone calls in support of the bill. The flow of postcards and form letters is truly dizzying.

Yet, I am not convinced that the other 99 percent of the public I do not hear from would embrace this bill and its ''Government Knows Best'' mentality. Perhaps that is because I still have vivid memories of what occurred just 2 years ago when Wyoming voters were given the opportunity to vote on an anti-choice Ballot Initiative in the 1994 election.

On that particular Ballot Initiative, which would have criminalized most abortions, over 60 percent of Wyoming voters said ''no'' to this misguided proposal. The final vote tally was 78,978 voting ''yes'' and 118,760 voting ''no.'' Let me emphasize that this was not a ''poll'' or a ''focus group'' or the sentiment of some narrowly targeted group of respondents. We all know that polls can be cleverly structured to achieve the desired result—and there is certainly no shortage of polls with respect

to this issue. What I am talking about, however, was a statewide vote. Voters from all of Wyoming's 23 counties participated. Every single registered voter in Wyoming had the opportunity to cast a vote on this issue. No one was excluded.

In this same election in 1994, these same Wyoming voters elected conservative Republicans in every single statewide race and they elected an overwhelming majority of Republicans to the Wyoming State Legislature. So, at the same time Wyoming voters were voting decisively against a Ballot Initiative that would have restricted their individual freedoms, they were further expressing their distaste for ''Big Government'' by voting in large numbers for candidates—at the local, State and Federal levels—who reject the ''Government Knows Best'' philosophy.

I share this information with my colleagues not because I believe our actions should be driven solely by public sentiment; I just think we ought to pay clear attention to all of our constituents—and not just to a narrow group of those who seem ever determined to impose their own idea of ''moral purity'' on their fellow human beings. I have found that it is often true in life that those who demand perfection of others—or who try to control other people's lives—sometimes do so because of their own imperfections or because they are somehow often incapable of controlling their own lives. I do not direct this statement at any of my fine and able colleagues. I simply offer it as an observation.

Finally, I am reminded that last year I said this was a divisive bill that would only increase and elevate tensions between those who hold differing views on abortion. Those words ring true today because, regrettably, that is exactly what this legislation has accomplished. The dialog on abortion—on both sides—outside of this Chamber is increasingly ugly and uncivil. This legislation does nothing to reverse that. I urge my colleagues to reject it.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Pennsylvania controls 15 minutes 34 seconds. The Senator from California controls 8 minutes 22 seconds.

Mr. DASCHLE. Mr. President, I will use my leader time for the statement I am about to make.

The PRESIDING OFFICER. The leader has that right.

Mr. DASCHLE. Mr. President, I will not be long. I know a number of others wish to be heard on this issue. I haven't had the opportunity to listen to all of the debate, but I know that it is a matter of great weight, great concern for each one of our colleagues.

I, frankly, question why we are debating and voting on this bill so close to the election. I would have hoped that we could have depoliticized this issue. But, obviously, it has taken on very major political overtones. Being this close to an election, I think it is probably impossible to keep it from being politicized. But it is a very important question that ultimately has to be resolved.

So much of the debate, in my view, was unnecessary. So much of the debate that I have heard on the Senate floor over the last couple of days has dealt with whether or not we can support the procedure that has been so graphically described, with depictions of all kinds, from charts to the language on the Senate floor, whether in some way we can condone that particular practice. Mr. President, I don't know of anybody in this Chamber that condones the practice. I am sure that my colleagues on this side of the aisle, and perhaps some on the other side, have made this point: No one condones the practice. No one stands here to defend the practice. No one, in any way, would want to encourage the practice. And so all of the talk and all of the graphic descriptions, in this Senator's view, are unnecessary, because we all know how abhorrent it is. We all know how extraordinarily detestable it is. The question is, as abhorrent and as difficult to witness it is, to hear described, is there ever a time when the procedure, regardless of whether it has been accurately described or not, should be used?

I am told that physicians differ substantially about that question. I am told that there are occasions, as rare as we might find them, that a mother's life and-or permanent health could be impaired if this procedure is not used.

I am lucky enough to be a husband and a father. I have had the good fortune to have a healthy wife and healthy daughters. Mr. President, I cannot tell my wife and I cannot tell my daughters that I am going to condemn you to permanent impairment, that I am going to condemn you to a life of permanent poor health, that I am going to condemn you because I find this procedure so wrenching, that you are going to have to subject yourself to permanent paralysis, or to a life that may never allow for another child as long as you live.

Mr. President, I cannot ask my daughter to do that. I cannot ask my wife to do that.

That is what this issue is about, Mr. President. It isn't whether or not we abhor the procedure. We do. It isn't whether or not we should allow this to be elective. It should not be elective. The question is: Are there occasions when, in order to save our daughter's health or our daughter's life, we find it necessary?

We ought to be reasonable people and able to come together to find some compromise in allowing for a lasting solution outlawing elective procedures, outlawing this detestable practice whenever it is done for convenience but recognizing at the same time that a daughter's life and a daughter's health is worth giving her the opportunity to use whatever measure necessary to protect her.

I have heard the argument that it is never necessary; that it is not necessary to do this. Well, if it is never necessary, this procedure will never be used. That is the logical conclusion one could make. If it is not necessary, don't worry. It will not be used.

Mr. President, I hope that once this veto is sustained, that we can sit down quietly without politics, without emotion, and recognize that somehow we have to come together on this issue. We have to deal with those rare circumstances that are not elective that allow us to save the life and the health of young women involved. I think we can do that. Unfortunately, it is not now possible this afternoon. But someday, somehow, working together it must happen.

I yield the floor.

Mr. SANTORUM. Mr. President, will the Senator from South Dakota yield for a question?

Mr. DASCHLE. I have yielded the floor. But I would be happy to participate in a colloquy with my distinguished colleague.

Mr. SANTORUM. The question I have asked other Members who have argued your position—I have to ask it again—is that if this procedure were being done on a 24-week-old baby, which is often done, the procedure were done correctly, the baby was not taken out with the exception of the head, and for some reason the head slipped out and the baby was born, will the doctor and mother have a choice to kill the baby?

Mr. DASCHLE. Mr. President, I will say this, as I have said on many occasions. We abhor the practice. If we can save the life of a baby, we should do so. If in any way, as graphic as the distinguished Senator from Pennsylvania chooses to be with regard to this procedure, it impairs his wife, his daughter, my wife, my daughter, he and I would come to the same conclusion, I guarantee it.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SANTORUM. I yield 1 minute to the Senator from Alabama.

Mr. SHELBY. Mr. President, I rise in strong support of overriding President Clinton's veto of the Partial-birth Abortion Ban Act.

First, this legislation bans a gruesome, deadly procedure. When performing a partial-birth abortion, the abortionist first grabs the live baby's leg with forceps and pulls the baby's legs into the birth canal. He then delivers the baby's entire body, except for the head; jams scissors into the baby's skull and opens them to enlarge the hole.

Finally, the scissors are removed and a suction catheter is inserted to suck the baby's brains out. This causes the skull to collapse, at which point the

dead baby is delivered and discarded. No one interested in the welfare of children could ever approve of such a heinous act. President Clinton has put politics above life by trying to keep this procedure legal.

Second, his veto is extreme because this procedure has questionable medical value. In fact, the American Medical Association's Council on Legislation—which unanimously supports banning this procedure—stated that a partial-birth abortion is ''not a recognized medical technique'' and concluded that the procedure is basically repulsive.

Third, even though this procedure is not used to save the life of the mother, there is an explicit provision in the bill to protect any physician who feels that this procedure is necessary to save the life of the mother. Despite this safeguard, President Clinton continues to raise false arguments in bowing to the liberal wing of his party.

Mr. President, the President's own wife has written a book about the value of children, entitled ''It Takes a Village.'' I don't know what type of village the Clinton's believe children should be raised in, but it should not be a village where it is a crime to disturb the habitat of a kangaroo rat but it is perfectly acceptable to suck out the brains of a baby. That is barbaric. It should no longer be tolerated in our society, and I urge my colleagues to join me in standing up for helpless children by overriding the President's blatantly political veto.

The PRESIDING OFFICER. Who yields time?

Mr. SANTORUM. Mr. President, I yield 5 minutes to the Senator from Tennessee, Dr. FRIST.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 5 minutes.

Mr. FRIST. Thank you, Mr. President.

Mr. President, I rise to strongly support the override of the President's veto. Why? Because as a physician, as someone who has delivered babies, as someone who is a board-certified surgeon, as someone who has gone back to read and study the original literature describing this procedure, I know that there are no instances where this particular procedure would save the life of a daughter, of a spouse, or of a mother. It is a strong statement. But it is a statement that I feel strongly about.

Two nights ago I stood on this floor and went through a number of the myths that circulate, because it is hard, because most people in this body are lawyers or small business people or accountants, and people have come forward trying to interpret a specific medical procedure. I went through the myths because there is a lot of misinformation. But I come back and say that there are no instances where the life of a daughter, of a spouse, or of a mother would be saved by this procedure that could not be saved by another mainstream procedure today.

No. 1, this procedure is brutal, it is cruel, it is inhumane, and it offends the sensibilities we have heard on both sides of the U.S. Senate, of the Congress, and of our constituents of Americans.

No. 2, an issue that is a little more difficult—it really is not the one we have been talking about now—is that there are times during the third trimester that either an accelerated delivery or a termination of a pregnancy is necessary. Putting all the pro-life and pro-choice aside, there are probably some times—there are some times—when that is indicated.

So you need to push that aside. You need to look at the really fundamental question. You boil everything down, and is this specific procedure as described in literature, as described by its proponents, medically necessary? The answer is no, it is not medically necessary.

What does ''medically necessary'' mean? Does it mean that all late abortions need to be banned; should be? Again, that needs to be debated at another place another day. It has been debated here. But let us put that aside. What it means today in our argumentation is, are there alternative procedures that are accepted, that are safe, and I would argue safer, that are effective, and I would argue equally effective, that preserves the reproductive health? I would argue absolutely, yes, there are other mainstream procedures, which means this procedure is not to be used.

So why is this procedure used at all? Why are we even talking about this procedure? Why would doctors come forth and look people in the eye and say this is the proper procedure? We have to go back to the medical literature where it is prescribed. If you go back to the original paper of Martin Haskell on ''Dilation and Extraction for Late Second Trimester Abortion,'' which was entered into the RECORD three nights ago, when you look at the last page, he says regarding this procedure, ''In conclusion, dilation and extraction is an alternative method''—an alternative method. It is not even a definitive method. It is a fringe method. He said it is ''an alternative method for achieving late second trimester abortions to 26 weeks. It can be used in the third trimester.''

This is an alternative, as the original author, the proponent, says.

What is even more interesting is that he says in the next sentence—Why? What are the indications? Is it medically necessary? Basically he says, ''Among its advantages are that it is a quick, surgical, outpatient method that can be performed on a scheduled basis under local anesthesia.''

So the reason this procedure is used is not to preserve reproductive health—not for the many other reasons as if it is the only procedure—it is that it is a matter of convenience. You can do it quickly. You can do it as an outpatient. Is ''quick,'' ''outpatient,'' and ''convenient'' the sort of issues that we should use as indications for this procedure? I would say absolutely not.

This is a fringe procedure. It is not taught in our medical schools today to residents. It is a procedure that is not indicated for the hydrocephaly, nor trisomy, nor polyhydramnios. It is never indicated. There are alternative procedures.

In closing, I am hesitant to recommend that any medical procedure should be banned. Yet, for a procedure that is medically unnecessary for which there are alternatives that are used in mainstream medicine today, I support this ban and hope that we can override the President's veto.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, after consulting with the majority leader, I ask unanimous consent to use 5 minutes of the majority leader's time.

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

Mr. NICKLES. Mr. President, I rise today, first, to congratulate and compliment a couple of my colleagues who I think have performed extraordinary service to the Senate. First, Senator SMITH, from New Hampshire, who brought this issue to our attention.

I will readily admit I have been involved in this abortion debate for 16 years, but I did not know this procedure happened—I am shocked by it, saddened by it, disturbed by it. And for some of our colleagues who insinuated that, well, the males in the Senate really should not be arguing on this because they have not been in the business of delivering babies, I have talked to my wife about it and she feels stronger about it even than I do. She thinks President Clinton was absolutely, totally, completely wrong in vetoing a bill that would have protected the lives of young babies that are three-fourths of the way delivered from their mother's birth canal. So I congratulate Senator SMITH for bringing this to the attention of the Senate.

I also congratulate Senator SANTORUM for his leadership as well.

President Clinton was wrong in vetoing this bill. Two-thirds of the House said that he was wrong. I hope that today two-thirds of the Senate will say he made a mistake. Maybe he had bad information. I notice in his veto message he said this is necessary in order to protect the health of the mother, but that is not true.

Dr. Koop—I think a lot of us, Democrat and Republican, give him a lot of credibility—said, and I quote—and this is Dr. Koop and also 300 medical specialists who are specialists in obstetrics and health care and delivery:

> Partial-birth abortion is never medically necessary to protect a mother's health or her fertility.

That is a quote. They said ''never.'' Dr. TOM COBURN, my colleague from the House, who has delivered over 3,000 babies, said it is never, never medically necessary. There are other alternatives. There are better, safer alternatives.

What is this? What is partial-birth abortion? This child is seconds away, is inches away from total birth—total birth. In some cases, the arms and the legs are kicking and moving, the fingers are squeezing. It is a live human being. This procedure is infanticide.

Dr. Pamela Smith, an obstetrician at Mount Sinai Hospital in Chicago, points out, and this is a quote:

> Partial-birth abortion is a surgical technique devised by abortionists in the unregulated abortion industry to save them the trouble of counting body parts that are produced in dismemberment procedures.

This quote is in a letter written to Senators on November 4, 1995. She says in the same letter:

> Opponents have said that aborting a living human fetus is sometimes necessary to preserve the reproductive potential and/or the life of the mother. Such an assertion is deceptively and patently untrue.

Mr. President, lots of people, real experts who have studied this issue have said it is not necessary to protect the health of the mother and it is certainly not necessary to protect the health of the baby. This is destroying a baby.

Yes, this moves the abortion debate away from theoretical rights into talking about lives. We are talking about the life of an innocent, unborn human being. I know I heard my colleague, the minority leader of the Senate, say it is rare. How can it be rare when originally the proponents of maintaining the legality of this procedure said a few hundred are performed a year and then we find out in one city in New Jersey there were 1,500 done in 1 year. This was not discovered by the National Right to Life Committee; this was discovered by investigative writers at the Washington Post—1,500 in one clinic in New Jersey. There are thousands of these procedures performed annually now—thousands.

Mr. President, some of our colleagues made all kinds of remarks that people who are opposed to this procedure, they are just opposed to abortion. Yes; I am opposed to abortion, but I cannot remember ever having to vote on banning all abortions. Somebody said Republicans would like to ban all abortions; that is in your platform. It is not in our platform. It says, yes; we want to protect the sanctity of human life. I have only voted on one constitutional amendment that dealt with abortion in my 16 years in the Senate. That was not to ban abortion. So some people have tried to move this all over the field.

What we are trying to do is protect the lives of thousands of babies when they are three-fourths born, when they are three-fourths delivered, when they are a few inches away from being totally delivered, a few seconds away from their first breath. And it is particularly gruesome when you realize that some of these babies' heads are held in the mother, held in the mother so the brains can be sucked out and the baby killed while part of the baby is still in the mother, because they know if there is a couple inches' movement, then the abortionist would be liable for murder. Then there is no question that it is the taking of life. That is how close we are. What does that say about America's society today?

This is one of those defining moments that we have in the Senate. Will we stand up and say, enough is enough; this procedure is terrible; it is outlandish; it should be stopped? Are we going to allow this type of procedure to go on and on and say, no, we believe in abortion at any time for any reason at any cost?

Dr. Martin Haskell, one of the leading proponents of abortion, who has performed 1,000 of these, has stated that some 80 percent of those he performed were for purely elective reasons, purely elective reasons.

That alone is enough. We need to override the President's veto. He was wrong. We need to protect the lives of innocent, unborn children.

The PRESIDING OFFICER. Who yields time? The Senator from Pennsylvania.

Mr. SANTORUM. I ask unanimous consent that we have 10 additional minutes equally divided. I am swamped with speakers and do not have enough time to even get my own statement in.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. SANTORUM. I yield 5 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized for up to 5 minutes.

Mr. COATS. I thank my friend for yielding. I thank him for his tireless work on what I think is one of the most defining issues of our time.

I am pleased to see the Senator from West Virginia in the Chamber. He is always in the Chamber during important debates. I regret that many others are not in the Chamber.

Mr. President, I had the opportunity to call a good friend of ours, Senator CAMPBELL, who, as we all know, was in a serious motorcycle accident just a few days ago in Colorado, and is hospitalized in a hospital in Cortez, CO. I called to ask his condition, and he told me he had undergone some 15 to 18 hours of surgery, but he was hoping to recover. He asked me, however, if I would deliver a message to our colleagues. I take the opportunity to read that message:

> Mr. President, I take this opportunity to thank my friend and colleague, Senator COATS, for submitting this statement on my behalf while I am absent from the Senate due to my accident. During this important debate on the override of the President's veto of the partial-birth abortion bill, I felt compelled to share my personal thoughts with my colleagues on this extremely emotional issue.
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> During the past month, I have listened carefully to those who hold strong views on both sides of this difficult issue, and I have learned a great deal more about this procedure and its implications. I also have consulted with doctors and others in the medical profession who have discussed this procedure in graphic detail. It became clear to me the procedure which would be banned is an atrocity which is inflicted on a fetus so far along in its development, it is nearly an infant.
>
> Since last Saturday, I have spent the last six days straight in a hospital bed in Cortez, Colorado. Part of my decision-making process is based on watching the dedicated health professionals here in this hospital working so hard, day in and day out, to save lives. As the days went by, it became increasingly clear to me that a vote to override the veto also represents an effort to save lives, and not take lives. Those who know me, know that I am not one to bend with the political breeze.
>
> As my colleagues and my constituents will know, I am pro-choice! I always have been pro-choice, and will continue to be pro-choice. In fact, 1 have a 100 percent voting record with NARAL and other pro-choice organizations. However, in light of the medical evidence, I do not consider this specific vote to be a choice issue.
>
> Therefore, based on the compelling medical evidence and the insights I've gained, I would vote to override the President's veto were I able to be on the Senate floor today.

Mr. President, this is not just another skirmish in the running debate between left and right. This debate raises the most basic questions asked in any democracy: Who is my neighbor? Who is my brother? Who do I define as inferior, cast beyond my sympathy and protection? Who do I embrace and value, both embrace in law and embrace in love? It is not a matter of ideology; it is a matter of humanity. It is not a matter of what constituency we should side with; it is a matter of living with ourselves and sleeping at night. This is not just a matter of our Nation's politics, but it is a matter of our Nation's soul, and how this Nation will be judged by God and by history.

In this body, we can agree and disagree on many matters of social policy. Yet, surely we must agree on this, that a born child should not be subjected to violence and death. I believe that protection should be extended to the unborn as well. But at least in this body, should we not reject infanticide? At least can we refuse to cross that line.

Mr. President, I fear that we are sliding into a culture of death instead of a culture of life, a society that begins to retreat from inclusion, an ever widening circle of inclusion, to include people previously excluded on the basis of race, of ethnic background, of gender—the great civil rights battles to bring people into this wonderful American experiment of democracy, equality, and justice. I fear we are retreating from that with this vote, that we are beginning a differentiation between the healthy and the unhealthy, between the perfect and the not so perfect, between the beautiful and the not so beautiful.

So, today we have a choice, a choice between the beauty of life or the horror of death. I am pleading with my colleagues to reach out in love and compassion for the most innocent and the most defenseless in our society. God has imbued all of us with a capacity to love. Unfortunately, the great human

tendency is to turn that love inward and think of and love only ourselves, our possessions, our careers, our achievements; not to think of others.

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

Mr. COATS. I ask for 1 additional minute.

Mr. SANTORUM. I yield the Senator 1 additional minute.

The PRESIDING OFFICER. The Senator is recognized for 1 additional minute.

Mr. COATS. But that is misdirected love. True love goes beyond ourselves. It reaches out in love of others.

This vote is an appeal to a higher purpose, what Lincoln said ''is the better angels of our nature.'' I appeal to my colleagues, for the sake of a larger question, of a higher purpose, to reach to the better angels, to the larger questions—life, liberty, equality, justice—for the sake of the future of this great experiment in democracy, to support us in this effort, to say that we will not promote a culture of death. We will not embrace the culture of death. We will embrace a culture of life. We will keep extending the circle of equality, justice, passion, and love for the least among us.

Clearly, today, at this defining moment, that issue is in great peril.

Mr. President, I thank the Senator from Pennsylvania for his efforts and for the time he yielded, and yield back the remaining time I have.

The PRESIDING OFFICER. Who yields time?

Mrs. BOXER. Mr. President, may I inquire as to how much time each side has left?

The PRESIDING OFFICER. The Senator from California controls 13 minutes, 25 seconds; the Senator from Pennsylvania, 6 minutes, 48 seconds.

Mrs. BOXER. Mr. President, I yield myself 5 minutes.

Mr. President, we are winding down this debate. It has been a hard debate. In some ways, it has been a harsh debate.

I think the most important thing that I would like to do—if I do this, I will feel that I have done my best—is to put a family's face on this issue, put a woman's face on this issue, to make sure that the American people understand that when President Clinton vetoed this bill, he vetoed it with compassion in his heart for the families who had to face the kind of tragic circumstances I have discussed throughout this debate.

I think there has been some effort on the part of those who take an opposite view, there has been some effort to try and undermine or undercut some of these families, some of these women who have gone through this tragic experience. I hope that effort has failed.

I want to talk about Mary-Dorothy Line, a devoted Catholic who was 5 months pregnant with her first child when she learned her baby might have a very serious genetic problem. Mary-Dorothy writes:

> My husband and I talked about what we would do if there was something wrong. We quickly decided that we are strong people and that, while having a disabled child would be hard, it would not be too hard for us. We are Catholic, [she writes] we go to church every week. So we prayed, as did our parents and our grandparents.
>
> We sat there and watched as the doctor examined our baby and then told us that, in addition to the brain fluid problem, the baby's stomach had not developed and he could not swallow.

After being told that in-utero surgery would not help, Mary-Dorothy Line and her husband decided to use the procedure that is outlawed in this bill, because they were told it was the safest.

Mary-Dorothy says to us:

> The doctors knew that the late-term abortion was not easy for us, since we really wanted to have children in the future. This is the hardest thing I have ever been through. I pray that this will never happen to anyone again, but it will. And those of us unfortunate enough to have to live through this nightmare need a procedure that will give us hope for the future.

That is one story. Viki Wilson is another story. There are many more stories.

I thank the women who came forward to tell their stories. There are women standing outside this Chamber. I went out to see them—and they are crying. They are crying because they do not understand how Senators could take away an option that their doctor needed to save their lives. They are crying because they do not believe that those Senators truly understand what this meant for their families and what it meant to them—women and men and families who so wanted these babies, so wanted to hold them, so wanted to birth them, so wanted to love them, so wanted to raise them. But, because in science today sometimes serious abnormalities cannot always be known in the early stages, they did not learn until very late in the pregnancy.

They wanted those babies. They named those babies, Mr. President. They buried those babies with love. And they are crying because they cannot understand how a majority of Senators could put themselves inside the hospital room and tell them that they cannot have a procedure that could save their lives.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SANTORUM. Mr. President, I yield myself 5 minutes.

Mr. President, I look and see the Senator from West Virginia, who represents as much the U.S. Senate to this country as probably any individual here, the dignity of this institution as the greatest deliberative body in the world. I have been saying for the last few days that I have tremendous faith that this body, as a deliberative body, will listen to the facts and live up to its reputation as a body that, when presented with all the evidence, can judge not only about this procedure, which is important, but what the consequence are of this action on the future of the nation, on the future of a civilization.

And so I ask Members, before they come down, to think and look inwardly as to their own conscience. Yes, to look outwardly around to this Chamber and remember that we have a standard to uphold and that today we are going to be making the decision about whether in this country it will be legal to allow a viable baby to be delivered outside of the mother and then killed inches before its first breath.

I have asked the question of almost every person who spoke on this issue opposing my position: What would be the case if the baby's head was to, for some reason, slip out? Would the doctor and the mother then have the right, the choice to kill that baby?

No one has ever answered that question. The Senator from Wisconsin came the closest. He said, ''I don't think we should interfere with that,'' which I guess means yes. How far do we go? Where do we draw the line? Have we stopped saying here in this body that there are no more lines, that everything is OK for anyone to do as long as you feel it's right, it's your right to do whatever you feel is right?

Don't we have any more lines? What are the facts? That is a factually accurate description of the procedure, as so stated by the person who performs it. Some have likened this chart to a depiction of an appendicitis operation. My God. Appendicitis. That is not an appendix. That is not a blob of tissue. It is a baby. It's a baby.

Did you ever really think that this could actually be happening on the floor of the U.S. Senate? When you came here, the people in the audience—maybe you are just visiting Washington or just wandered in—did you actually believe that we could be actually contemplating allowing thousands of these kinds of procedures to continue? I sometimes just have to sit here and pinch myself and wonder whether this is all real, whether this really is the United States of America.

The Senator from California said she hears the cries of the women outside this Chamber. We would be deafened by the cries of the children who are not here to cry because of this procedure.

I cry with these women. This is a difficult decision to make, but there are alternative measures available. No woman will be denied access to abortion, late-term as they are, if we ban this procedure. That is a fact. The leading writer on abortions, Dr. Hern from Colorado, says that he thinks this is a dangerous procedure and should not be done.

The Senator from Colorado—and my best wishes go out to him in his hospital bed in Colorado—made the most poignant statement today when he said he has been in a hospital looking at all that is being done to preserve life.

I have to hearken back to another Lincoln quote which is: ''A house divided against itself cannot stand.''

In one operating room when there is a baby being delivered and everything

is being done to save that baby; in the next room, one is being delivered to be killed. That cannot continue to happen in this country.

The Senator from Colorado is right. What are we to become? What will we be like if we allow this, and then maybe if the baby is born and it is not quite perfect enough for us, maybe it has some problems, that it won't live as long as we would like.

Cardinal Bevilacqua spoke today, and there are many religious leaders here. The cardinal is up in the gallery, and he said, ''If this procedure is allowed to continue, I fear that legal infanticide will not be far behind. If partial-birth abortion is allowed to continue, surely it will mark the beginning of the end of our Nation, of our civilization. No Nation, no civilization that abandons its moral foundations, its spiritual beliefs by legally destroying its own unborn children in this barbaric procedure can possibly survive.''

Please, I ask my colleagues, I plead with my colleagues, don't let this happen on our watch.

Mr. President, I have a series of newspaper articles and letters. I ask unanimous consent that they be printed in the RECORD.

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

STATEMENT AT PRESS CONFERENCE ON PARTIAL BIRTH ABORTION, THURSDAY, SEPTEMBER 26, 1996, BY ANTHONY CARDINAL BEVILACQUA, ARCHBISHOP OF PHILADELPHIA

I know that God will be present today in the U.S. Senate when it discusses and votes on an over-ride of the President's veto. I pray that the Senators will be conscious of God's presence among them and vote in accordance with His will which is will for human life.

I appeal to the Senators to override the veto on partial birth abortion. I pray that they will vote on principle. A vote for the over-ride is a vote for human life. A vote against the over-ride is a vote for the death of human beings made to the image and likeness of God.

This vote is critical for the preservation of this nation, of our civilization. Partial birth abortion is ⅘ birth and ⅕ abortion. The baby is but a few seconds, 2–3 inches from full birth. In this procedure, therefore, it is only a few seconds, 2–3 inches from being legal infanticide. If this procedure is allowed to continue, I fear that legal infanticide will not be far behind.

If partial birth abortion is allowed to continue, surely it will mark the beginning of the end of our nation, of our civilization. No nation, no civilization that abandons its moral foundations, its spiritual beliefs by legally destroying its own unborn children in this barbaric procedure can possibly survive.

This vote is not a vote for choice. It is a vote for the culture of life instead of a culture of death.

PITTSBURGH, PA,
June 30, 1996.

Hon. RICK SANTORUM,
Washington, DC.

DEAR SENATOR: I am a practicing Obstetrician-Gynecologist. I urge you to vote for the ''ban of partial birth abortion''.

I believe this to be the most cruel procedure of infanticide. During the last trimester of pregnancy, the infant is partially delivered and is alive and moving. At this time the infant is killed by stabbing it at the base of the skull. Then the brains are removed by suction. In a short period of time, a normal delivery of this infant could have ensued. Therefore, it cannot be stated ''the abortion is being done because the pregnancy is a threat to the Mother's life.''

I disapprove of this gross procedure for two additional reasons. This is not a routine practice in the field of obstetrics. Secondly, the forceful dilation of the cervix to make possible the premature delivery can tear the cervix. This creates a site for infection and excessive bleeding. Since the placenta is not ready for delivery it may deem necessary to manually deliver it (which is not a normal procedure). This may cause even more bleeding. Because of the forceful dilation, the cervix may be incompetent to hold future pregnancies.

Stated simply, the primary and strongest objection is the burden of a live infant. PLEASE, vote for the ''ban of partial birth abortion.''

Respectfully,

ALBERT W. CORCORAN, M.D.

PITTSBURGH, PA,
June 24, 1996.

Senator RICHARD SANTORUM,
Washington, DC.

DEAR SENATOR SANTORUM: I have never written anyone in the Congress a letter such as this one. However, I feel as a board certified obstetrician, who has practiced obstetrics and gynecology for 35 years, I must bring closure to my problem.

The words ''rip open a woman'' have disturbed me since they were uttered by our President. In all my years in the operating room, I have never seen even the weakest surgeon ''rip open'' any patient.

I would plead for you to urge your fellow Senators to override the President's veto of third trimester termination of a human being.

There are several reasons for doing this aside from an unprovoked attack on a human being. Namely, any of the six women he paraded before the American public on television could have been cared for by c-section. More importantly, since these women were all willing to have their pregnancies terminated in the third trimester, all could have resolved their personal dilemma with greater studies in the first trimester. Finally, this procedure is just another form of euthanasia.

I hope there are some fellow Senators who will divorce themselves from politics and truly vote their conscious.

Kindest regards,

E.A. SCIOSCIA, MD FACOG FACS,
Asst. Clinical Prof. of Obstetrics & Gynecology, Medical College of Pennsylvania.

HILTON HEAD ISLAND, SC,
June 21, 1996.

Senator RICK SANTORUM,
Washington, DC.

DEAR SENATOR SANTORUM: I am writing to you as an Obstetrician of thirty seven years and subsequently as Medical Director of Forbes Health System. During all that time my efforts were dedicated to the delivery of healthy born infants and on maintenance of good health by their mothers. The abortion deaths of more than a million a year in the richest country in the world will one day be looked on by history as the greatest slaughter of innocents in world history to date.

In the past the pro-abortionists hid from what they were doing by claiming that what was being aborted were non persons—simply protoplasm! How they can rationalize this is not understandable to me. It seems to me that a person is a human living, individual. Certainly the fetus is an ''individual''—no one exactly like him or her will be born again.—its genes are distinct. It is ''human'' not canine, or bovine or equine—it is ''human.'' And it is certainly ''living'' and there would be no need to abort it.

Nevertheless, the pro-abortionists do not wish to have the early fetus recognized as a person. But surely there can be no denying of the person of a 32 week fetus when greater than 90% if normal will survive if born at that gestation. The bill which was vetoed by President Clinton recognized that this forcing of the labor of an abnormal infant and then its destruction by invading its skull and collapsing the brain while it was still alive; in order to complete delivery is not only murder but unjustified. It is possible that the mother's reproductive organs may be permanently damaged in this rush to termination. However; if allowed to deliver in normal labor the grossly abnormal infant would probably not survive more than a matter of hours. This process of craneocleisis which was employed when cesarean section was so dangerous in the 19th century was done to save the life of the mother and still it was abhorrent even to those who did the procedure. Once cesarean section reached an improved degree of safety by the 1920's it was abandoned—now to be resurrected to force the premature delivery of an abnormal baby. I am not unmindful of the emotional stress that carrying such a baby, can cause a mother if she knows that it is not normal! But is the abrupt termination of the pregnancy worth the possible damage to the mothers reproductive capacity by this assault on a living human individual?

My best wishes for your success in addressing the presidential veto.

Sincerely yours,

RICHARD MCGARVEY.

CHEVY CHASE, MD.

During the weeks and months Congress was considering legislation to end partial birth abortion, I heard and read many news stories featuring women who said they had undergone the procedure because it was the only option they had to save their health and future fertility as a result of a pregnancy gone tragically wrong.

But based on my own personal experience, I am convinced that women and their families are tragically misled when they are informed that partial birth abortion is their only option. I believe many more women and their families would choose to give birth to their fatally ill babies and love and care for them as long as their short and meaningful lives might endure, if they were fully informed that they could let their babies live rather than aborting them.

Dr. James McMahon, who performed the partial birth abortions upon many of the women I heard about in the news, would have targeted our first child, Gerard, because he had Trisomy 18, a chromosomal abnormality incompatible with more than a few hours or weeks of life outside the uterus.

My husband, a pediatric neurologist and I, a pediatric nurse, learned via a routine sonogram halfway through our first pregnancy that our baby had a large abdominal defect. Our OB suggested an amniocentesis to confirm whether our son had Trisomy 18, since abdominal defects this large are frequently associated with Trisomy 18. If he did not have Trisomy 18, we would begin to research our son's need for abdominal surgery and the best pediatric surgeon available to us. The second half of the pregnancy was extremely painful emotionally. I felt that perhaps our hopes of having a large family were dying with Gerard.

We had a supportive OB and at each visit we also met with the OB clinical nurse specialist. She helped us with our grief and she

also helped us plan for Gerard's birth and death. We also met the neonatologist prior to birth who informed us about what to expect about Gerard's condition and we let him know that we didn't want Gerard to have any painful procedures.

We did not once consider an abortion, for this was our beloved child for whom we would do anything. We prayed that he would be born alive and live at least for a short period of time. My husband and I were drawn very close as we comforted each other and talked about our grief and our evolving plans for our child. At 40 weeks our OB decided he would induce labor; on the eve of the second day of induction, Gerard was delivered alive. We held him and gently talked to him. The priest who had married us ten months earlier was there to baptize him. Gradually, his vital signs slowed until he died 45 minutes after we met him in person. We took many beautiful pictures of him that are among our most cherished possessions.

We have since been blessed with 5 additional children, all healthy. Number 6 was 11½ lbs and the hospital staff marveled at how easily I delivered her. Delivering Gerard alive and giving him even a brief period of life in no way impaired my future fertility, as these 5 wonderful children can attest to. Our children have internalized our love and respect for Gerard and babies and others with disabilities.

We have never had any regrets about carrying Gerard to term, giving birth to him and loving him until he died naturally. In fact, it is the event I am most proud of in my life. Our only regret is that he did not live longer.

My hope is that since there is no medical reason for a woman to undergo a partial birth abortion, that each woman listen to her heart and her strong desire to protect her child and love him or her until that child's natural death.

MARGARET SHERIDAN.

OAK PARK, IL.

My name is Jeannie Wallace French. I am a 34 year old healthcare professional who holds a masters degree in public health. I am a diplomate of the American College of Healthcare Executives, and a member of the Chicago Health Executives Forum.

In the spring of 1993, my husband Paul and I were delighted to learn that we would be parents of twins. The pregnancy was the answer to many prayers and we excitedly prepared for our babies.

In June, five months into the pregnancy, doctors confirmed that one of our twins, our daughter Mary, was suffering form occipital encephalocele—a condition in which the majority of the brain develops outside of the skull. As she grew, sonograms revealed the progression of tissue maturing in the sack protruding from Mary's head.

We were devastated. Mary's prognosis for life was slim, and her chance for normal development nonexistent. Additionally, if Mary died in utero, it would threaten the life of her brother, Will.

Doctors recommended aborting Mary. But my husband and I felt that our baby girl was a member of our family, regardless of how ''imperfect'' she might be. We felt she was entitled to her God-given right to live her life, however short or difficult it might be, and if she was to leave this life, to leave it peacefully.

When we learned our daughter could not survive normal labor, we decided to go through with a cesarean delivery. Mary and her healthy brother Will were born a minute apart on December 13, 1993. Little Will let out a hearty cry and was moved to the nursery. Our quiet little Mary remained with us, cradled in my Paul's arms. Six hours later, wrapped in her delivery blanket, Mary Bernadette French slipped peacefully away.

Blessedly, our story does not end there. Three days after Mary died, on the day of her interment at the cemetery, Paul and I were notified that Mary's heart valves were a match for two Chicago infants in critical condition. We have learned that even anacephalic and meningomyelocele children like our Mary can give life, sight or strength to others. Her ability to save the lives of two other children proved to others that her life had value—far beyond what any of us could ever have imagined.

Mary's life lasted a total of 37 weeks 3 days and 6 hours. In effect, like a small percentage of children conceived in our country every year, Mary was born dying. What can partial birth abortion possibly do for children like Mary? This procedure is intended to hasten a dying baby's death. We do not need to help a dying child die. Not one moment of grief is circumvented by this procedure.

In Mary's memory, as a voice for severely disabled children now growing in the comfort of their mother's wombs, and for the parents whose dying children are relying on the donation of organs from other babies, I make this plea: Some children by their nature cannot live. If we are to call ourselves a civilized culture, we must allow that their deaths be natural, peaceful, and painless. And if other preborn children face a life of disability, let us welcome them into this society, with arms open in love. Who could possible need us more?

JEANNIE W. FRENCH.

[From Physicians' Ad Hoc Coalition for Truth]

THE CASE OF COREEN COSTELLO

PARTIAL-BIRTH ABORTION WAS NOT A MEDICAL NECESSITY FOR THE MOST VISIBLE ''PERSONAL CASE'' PROPONENT OF PROCEDURE.

Coreen Costello is one of five women who appeared with President Clinton when he vetoed the Partial-Birth Abortion Ban Act (4/10/96). She has probably been the most active and the most visible of those women who have chosen to share with the public the very tragic circumstances of their pregnancies which, they say, made the partial-birth abortion procedure their only medical option to protect their health and future fertility.

But based on what Ms. Costello has publicly said so far, her abortion was not, in fact, medically necessary.

In addition to appearing with the President at the veto ceremony, Ms. Costello has twice recounted her story in testimony before both the House and Senate; the New York Times published an op-ed by Ms. Costello based on this testimony; she was featured in a full page ad in the Washington Post sponsored by several abortion advocacy groups; and, most recently (7/29/96) she has recounted her story for a ''Dear Colleague'' letter being circulated to House members by Rep. Peter Deutsch (FL).

Unless she were to decide otherwise, Ms. Costello's full medical records remain, of course, unavailable to the public, being a matter between her and her doctors. However, Ms. Costello has voluntarily chosen to share significant parts of her very tragic story with the general public and in very highly visible venues. Based on what Ms. Costello has revealed of her medical history—of her own accord and for the stated purpose of defeating the Partial-Birth Abortion Ban Act—doctors with PHACT can only conclude that Ms. Costello and others who have publicly acknowledged undergoing this procedure ''are honest women who were sadly misinformed and whose decision to have a partial-birth abortion was based on a great deal of misinformation'' (Dr. Joseph DeCook, Ob/Gyn, PHACT Congressional Briefing, 7/24/96). Ms. Costello's experience does not change the reality that a partial birth abortion is never medically indicated—in fact, there are available several alternative, standard medical procedures to treat women confronting unfortunate situations like Ms. Costello had to face.

The following analysis is based on Ms. Costello's public statements regarding events leading up to her abortion performed by the late Dr. James McMahon. This analysis was done by Dr. Curtis Cook, a perinatologist with the Michigan State College of Human Medicine and member of PHACT.

''Ms. Costello's child suffered from 'polyhydramnios secondary to fetal swallowing defect.' In other words, the child could not swallow the amniotic fluid, and an excess of the fluid therefore collected in the mother's uterus. Because of the swallowing defect, the child's lungs were not properly stimulated, and an underdevelopment of the lungs would likely be the cause of death if abortion had not intervened. The child had no significant chance of survival, but also would not likely die as soon as the umbilical cord was cut.

''The usual approach in such a case would be to reduce the amount of amniotic fluid collecting in the mother's uterus by serial amniocentesis. Excess fluid in the fetal ventricles could also be drained. Ordinarily, the draining would occur 'transabdominally.' Then the child would be vaginally delivered, after attempts were made to move the child into the usual, head-down position. Dr. McMahon, who performed the draining of cerebral fluid on Ms. Costello's child, did so 'transvaginally,' most likely because he had no significant expertise in obstetrics/gynecology. In other words, he would not be able to do it well transabdominally—the standard method used by ob/gyns—because that takes a degree of expertise he did not possess.

Ms. Costello's statement that she was unable to have a vaginal delivery, or, as she called it, 'natural birth or an induced labor,' is contradicted by the fact that she did indeed have a vaginal delivery, conducted by Dr. McMahon. What Ms. Costello had was a breech vaginal delivery for purposes of aborting the child, however, as opposed to a vaginal delivery intended to result in a live birth. A caesarean section in this case would not be medically indicated—not because of any inherent danger—but because the baby could be safely delivered vaginally.''

The Physicians' Ad-hoc Coalition for Truth (PHACT), with over three hundred members drawn from the medical community nationwide, exists to bring the medical facts to bear on the public policy debate regarding partial birth abortions. Members of the coalition are available to speak to public policy makers and the media. If you would like to speak with a member of PHACT, please contact Gene Tarne or Michelle Powers at 703–683–5004.

The PRESIDING OFFICER. All time of the Senator from Pennsylvania has expired. Who yields time?

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. BYRD. I ask the Senator to give me 30 seconds.

Mrs. BOXER. I yield 30 seconds to the Senator from West Virginia.

Mr. BYRD. Mr. President, I call attention to the rules of the Senate which preclude any reference to people

in the galleries, and one cannot, even by unanimous consent, change that rule, and the Chair is not even to entertain a unanimous-consent request that the rule be waived.

I hope Senators will abide by the rules regardless of what side of the question they are on.

Mr. SANTORUM. If the Senator will yield, I apologize for making such an error, and I appreciate the Senator pointing that out.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, thank you very much. I understand I have 8 minutes remaining, or a little less than that?

The PRESIDING OFFICER. Approximately 7 minutes remaining.

Mrs. BOXER. Mr. President, I ask I be yielded 4 minutes of that time. At that time, I am going to turn to another Senator to close our debate.

Mr. President, I ask unanimous consent to set aside the pending veto message and proceed immediately to a bill that allows this procedure only in cases where the mother's life is at stake or she would suffer serious adverse health consequences without this procedure.

The PRESIDING OFFICER. Is there objection?

Mr. SANTORUM. Reserving the right to object.

Mrs. BOXER. Mr. President, I ask for regular order and just ask if there is objection this time.

The PRESIDING OFFICER. Regular order, the Senator must object.

Mr. SANTORUM. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. BOXER. Mr. President, the reason I asserted my parliamentary rights is because time is a wasting.

I would like to ask Senators to do me one favor as a colleague, and that favor is this: to simply visualize yourself in a circumstance where a person who you love maybe more than anyone else in the world, comes to you—it could be your wife, it could be your daughter, it could be a niece, it could be a grandchild, a granddaughter—and that woman who has been flushed with the thrill of a pregnancy, who was waiting with great anticipation with her family for the most blessed event any woman can have, and God has blessed me with two such events, and that loving woman looks in your eyes and says, ''Daddy,'' or ''Brother,'' or ''Mother, I have horrible news. I've been told by my doctor that there's a horrible turn of events that has happened in this pregnancy that we could not learn until the very late stages. And if I don't have this procedure''—the one that is outlawed in this bill, may I say—''my doctor says I might die or I might never be able to have another baby or I might be paralyzed for life. What should I do? Will you support me?''

I really think, if we are totally honest, as the distinguished Democratic leader has tried to put forward in his eloquence, I think every one of us would reach inside, and that love would overwhelm us and we would save that child, that wife, that granddaughter, and we would face this together with her doctor and our God, and we would not call a U.S. Senator, no matter how dignified, no matter how intelligent, no matter how popular at the moment, into that room. We would want to decide it with our family.

I beg my colleagues, I know this is such a difficult vote, but I believe in my heart when the American people understand that we have offered to ban this procedure but for life and serious health consequences and we were turned down by the other side, they will understand that not one of us is for a late-term abortion of a healthy pregnancy. Who could be? No one could be.

What we are talking about is preserving this procedure for cases like Viki Wilson and Vikki Stella and the women who have the courage to come forward and tell us their stories. I urge my colleagues, please, sustain the President's veto. I yield the balance of my time to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 2 minutes, 40 seconds.

Mr. BYRD. I thank the Chair, and I thank the distinguished Senator from California.

This is a very, very difficult question. I have been greatly troubled by it, as I am sure other Senators have been. Napoleon—who is not particularly one of my idols—and Josephine had a child on March 20, 1811. And when he was told by the doctors that the infant or the mother might have to be sacrificed, he revealed all the warmth of the human instincts and the instincts of family when he answered, ''Save the mother.''

Mr. President, as a father and as a grandfather, I would never want to be cast into that excruciating position. But if I were, I would answer as did Napoleon: ''Save the mother.''

Mr. COATS. Would the Senator yield at this time his time remaining?

Mrs. BOXER. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Senator from California has 34 seconds remaining. That is the extent of all further debate.

Mr. COATS. May I ask the Senator from California if she would yield me—give me a chance to just make a 10-second response to the Senator from West Virginia?

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I yield back all the time. We have debated this. I think it is time to vote. I ask that we go to the regular business and vote at this time.

The PRESIDING OFFICER. All time having been yielded back, the question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding? The yeas and nays are required. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Maine [Mr. COHEN] is necessarily absent.

I also announce that the Senator from Colorado [Mr. CAMPBELL] is absent due to illness.

The yeas and nays resulted—yeas 57, nays 41, as follows:

[Rollcall Vote No. 301 Leg.]

YEAS—57

Abraham	Ford	Mack
Ashcroft	Frahm	McCain
Bennett	Frist	McConnell
Biden	Gorton	Moynihan
Bond	Gramm	Murkowski
Breaux	Grams	Nickles
Brown	Grassley	Nunn
Burns	Gregg	Pressler
Coats	Hatch	Reid
Cochran	Hatfield	Roth
Conrad	Heflin	Santorum
Coverdell	Helms	Shelby
Craig	Hutchison	Smith
D'Amato	Inhofe	Specter
DeWine	Johnston	Stevens
Domenici	Kempthorne	Thomas
Dorgan	Kyl	Thompson
Exon	Leahy	Thurmond
Faircloth	Lugar	Warner

NAYS—41

Akaka	Graham	Mikulski
Baucus	Harkin	Moseley-Braun
Bingaman	Hollings	Murray
Boxer	Inouye	Pell
Bradley	Jeffords	Pryor
Bryan	Kassebaum	Robb
Bumpers	Kennedy	Rockefeller
Byrd	Kerrey	Sarbanes
Chafee	Kerry	Simon
Daschle	Kohl	Simpson
Dodd	Lautenberg	Snowe
Feingold	Levin	Wellstone
Feinstein	Lieberman	Wyden
Glenn	Lott	

NOT VOTING—2

Campbell	Cohen

The PRESIDING OFFICER. The Chair would like to remind the visitors in gallery that demonstrations of approval or disapproval are prohibited under Senate rules and I ask the Sergeant at Arms to assist in maintaining order in the gallery. We appreciate your cooperation.

On this vote the ayes are 57, the nays are 41.

Two-thirds of the Senators present and voting not having voted in the affirmative, the bill, on reconsideration, fails of passage.

Mr. LOTT. Mr. President, I previously voted ''aye.'' I changed my vote to ''no.'' I now enter a motion to reconsider the vote by which the veto message was sustained.

The PRESIDING OFFICER. The motion has been received.

Mr. GRASSLEY. Mr. President, this is a matter of such great importance that we will raise it again and again for votes until we prevail. In fact, we may even bring it up again for a vote this year.

MORNING BUSINESS

Mr. LOTT. Mr. President, I now ask that there be a period for the transaction of routine morning business

with Senators permitted to speak therein for up to 5 minutes each.

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

SCHEDULE

Mr. LOTT. In the meantime, for the information of all Senators—and Senator DASCHLE is here—we will be talking about the schedule for the balance of the evening. We believe we are ready to move forward on the NIH reauthorization bill. We are still working to see if we can get an agreement on the pipeline safety bill which, although it is completed, still has the gag rule issue pending to be resolved. I understood they were making some progress, and now I understand that maybe they are not.

During the next few minutes, while we are having 5-minute speeches, we will work on this and make that information available to all Senators.

I yield the floor.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, I ask unanimous consent to proceed for 10 minutes in morning business.

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

Mr. BYRD. Will the Senator yield briefly?

Mr. BROWN. I am happy to.

Mr. BYRD. Mr. President, the Senate is still not in order. There are entirely too many conversations going on in the back of the Chamber.

The PRESIDING OFFICER. The Senator's observations are entirely correct. Will the Senators to the Chair's right please take their conversations to the Cloakroom? The Senator from Alaska, the Senator from Arkansas.

I thank the Senator from West Virginia.

The Senator from Colorado is recognized.

EMERGENCY FUNDING FOR FISCAL YEAR 1996 AND FISCAL YEAR 1997

Mr. BROWN. Thank you, Mr. President. I thank the distinguished Senator from West Virginia for his courtesy for allowing me to be heard.

Mr. President, I want to draw Members' attention to the President's emergency funding request. Not so long ago the President sent up to Congress a communication requesting $1.1 billion in emergency funding for fiscal years 1996 and 1997. Members will find it in their offices. The communication of the President is dated September 17, 1996. Mr. President, I ask Members to review that communication because I have some concerns with it.

Mr. President, it is my hope that Members will give these requests some careful review. All of us are concerned about terrorism, but I hope in exhibiting our concern that we will also recognize that we have an obligation to the taxpayers when considering these requests.

I draw Members' attention to the fact that the President's original request in March of this year—not so long ago—was for exactly $27.9 million. That is increased 4,000 percent, in a few months, in this request. Obviously, terrorism is a matter that deserves careful and full scrutiny and strong action on the part of the Federal Government. But I would suggest to Members also that a 4000-percent increase in the request for funding also deserves our attention.

Mr. President, let me give some specific examples. In this enormous request under the banner of ''emergency,'' only 6 months after the original request, I think some questions need and should be asked. We looked through these requests and I hope Members will study them. We found huge increases in spending spread throughout the Federal Government.

For example, the request includes an additional $34,000 for additional facilities for security expenses at the Office of the Inspector General under the Department of the Treasury. When we inquired or looked in the report for how this $34,000 was to be spent, the report indicates, and I quote, ''No further details provided.''

So we ended up calling the Office of the Inspector General. We talked specifically to the budget officer who ends up coordinating these matters. Here is what he said and I'll quote this because I think it is imperative that his exact words be included in the RECORD. He said, ''This is the first I have heard of any emergency supplemental funding.'' Now, this is the officer who controls the budget for that office. He said, ''This is the first I have heard of any emergency supplemental funding. I am not aware of any request for extra funding. I do not know what we need it for.''

The OMB publication didn't spell out what it was for, and their budget director does not even know what it was for.

From the Bureau of Public Debt at the Department of the Treasury, we received a request of $161,000 ''for additional facilities security operating expenses.'' Once again, no further details were provided in the report. We called the Bureau of Public Debt and asked them what this request would be used for. We simply wanted a justification and some simple facts. The budget officer was unaware of the emergency supplemental request. This is what the budget officer said, ''I'll be real honest with you. This is the first I've heard of it. We have not made a request for supplemental funding.''

Now, this is an emergency funding request and the budget officer tells us that he has not even heard of it?

Mr. President, the dilemma goes on.

For the Federal Aviation Administration there is a $15.5-million request to acquire and install dual energy automated x-ray systems and quadruple resonance devices for screening checked baggage at U.S. airports. According to the FAA, these x-ray systems and resonance devices, and I quote, ''have not been certified by the FAA as meeting the U.S. national performance standards for explosives detection systems.'' We called the Financial Review Division at the FAA. We asked the manager of this division at the FAA why they needed emergency funding for x-ray systems and resonance devices that do not meet the U.S. performance standards and have not been FAA certified. Let me repeat that.

The request is for machines that do not meet the U.S. performance standards. These machines are not FAA certified. Here is what the manager said, ''I don't know why we are asking for safety equipment that is not FAA certified.''

Mr. President, the list goes on.

Mr. President, we have a responsibility to take care of the important business of the public, and we ought to fund serious antiterrorist efforts. But ''I don't know'' is not a good enough answer. The American citizen deserves more. It is irresponsible for the President to ask for money when they do not even know how they would spend it. It is even more irresponsible for this Congress to appropriate it.

My hope is that we give close attention to these requested matters and that we not fund matters where they have no clear idea how they are going to spend it, and that we take out of the emergency supplemental areas any clear waste out of areas where we, and they, simply don't have any idea where it will be spent.

Last, Mr. President, if you were going to identify an area of abuse in spending over the past years, it would surely be in the area where we come up with an emergency supplemental where it does not receive the full review and investigation of the Appropriations Committee.

I hope this Congress will not be derelict in its duty. I hope we will not write a blank check from the Public Treasury. Our responsibility and obligation to the American people is not to write blank checks for requests we know nothing about. Mr. President, I hope this Senate will act to make sure these ''I don't know'' requests from the President are denied.

Mr. President, I yield the floor.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. I thank my colleague from Colorado. The Senate will surely miss his wise counsel. I rise to express similar concerns.

Mr. President, recent, tragic events have raised the fight against terrorism higher in the public consciousness. In response, President Clinton has submitted a request for $1.1 billion in emergency antiterrorism funding for fiscal year 1996 and fiscal year 1997.

While it is imperative that we act in a timely way to fight terrorism and to preserve the safety of our citizens, it is also important that we not simply throw money at a problem for efforts that do little more than make us feel a little better for a little while.

Indeed, it's important that we not let our actions be reduced to reactions.

Unless these programs make a difference, we will be wasting the taxpayer's money. And when terrorists strike again, we'll be standing here once more, asking ourselves what went wrong with the programs whose appropriations we are debating today.

I fear that the President's emergency request represents greatly increased spending without greatly increased thought.

Do we know that this $1.1 billion will go toward effective measures? The President's proposal represents an increase in spending on antiterrorism measures of about 4,000 percent, from his earlier proposal of something under $50 million. I am not yet convinced that this spending is anything more than an expensive way to make the public believe that the Government is doing something constructive.

I happen to think we have long since passed the day in this body when we can equate the expenditure of large amounts of public funds with results. It simply does not happen in too many respects.

There is a significant difference between doing things that look effective and doing things that are effective. For example, it may look good to expand wiretapping authority, but is it necessarily a positive way to deal with the problem? What kinds of terrorists are we fighting? Will wiretapping even be effective to combat what we are going to be facing in the future?

Would wiretapping have helped stop the Atlanta bombing? Would it have mattered in Oklahoma City?

And just as important as that question is considering the price we may pay in the infringement on our personal freedoms.

It is no small question to define what is a reasonable and acceptable infringement on our rights and privileges. Before we plunge into any cut back on our personal freedoms, we need to carefully consider what we are getting when we trade them away.

Obviously, the President's request has arrived so late that we can't give it the scrutiny and possible revision it seems to need. So we are moving ahead and appropriating the funds he has asked for, hoping that they will do some real good.

Mr. President, I submit that what we truly need is a thoughtful, coordinated, long-range plan about how to address the threat of terrorism. I fear that the administration's emergency request comes more out of reaction than it does from a careful examination of the problem.

Cobbling together afterthought reactions is not sufficient to address this matter. And $1.1 billion is a great deal of money to spend with such little consideration.

I don't take the matter of terrorism lightly. Indeed, none of us can. Everyone observing the proceedings from inside this Chamber has already gone through a metal detector to get in the Capitol, and then through another, stronger detector just be inside this room.

House and Senate staff members wear ID badges, and they pass by guards every day as they come in to work. We are all aware of the threat—it is a part of daily life.

Even so, extraordinary tragedy is always possible. I was in Atlanta this summer when the pipe bomb exploded at the Olympic games. It is profoundly disturbing to know that a determined individual can still penetrate even the most stringent security measures. So I appreciate the threat of terrorism and the need for swift action. At the same time, I submit that unless we carefully plan our tactics and strategy to counter this threat, we will have squandered our resources that could have made a real difference. Without planning, we will have nothing to show for our efforts.

The President's request comes in response to the Atlanta bombing and the downing of TWA Flight 800 off of Long Island. Has President Clinton merely scraped together whatever ideas were at hand in order to appear tough on terrorism? We need to move forward to combat terrorism from a position of leadership and not simply reaction. We should not simply expand the power of the Federal Government after every act of terrorism.

The proposal from 6 months ago for fiscal year 1997 was much different than the one we see now. It included a 40 percent cut in the Attorney General's counterterrorism fund. The new proposal calls for millions in security upgrades for Federal buildings. What are these upgrades? And, most important, will they make the people in those buildings any safer? And why were they not suggested in the original fiscal year 1997 proposal if they were needed?

It is difficult to turn down the President's request at this late date. I remind my colleagues that if in a year or two this $1.1 billion appropriation turns out to be no more than a quick gesture to allay public fears, if these proposals are ultimately ineffective and hollow to the core, then we will be faced with the unpleasant fact that we spent $1.1 billion for simply being safe, or feeling safe for a few days or a few weeks in order to be able to say that we just did something.

Mr. President, I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

The Senate is currently in a period of morning business. The Senator has the right to speak for 5 minutes.

Mr. CONRAD. I thank the Chair.

Mr. LOTT. Mr. President, will the distinguished Senator be kind enough to yield for a unanimous consent request that has been agreed to on both sides?

Mr. CONRAD. I will be pleased to.

Mr. LOTT. I thank the Senator for yielding. This is an issue we have been working on for quite some time. We finally got it done. We would like to get it done before it becomes unglued.

Mr. CONRAD. I am happy to yield to the majority leader.

NATIONAL INSTITUTES OF HEALTH REVITALIZATION ACT OF 1996

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 583, S. 1897.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1897) to amend the Public Health Service Act to revise and extend certain programs relating to the National Institutes of Health, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which has been reported from the Committee on Labor and Human Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1897

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES; AND TABLE OF CONTENTS

(a) SHORT TITLE.—This Act may be cited as the ''National Institutes of Health Revitalization Act of 1996''.

(b) REFERENCES.—Whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; references; and table of contents.

TITLE I—PROVISIONS RELATING TO THE NATIONAL INSTITUTES OF HEALTH

Sec. 101. Director's discretionary fund.
Sec. 102. Children's vaccine initiative.

TITLE II—PROVISIONS RELATING TO THE NATIONAL RESEARCH INSTITUTES

Sec. 201. Research on osteoporosis, Paget's disease, and related bone disorders.
Sec. 202. National Human Genome Research Institute.
Sec. 203. Increased amount of grant and other awards.
Sec. 204. Meetings of advisory committees and councils.
Sec. 205. Elimination or modification of reports.

TITLE III—SPECIFIC INSTITUTES AND CENTERS

Subtitle A—National Cancer Institute

Sec. 301. Authorization of appropriations.
Sec. 302. DES study.

Subtitle B—National Heart Lung and Blood Institute

Sec. 311. Authorization of appropriations.

Subtitle C—National Institute of Allergy and Infectious Diseases

Sec. 321. Research and research training regarding tuberculosis.

Sec. 322. Terry Beirn community-based aids research initiative.

Subtitle D—National Institute of Child Health and Human Development

Sec. 331. Research centers for contraception and infertility.

Subtitle E—National Institute on Aging

Sec. 341. Authorization of appropriations.

Subtitle F—National Institute on Alcohol Abuse and Alcoholism

Sec. 351. Authorization of appropriations.
Sec. 352. National alcohol research center.

Subtitle G—National Institute on Drug Abuse

Sec. 361. Authorization of appropriations.
Sec. 362. Medication development program.
Sec. 363. Drug abuse research centers.

Subtitle H—National Institute of Mental Health

Sec. 371. Authorization of appropriations.

Subtitle I—National Center for Research Resources

Sec. 381. Authorization of appropriations.
Sec. 382. General clinical research centers.
Sec. 383. Enhancement awards.
Sec. 384. Waiver of limitations.

Subtitle J—National Library of Medicine

Sec. 391. Authorization of appropriations.
Sec. 392. Increasing the cap on grant amounts.

TITLE IV—AWARDS AND TRAINING

Sec. 401. Medical scientist training program.
Sec. 402. Raise in maximum level of loan repayments.
Sec. 403. General loan repayment program.
Sec. 404. Clinical research assistance.

TITLE V—RESEARCH WITH RESPECT TO AIDS

Sec. 501. Comprehensive plan for expenditure of AIDS appropriations.
Sec. 502. Emergency AIDS discretionary fund.

TITLE VI—GENERAL PROVISIONS

Subtitle A—Authority of the Director of NIH

Sec. 601. Authority of the director of NIH.

Subtitle B—Office of Rare Disease Research

Sec. 611. Establishment of office for rare disease research.

Subtitle C—Certain Reauthorizations

Sec. 621. National research service awards.
Sec. 622. National Foundation for Biomedical Research.

Subtitle D—Miscellaneous Provisions

Sec. 631. Establishment of national fund for health research.
Sec. 632. Definition of clinical research.
Sec. 633. Senior Biomedical Research Service.
Sec. 634. Establishment of a pediatric research initiative.
Sec. 635. Diabetes research.
Sec. 636. Parkinson's research.

Subtitle E—Repeals and Conforming Amendments

Sec. 641. Repeals and conforming amendments.

TITLE I—PROVISIONS RELATING TO THE NATIONAL INSTITUTES OF HEALTH

SEC. 101. DIRECTOR'S DISCRETIONARY FUND.

Section 402(i)(3) (42 U.S.C. 282(i)(3)) is amended by striking ''$25,000,000'' and all that follows through the period and inserting ''such sums as may be necessary for each of the fiscal years 1997 through 1999.''.

SEC. 102. CHILDREN'S VACCINE INITIATIVE.

Section 404B(c) (42 U.S.C. 283d(c)) is amended by striking ''$20,000,000'' and all that follows through the period and inserting ''such sums as may be necessary for each of the fiscal years 1997 through 1999.''.

TITLE II—PROVISIONS RELATING TO THE NATIONAL RESEARCH INSTITUTES

SEC. 201. RESEARCH ON OSTEOPOROSIS, PAGET'S DISEASE, AND RELATED BONE DISORDERS.

Section 409A(d) (42 U.S.C. 284e(d)) is amended by striking ''$40,000,000'' and all that follows through the period and inserting ''such sums as may be necessary for each of the fiscal years 1997 through 1999.''.

SEC. 202. NATIONAL HUMAN GENOME RESEARCH INSTITUTE.

(a) IN GENERAL.—Part C of title IV (42 U.S.C. 285 et seq.) is amended by adding at the end thereof the following new subpart:

''Subpart 18—National Human Genome Research Institute

''SEC. 464Z. PURPOSE OF THE INSTITUTE.

''(a) IN GENERAL.—The general purpose of the National Human Genome Research Institute is to characterize the structure and function of the human genome, including the mapping and sequencing of individual genes. Such purpose includes—

''(1) planning and coordinating the research goal of the genome project;

''(2) reviewing and funding research proposals;

''(3) conducting and supporting research training;

''(4) coordinating international genome research;

''(5) communicating advances in genome science to the public;

''(6) reviewing and funding proposals to address the ethical, legal, and social issues associated with the genome project (including legal issues regarding patents); and

''(7) planning and administering intramural, collaborative, and field research to study human genetic disease.

''(b) RESEARCH.—The Director of the Institute may conduct and support research training—

''(1) for which fellowship support is not provided under section 487; and

''(2) that is not residency training of physicians or other health professionals.

''(c) ETHICAL, LEGAL, AND SOCIAL ISSUES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), of the amounts appropriated to carry out subsection (a) for a fiscal year, the Director of the Institute shall make available not less than 5 percent of amounts made available for extramural research for carrying out paragraph (6) of such subsection.

''(2) NONAPPLICATION.—With respect to providing funds under subsection (a)(6) for proposals to address the ethical issues associated with the genome project, paragraph (1) shall not apply for a fiscal year if the Director of the Institute certifies to the Committee on Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, that the Director has determined that an insufficient number of such proposals meet the applicable requirements of sections 491 and 492.

''(d) TRANSFER.—

''(1) IN GENERAL.—There are transferred to the National Human Genome Research Institute all functions which the National Center for Human Genome Research exercised before the date of enactment of this subpart, including all related functions of any officer or employee of the National Center for Human Genome Research. The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred under this subsection shall be transferred to the National Human Genome Research Institute.

''(2) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, regulations, privileges, and other administrative actions which have been issued, made, granted, or allowed to become effective in the performance of functions which are transferred under this subsection shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law.

''(3) REFERENCES.—References in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the National Center for Human Genome Research shall be deemed to refer to the National Human Genome Research Institute.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1997 through 1999.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 401(b) (42 U.S.C. 281(b)) is amended—

(A) in paragraph (1), by adding at the end thereof the following new subparagraph:

''(R) The National Human Genome Research Institute.''; and

(B) in paragraph (2)—

(i) by striking subparagraph (D); and

(ii) by redesignating subparagraph (E) as subparagraph (D).

(2) Subpart 3 of part E of title IV (42 U.S.C. 287c et seq.) is repealed.

SEC. 203. INCREASED AMOUNT OF GRANT AND OTHER AWARDS.

Section 405(b)(2)(B) (42 U.S.C. 284(b)(2)(B) is amended—

(1) in clause (i), by striking ''$50,000'' and inserting ''$100,000''; and

(2) in clause (ii), by striking ''$50,000'' and inserting ''$100,000''.

SEC. 204. MEETINGS OF ADVISORY COMMITTEES AND COUNCILS.

(a) IN GENERAL.—Section 406 (42 U.S.C. 284a) is amended—

(1) in subsection (e), by striking '', but at least three times each fiscal year''; and

(2) in subsection (h)(2)—

(A) in subparagraph (A)—

(i) in clause (iv), by adding ''and'' after the semicolon;

(ii) in clause (v), by striking ''; and'' and inserting a period; and

(iii) by striking clause (vi); and

(B) in subparagraph (B), by striking '', except'' and all that follows through ''year''.

(b) PRESIDENT'S CANCER PANEL.—Section 415(a)(3) (42 U.S.C. 285a–4(a)(3)) is amended by striking '', but not less often than four times a year''.

(c) INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES INTERAGENCY COORDINATING COMMITTEES.—Section 429(b) (42 U.S.C. 285c–3(b)) is amended by striking '', but not less often than four times a year''.

(d) INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES INTERAGENCY COORDINATING COMMITTEES.—Section 439(b) (42 U.S.C. 285d–4(b)) is amended by striking '', but not less often than four times a year''.

(e) INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS INTERAGENCY COORDINATING COMMITTEES.—Section 464E(d) (42 U.S.C. 285m–5(d)) is amended by striking '', but not less often than four times a year''.

(f) INSTITUTE OF NURSING RESEARCH ADVISORY COUNCIL.—Section 464X(e) (42 U.S.C. 285q–2(e)) is amended by striking '', but at least three times each fiscal year''.

(g) CENTER FOR RESEARCH RESOURCES ADVISORY COUNCIL.—Section 480(e) (42 U.S.C. 287a(e)) is amended by striking '', but at least three times each fiscal year''.

(h) APPLICATION OF FACA.—Part B of title IV (42 U.S.C. 284 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 409B. APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.

''Notwithstanding any other provision of law, the provisions of the Federal Advisory Committee Act (5 U.S.C. Ap. 2) shall not apply to a scientific or technical peer review group, established under this title.''.

SEC. 205. ELIMINATION OR MODIFICATION OF REPORTS.

(a) PUBLIC HEALTH SERVICE ACT REPORTS.—The following provisions of the Public Health Service Act are repealed:

(1) Section 403 (42 U.S.C. 283) relating to the biennial report of the Director of the National Institutes of Health to Congress and the President.

(2) Subsection (c) of section 439 (42 U.S.C. 285d-4(c)) relating to the annual report of the Arthritis and Musculoskeletal Diseases Interagency Coordinating Committee and the annual report of the Skin Diseases Interagency Coordinating Committee.

(3) Subsection (j) of section 442 (42 U.S.C. 285d-7(j)) relating to the annual report of the National Arthritis and Musculoskeletal and Skin Diseases Advisory Board.

(4) Subsection (b) of section 494A (42 U.S.C. 289c–1(b)) relating to the annual report of the Secretary of Health and Human Services on health services research relating to alcohol abuse and alcoholism, drug abuse, and mental health.

(5) Subsection (b) of section 503 (42 U.S.C. 290aa–2(b)) relating to the triennial report of the Secretary of Health and Human Services to Congress.

(b) REPORT ON DISEASE PREVENTION.—Section 402(f)(3) (42 U.S.C. 282(f)(3)) is amended by striking ''annually'' and inserting ''biennially''.

(c) REPORTS OF THE COORDINATING COMMITTEES ON DIGESTIVE DISEASES, DIABETES MELLITUS, AND KIDNEY, UROLOGIC AND HEMATOLOGIC DISEASES.—Section 429 (42 U.S.C. 285c–3) is amended by striking subsection (c).

(d) REPORT OF THE TASK FORCE ON AGING RESEARCH.—Section 304 of the Home Health Care and Alzheimer's Disease Amendments of 1990 (42 U.S.C. 242q–3) is repealed.

(e) SUDDEN INFANT DEATH SYNDROME RESEARCH.—Section 1122 (42 U.S.C. 300c–12) is amended—

(1) in subsection (a)—

(A) by striking the subsection designation and heading; and

(B) by striking ''of the type'' and all that follows through ''adequate,'' and insert '', such amounts each year as will be adequate for research which relates generally to sudden infant death syndrome, including high-risk pregnancy and high-risk infancy research which directly relates to sudden infant death syndrome, and to the relationship of the high-risk pregnancy and high-risk infancy research to sudden infant death syndrome,''; and

(2) by striking subsections (b) and (c).

(f) U.S.-JAPAN COOPERATIVE MEDICAL SCIENCE PROGRAM.—Subsection (h) of section 5 of the International Health Research Act of 1960 is repealed.

(g) BIOENGINEERING RESEARCH.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Commerce of the House of Representatives, a report containing specific plans and timeframes on how the Director will implement the findings and recommendations of the report to Congress entitled ''Support for Bioengineering Research'' (submitted in August of 1995 in accordance with section 1912 of the National Institutes of Health Revitalization Act of 1993 (42 U.S.C. 282 note)).

[g] *(h)* CONFORMING AMENDMENTS.—Title IV is amended—

(1) in section 404C(c) (42 U.S.C. 283e(c)), by striking ''included'' and all that follows through the period and inserting ''made available to the committee established under subsection (e) and included in the official minutes of the committee'';

(2) in section 404E(d)(3)(B) (42 U.S.C. 283g(d)(3)(B)), by striking ''for inclusion in the biennial report under section 403'';

(3) in section 406(g) (42 U.S.C. 284a(g))—

(A) by striking ''for inclusion in the biennial report made under section 407'' and inserting ''as it may determine appropriate''; and

(B) by striking the second sentence;

(4) in section 407 (42 U.S.C. 284b)—

(A) in the section heading, to read as follows:

''REPORTS''; and

(B) by striking ''shall prepare for inclusion in the biennial report made under section 403 a biennial'' and inserting ''may prepare a'';

(5) in section 416(b) (42 U.S.C. 285a–5(b)) by striking ''407'' and inserting ''402(f)(3)'';

(6) in section 417 (42 U.S.C. 285a–6), by striking subsection (e);

(7) in section 423(b) (42 U.S.C. 285b–6(b)), by striking ''407'' and inserting ''402(f)(3)'';

(8) by striking section 433 (42 U.S.C. 285c–7);

(9) in section 451(b) (42 U.S.C. 285g–3(b)), by striking ''407'' and inserting ''402(f)(3)'';

(10) in section 452(d) (42 U.S.C. 285g–4(d))—

(A) in paragraph (3)—

(i) in subparagraph (A), by striking ''(A) Not'' and inserting ''Not''; and

(ii) by striking subparagraph (B); and

(B) in the last sentence of paragraph (4), by striking ''contained'' and all that follows through the period and inserting ''transmitted to the Director of NIH.'';

(11) in section 464I(b) (42 U.S.C. 285n–1(b)), by striking ''407'' and inserting ''402(f)(3)'';

(12) in section 464M(b) (42 U.S.C. 285o–1)(b)), by striking ''407'' and inserting ''402(f)(3)'';

(13) in section 464S(b) (42 U.S.C. 285p–1(b)), by striking ''407'' and inserting ''402(f)(3)'';

(14) in section 464X(g) (42 U.S.C. 285q–2(g)) is amended—

(A) by striking ''for inclusion in the biennial report made under section 464Y'' and inserting ''as it may determine appropriate''; and

(B) by striking the second sentence;

(15) in section 464Y (42 U.S.C. 285q–3)—

(A) in the section heading, to read as follows:

''REPORTS''; and

(B) by striking ''shall prepare for inclusion in the biennial report made under section 403 a biennial'' and inserting ''may prepare a'';

(16) in section 480(g) (42 U.S.C. 287a(g))—

(A) by striking ''for inclusion in the biennial report made under section 481'' and inserting ''as it may determine appropriate''; and

(B) by striking the second sentence;

(17) in section 481 (42 U.S.C. 287a–1)—

(A) in the section heading, to read as follows:

''REPORTS''; and

(B) by striking ''shall prepare for inclusion in the biennial report made under section 403 a biennial'' and inserting ''may prepare a'';

(18) in section 486(d)(5)(B) (42 U.S.C. 287d(d)(5)(B)), by striking ''for inclusion in the report required in section 403'';

(19) in section 486B (42 U.S.C. 287d–2) by striking subsection (b) and inserting the following new subsection:

''(b) SUBMISSION.—The Director of the Office shall submit each report prepared under subsection (a) to the Director of NIH.''; and

(20) in section 492B(f) (42 U.S.C. 289a–2(f)), by striking ''for inclusion'' and all that follows through the period and inserting ''and the Director of NIH.''.

TITLE III—SPECIFIC INSTITUTES AND CENTERS

Subtitle A—National Cancer Institute

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Section 417B (42 U.S.C. 286a–8) is amended—

(1) in subsection (a), by striking ''$2,728,000,000'' and all that follows through the period and inserting ''$3,000,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 and 1999.'';

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in the first sentence of subparagraph (A), by striking ''$225,000,000'' and all that follows through the first period and inserting ''such sums as may be necessary for each of the fiscal years 1997 through 1999.''; and

(ii) in the first sentence of subparagraph (B), by striking ''$100,000,000'' and all that follows through the first period and inserting ''such sums as may be necessary for each of the fiscal years 1997 through 1999.''; and

(B) in the first sentence of paragraph (2), by striking ''$75,000,000'' and all that follows through the first period and inserting ''such sums as may be necessary for each of the fiscal years 1997 through 1999.''; and

(3) in the first sentence of subsection (c), by striking ''$72,000,000'' and all that follows through the first period and inserting ''such sums as may be necessary for each of the fiscal years 1997 through 1999.''.

SEC. 302. DES STUDY.

Section 403A(e) (42 U.S.C. 283a(e)) is amended by striking ''1996'' and inserting ''1999''.

Subtitle B—National Heart Lung and Blood Institute

SEC. 311. AUTHORIZATION OF APPROPRIATIONS.

Section 425 (42 U.S.C. 285b–8) is amended by striking ''$1,500,000,000'' and all that follows through the period and inserting ''$1,600,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 and 1999.''.

Subtitle C—National Institute of Allergy and Infectious Diseases

SEC. 321. RESEARCH AND RESEARCH TRAINING REGARDING TUBERCULOSIS.

Subpart 6 of part C of title IV is amended in the first section 447(b) (42 U.S.C. 285f–2(b)) by striking ''$50,000,000'' and all that follows through the first period 1998'' and inserting ''such sums as may be necessary for each of the fiscal years 1997 through 1999.''.

SEC. 322. TERRY BEIRN COMMUNITY-BASED AIDS RESEARCH INITIATIVE.

Section 2313(e) (42 U.S.C. 300cc–13(e)) is amended—

(1) in paragraph (1), by striking ''1996'' and inserting ''1999''; and

(2) in paragraph (2), by striking ''1996'' and inserting ''1999''.

Subtitle D—National Institute of Child Health and Human Development

SEC. 331. RESEARCH CENTERS FOR CONTRACEPTION AND INFERTILITY.

Section 452A(g) (42 U.S.C. 285g–5(g)) is amended by striking ''$30,000,000'' and all that follows through the period and inserting ''such sums as may be necessary for each of the fiscal years 1997 through 1999.''.

Subtitle E—National Institute on Aging

SEC. 341. AUTHORIZATION OF APPROPRIATIONS.

Section 445I (42 U.S.C. 285e–11) is amended by striking ''$500,000,000'' and all that follows through the period and inserting ''$550,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 and 1999.''.

Subtitle F—National Institute on Alcohol Abuse and Alcoholism

SEC. 351. AUTHORIZATION OF APPROPRIATIONS.

Section 464H(d)(1) (42 U.S.C. 285n(d)(1)) is amended by striking ''300,000,000'' and all that follows through the period and inserting ''$330,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 and 1999.''.

SEC. 352. NATIONAL ALCOHOL RESEARCH CENTER.

Section 464J(b) (42 U.S.C. 285n–2(b)) is amended—

(1) by striking ''(b) The'' and inserting ''(b)(1) The'';

(2) by striking the third sentence; and

(3) by adding at the end thereof the following new paragraph:

''(2) As used in paragraph (1), the terms 'construction' and 'cost of construction' include—

''(A) the construction of new buildings, the expansion of existing buildings, and the acquisition, remodeling, replacement, renovation, major repair (to the extent permitted by regulations), or alteration of existing buildings, including architects' fees, but not including the cost of the acquisition of land or offsite improvements; and

''(B) the initial equipping of new buildings and of the expanded, remodeled, repaired, renovated, or altered part of existing buildings; except that

such term shall not include the construction or cost of construction of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship.''.

Subtitle G—National Institute on Drug Abuse

SEC. 361. AUTHORIZATION OF APPROPRIATIONS.

Section 464L(d)(1) (42 U.S.C. 285o(d)(1)) is amended by striking ''$440,000,000'' and all that follows through the period and inserting ''$480,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 and 1999.''.

SEC. 362. MEDICATION DEVELOPMENT PROGRAM.

Section 464P(e) (42 U.S.C. 285o–4(e)) is amended by striking ''$85,000,000'' and all that follows through the period and inserting ''such sums as may be necessary for each of the fiscal years 1997 through 1999''.

SEC. 363. DRUG ABUSE RESEARCH CENTERS.

Section 464N(b) (42 U.S.C. 285o–2(b)) is amended—

(1) by striking ''(b) The'' and inserting ''(b)(1) The'';

(2) by striking the last sentence; and

(3) by adding at the end thereof the following new paragraph:

''(2) As used in paragraph (1), the terms 'construction' and 'cost of construction' include—

''(A) the construction of new buildings, the expansion of existing buildings, and the acquisition, remodeling, replacement, renovation, major repair (to the extent permitted by regulations), or alteration of existing buildings, including architects' fees, but not including the cost of the acquisition of land or offsite improvements; and

''(B) the initial equipping of new buildings and of the expanded, remodeled, repaired, renovated, or altered part of existing buildings; except that

such term does not include the construction or cost of construction of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship.''.

Subtitle H—National Institute of Mental Health

SEC. 371. AUTHORIZATION OF APPROPRIATIONS.

Section 464R(f)(1) (42 U.S.C. 285p(f)(1)) is amended by striking ''$675,000,000'' and all that follows through the period and inserting ''$750,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 and 1999.''.

Subtitle I—National Center for Research Resources

SEC. 381. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION.—Section 481A(h) (42 U.S.C. 287a–2(h)) is amended by striking ''$150,000,000'' and all that follows through the period and inserting ''such sums as may be necessary for each of the fiscal years 1997 through 1999.''.

(b) RESERVATION FOR CONSTRUCTION OF REGIONAL CENTERS.—Section 481B(a) (42 U.S.C. 287a–3(a)) is amended—

(1) by striking ''shall'' and inserting ''may'';

(2) by striking ''1994 through 1996'' and inserting ''1997 through 1999''; and

(3) by striking ''$5,000,000'' and inserting ''such sums as may be necessary for each such fiscal year''.

SEC. 382. GENERAL CLINICAL RESEARCH CENTERS.

Part B of title IV (42 U.S.C. 284 et seq.), as amended by section 205(h), is further amended by adding at the end thereof the following new section:

''SEC. 409C. GENERAL CLINICAL RESEARCH CENTERS.

''(a) GRANTS.—The Director of the National Center for Research Resources shall award grants for the establishment of general clinical research centers to provide the infrastructure for clinical research including clinical research training and career enhancement. Such centers shall support clinical studies and career development in all settings of the hospital or academic medical center involved.

''(b) ACTIVITIES.—In carrying out subsection (a), the Director of NIH shall expand the activities of the general clinical research centers through the increased use of telecommunications and telemedicine initiatives.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under subsection (a), such sums as may be necessary for each of the fiscal years 1996 and 1999.''.

SEC. 383. ENHANCEMENT AWARDS.

Part B of title IV (42 U.S.C. 284 et seq.), as amended by sections 205(h) and 382, is further amended by adding at the end thereof the following new section:

''SEC. 409D. ENHANCEMENT AWARDS.

''(a) CLINICAL RESEARCH CAREER ENHANCEMENT AWARD.—

''(1) IN GENERAL.—The Director of the National Center for Research Resources shall make grants (to be referred to as 'clinical research career enhancement awards') to support individual careers in clinical research.

''(2) APPLICATIONS.—An application for a grant under this subsection shall be submitted by an individual scientist at such time as the Director may require.

''(3) LIMITATIONS.—The amount of a grant under this subsection shall not exceed $130,000 per year per grant. Grants shall be for terms of 5 years. The Director shall award not more than 20 grants in the first fiscal year in which grants are awarded under this subsection. The total number of grants awarded under this subsection for the first and second fiscal years in which grants such are awarded shall not exceed 40 grants.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under paragraph (1), such sums as may be necessary for each of the fiscal years 1997 through 1999.

''(b) INNOVATIVE MEDICAL SCIENCE AWARD.—

''(1) IN GENERAL.—The Director of the National Center for Research Resources shall make grants (to be referred to as 'innovative medical science awards') to support individual clinical research projects.

''(2) APPLICATIONS.—An application for a grant under this subsection shall be submitted by an individual scientist at such time as the Director requires.

''(3) LIMITATIONS.—The amount of a grant under this subsection shall not exceed $100,000 per year per grant.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under paragraph (1), such sums as may be necessary for each of the fiscal years 1997 through 1999.

''(c) PEER REVIEW.—The Director of NIH, in cooperation with the Director of the National Center for Research Resources, shall establish peer review mechanisms to evaluate applications for clinical research fellowships, clinical research career enhancement awards, and innovative medical science award programs. Such review mechanisms shall include individuals who are exceptionally qualified to appraise the merits of potential clinical research trainees.''.

SEC. 384. WAIVER OF LIMITATIONS.

Section 481A (42 U.S.C. 287a–2) is amended—

(1) in subsection (b)(3)(A), by striking ''9'' and inserting ''12'';

(2) in subsection (e)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking ''50'' and inserting ''40''; and

(ii) in subparagraph (B), by striking ''40'' and inserting ''30''; and

(B) in paragraph (4), by striking ''for applicants meeting the conditions described in paragraphs (1) and (2) of subsection (c)''; and

(3) in subsection (h), by striking $150,000,000'' and all that follows through ''1996'' and inserting ''such sums as may be necessary for each of the fiscal years 1997 through 1999''.

Subtitle J—National Library of Medicine

SEC. 391. AUTHORIZATION OF APPROPRIATIONS.

Section 468(a) (42 U.S.C. 286a–2(a)) is amended by striking ''$150,000,000'' and all that follows through the period and inserting ''$160,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 and 1999.''.

SEC. 392. INCREASING THE CAP ON GRANT AMOUNTS.

Section 474(b)(2) (42 U.S.C. 286b–5(b)(2)) is amended by striking ''$1,000,000'' and inserting ''$1,250,000''.

TITLE IV—AWARDS AND TRAINING

SEC. 401. MEDICAL SCIENTIST TRAINING PROGRAM.

(a) EXPANSION OF PROGRAM.—Notwithstanding any other provision of law, the Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall expand the Medical Scientist Training Program to include fields that will contribute to training clinical investigators in the skills of performing patient-oriented clinical research.

(b) DESIGNATION OF SLOTS.—In carrying out subsection (a), the Director of the National Institutes of Health shall designate a specific percentage of positions under the Medical Scientist Training Program for use with respect to the pursuit of a Ph.D. degree in the disciplines of economics, epidemiology, public health, bioengineering, biostatistics and bioethics, and other fields determined appropriate by the Director.

SEC. 402. RAISE IN MAXIMUM LEVEL OF LOAN REPAYMENTS.

(a) REPAYMENT PROGRAMS WITH RESPECT TO AIDS.—Section 487A (42 U.S.C. 288–1) is amended—

(1) in subsection (a), by striking ''$20,000'' and inserting ''$35,000''; and

(2) in subsection (c), by striking ''1996'' and inserting ''1999''.

(b) REPAYMENT PROGRAMS WITH RESPECT TO CONTRACEPTION AND INFERTILITY.—Section 487B(a) (42 U.S.C. 288–2(a)) is amended by striking ''$20,000'' and inserting ''$35,000''.

(c) REPAYMENT PROGRAMS WITH RESPECT TO RESEARCH GENERALLY.—Section 487C(a)(1) (42 U.S.C. 288–3(a)(1)) is amended by striking ''$20,000'' and inserting ''$35,000''.

(d) REPAYMENT PROGRAMS WITH RESPECT TO CLINICAL RESEARCHERS FROM DISADVANTAGED BACKGROUNDS.—Section 487E(a) (42 U.S.C. 288–5(a)) is amended—

(1) in paragraph (1), by striking ''$20,000'' and inserting ''$35,000''; and

(2) in paragraph (3), by striking ''338C'' and inserting ''338B, 338C''.

SEC. 403. GENERAL LOAN REPAYMENT PROGRAM.

Part G of title IV (42 U.S.C. 288 et seq.) is amended by inserting after section 487E, the following new section:

''SEC. 487F. GENERAL LOAN REPAYMENT PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary, acting through the Director of NIH, shall carry out a program of entering into agreements with appropriately qualified health professionals under which such health professionals agree to conduct research with respect to the areas identified under paragraph (2) in consideration of the Federal Government agreeing to repay, for each year of such service, not more than $35,000 of the principal and interest of the educational loans of such health professionals.

''(2) RESEARCH AREAS.—In carrying out the program under paragraph (1), the Director of NIH shall annually identify areas of research for which loan repayments made be awarded under paragraph (1).

''(3) TERM OF AGREEMENT.—A loan repayment agreement under paragraph (1) shall be for a minimum of two years.

''(b) APPLICABILITY OF CERTAIN PROVISIONS.—With respect to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III, the provisions of such subpart shall, except as inconsistent with subsection (a) of this section, apply to the program established in such subsection (a) in the same manner and to the same extent as such provisions apply to the National Health Service Corps Loan Repayment Program established in such subpart.

''(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1997 through 1999.''.

SEC. 404. CLINICAL RESEARCH ASSISTANCE.

(a) NATIONAL RESEARCH SERVICE AWARDS.—Section 487(a)(1)(C) (42 U.S.C. 288(a)(1)(C)) is amended—

(1) by striking ''50 such'' and inserting ''100 such''; and

(2) by striking ''1996'' and inserting ''1999''.

(b) LOAN REPAYMENT PROGRAM.—Section 487E (42 U.S.C. 288–5) is amended—

(1) in the section heading, by striking ''FROM DISADVANTAGED BACKGROUNDS'';

(2) in subsection (a)(1), by striking ''who are from disadvantaged backgrounds'';

(3) in subsection (b)—

(A) by striking ''Amounts'' and inserting the following:

''(1) IN GENERAL.—Amounts''; and

(B) by adding at the end thereof the following new paragraph:

''(2) DISADVANTAGED BACKGROUNDS SET-ASIDE.—In carrying out this section, the Secretary shall ensure that not less than 50 percent of the amounts appropriated for a fiscal year are used for contracts involving those appropriately qualified health professionals who are from disadvantaged backgrounds.''; and

(4) by adding at the end thereof the following new subsections:

''(c) CLINICAL RESEARCH TRAINING POSITION.—A position shall be considered a clinical research training position under subsection (a)(1) if such position involves an individual serving in a general clinical research center or other organizations and institutions determined to be appropriate by the Director of NIH, or a physician receiving a clinical research career enhancement award or NIH intramural research fellowship.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each fiscal year.''.

TITLE V—RESEARCH WITH RESPECT TO AIDS

SEC. 501. COMPREHENSIVE PLAN FOR EXPENDITURE OF AIDS APPROPRIATIONS.

Section 2353(d)(1) (42 U.S.C. 300cc–40b(d)(1)) is amended by striking ''through 1996'' and inserting ''through 1999''.

SEC. 502. EMERGENCY AIDS DISCRETIONARY FUND.

Section 2356(g)(1) (42 U.S.C. 300cc–43(g)(1)) is amended by striking ''$100,000,000'' and all that follows through the period and inserting ''such sums as may be necessary for each of the fiscal years 1997 through 1999''.

TITLE VI—GENERAL PROVISIONS

Subtitle A—Authority of the Director of NIH

SEC. 601. AUTHORITY OF THE DIRECTOR OF NIH.

Section 402(b) (42 U.S.C. 282(b)) is amended—

(1) in paragraph (11), by striking ''and'' at the end thereof;

(2) in paragraph (12), by striking the period and inserting a semicolon; and

(3) by adding after paragraph (12), the following new paragraphs:

''(13) may conduct and support research training—

''(A) for which fellowship support is not provided under section 487; and

''(B) which does not consist of residency training of physicians or other health professionals; and

''(14) may appoint physicians, dentists, and other health care professionals, subject to the provisions of title 5, United States Code, relating to appointments and classifications in the competitive service, and may compensate such professionals subject to the provisions of chapter 74 of title 38, United States Code.''.

Subtitle B—Office of Rare Disease Research

SEC. 611. ESTABLISHMENT OF OFFICE FOR RARE DISEASE RESEARCH.

Part A of title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end thereof the following new section:

''SEC. 404F. OFFICE FOR RARE DISEASE RESEARCH.

''(a) ESTABLISHMENT.—There is established within the Office of the Director of the National Institutes of Health an office to be known as the Office for Rare Disease Research (in this section referred to as the 'Office'). The Office shall be headed by a director, who shall be appointed by the Director of the National Institutes of Health.

''(b) PURPOSE.—The purpose of the Office is to promote and coordinate the conduct of research on rare diseases through a strategic research plan and to establish and manage a rare disease research clinical database.

''(c) ADVISORY COUNCIL.—The Secretary shall establish an advisory council for the purpose of providing advice to the director of the Office concerning carrying out the strategic research plan and other duties under this section. Section 222 shall apply to such council to the same extent and in the same manner as such section applies to committees or councils established under such section.

''(d) DUTIES.—In carrying out subsection (b), the director of the Office shall—

''(1) develop a comprehensive plan for the conduct and support of research on rare diseases;

''(2) coordinate and disseminate information among the institutes and the public on rare diseases;

''(3) support research training and encourage the participation of a diversity of individuals in the conduct of rare disease research;

''(4) identify projects or research on rare diseases that should be conducted or supported by the National Institutes of Health;

''(5) develop and maintain a central database on current government sponsored clinical research projects for rare diseases;

''(6) determine the need for registries of research subjects and epidemiological studies of rare disease populations; and

''(7) prepare biennial reports on the activities carried out or to be carried out by the Office and submit such reports to the Secretary and the Congress.''.

Subtitle C—Certain Reauthorizations

SEC. 621. NATIONAL RESEARCH SERVICE AWARDS.

Section 487(d) (42 U.S.C. 288(d)) is amended by striking ''$400,000,000'' and all that follows through the first period and inserting ''such sums as may be necessary for each of the fiscal years 1997 through 1999.''.

SEC. 622. NATIONAL FOUNDATION FOR BIOMEDICAL RESEARCH.

Section 499(m)(1) (42 U.S.C. 290b(m)(1)) is amended by striking ''an aggregate'' and all that follows through the period and inserting ''such sums as may be necessary for each of the fiscal years 1997 through 1999.''.

Subtitle D—Miscellaneous Provisions

SEC. 631. ESTABLISHMENT OF NATIONAL FUND FOR HEALTH RESEARCH.

Part A of title IV (42 U.S.C. 281 et seq.), as amended by section 611, is further amended by adding at the end thereof the following new section:

''SEC. 404G. ESTABLISHMENT OF NATIONAL FUND FOR HEALTH RESEARCH.

''(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as the 'National Fund for Health Research' (hereafter in this section referred to as the 'Fund'), consisting of such amounts as are transferred to the Fund and any interest earned on investment of amounts in the Fund.

''(b) OBLIGATIONS FROM FUND.—

''(1) IN GENERAL.—Subject to the provisions of paragraph (2), with respect to the amounts made available in the Fund in a fiscal year, the Secretary shall distribute all of such amounts during any fiscal year to research institutes and centers of the National Institutes of Health in the same proportion to the total amount received under this section, as the amount of annual appropriations under appropriations Acts for each member institute and centers for the fiscal year bears to the total amount of appropriations under appropriations Acts for all research institutes and centers of the National Institutes of Health for the fiscal year.

''(2) TRIGGER AND RELEASE OF MONIES.—No expenditure shall be made under paragraph (1) during any fiscal year in which the annual amount appropriated for the National Institutes of Health is less than the amount so appropriated for the prior fiscal year.''.

SEC. 632. DEFINITION OF CLINICAL RESEARCH.

Part A of title [V] *IV* (42 U.S.C. 281 et seq.) as amended by sections 611 and 631, is further amended by adding at the end thereof the following new section:

"SEC. 404H. DEFINITION OF CLINICAL RESEARCH.

''As used in this title, the term 'clinical research' means patient oriented clinical research conducted with human subjects, or research on the causes and consequences of disease in human populations, or on material of human origin (such as tissue specimens and cognitive phenomena) for which an investigator or colleague directly interacts with human subjects in an outpatient or inpatient setting to clarify a problem in human physiology, pathophysiology, or disease, epidemiologic or behavioral studies, outcomes research, or health services research.''.

SEC. 633. SENIOR BIOMEDICAL RESEARCH SERVICE.

Section 228 (42 U.S.C. 237) is amended by adding at the end thereof the following new subsection:

''(h) Notwithstanding any other provision of law, the Secretary shall be treated as a non-profit entity for the purposes of making contributions to the retirement systems of appointees under this section in a manner that will permit such appointees to continue to be fully covered under the retirement systems that such appointees were members of immediately prior to their appointment under this section.''.

SEC. 634. ESTABLISHMENT OF A PEDIATRIC RESEARCH INITIATIVE.

Part A of title IV (42 U.S.C. 281 et seq.), as amended by sections 611, 631, and 632, is further amended by adding at the end the following new section:

"SEC. 404I. PEDIATRIC RESEARCH INITIATIVE

''(a) ESTABLISHMENT.—The Secretary shall establish within the Office of the Director of NIH a Pediatric Research Initiative (hereafter in this section referred to as the 'Initiative'). The Initiative shall be headed by the Director of NIH.

''(b) PURPOSE.—The purpose of the Initiative is to provide funds to enable the Director of NIH to encourage—

''(1) increased support for pediatric biomedical research within the National Institutes of Health to ensure that the expanding opportunities for advancement in scientific investigations and care for children are realized;

''(2) enhanced collaborative efforts among the Institutes to support multidisciplinary research in the areas that the Director deems most promising;

''(3) increased support for pediatric outcomes and medical effectiveness research to demonstrate how to improve the quality of children's health care while reducing cost;

''(4) the development of adequate pediatric clinical trials and pediatric use information to promote the safer and more effective use of prescription drugs in the pediatric population; and

''(5) recognition of the special attention pediatric research deserves.

''(c) DUTIES.—In carrying out subsection (b), the Director of NIH shall—

''(1) consult with the Institutes and other advisors as the Director determines appropriate when considering the role of the Institute for Child Health and Human Development;

''(2) have broad discretion in the allocation of any Initiative assistance among the Institutes, among types of grants, and between basic and clinical research so long as the—

''(A) assistance is directly related to the illnesses and diseases of children; and

''(B) assistance is extramural in nature; and

''(3) be responsible for the oversight of any newly appropriated Initiative funds and be accountable with respect to such funds to Congress and to the public.

''(d) AUTHORIZATION.—There is authorized to be appropriated to carry out this section, $50,000,000 for fiscal years 1997 through 1999.

''(e) TRANSFER OF FUNDS.—The Director of NIH may transfer amounts appropriated to any of the Institutes for a fiscal year to the Initiative to carry out this section.''.

SEC. 635. DIABETES RESEARCH.

(a) FINDINGS.—The Congress finds as follows:

(1) Diabetes is a serious health problem in America.

(2) More than 16,000,000 Americans suffer from diabetes.

(3) Diabetes is the fourth leading cause of death in America, taking the lives of more than 169,000 people annually.

(4) Diabetes disproportionately affects minority populations, especially African-Americans, Hispanics, and Native Americans.

(5) Diabetes is the leading cause of new blindness in adults over age 30.

(6) Diabetes is the leading cause of kidney failure requiring dialysis or transplantation, affecting more than 56,000 Americans each year.

(7) Diabetes is the leading cause of nontraumatic amputations, affecting 54,000 Americans each year.

(8) The cost of treating diabetes and its complications are staggering for our Nation.

(9) Diabetes accounted for health expenditures of $105,000,000,000 in 1992.

(10) Diabetes accounts for over 14 percent of our Nation's health care costs.

(11) Federal funds invested in diabetes research over the last two decades has led to significant advances and, according to leading scientists and endocrinologists, has brought the United States to the threshold of revolutionary discoveries which hold the potential to dramatically reduce the economic and social burden of this disease.

(12) The National Institute of Diabetes and Digestive and Kidney Diseases supports, in addition to many other areas of research, genetic research, islet cell transplantation research, and prevention and treatment clinical trials focusing on diabetes. Other research institutes within the National Institutes of Health conduct diabetes-related research focusing on its numerous complications, such as heart disease, eye and kidney problems, amputations, and diabetic neuropathy.

(b) INCREASED FUNDING REGARDING DIABETES.—With respect to the conduct and support of diabetes-related research by the National Institutes of Health, there are authorized to be appropriated for such purpose—

(1) for each of the fiscal years 1997 through 1999, an amount equal to the amount appropriated for such purpose for fiscal year 1996; and

(2) for the 3-fiscal year period beginning with fiscal year 1997, an additional amount equal to 25 percent of the amount appropriated for such purpose for fiscal year 1996.

SEC. 636. PARKINSON'S RESEARCH.

Part B of title IV (42 U.S.C. 284 et seq.), as amended by sections 204, 382 and 383, is further amended by adding at the end the following section:

''PARKINSON'S DISEASE

''SEC. 409E. (a) IN GENERAL.—The Director of NIH shall establish a program for the conduct and support of research and training with respect to Parkinson's disease.

''(b) INTER-INSTITUTE COORDINATION.—

''(1) IN GENERAL.—The Director of NIH shall provide for the coordination of the program established under subsection (a) among all of the national research institutes conducting Parkinson's research.

''(2) CONFERENCE.—Coordination under paragraph (1) shall include the convening of a research planning conference not less frequently than once every 2 years. Each such conference shall prepare and submit to the Committee on Appropriations and the Committee on Labor and Human Resources of the Senate and the Committee on Appropriations and the Committee on Commerce of the House of Representatives a report concerning the conference.

''(c) MORRIS K. UDALL RESEARCH CENTERS.—

''(1) IN GENERAL.—The Director of NIH shall award Core Center Grants to encourage the development of innovative multidisciplinary research and provide training concerning Parkinson's. The Director shall award not more than 10 Core Center Grants and designate each center funded under such grants as a Morris K. Udall Center for Research on Parkinson's Disease.

''(2) REQUIREMENTS.—

''(A) IN GENERAL.—With respect to Parkinson's, each center assisted under this subsection shall—

''(i) use the facilities of a single institution or a consortium of cooperating institutions, and meet such qualifications as may be prescribed by the Director of the NIH; and

''(ii) conduct basic and clinical research.

''(B) DISCRETIONARY REQUIREMENTS.—With respect to Parkinson's, each center assisted under this subsection may—

''(i) conduct training programs for scientists and health professionals;

''(ii) conduct programs to provide information and continuing education to health professionals;

''(iii) conduct programs for the dissemination of information to the public;

''(iv) develop and maintain, where appropriate, a brain bank to collect specimens related to the research and treatment of Parkinson's;

''(v) separately or in collaboration with other centers, establish a nationwide data system derived from patient populations with Parkinson's, and where possible, comparing relevant data involving general populations;

''(vi) separately or in collaboration with other centers, establish a Parkinson's Disease Information Clearinghouse to facilitate and enhance knowledge and understanding of Parkinson's disease; and

''(vii) separately or in collaboration with other centers, establish a national education program that fosters a national focus on Parkinson's and the care of those with Parkinson's.

''(3) STIPENDS REGARDING TRAINING PROGRAMS.—A center may use funds provided under paragraph (1) to provide stipends for scientists and health professionals enrolled in training programs under paragraph (2)(B).

''(4) DURATION OF SUPPORT.—Support of a center under this subsection may be for a period not exceeding five years. Such period may be extended by the Director of NIH for one or more additional periods of not more than five years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended.

''(d) MORRIS K. UDALL AWARDS FOR INNOVATION IN PARKINSON'S DISEASE RESEARCH.—The Director of NIH shall establish a grant program to support innovative proposals leading to significant breakthroughs in Parkinson's research. Grants under this subsection shall be available to support outstanding neuroscientists and clinicians who bring innovative ideas to bear on the understanding of the pathogenesis, diagnosis and treatment of Parkinson's disease.

''(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $80,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 and 1999.''.

Subtitle E—Repeals and Conforming Amendments

SEC. 641. REPEALS AND CONFORMING AMENDMENTS.

(a) RENAMING OF DIVISION OF RESEARCH RESOURCES.—Section 403(5) (42 U.S.C. 283(5)) is amended by striking ''Division of Research Resources'' and inserting ''National Center for Research Resources''.

(b) RENAMING OF NATIONAL CENTER FOR NURSING RESEARCH.—

(1) Section 403(5) (42 U.S.C. 283(5)) is amended by striking ''National Center for Nursing Research'' and inserting ''National Institute of Nursing Research''.

(2) Section 408(a)(2) (42 U.S.C. 284c(a)(2)) is amended by striking ''National Center for Nursing Research'' and inserting ''National Institute of Nursing Research''.

(c) RENAMING OF CHIEF MEDICAL DIRECTOR FOR VETERANS AFFAIRS.—

(1) Section 406 (42 U.S.C. 284a) is amended—

(A) in subsection (b)(2)(A), by striking ''Chief Medical Director of the Department of Veterans Affairs or the Chief Dental Director of the Department of Veterans Affairs'' and inserting ''Under Secretary for Health of the Department of Veterans Affairs''; and

(B) in subsection (h)(2)(A)(v) by striking ''Chief Medical Director of the Department of Veterans Affairs,'' and inserting ''Under Secretary for Health of the Department of Veterans Affairs''.

(2) Section 424(c)(3)(B)(x) (42 U.S.C. 285b–7(c)(3)(B)(x)) is amended by striking ''Chief Medical Director of the Veterans' Administration'' and inserting ''Under Secretary for Health of the Department of Veterans Affairs''.

(3) Section 429(b) (42 U.S.C. 285c–3(b)) is amended by striking ''Chief Medical Director of the Veterans' Administration'' and inserting ''Under Secretary for Health of the Department of Veterans Affairs''.

(4) Section 430(b)(2)(A)(i) (42 U.S.C. 285c–4(b)(2)(A)(i)) is amended by striking ''Chief Medical Director of the Department of Veterans Affairs'' and inserting ''Under Secretary for Health of the Department of Veterans Affairs''.

(5) Section 439(b) (42 U.S.C. 285d–4(b)) is amended by striking ''Chief Medical Director of the Department of Veterans Affairs'' and inserting ''Under Secretary for Health of the Department of Veterans Affairs''.

(6) Section 452(f)(3)(B)**[**(ix)**]***(xi)* (42 U.S.C. 285g–4(f)(3)(B)**[**(ix)**]***(xi)*) is amended by striking ''Chief Medical Director of the Department of Veterans Affairs'' and inserting ''Under Secretary for Health of the Department of Veterans Affairs''.

(7) Section 466(a)(1)(B) (42 U.S.C. 286a(a)(1)(B)) is amended by striking ''Chief Medical Director of the Department of Veterans Affairs'' and inserting ''Under Secretary for Health of the Department of Veterans Affairs''.

(8) Section 480(b)(2)(A) (42 U.S.C. 287a(b)(2)(A)) is amended by striking ''Chief Medical Director of the Department of Veterans Affairs'' and inserting ''Under Secretary for Health of the Department of Veterans Affairs''.

(b) ADVISORY COUNCILS.—Section 406(h) (42 U.S.C. 284a(h)) is amended—

(1) by striking paragraph (1); and

(2) in paragraph (2)—

(A) by striking ''(2)(A) The'' and inserting ''(1) The'';

(B) by redesignating subparagraph (B) as paragraph (2); and

(C) by redesignating clauses (i) through (vi) of paragraph (1) (as so redesignated) as subparagraphs (A) through (F), respectively.

(c) DIABETES AND DIGESTIVE AND KIDNEY DISORDERS ADVISORY BOARDS.—Section 430 (42 U.S.C. 285c–4) is repealed.

(d) NATIONAL ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES ADVISORY BOARD.—Section 442 (42 U.S.C. 285d–7) is repealed.

(e) RESEARCH CENTERS REGARDING CHRONIC FATIGUE SYNDROME.—Subpart 6 of part C of title IV (42 U.S.C. 285f et seq.) is amended by redesignating the second section 447 (42 U.S.C. 285f–1) as section 447A.

(f) NATIONAL INSTITUTE ON DEAFNESS ADVISORY BOARD.—Section 464D (42 U.S.C. 285m–4) is repealed.

(g) BIOMEDICAL AND BEHAVIORAL RESEARCH PERSONNEL STUDY.—Section 489 (42 U.S.C. 288b) is amended—

(1) by striking subsections (b); and

(2) by redesignating subsection (c) as subsection (b).

(h) NATIONAL COMMISSION ON ALCOHOLISM AND OTHER ALCOHOL-RELATED PROBLEMS.—Section 18 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1979 (42 U.S.C. 4541 note) is repealed.

(i) ADVISORY COUNCIL ON HAZARDOUS SUBSTANCES RESEARCH AND TRAINING.—Section 311(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9660(a)) is amended—

(1) by striking paragraph (5); and

(2) in the last sentence of paragraph (6), by striking ''the relevant Federal agencies referred to in subparagraph (A) of paragraph (5)'' and inserting ''relevant Federal agencies''.

Mr. LOTT. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc.

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

The committee amendments were agreed to.

AMENDMENT NO. 5404

(Purpose: To provide for a substitute amendment)

Mr. LOTT. Senator KASSEBAUM has a substitute amendment at the desk. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mrs. KASSEBAUM, proposes an amendment numbered 5404.

Mr. LOTT. I ask unanimous consent that the amendment be considered as read.

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

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

Mrs. KASSEBAUM. Mr. President, I am extremely pleased that the Senate is considering the National Institutes of Health [NIH].

All Americans can take great pride in the exceptional contributions that the NIH has made. It has compiled an astonishing record of biomedical research advances which have transformed all of our lives. Vaccines against conditions which once crippled and killed are now routine, and drugs hailed as miracles at their inception are as well known as aspirin.

The NIH has spawned and nurtured a level of scientific creativity which truly seems to have no bounds. Past successes against seemingly insurmountable odds have inspired confidence and offered hope to those who have nowhere else to turn. The legislation we are considering today will help support and improve these critical efforts.

In addition to reauthorizing the important work of the two largest institutes—the National Cancer Institute and the National Heart, Lung, and Blood Institute—this bill attempts to strengthen the ability of the NIH to respond to emerging issues in the biomedical research arena and in the larger health care environment in which it operates.

Certainly, one of the biggest future frontiers is that of the human genetic code. Among the recent discoveries is the BRCA–1 gene, a genetic marker for a form of breast cancer. In recognition of the significance of this area of inquiry, the bill authorizes the creation of the National Human Genome Research Institute. The elevation of the National Center for Genome Research to institute status will serve to better focus NIH resources for this important work.

The bill also recognizes a need to invest in the education and training of the next generation of clinical researchers—those biomedical scientists who perform research that directly involves patients. It provides for greater support for expert training of young biomedical scientists who have elected the difficult, and frequently less well-compensated, careers in scientific inquiry.

In addition, the bill makes substantial efforts to reduce excess and often duplicative infrastructure that has grown up over time in the NIH. It streamlines operations through steps such as eliminating redundant committees and reports. Every dollar saved from unnecessary administrative burdens is another dollar freed up for support of biomedical research.

By the very nature of ever-expanding new knowledge, it seems there is no end to the pressure on the limited resources for biomedical research support. Accordingly, the bill establishes a framework under which additional sources of funding could be tapped by creating a biomedical research trust fund within the Treasury. This trust fund is a small, but important, first step.

Academic health centers in the 21st century will be posed with an unprecedented challenge: how to maintain their research mission in the face of a fundamentally changed health care system. These changes are the consequence of dramatic market shifts that are taking place in health care in this country. Cost-competition has made it particularly difficult for the continuation of many of these important institutions that frequently care for the sickest as well as the poorest citizens of our communities.

Although additional action may be required as ongoing studies offer a better understanding of the ramifications of these changes, this bill offers support for the 75 general clinical research centers that exist in academic medical centers throughout the country.

Finally, this measure includes a significant initiative in the area of Parkinson's disease research. Based on separate legislation with broad bipartisan support in both the Senate and House, this initiative is designed to expand and improve Parkinson's research efforts. It establishes up to 20 Morris K.

Udall Centers for Research on Parkinson's disease and provides for awards to neuroscientists and clinicians to support innovative research.

This legislation offers hope to individuals with Parkinson's and their families, who have worked long and hard to assure that greater attention and emphasis is placed on pursuing promising research leads.

In fact, Mr. President, reauthorization of the important work of the National Institutes of Health offers hope to us all. Moreover, it reaffirms our commitment to approach the future frontiers of science with the same enthusiasm and dedication which has characterized our past. I urge my colleagues to support the adoption of the National Institutes of Health Revitalization Act of 1996.

Mr. GREGG. Mr. President, I am pleased to see that the Senate will pass a bill today, S. 1879, that reauthorizes funding for the National Institutes of Health [NIH]. The NIH is one of the few Federal Government agencies that truly receives bipartisan support as it works to respond to the challenges posed by the medical mysteries of our times. I share the overwhelming support for the work generally being done at, and funded by, the NIH with my constituents in New Hampshire who have contacted me about this legislation.

The NIH is composed of 24 separate Institutes that conduct basic biomedical research; our investment in the NIH represents over one-third of the total nondefense research and development funding in the Federal Government. Institutes like the National Center for Human Genome Research, which has recently received a tremendous amount of attention for its undertaking of mapping and sequencing human genes to find the genetic bases for disease, continue to change the way we look at science.

I think that we have to be aware, however, that each time the science improves, a number of the factors come into play: How to update the standard of ethics; how to manage the flow of information; how to ensure that coordination is being optimized between Centers and Institutes internally at the NIH; how to encourage public/private partnership in the funding of these developments; and how to best prioritize the Federal funding in relation to the pursuit of such critical medical discoveries. Mr. President, I am not certain that, in our role as the overseers of this important Federal agency, we have been as attentive as we need to be to these issue in the reauthorization process; and that is why I am especially pleased that the decision was make to make this a 1-year reauthorization. I believe we need to revisit a number of important items on the NIH agenda next session, and I look forward to being involved in those efforts.

For example, the last NIH reauthorization included authority for a foundation which NIH can use to raise funds. Its purposes was to increase coordination with universities and the private sector and make it possible to solicit funds for special projects. I remain uncertain that the foundation is being utilized. It is time to recognize that Federal dollars must function as a means to an end—the appropriations we are able to provide to the NIH will never be enough. But before we begin to craft new schemes to raise additional funds for the NIH, we need to be sure that the mechanisms we have already put in place are functioning as intended. Therefore, I believe the NIH must use their authority to appropriately levy additional funds, to maximize their available resources. In this way, a dedicated effort can be made to increase the awareness of, involvement in, and contributions to our premiere biomedical research facility, rather than continue to rely on the limited taxpayer funds were able to appropriate to the Institutes.

In other areas, the NIH receives very high marks. Their support of both intramural clinical research and extramural research funded through grants and is conducted outside NIH, at such premiere facilities as Dartmouth College and the University of New Hampshire, demonstrates their understanding of the need to utilize every resource we have in fighting the diseases which face Americans. I applaud the NIH's efforts to ensure that funding is provided to scientists conducting research beyond the NIH campus. Too often we see Federal agencies adopt the attitude that they have a lock on the science they practice; I believe our Government science administrators need to adopt the attitude of openness and the spirit of cooperation demonstrated at NIH toward their colleagues in academia and the private sector.

I am pleased to note that we have included a provision that has long been championed by Senator HATFIELD, who has demonstrated a devoted dedication to supporting the research and vision of the NIH. It is a program designed to ensure that young people are encouraged to enter the field of basic clinical research by providing needed financial assistance. It is the students of science who represent our hope for the future, and I am hopeful that this program will provide them the necessary support to take on a career in this critical field.

So I am pleased to offer my support for this legislation today, realizing that several outstanding issues remain before us in relation to this reauthorization. I am hopeful, Mr. President, that when we return in 1997, we will turn to this legislation early in the opening days of the 105th Congress, and make a bipartisan effort to further improve this agency that offers so much to so many.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, two mornings ago I spoke with a friend of mine in North Dakota named Olaf. He is 85 years old. He was to have open heart surgery that morning to repair a leaky heart valve.

I mention this because I want to talk just for a moment today about the reauthorization of the National Institutes of Health, which the Senate has just unanimously approved, and I was thinking about Olaf. When he underwent open heart surgery not too many hours ago at age 85, I thought it was kind of an unusual thing, to have open heart surgery at age 85. I asked some doctors about it, and they said this is not so unusual anymore.

This reminds me of the breathtaking advances that we have seen in medicine in recent years, many of which come as a result of the dedicated research of the National Institutes of Health and researchers from all around the country and the world who work on NIH-supported projects.

There is a wonderful exhibit at the National Institutes of Health that I encourage all those who visit Washington, DC, to go see. It is an exhibit called, ''The Healing Garden.'' The healing garden is a little garden exhibit showing the plants that researchers are now discovering have remarkable uses in modern medicine.

A lot of people think of medicine these days as doing some research to find some chemicals and compounds, putting these chemicals together in a pill, and giving somebody this pill that represents some sort of chemical response to an illness or disease. However, much of what we now are understanding about today's medicine begins with trees and shrubs and plants.

I just want to talk for a moment about what the healing garden at the National Institutes of Health demonstrates. The reason I want to do that is because we talk so often about what is wrong in Government, or what this agency does that is inappropriate, or what these bureaucrats do that is somehow improper. Today, I want everyone to know that there are wonderful researchers down at the National Institutes of Health doing extraordinary work in the field of medicine.

For instance, researchers at the National Institutes of Health, working with the Department of Agriculture, have collected more than 60,000 plant samples from all over the world, and preserved and stored them at National Institutes of Health facilities in Frederick, MD. These samples are then distributed to researchers for testing. Let me describe some of the testing.

Researchers have found that a tree that is commonly found in China, and often known there by the name of ''The Tree of Joy'' or ''The Tree of Love,'' is a source of a promising compound called CPT that works to kill cancer cells. Various derivatives of this compound from the Tree of Love in China are being tested in clinical trials right now at the National Institutes of Health, involving patients with lung cancer, ovarian cancer, breast cancer,

colon cancer, and leukemia. In the future, when these tests are complete, we may very well call the ''Tree of Joy'' the ''Tree of Life'' for cancer patients.

A researcher from Brigham Young University has consulted with traditional healers in Samoa, and other regions of Polynesia, about the local uses of medicinal plants. During the testing of these plants from Polynesia here at the National Cancer Institute of the National Institutes of Health, researchers have found that an extract of wood, which the healers were using to treat Yellow Fever, has showed significant promise in fighting the AIDS virus. This potential anti-AIDS drug is now in preclinical development at the National Cancer Institute at the NIH.

A plant found in Australia known as the Salt Bush has shown significant promise in combating AIDS as well. A compound from the Salt Bush from Australia is now also being studied in preclinical development.

A NIH researcher recently discovered that an alkaloid from the skin of an Ecuadorian poison frog may be a potent pain killer, 200 times more powerful than morphine, and potentially nonaddictive as well.

I could go on and on, but finally, the last example I'll share today: There is another poison from a frog that they have tested at the NIH that is so incredibly powerful that the slightest contact with it by a human being will stop the heart instantly. Researchers wondered then if this incredibly powerful poison that can stop the human heart instantly might also have wonderful powers that could be harnessed positively, and they are now researching that.

If you go to the National Institutes of Health and ask them to tell you about the healing garden, they will show you the exhibit that demonstrates that much of what we have now discovered about medicine involves the use of items living naturally all around us—plants, shrubs, trees—in ways that some might have known to use them long ago and that we are now learning how to use again to provide powerful treatment opportunities for those in our world who are sick.

The reason, again, I wanted to mention this wonderful work being done at NIH is my friend Olaf, who, as I said when I started, had open heart surgery recently at age 85. Incidentally, Olaf had the ventilator tubes removed 2 hours after the surgery and had all of the other tubes removed by suppertime that evening, and at age 85, he is doing wonderfully, I am told. He is a part of a health care system that really does provide close to miracles for many, with divine help, I might add. But these miracles come with a great deal of help from researchers at the National Institutes of Health.

When I was at the National Institutes of Health, I also talked to the researchers in cardiology. The research they are doing in the area of heart disease is quite remarkable. What they are doing in the areas of cancer treatment is extraordinary. What they are doing in the search for AIDS treatments is really quite amazing. Arthritis, diabetes, the list goes on.

I assume there are some who would call using Government money to pay for the scientists and the researchers and the doctors, for the clinical trials and for all of the basic and applied research that goes on at the National Institutes of Health, spending. I think rather than call it ''spending'' we ought to call it ''investment.'' The NIH is one of the most remarkably productive investments our country has made.

At the turn of this century, if you were an American, you were expected to live to perhaps age 47. The century is about to turn again, and 100 years later, you can likely expect to live to nearly age 77, a 30-year increase in your lifespan in this century.

There are a lot of reasons for that: people are healthier, they take better care of themselves, know more about nutrition. There are many reasons for this significant increase in life expectancy but included among those reasons are the breathtaking advances in health care.

At the root of those breathtaking advances in medical care is an investment in something called the National Institutes of Health which seldom gets the due it deserves here in this Congress. I just wanted to stand up and say a kind word about some awfully dedicated public servants all across this country; the doctors and nurses in the private sector and so many others who participate in these clinical trials, but especially about the folks here and around the country working for the NIH who spend their days looking at an abstract plant garnered from a region in China that might be called the ''Tree of Life,'' discovering that this tree might contain the secret to curing a cancer. Or researching a bush called the ''Salt Bush'' from Australia that might have promise to cure AIDS.

Someone might say in a magazine article some day, ''You know, we pay people to sit around and investigate ''Salt Bushes.'' Can you imagine anything more wasteful than that? We are paying people to sit around and cut up trees and ruminate about whether an obscure tree from China might be helpful to somebody, can you imagine anything more wasteful than that?''

I say, this is not wasteful at all. This is a wonderful, remarkable investment, and I am pleased that the Congress will, once again, reauthorize the National Institutes of Health for three more years. My only wish is that it were a longer reauthorization.

Let me also say, I would be willing to support a modest increase in the Federal tax on cigarettes, for example, if the money raised from that tax were to go exclusively to boost the funding for more research at the National Institutes of Health and for more investment in saving people's lives in this country.

Mr. President, thank you for the opportunity to speak, and I yield the floor.

Mr. HATCH. Mr. President, nurturing our biomedical research infrastructure is one of the most important roles Government can serve, and that is why S. 1897 is a significant piece of legislation.

I rise to express my support for the bill, and, in particular, to thank the chairman, Senator KASSEBAUM, for her cooperation in addressing the concerns that Senator FAIRCLOTH, Senator HARKIN, and I have expressed about the need to bolster the National Institutes of Health's research efforts on pain management.

Pain is a condition that each of us experiences during our lifetime, with millions suffering—perhaps needlessly.

After serious study of this issue, I have concluded there is insufficient knowledge about the causes and treatments of pain, despite its substantial impact on virtually every American. Inadequate resources are dedicated to the development and evaluation of pain treatment modalities, and there is an inadequate transfer of what knowledge and information we have to health care professionals.

It may surprise many of my colleagues to know that despite the impact of pain on our society, according to estimates NIH supplied to my office, the agency spent less than $60 million of its $11 billion appropriation on pain research last year, a number which, in fact, at best equal to the previous year's level of $59.5 million. For acute back pain, a condition which is estimated to affect 85 percent of the population at one time or another, NIH reports it currently spends only $2.5 million on research. An additional problem is that pain research is spread across many of the Institutes, yet there is little coordination of these research activities to make certain the resources are used effectively.

In fact, a December 1995 Workshop on Selected Chronic Pain Conditions: Clinical Spectrum, Frequency and Costs, held by the National Institutes of Health concluded:

> With respct to strategies for promoting research on chronic pain, the participants noted that the NIH components separately support pain research, but no organizational unit integrates or coordinates this research.

They strongly urged that the NIH establish a formal NIH Office of Pain Research, which would enable the NIH components to argue for pain research as a priority.

As an aside, I note that this workshop was not initiated at NIH's own behest, but rather, was held to comply with the 1993 NIH reauthorization law.

Indeed, there is a recent history of congressional support for enhancing the NIH's efforts on pain research. In the report accompany the fiscal year 1997 appropriations for the NIH, Senator SPECTER was very helpful by including the following language:

> The Committee is pleased that pain research is becoming an increasing part of the

NIH research agenda, and remains interested in the level of its overall growth and the need for better coordination. Pain is a major public health problem afflecting or disabling nearly 50 million Americans. The Committee encourages the NIH to quickly advance interdisciplanary coordination and support of the complex issues involved in pain research, including collaboration with chiropractic colleges and schools of nursing. The Committee is aware of the 1995 NIH-sponsored workshop on pain research, and requests the Director be prepared to report on the implrementation of the workshop's recommendations during the fiscal year 1998 budget hearing.

Earlier this year, Senators HARKIN, FAIRCLOTH, BENNETT, INOUYE, THURMOND, PRESSLER and I introduced S. 1955, to establish a pain center at NIH. That legislation forms the basis of the provision included in S. 1897. The provision that is included in S. 1897 today, however, differs from our original bill in that it requires NIH to establish a pain research consortium. The consortium, which will be comprised of experts in pain management from both the public and private sectors, will perform the advocacy and coordinating functions outlined in our original bill.

Specifically, the pain research consortium will: provide a structure for coordinating pain research activities; facilitate communications among Federal and State governmental agencies and private sector organizations concerned with pain; share information concerning pain-related research; encourage the recruitment and retention of individuals desiring to conduct pain research; avoid unnecessary duplication of pain research efforts; and achieve a more efficient use of Federal and private sector research funds.

The consortium will be composed of representatives from the NIH Institutes, and practitioners of pain management, including representatives from each of the following professions: physicians who practice pain management, psychologists, physical medicine and rehabilitation service representatives—including physical therapists and occupational therapists, nurses, dentists, and chiropractors. Finally, of course, patient advocacy organization representatives will be an integral part of the consortium.

Mr. President, the Congress needs to go on record in support of a stronger pain effort at the NIH. Today, we accomplish that goal. I urge adoption the bill, which now includes the Faircloth/Hatch amendment to establish a pain research consortium. I yield to my friend from North Carolina, Senator FAIRCLOTH.

Mr. FAIRCLOTH. I thank the distinguished Senator from Utah for yielding. I commend Senator HATCH and Senator HARKIN for their success in advancing the issue of pain research. I am absolutely convinced of the merits of S. 1955, and I am committed to moving ahead with the idea of establishing a formal entity at NIH to coordinate the current research effort and give greater priority within the overall NIH budget for research on back pain, cancer-related pain and the other focus areas addressed in S. 1955.

I also thank Senator KASSEBAUM for working with us to take an important step toward reaching our goal of increased emphasis on pain research. During the mark-up of S. 1897, Senator KASSEBAUM pledged to work with me to develop a provision relating to pain research. I appreciate her efforts and those of her staff in accommodating our concerns.

With regard to the consortium, I would like to clarify a point raised by Senator HATCH. It is our intention that the consortium established pursuant to S. 1897 shall include an equal number of representatives from each group of pain management practitioners defined under subparagraph (c)(4) of the section relating to the pain research consortium.

Finally, it is my sincere hope and intention that during the 105th Congress we will work again in a bipartisan manner toward establishing a more permanent entity at NIH for pain research.

Ms. MIKULSKI. Mr. President, I rise in strong support of the National Institutes of Health Revitalization Act. I support this bill for three reasons. It puts new emphasis on research into Parkinson's disease, a terribly debilitating and costly disease. It provides new incentives for physicians to do clinical research. It streamlines the NIH and makes it easier for NIH to do its job.

I want to thank Senator KASSEBAUM and her staff for their hard work on this bill. NIH is a national treasure. I'm proud that it's located in Maryland. I'm proud of its dedicated employees. Let's give them the tools they need to perform their jobs effectively and efficiently. Let's give hope to the American people that cures to dreaded diseases and conditions are on the horizon.

This bill honors our dear colleague, former Congressman Morris K. Udall. Mo was forced to retire from the House because of the disabling effects of Parkinson's disease. It includes language that has wide bipartisan support in both Chambers. The bill establishes up to 10 Morris K. Udall Centers for Research on Parkinson's Disease. It also provides awards to outstanding scientists and clinicians who bring innovative ideas to bear on Parkinson's research.

Great advances in brain research in the last few years create the potential for major treatments of this disease, possibly in this decade—the decade of the brain. Expanded focus on Parkinson's disease will bring hope to the 50,000 Americans diagnosed with this debilitating illness each year. And it will cut down on the estimated $25 billion a year in health-related costs and lost productivity due to Parkinson's.

The number of physician's entering careers in research is dwindling. This trend concerns me. Physicians who practice in academic medical centers face more pressure to bring in clinical revenue. They have less time to conduct research. I don't like the discouraging picture this paints for young investigators. Fewer and fewer physicians enter careers in biomedical research. They simply can't afford it. And as a nation, we can't afford it. We must provide incentives to our young people to enter careers in biomedical research.

Clinical research leads to interventions and cures for diseases. It improves the quality of life for many people. Obstacles to clinical research slow progress in medicine. Patients are kept waiting longer for the cure to their disease or condition. This bill helps turn this around.

Seventy-five General Clinical Research Centers [GCRC's] are authorized by this bill. I'm proud that three of these are located at Johns Hopkins. The bill increases investment and incentives for the education and training of the next generation of clinical researchers. It establishes new awards programs for clinical investigators and also recognizes the importance of basic medical research. It helps both basic and clinical investigators pay for their training by raising the loan repayment level.

The NIH has enjoyed significant support over the last few decades. But we all know that the days of unlimited Federal funding are gone. This bill recognizes that resources are dwindling. It reduces administrative excess. It repeals duplicative advisory boards and committees. Instead, it frees up money from these unecessary endeavors for important research.

Finally, this bill reauthorizes institutes carrying out important work in so many areas that affect our lives—cancer, heart, and aging research to name just a few. Let's not miss this important opportunity to pass this bill today. I urge my colleagues to vote for it.

Mr. LOTT. I ask unanimous consent that the amendment be agreed to, the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at this point in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Reserving the right to object, and I shall not object, is this the reauthorization of the NIH?

Mr. LOTT. This is the reauthorization of the National Institutes of Health.

The PRESIDING OFFICER. Is there objection to the majority leader's request? The Chair hears none, and it is so ordered.

The amendment (No. 5404) was agreed to.

The bill (S. 1897), as amended, was deemed read for a third time and passed, as follows:

[The bill was not available for printing. It will appear in a future issue of the RECORD.]

Mr. LOTT. I do wish to thank all Senators who have been involved in making this agreement possible—Senator KASSEBAUM, Senator HATCH. There has been cooperation on the Democratic side of the aisle. We appreciate it. It is the right thing to do. I am glad it has been accomplished.

I thank the Senator for yielding.

CENSUS INCOME AND POVERTY REPORT

Mr. CONRAD. Mr. President, today the Census Bureau has released a report on income and poverty in America in 1995. Here are some of the findings from that report.

Typical household income in America showed the largest increase in a decade: Household income up about $900 in 1995. It is the largest 1-year increase since 1986; typical family income since the President's economic plan has passed is up $1,631 in this country.

Mr. President, the report also indicated and demonstrated that we have had the largest decline in income inequality in 27 years. In 1995, household income inequality fell, as each income group, from the most well-off to the poorest, experienced an increase in their income for the second straight year. One measure of inequality, the Gini coefficient, dropped more in 1995 than in any year since 1968.

The number of people in poverty fell by 1.6 million—the largest drop in 27 years.

Mr. President, that is remarkably good news for the American economy. It is remarkably good news for American families. It is remarkably good news about what has happened since the President's economic plan passed in 1993.

The good news does not stop there. The poverty rate fell to 13.8 percent, the biggest drop in over a decade. The elderly poverty rate dropped to 10.5, the lowest level ever.

In 1966, 28.5 percent of America's elderly citizens lived in poverty. In 1995, the elderly poverty rate declined from 11.7 percent to 10.5. That is a new record low for the elderly poverty rate in America.

In addition, we saw the biggest drop in child poverty in 20 years. In 1995, the child poverty rate declined from 21.8 percent to 20.8 percent, a full 1 percentage point reduction, representing the largest 1-year drop since 1976.

These statistics, I think, again demonstrate that President Clinton's economic plan that passed in 1993 is working. Clearly, we are moving in the right direction. Not only do these statistics reveal substantial income gains, reduction in income inequality in this country, a reduction in the poverty rates across the board in America, but we know from other statistics as well that the indications and the evidence are now very clear that President Clinton's economic plan, which was passed here in 1993, has been remarkably successful.

We have 4 years in a row of deficit reduction. All we have to do is think back to 1992. The deficit was $290 billion. President Clinton came into office and every year since then the deficit has been reduced. This year we anticipate the deficit will be $116 billion, a 60-percent reduction.

The good news does not end there. Because in part the deficit reduction program was so successful, we have seen a resurgence in this economy. Not only do these statistics indicate it, but we know from previous indications the American economy is moving in the right direction. Looking at the misery index, that is the measure of unemployment and inflation, it is at a 28-year low. If we look at the rate of business investment, business investment is increasing at a rate that is the best in 30 years.

Again, I would say the good news does not stop there. This economy has created over 10 million new jobs since we passed the President's plan. The United States has now been rated the most competitive economy in the world for 2 years in a row, replacing Japan.

The evidence is overwhelming that the economic plan we passed in 1993 was the right medicine for the American economy. We can remember at that time the deficit was growing, the economy was dead in the water, virtually no new jobs were being produced, we had very weak levels of economic growth. But then, in 1993, President Clinton came with an economic plan that passed in this Chamber by a single vote, one vote. Our friends on the other side of the aisle said that plan would crater the economy. They said it would increase unemployment. They said it would increase the deficit. And they were wrong. They were dead wrong.

That economic plan has reduced the deficit every single year for 4 years in a row. It has reduced unemployment. We have the lowest unemployment in 7 years. It increased economic growth. And now, further evidence from the Census Bureau report, household income is up. It is the best increase in a decade. Poverty is down. We have a decline in income inequality that is the largest in 27 years. The number of people in poverty showed the biggest drop in 27 years. The poverty rate fell to 13.8 percent, the biggest drop in over a decade. The elderly poverty rate fell to the lowest level ever. Mr. President, more evidence, strong evidence the Clinton economic plan is working and that America is moving back on track.

I think everybody who participated in that plan can take special pride in the report that was released today, that indicates that we have finally got this economy moving in the right direction.

I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

THINGS TO BE PROUD OF

Mr. LEAHY. Mr. President, I hope Senators have listened to what the two Senators from North Dakota have said here, my two friends from North Dakota, first Senator CONRAD speaking about where the economy is today, defying all the predictions of doom and gloom that we heard when the President proposed his first budget plan.

I have served here now for over 20 years, but I remember during the eighties and into the early nineties, the deficits just kept blooming and blooming. We heard a lot of rhetoric about bringing deficits down, but every year the deficits were considerably higher, the national debt quadrupled.

President Clinton is the first President I served with, the first President of either party I served with in 22 years that actually brought the deficit down 3 years in a row. It is easy to talk about being in favor of a balanced budget and bringing down deficits. It is hard to do it.

The Senators from North Dakota are those who fought hard to bring about the tough questions of bringing down the deficit, but they can also take great pride in what was done for the American family. We have the typical family income up $1,631—that is adjusted for inflation—since the President's plan passed; household income up. The number of people in poverty is way down.

These are things of which to be proud.

I will say, in reference to what Senator DORGAN has said, he speaks of some of the wondrous things we do in our Government. It is so easy for people to go home and denigrate our Government as though they are not good men and women who work in it. Think of some of the remarkable—remarkable—advances in our ability to live and our health care, as the Senator from North Dakota referred to. These did not come out of the private sector. These did not come out of thin air. These came out of dedicated men and women working and working and working, sometimes going down a dead-end alley. I can imagine the number of dead-end alleys that Dr. Salk went down before developing the polio vaccine, or the number of dead alleys gone down before we found some of the advances in curing cancer, and on and on.

Last Christmastime, when part of this Government closed down, we had people who went on television and said, ''Well, who misses the Government? Who needs the Government?'' My phones were ringing off the hook from people who said, ''Why are you closing down the Government? I have a student loan that we are trying to process so that my child can go to college, the first one in our family to go to college, but that office is closed down.''

Someone who had a necessity to travel abroad because of a death in the family: ''I can't get a passport because that office is closed down.''

And the humiliation of good men and women in my State and everybody

else's State who have gone to work day after day after day doing the best for the greatest country on Earth and being talked about as though they were pawns on a political chess board.

It is time we wake up to the fact that we have the greatest democracy history has ever known. It is also a country of 260 million Americans. This country doesn't just run by itself. It runs because of a lot of very good men and women make it run. They are not helped by those who want to make political pawns of them.

So I probably am naive to assume that there will not be misstatements and distortions during the political season now upon us this fall. But I think some of those who go home and want to castigate the President or want to say, what are those Democrats doing in their spending plans? maybe somebody in the audience will stand up and say, let us be clear.

President Clinton and those who support him brought the deficit down 4 years in a row. Nobody else has done that in the 22 years I have been here. Under that watch, family incomes have gone up. The economy has improved. As my friend from North Dakota, Senator DORGAN, pointed out, a lot of us are going to live a lot longer and a lot better because of those dedicated men and women who put first and foremost the interests of their fellow Americans.

We ought to just think about that, and maybe we ought to lower the rhetoric and, instead of looking for people to attack, people to beat up on, let us start talking about what is right with this country, what is right about what we do here and maybe —maybe—we will find people will have more respect for those of us who serve them.

I think the two Senators from North Dakota have done this body and this country a service this afternoon in their statements. I hope more will do the same. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

THE OMNIBUS PARKS LEGISLATION

Mr. MURKOWSKI. Mr. President, as I indicated in my conversation yesterday, we have an opportunity, a rare opportunity, to move the omnibus parks legislation, including some 126 individual titles. The sequence of events that has occurred since our conferees on the Senate side met and sent the package over to the House bears some examination at this time.

Let me recount the status of the Presidio omnibus parks legislation. When it went over to the House yesterday, we anticipated that the House would address it today. However, there was an error in the technical submission which resulted in an objection on technical language. As a consequence, in order to rectify that situation, it is necessary that it come back to this body and that the corrections be taken, which, again, are of a technical nature, and it be sent back to the House of Representatives for action, and then it would come over here, and the anticipated procedure would be that an objection would result and a vote to recommit the conference report, which would basically terminate the conference report and the Presidio omnibus parks legislation.

As chairman of the Energy and Natural Resources Committee, which reported out this package after working some 2 years, and recognizing that it affects the interests in some 41 individual States, and recognizing that we knew there were controversial issues in the package, including the Utah wilderness, which was withdrawn at the request of the administration, the grazing issue which was withdrawn at the request of the administration over a veto threat, the Tongass 15-year extension for the benefit of the Ketchikan pulp contract in my State of Alaska, which would enable a $200 million investment to go into a new facility, chlorine free, state-of-the-art, which was threatened by a Presidential veto, I assume because of objections from environmental groups, that, too, was withdrawn. We had the issue affecting the State of Minnesota known as the boundary wilderness waters. That, too, was withdrawn.

So, Mr. President, the point I am making here is that there was a genuine effort to respond to the administration's concern by withdrawing what was assumed to be the controversial issues.

Well, Mr. President, last night we were in for another surprise. The Office of Management and Budget came up with a letter indicating that they still were not satisfied. Mr. President, it is the observation of the Senator from Alaska that the White House has a goalpost on wheels. They simply move it around when it is convenient.

I am sure there are some legitimate concerns, but they were not expressed in the first letter from the White House relative to their concerns and objections. They include some new areas that we had not been advised were controversial in the last 2 years that we have held hearings. So I would like to go over those so my colleagues will know just where we are.

In the receipt of the second proposed veto letter, where it simply says that the Office of Management and Budget would recommend a veto either through the Secretary of Agriculture or to the Office of the President, the letter points out that there are procedures and provisions that are unacceptable to the administration that would warrant veto action.

These include, No. 1, unwarranted boundary restrictions to the Shenandoah and Richmond Battlefield National Parks in Virginia.

The second was special-interest benefits adversely affecting the management of the Sequoia National Park in California.

Three, an unfavorable modification of the Ketchikan pulp contract on the Tongass in my State of Alaska.

Four, erosion of the coastal barrier island protections in Florida.

Five, mandated changes that would significantly alter and delay completion of the Tongass land management plan.

And, six, permanent changes in process for regulating rights-of-way across national parks and other Federal lands.

Mr. President, the indication here is that this administration would hold up the omnibus parks package, including the Presidio, that magnificent jewel in the Pacific under the Golden Gate Bridge, that needs attention and needs attention badly. It needs attention now; it cannot wait. It is going to deteriorate.

We proposed to set up a trust of outstanding citizens in San Francisco to manage that like the Pennsylvania Redevelopment Corporation has done such an extraordinary job in Washington, DC, in renovating the areas along Pennsylvania Avenue.

The administration is implying, suggesting, recommending they are going to hold up this package as a consequence now of these issues after we took the controversial issues away.

Mr. President, let there be no mistake about it, the game plan—the game plan—of this administration is evidenced in its letter. That letter does not address the legislative package, which is the omnibus parks bill, as the vehicle. What it recommends is that we initiate further discussions so that the appropriations process can cherry pick, if you will, certain aspects, certain portions out of the omnibus package and put it in the appropriations process.

The committee chairman, Senator GORTON of Washington, indicated yesterday, in no uncertain terms, that the omnibus parks package was the only train leaving, the only bus leaving the station. This was it, because he was not going to entertain taking segments out of the omnibus parks package and putting it in the appropriations legislation that they are drafting. Mr. President, we are in a situation now where that bus has left.

The Senator from Washington is known for his outspokenness, his commitment, his word. I have communicated with Senator HATFIELD of the Appropriations Committee relative to the possibility that is the game plan now, to abandon the Presidio omnibus parks legislation, and selectively pull pieces out of there and put it, Mr. President, in the appropriation package.

Now, as we look at these issues specifically which I think need examination, since the White House brought

them up, one might say, ''Well, there must be something wrong with these.'' On the surface, it may be something bad. We must be out of our minds to even consider passing such provisions as objected to by the director of the Executive Office of the President.

Let me read the last sentence of the letter.

> The conference report does not meet the test. We remain willing to work with you to develop a compromise package that could be included in a bill to provide continuing appropriations for fiscal year 1997.

There it is, Mr. President. That is what the administration wants to do. They want to take the omnibus parks bill, the hours my committee has worked—as a matter of fact, the years—126 individual bills that are in that package, they want to cherry pick them out. Do you know what will happen if that is done? Some of the senior Members with long-term seniority in this body are going to try and prevail. They will try and prevail. We know how that works. But it is not something that I will stand and watch silently happen. I am prepared to take whatever means is necessary to keep this package together. If it starts coming apart, to take whatever means is necessary to block it if it is in an appropriations process, because this concept is simply wrong.

We have held the hearings. We participated in the public process. Now it is time to legislate on the package. I am not buying the excuse that, ''Well, the Senator from Alaska has put together this huge package. Why did we not pass these individually?'' Because every Member in this body knows why. There has been a hold on every 1 of the 126 individual bills that are in this package for over a year, in some cases a year and a half, nearly 2 years, by some individuals who wanted to use the whole process to force the House to initiate action on bills that were objected to in the House. That is why this package exists.

If there is going to be some political heat around here, Mr. President, that political heat goes right down to the White House for breaking up or attempting to break up a well put together package, by withdrawing Utah wilderness, grazing, Tongass, 15-year extension, as well as the Minnesota boundary waters. We have done our part. But, no, they want more.

Mr. President, this is a small item in passing. I am losing 1,000 jobs directly, 3,000 to 4,000 jobs indirectly. That means 25 percent of the economy of southeastern Alaska because this administration will not support a 15-year extension. I met the Secretary of the Office of the President on Environmental Quality Council, Ms. McGinty. She did not recommend the extension. She could not give me a reason.

I have in front of me a statement from the U.S. Forest Service and their consultants. In the summer of 1996 there were enough trees that died in my State of Alaska in south central and interior Alaska as a result of the infestation of the spruce bark beetle to run that Ketchikan pulp mill at full capacity for 8 years. So, there we have it, Mr. President. No sensitivity to the dead, dying timber, jobs, people out of work, unemployment, no tax base.

Mr. President, as we look at where we are today, we wonder if it is not precisely what the Framers of the Constitution of the United States had in mind when they created the three branches of Government. If one goes a little off, the other can bring some balance into the process.

I want to share and examine the issues concerning the permanent changes in the process for regulating right of ways across national parks and other Federal lands. The resolution of right of way claims, or RS 2477, which they suggest that they do not find suitable in this legislation, these claims as they are called, have been a complex, contentious process. The committee reported an amended bill that allows the Department to proceed with the development of new regulations while prohibiting their implementation until approved by Congress. That is what we did in committee, put the balance in there, so that, obviously, it would require the implementation by Congress, and the Department could proceed with the regulations while prohibiting the implementation until approved by Congress.

In other words, this legislation provided the ability to keep the process going, but Congress wants to act. This does not permanently change the process. It just provides a system of checks and balances. It is fairly difficult to argue with this logic unless, of course, the White House does not want to participate in the check and balance.

Mr. President, what is even more phenomenal is the fact that the original bill was significantly amended as requested by this administration. In other words, we have already responded to the administration, but clearly OMB does not know anything about it. The same bill that is in this package, let me repeat, the same bill is the administration's position, and actually relaxes the conditions of the moratorium currently in effect. The bill in this package was unanimously agreed to by all of the committee members. The Senator from Minnesota, Senator WELLSTONE, voted for it, Senator BRADLEY from New Jersey voted for it, Senator BUMPERS voted for it. Mr. President, I doubt that the President of the United States would seriously veto a legislative package of this magnitude over a bill they agreed to—agreed to it—last May.

Now, the threat of a veto on Shenandoah and Richmond Battlefield National Park in Virginia—well, let's cut to the quick. The Richmond Battlefield provision in this package is the same map, same boundaries as depicted on the National Park Service's newly released general management plan, dated August 1996. The reduction in acreage is the administration's initiative. I repeat. This is a plan from the administration. During the course of deliberations, a provision was added. The land could only be purchased from a willing seller. But, at the same time, the restriction to the purchase of lands by donated funds only was expanded to include appropriated funds.

In the case of the Shenandoah National Park, the park boundary was reduced from the original 1926 authorization of 521,000 acres to 196,500 acres, currently managed by the National Park Service.

The conferees also directed that the Secretary shall complete a boundary study, which would address the future needs of the park in the way of lands acquisition and give the Secretary authority to acquire those lands. The Park Service did not testify or make the case that the entire acreage, as envisioned in 1926, was required to complete the park. In fact, there are many areas within the original acreage that are already developed and no longer possess those qualities for inclusion as units for the National Park System.

The provisions in the package were worked out between the Virginia delegation over a period of months—bipartisan, Mr. President. Negotiations were intense when the delegation first addressed the problems at Shenandoah. They were all over the spectrum. Finally, they reached an agreement. The provision protects the park and rectifies the problems experienced by their constituents. In conversation with the White House staff last night, Mr. President, when asked what was the real problem, they allowed that they would probably reach the same conclusion, but the program needed more process. Well, it has been 2 years, Mr. President. Why does the administration object to this? They won't tell us. They just put it down.

Mr. President, they want more process. This comes from an administration who, in many cases, ignored any process. In declaring the 1.8 million acres in the State of Utah a national monument, there was no process, no NEPA, no FLPMA—no process. On one hand, they want process, and on the other hand, they make a decision based on political expediency. What happens? The President doesn't go to Utah. The President sits on the edge of the Grand Canyon and makes his pronouncement from the State of Arizona. Why didn't he go to Utah? It is clear. He wasn't welcome in Utah. Because of his land grab under the Antiquities Act, he would have been protested by children who were objecting to the revenue that would be lost to the school fund as a consequence of this designation.

The pathetic part of that action—and it was not the action of a work horse, Mr. President, it was the action of a show horse, because that legislation, the Antiquities Act had no business being invoked, and the administration uses the excuse, well, Teddy Roosevelt did it. It was necessary when Teddy

Roosevelt was around, but he did it right. There was a lot of discussion over it. The Antiquities Act was applied by President Carter in my State of Alaska, but there was a lot of discussion. There was absolutely no discussion in this case—none whatsoever. Check with the delegation from Utah, check with the Governor, check with the House Members. This came as a surprise. It was a photo opportunity, a crass effort to take advantage, if you will, of a designation land grab which some of the President's advisers suggested. I have even heard Dick Morris was in on the recommendation. So, on one hand, the administration talks about a public process. They want more process in this parks package. But they have no process in declaring 1.8 million acres of the State of Utah a national monument.

Mr. President, as late as, I believe, the 103d Congress, we had an extended debate over California desert wilderness. Not everybody was happy, but there was a process, a democratic process, where the people were heard. And we passed that legislation. Everybody wasn't happy. I wasn't particularly happy, but DIANNE FEINSTEIN was very happy. But it was a process. That was circumvented here. It was circumvented, and the media can't seem to see through it. They proclaim the merits. Nobody proclaims the loss of participation or the loss of the process by the people of Utah.

This is not an issue of the State of Alaska, but there is a principle involved here. This Senator is introducing legislation, along with Senator CRAIG and others, to take away the President's authority to invoke the Antiquities Act, because it has been abused. There is every reason that we could have continued the dialog in the next session of Congress on the Utah wilderness, to make legitimate designations of wilderness for Utah. But here we have a land grab. So when the President and the White House talks about process, I want to talk about their process. Their process is a land grab.

Mr. President, the administration has a problem with the extension of a few summer cabin leases at Sequoia National Park where they are going to develop a campground and other facilities. However, there are no definitive plans or moneys programmed at the current time.

They are ready to sacrifice the whole package on this issue. The original bill was heavily amended as a result of a veto threat by the Department. All of the erroneous provisions were removed, to our knowledge, at that time. Under this bill, the Secretary has total discretion to continue to lease it. The language does not direct the Secretary to do anything, but he may if he wants to. What is wrong with that? Full discretion.

Last year, we saw Senator FEINSTEIN, my good friend from California, as I indicated, prevail in the establishment of the largest park and wilderness package in quite a while, the California desert. Now, I can't believe my good friend, Senator FEINSTEIN, would support the destruction of the Sequoia National Park, nor would I suspect that Senator BOXER would allow anything inappropriate to take place. Both support this legislation. If the Secretary thinks it is a neat thing to do it, why, we have given him the authority to do it.

The administration cites ''unfavorable modifications'' of the Ketchikan pulp contract as a possible veto item. Is this a national issue for which the President would sacrifice a billion-dollar environmental program for the San Francisco Bay area to clean up the San Francisco Bay? I went to school down there, and I know it well. It needs cleaning up. This is a great piece of legislation. He sacrificed that and the establishment of the Tallgrass Prairie Preserve, the preservation of the Sterling Forest corridor, which is a federally funded purchase of land in New Jersey and land in New York, and a bipartisan solution for the management of the Presidio. ''Well, this is unfavorable.'' Unfavorable to whom?

The administration has made it perfectly clear that they would veto any timber concession that would allow for environmental investment and the continued operation of the only remaining pulp mill in my State, as I have stated. As a result, we pulled this provision and will have only the President to hold accountable for the jobs that we will lose.

It is rather interesting, because the President chooses to sacrifice, if you will, some of his own—or at least the administration does. Our Governor has worked very hard—a Democrat—to try to prevail upon the White House. First was ANWR and now the Tongass. Well, unfortunately, they have seen fit to disregard his recommendations. They have seen fit to disregard the recommendations of the congressional delegation from Utah. One can only conclude they have simply written off Alaska and Utah—at least politically.

What I left in this is one sentence that, in my State, would give the Forest Service the flexibility to work with the company that still holds an 8-year pulp contract, to simply transfer that over so it could be made available to the sawmills in the State of Alaska. We only have four—two are operating and one co-op, one marginally operation, and one in Wrangell is closed.

That is all I am proposing. Yet, they say this is ground for veto threat. After the administration scores a victory for the environmental lobby and closes our last pulp mill—our only year-round manufacturing facility—are we also to be denied the opportunity to try to salvage something? Which is what I propose —and that is allowing the transfer of the existing contract from pulp to sawmill because if the pulp mill continued to operate for the balance of this contract they would have the right to do that to the year 2004 when it would be terminated.

No. What we have here is a rhetorical reach for the symbol Tongass to raise fears about this conference report. Well, this does not sell with the Senator from Alaska.

The White House takes issue with the Coastal Barrier Resource Act amendments—in Florida—which appear in this package. The corrections remove roughly 40 acres of land in Florida from the 1.272 million acre Coastal Barrier Resource System. It has the support of the Florida delegation. I understand the Governor of Florida, Governor Chiles, has made a concerted effort to try to get the White House to change its mind. He strongly supports these changes. This is a bipartisan issue. The Florida House delegation are cosponsors of this specific legislation. The two Senators from Florida, as I indicated, support it.

One wonders what the motivation of the White House is. The answer perhaps is simple. In this case the bill removes developed lands—40 acres—from the 1.2 million acre system that is supposed to contain undeveloped land. So the executive branch is giving little consideration to the legislative branch.

The administration also cites ''mandated changes that would significantly alter and delay the completion of the Tongass Land Management Plan'' as a possible veto item. This conclusion represents probably the most gross, misleading of any language in the bill.

The provisions they are apparently referring to—though they are so off base it is hard to tell because they know nothing about the subject—is one that directs the Forest Service to make recommendations to the Congress about potential compensation for Alaska Natives unfairly left out of the Alaska Natives Claim Settlement Act. These are natives that unfortunately were left out. They were not included, and this is only the authority—the authorization—to include them; no mandate for land; no designation; just the authority that these people have a right as Alaska Natives and indigenous people to their claim because they were left out and the other natives shared in that claim.

This is an equity issue.

The provision also directs the Forest Service to incorporate these recommendations into the Tongass Land Management Plan so that Congress can properly evaluate the impact of any recommendation involving land status changes on management of the forest. Any proposed changes would have to be acted upon by Congress and approved by the President.

This is a safeguard. What is wrong with that?

One of the interesting things that Alaskans can understand is the significance of this so-called TLMP. No one can do anything in Alaska until the TLMP is finished. The purpose was to settle the harvest—sustainable yield—on 1.7 million acres out of the 17 million acre Tongass National Forest. The

only problem is that by the time the Forest Service completes it—which was initially going to be August and now is going to be the end of the year—we are not going to have any industry left.

So it is not going to be applicable, if you will, in any practical way because it was designed for an area and level of utilization. If we do not have industry, there is no utilization.

I would encourage my colleagues from other Western States to recognize what is happening here. This is a carefully contrived effort by extreme environmental groups who want to terminate timber harvesting on all Forest Service national land. What does that mean in any State? Unfortunately, we have no private timber with the exception of Native regional corporations which have been able to select under their indigenous selection opportunity. That is private timber. They can export it at a higher price. There is no State timber in southeastern Alaska. Our people lived in the forests—Ketchikan, Haines, Skagway, Wrangell—before the national forests were established. People were assured they would have an opportunity for a livelihood. And, since we, if you will, designated wilderness in the forests as national monuments and left only a small segment, we are faced with the reality of trying to continue a modest industry when others clearly are trying to terminate it. And it is going to move to other Western States. What are we going to do? I guess we are going to simply import our raw materials from nations who do not have the same sensitivity, forgetting the fact that we are much more environmentally sensitive, and do a better job. And we are dealing with a renewable resource here properly managed. We have 50-year-old second-growth timber; beautiful timber.

But in any event, we are faced with this reality associated with the general theme of this administration, whether it is timbering, oil and gas exploration, opening ANWR safely, whether it is grazing, or whether it is mining. There is no substantive support for resource development on public lands. They are selling America short, American technology short, American know-how short, exporting the jobs overseas, and exporting the dollars. And one only has to look at the increasing balance of payments deficit to recognize it's significance.

The cost of imported oil is over a third of our trade deficit. What are we doing? We are simply importing more. We tried to put Saddam Hussein in the cage not so long ago. He got out. Saddam Hussein is better off this week than he was 4 weeks ago. What are we doing about it?

Where is our energy policy? What are we subjecting ourselves to? Where is our national security interest? We are 51.1 percent dependent on imported oil. During the Arab oil embargo in 1973, we were 37 percent dependent. What do we do? We created SPR, the stretegic petroleum reserve. We created a fall back so we have a supply which we need. This administration has chosen to use it as a piggy bank. We paid some $27 or $28 a barrel for a 90-day supply. We have never achieved the 90-day supply. Now we are selling it at $18 to $19 a barrel to meet budget objectives. There is a huge increase in the President's budget in the year 2000. This is what they are doing.

Where are we going, Mr. President? We are sacrificing our national energy security. We are sacrificing it in this way. The Department of Energy has indicated by the year 2000 we will be 66 percent dependent on imported oil. And where does that come from? It come comes from the Mideast. Anybody that suggests that the Mideast is a stable area only has to recognize the troop buildup, and the fact that we were sharpening our missiles a few days ago and firing them a few weeks ago. So sooner or later, Mr. President, we are going to pay the piper.

And the reason for going into this rather extended dialog is simply to alert my colleagues of the inevitability that what goes around comes around, and history repeats itself. And it is going to repeat itself relative to our increased dependence on imported oil and the fact that we are losing our leverage with our Arab neighbors as evidenced by our effort to generate their physical support in the last go-round with Saddam Hussein.

Finally, Mr. President, as I get back to this analysis of the position of the administration, I conclude by saying, as the administration letter indicates, that mandated changes are required to significantly alter various aspects of this to make changes for the purpose of raising concerns that are not documented in any detail but seem to be raised as an excuse to find an excuse to initiate a veto threat.

Politics and rhetoric have overtaken substance and reality. It will be truly sad if the misleading statements and inferences and threats in the administration's recent statement bring down the largest parks bill since 1978, the largest environmental package in the last several decades. The President of the United States currently has on more than one occasion stated he would veto appropriation language that contained riders, so I am concluding from the statement from the Office of Management and Budget, ''We remain willing to work with you in developing a package that would include a bill to provide continuing appropriations for fiscal year 1997,'' there is your rider.

Now he wants the rider; he thinks that is a good idea. The reason is, one can avoid the legislative process. You just take what you want and trash the rest. I tell you, if that happens, there are going to be a lot of unhappy Members because some of you will have your bill selected and others will not.

I believe in the legislative process. That is why I am here. That is why I have accepted the responsibility of working with my members on the committee to bring this parks package before this body. I believe in the legislative process, working collectively, and I am proud of the fact that we have crafted a bipartisan package that serves to enhance our parks and our public lands.

I have answered the veto letter. I believe my colleagues see that there is very little substance, and the President is standing tall, perhaps, but standing in the mush.

So for those who have followed this debate, I would appeal to you that the parks package may, indeed, be in jeopardy from objections unidentified in detail from the White House—not based on their first series of objections, but based on, apparently, an afterthought. Maybe for some reason unknown to this Senator, there is a political reason at this late date prior to the election for a veto of this package, but I cannot imagine what it is. I think they are misreading it downtown. I do not think they recognize we have stripped it of its objectionable parts, and I encourage those who are out there and are concerned with these issues to notify the President, notify the Chief of Staff, Leon Panetta, notify their elected Representatives, Senator and Congressman, because it is getting late, and if this package, this omnibus parks package, is delayed or set aside because of pending business so there is not enough time to take it up, the White House and the President are going to have to bear that responsibility—not the Energy and Natural Resources Committee, not Congressman DON YOUNG from Alaska, not FRANK MURKOWSKI, Senator from Alaska, not Ted STEVENS, Senator from Alaska, not the members from my Energy and Resources Committee, not the professional staff, not Senator BENNETT JOHNSTON, but the White House for obstructing the most significant legislative package that has come before this body, as I have said, in several decades.

So I urge those out in California who are interested in the Presidio or interested in the portion of the legislation to clean up the San Francisco Bay or any of the other 126 titles in the other 41 States to get busy, because the countdown has begun. It is not going to go in the appropriations process. I have had that assurance over here. This is the right way to do it. This is the right time to do it. There is absolutely no excuse for further delay.

Mr. President, I yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I ask unanimous consent I may proceed for up to a half-hour as if in morning business.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

SENATOR CARL LEVIN

Mr. NUNN. Mr. President, serving in the Senate has given me the opportunity to work on many important issues with many talented Members on both sides of the aisle. When I leave the Senate, I will miss the professional and personal associations I have had working with my colleagues in the Senate and the House, none more than my association with my friend Senator CARL LEVIN of Michigan.

CARL LEVIN and I have served together on the same two committees for the past 18 years, the Armed Services Committee and the Governmental Affairs Committee. During those years I have gained a tremendous appreciation for his energy, his intelligence, his tenacity, his skill in the legislative process, and his total commitment to public service.

I trust and hope the voters of Michigan will return him to the Senate next year where, depending on the makeup of the Congress, whether Republicans or Democrats control, he will be either the chairman or ranking member of the Armed Services Committee, and he will certainly be a leader on the Permanent Subcommittee on Investigations and perhaps chairman of that subcommittee or ranking minority member on that subcommittee, a position that I have held now since the late 1970's.

Mr. President, one of the hallmarks that I associate with CARL LEVIN's service in the Senate is his passionate belief that Government should work and that it can work, and that Congress has a responsibility to the American people to make sure that it does work. On both the Armed Services Committee and Governmental Affairs Committee, I have watched with admiration as CARL LEVIN's tireless efforts developed into a substantial record of legislative accomplishments across a whole range of important issues.

When CARL LEVIN came to the Senate in 1979, he asked to serve on the Governmental Affairs Committee. I remember how glad the committee was to have someone with his background, eager to serve on this important committee. In that year, the chairman of the committee, Senator Abe Ribicoff, created a new subcommittee, the Subcommittee on Oversight of Government Management.

Oversight of Government Management. That is a subject that might strike some people as dry, and I assume that many days it was dry to Senator LEVIN, but it has been one of the passions of his Senate career. Senator LEVIN was appointed chairman of this new subcommittee in 1979, and my good friend and outstanding Senator from Maine, Senator BILL COHEN, was the ranking minority member. These two remarkable Senators have formed a partnership as chairman and ranking minority member of this subcommittee that has lasted through changes in the control of the Senate from Democrat to Republican to Democrat and Republican, and lasts to this day. In fact, Mr. President I would say that the relationship between Senator LEVIN and Senator COHEN on the Subcommittee on Oversight of Government Management serves as a textbook example of successful bipartisan cooperation in the pursuit of effective Government that other committees and subcommittees, indeed, other Senators and Congressmen, should look at very closely. When these two dedicated and outstanding leaders get together on an issue, good Government is almost always the result.

Over the years, CARL LEVIN has carried out oversight investigations and hearings on a broad range of Federal programs in the Subcommittee on Oversight, including Social Security disability, Internal Revenue Service operation, the Customs Service, and inventory management in the Department of Defense. The objective of these investigations was to improve the operation of important Federal programs. The results in each case demonstrate that thoughtful, careful, and constructive congressional oversight of Federal programs can often lead to improvements in performance more readily than legislation.

CARL LEVIN has also built an impressive legislative record on the Governmental Affairs Committee. He has been the driving force behind lobbying reform, the independent counsel legislation, whistle-blower protection, ethics reform, the Competition in Contracting Act, and the reform of the defense acquisition process. All of these initiatives have focused on a goal of making Government more open, more productive, and more effective.

Since the death of our colleague and great U.S. Senator, Senator Scoop Jackson, in 1983, I have served as the chairman and ranking minority member of the Permanent Subcommittee on Investigations of the Governmental Affairs Committee. While Senator Jackson was still in the Senate serving, I was the vice chairman of that committee and while he was running for President of the United States, I was the acting chairman of that committee, so he and I worked together on that committee, for many years. Over the years this has been one of the premier investigative subcommittees of the Congress, and I cannot think of anyone more qualified, by temperament and by experience, to provide leadership on the Permanent Subcommittee on Investigations than CARL LEVIN.

Senator JOHN GLENN is also on that committee and provides superb leadership as either the ranking Democrat or the chairman of the Governmental Affairs Committee, depending, again, on which party controls the Senate. Senator BILL ROTH and I have been partners on this subcommittee for many years, he serving sometimes as the ranking Republican when the Democrats are in control, sometimes as chairman, and he and I have reversed roles now, I believe, three times. So we have some outstanding members serving on that subcommittee with Senator LEVIN.

Senator LEVIN has also been an extraordinarily active and energetic member of the Armed Services Committee during the years we served together. I remember when he first came on the Committee in 1979, and chairman Stennis asked him to chair the committee's hearings on the legislation implementing the Panama Canal Treaty. This was one of those detailed, complicated, and important jobs that everyone knew had to be done and hoped someone else would do. In what we came to realize was typical fashion, CARL LEVIN rolled up his sleeves and did an excellent job in carrying out the committee's responsibilities on this important issue.

During our service together on the Armed Services Committee Senator LEVIN has served as the ranking minority member on the readiness Subcommittee and the chairman and ranking minority member on the Conventional Forces—now called the Airland Forces—Subcommittee. In that capacity he has made major contributions to maintaining the readiness of our forces and ensuring that they have the weapons and equipment they need to carry out their missions today and in the future.

In reality, though, Mr. President, Senator LEVIN's impact on our national security has extended far beyond the subcommittees which he led. In fact, it is hard to think of a major issue that the Armed Services Committee has dealt with over the past two decades in which CARL LEVIN has not made an important contribution. He has been involved in our discussions on the size and makeup of our military force structure; on the modernization of our conventional capability; and on the modernization of our strategic nuclear forces. He has been a key player over the years in our oversight of ongoing military operations, including Somalia; the Persian Gulf conflict and its aftermath; and Bosnia. As I indicated earlier, he has been one of the drivers behind the enactment of the recent landmark legislation on defense acquisition reform, which of course has been a top priority of Secretary of Defense Bill Perry.

As one of the most active members of the Senate's Arms Control Observer Group since its inception in 1985, Senator LEVIN has been heavily involved in keeping the Committee and the Senate informed on the progress of arms control negotiations. He has also made important contributions to the Senate's consideration of the Intermediate Range Nuclear Forces Treaty; the Treaty on Conventional Forces in Europe; and the START I and Start II Treaties. I know he shares my regret that the Senate has not been able to act on the Conventional Weapons Convention during this session, and my hope that the Senate will act on this important Treaty early next year.

Mr. President, Senator LEVIN and I have not agreed on every single issue

in the Armed Services Committee over the years. Sometimes our positions differed, sometimes our philosophies differed. In those cases where we disagreed, my respect for his knowledge and his intelligence always caused me to double-check my own thinking. When we agreed—particularly on complicated issues like the reinterpretation of the ABM Treaty—I was always grateful to have him standing shoulder-to-shoulder with me.

All of us know CARL LEVIN's tenacity and talent for negotiating. Now that I am leaving the Senate in just a few days, I don't mind revealing that while I was chairman of the Armed Services Committee, I used CARL LEVIN as one of my secret weapons when we went into conference with the House on the annual Defense authorization bill. Whenever the Conference got bogged down over a particularly difficult issue, I knew that I could assign CARL LEVIN to go off and work with the House and have a pretty high level of confidence that the outcome would be closer to the Senate than to the House position. CARL is a superb negotiator. I have to confess that the House conferees got wise to my strategy, because after a while I only had to threaten to turn an issue over to CARL LEVIN to break a conference deadlock.

They simply, many times, would rather concede than go off and know they were going to be subject to CARL's very tenacious negotiating capabilities.

Serving in the U.S. Senate has been the greatest privilege of my career, the highlight of my professional life. I will miss the Senate, and I will miss my colleagues. I will leave, however, with a great deal of confidence that the energy and creativity in the Armed Services Committee—and its unwavering commitment to our Nation's security and to the men and women in uniform—will continue under the extraordinarily capable leadership on the Democratic side of my good friend, Senator CARL LEVIN, of Michigan.

DAVID ALLAN HAMBURG

Mr. NUNN. Mr. President, I would like to pay tribute today to a remarkable man, a renaissance man for our times, Dr. David Allan Hamburg. I would also add that Dr. Hamburg has a wonderful wife, a remarkable and accomplished woman, Betty Hamburg. In her own right, she has been truly an outstanding leader in every field of endeavor she has entered, as she has stood side by side with David Hamburg all these years and helped him accomplish what he has accomplished in his own right. They have two wonderful children, very successful children, Peggy and Eric.

Mr. President, I have come to know and admire David Hamburg through my long association with the Carnegie Corporation of New York, of which he has been president since 1983. In that position, he has combined his unparalleled knowledge of and experience in science, psychiatry, and international affairs to produce a record of remarkable accomplishment.

A quick review of his past activities reveals a unique combination of intelligence and energy that has been applied unselfishly and with a remarkably positive effect to scholarship, to intellectual endeavors, and to public service. For example, Dr. Hamburg was professor and chairman of the Department of Psychiatry and Behavioral Sciences at Stanford University; then the Reed-Hodgson Professor of Human Biology at Stanford. He served as president of the Institute of Medicine of the National Academy of Sciences.

At Harvard University, he was the director of the Division of Health Policy Research and Education, as well as the John D. MacArthur Professor of Health Policy. He also has served as president and chairman of the board of the American Association for the Advancement of Science.

His many memberships on governing boards of nonprofit organizations and his numerous honorary degrees demonstrate clearly that he has been widely recognized all over the country and, indeed, around the world for his experience, his wisdom, and his public-minded spirit.

It has been my great honor and privilege to work closely with David Hamburg on three important projects in recent years. First, under his leadership, Carnegie sponsored, and David himself played an important role in, a project on nonproliferation in the early 1990's that provided much of the analytical basis for the original cooperative threat reduction legislation that became law in December of 1991.

Shortly thereafter, he accompanied Senators LUGAR, WARNER, BINGAMAN, and myself on an extensive study mission to the former Soviet Union, and shared with us his wisdom regarding the troubled conflicts, the ethnic problems, and the potential for further problems in that part of the world, as well as his expertise and concern about the overall issue of nonproliferation.

Second, in consultation with Senator LUGAR and with me, David Hamburg's leadership and Carnegie's sponsorship with Dick Clark, former Senator Dick Clark's leadership, working under Carnegie and under David Hamburg, created a special exchange program involving Members of the United States Congress and the Russian Parliament. Senators BIDEN, EXON, FEINGOLD, GRAHAM of Florida, HUTCHISON, JEFFORDS, JOHNSTON, LAUTENBERG, ROTH, SARBANES, and SIMPSON, plus numerous colleagues from the House, have joined me in this undertaking over the last several years.

Thanks to the leadership of Dick Clark and the vision of David Hamburg, and the sponsorship of Carnegie, this program has proved most rewarding for the American side and I believe also for the Russian side, and has made a significant contribution to mutual understanding of United States-Russian relations, and also relationships with Eastern Europe, because the Carnegie Corporation, under David's leadership, and again with Dick Clark taking the helm, has sponsored numerous conferences over the last 7 or 8 years with our colleagues in the Parliaments of Eastern Europe, and that, too, has been very successful.

Third, Dr. Hamburg, together with former Secretary of State Cyrus Vance and a distinguished group of international leaders, again, sponsored by Carnegie, have formed an international commission to study and make policy recommendations regarding conflict situations that have plagued the post-cold-war world.

This group has banded together with leaders from around the world to try to find ways and recommend methods and reform of certain institutions to help get out in front of and prevent deadly conflict throughout the globe.

I have been honored to serve on the advisory board of this commission. Dr. Hamburg and Cy Vance and his commission colleagues have asked me to head a task force of this commission upon my retirement from the Senate. That will be one of the public policy issues I look forward to staying involved in. It is a very important part of America's foreign policy and national security considerations.

I readily agreed to undertake this leadership under Dr. Hamburg and Cy Vance and am looking forward to continuing my close collaboration with Dr. Hamburg in that new capacity.

Mr. President, I could go on and on about the accomplishments of David Hamburg. I have just outlined the parts of his overall activities that I have personally been involved in. He has been a leader in writing papers and books on children, on education, on research, on environmental matters. He is truly a Renaissance man. I have known people who had great breadth, and I have known people who have had great depth on many issues. I never knew anyone with the breadth and depth that David Hamburg has on so many issues important to our Nation and, indeed, to humanity.

On September 9 of this year, David Hamburg will receive one of the highest honors our country can bestow: the Presidential Medal of Freedom. The citation that accompanies the award provides a fitting summary of this man's remarkable career to date. President Clinton presented that medal on September 9, and it reads as follows:

> As a physician, scientist, and educator, David Hamburg has devoted a boundless energy and deep intelligence to understanding human behavior, preventing violent conflict, and improving the health and well-being of our children. From Stanford to the Institute of Medicine and the Carnegie Corporation, he has worked to strengthen American families by teaching us about the challenges and difficulties of raising children in a rapidly transforming world. Known for emphasizing the importance of early childhood and early

adolescence, he has stressed the need for families, schools and communities to work together in our children's interest. In a life of wisdom, courage and purpose, David Hamburg has exemplified the finest tradition of humane, social engagement.

Mr. President, I am pleased and honored to pay tribute to David Allan Hamburg, a truly distinguished American.

RATIFICATION OF THE CHEMICAL WEAPONS CONVENTION

Mr. NUNN. Mr. President, I rise to the floor today to speak in support of the ratification of the Chemical Weapons Convention as reported out of the Senate Foreign Relations Committee. Unfortunately, consideration of the Convention by the Senate has been postponed until next year. I will no longer be here when this important matter is undertaken, in terms of voting on this matter, before this body. In the closing days of this Congress, I want to put on the record today my strong support for the ratification of this important agreement.

Mr. President, now that the cold war is over, the single most important threat to our national security is the threat posed by the proliferation of weapons of mass destruction.

Over the last year a series of hearings have been held in both the Foreign Relations Committee and in the Permanent Subcommittee on Investigations that have clearly documented the threat posed to the United States by the proliferation of weapons of mass destruction.

During these hearings, representatives of the intelligence and law enforcement communities, the Defense Department, private industry, State and local governments, academia, and foreign officials described a threat that we can not ignore, but for which we are unprepared.

For one, CIA Director John Deutch candidly observed, ''We've been lucky so far.''

In July, the Commission on America's National Interests, co-chaired by Andrew Goodpaster, Robert Ellsworth, and Rita Hauser, released a study that concluded that the number one ''vital U.S. national interest'' today is to prevent, deter, and reduce the threat of nuclear, biological, and chemical weapons attacks on the United States. The report also identified containment of biological and chemical weapons proliferation as one of five ''cardinal challenges'' for the next U.S. President.

Mr. President, I firmly believe, based on a wide variety of testimony and other presentations from credible academics, government officials, and others, that the threat posed by proliferation of chemical and biological weapons and materials is more dangerous even than that posed by the spread of nuclear materials. In the case of nuclear materials, the Nuclear Non-Proliferation Treaty, or NPT, has erected barriers to proliferation that have become effective over time. In part as a result of this strengthened NPT regime, and in part because chemical precursors are widely available for commercial purposes, chemical and biological weapons and materials are much easier to acquire, store, and deploy than nuclear weaponry—as demonstrated by the Aum Shinrikyo disaster in Japan several years ago.

That cult conducted an enormous international effort to acquire, build, and deploy chemical weapons—without detection by any intelligence or law enforcement service—prior to releasing the deadly sarin gas in the Tokyo metro.

Mr. President, the judge at the World Trade Center bombing case believed strongly that the culprits had attempted to use a chemical weapon in that terrorist attack. He found that had those chemicals not been consumed by the fire of the explosion, thousands of World Trade Center workers might have been killed, greatly compounding that tragic episode.

Mr. President, Senator LUGAR and Senator DOMENICI joined me this year in introducing legislation—the Defense Against Weapons of Mass Destruction Act—that will provide over $150 million, starting next month, toward combating the threat posed to the United States by the proliferation of weapons of mass destruction. This legislation passed unanimously in the Senate, and was virtually unchanged in conference with the House. It is part of the National Defense Authorization Act for Fiscal Year 97, which has been sent to the President. I won't go into great detail here, but that legislation seeks to combat proliferation on essentially three fronts: enhance our domestic preparedness for dealing with an incident involving nuclear, radiological, chemical, or biological weapons or materials; improve our ability to detect and interdict these materials at our borders and before they can be deployed on our territory; and strengthen safeguards at facilities in the former Soviet Union that continue to store these materials to prevent their leakage onto the international grey markets and into the hands of proliferators, terrorists, and malcontents.

Mr. President, although Senator LUGAR, Senator DOMENICI, and I attempted to create a comprehensive program for addressing what we all believe is the No. 1 national security threat facing our Nation in the decades ahead, we also recognize that the enacted legislation is only a beginning, and that much more work needs to be done. We must combat this threat on all available fronts, and leave no available path untaken.

Mr. President, ratification of the CWC is an important step in the process of controlling the proliferation of chemical weapons and the technologies for their manufacture. The CWC requires all parties to undertake the following: to destroy all existing chemical weapons and bulk agents; to destroy all production facilities for chemical weapons agents; to deny cooperation in technology or supplies to nations not party to the treaty; and to forswear even military preparations for a chemical weapons program.

The Chemical Weapons Convention represents the culmination of some 15 years of negotiations supported by the last four Presidents of the United States. The agreement was concluded and signed by President George Bush near the end of his term. The Joint Chiefs of Staff support ratification. The major chemical manufacturer trade associations support ratification. The CWC has been open for signature and ratification since 1993. As of today, the CWC has enjoyed overwhelming worldwide support. It has been signed by 161 of the 184 member states of the United Nations, and 63 countries have already ratified the treaty. Those who have already ratified include all of our major industrial partners, and most of our NATO allies. The CWC will enter into force 180 days after the 65th country has ratified it. It will begin to enter into force after ratification by two additional countries, whether or not the United States chooses to ratify it.

Now, Mr. President, after years of bipartisan support, after the CWC was successfully negotiated by two Republican Presidents, after lying before the Senate for inspection for 3 years, literally at the eleventh hour, a small group of Senators has set about to defeat the ratification of this treaty. They claim to have identified a number of fatal flaws that have gone undiscovered during the 3 years and numerous hearings before the Senate, fatal flaws that have gone unnoticed by 161 nations, including all our major industrialized allies.

Those opposed to the CWC seem to view it through the same cold war lenses that have been applied to the consideration of numerous bilateral nuclear arms reduction treaties between the United States, and the Soviet Union, and between NATO and the Warsaw Pact. They insist that the kind of verification standard that we used to require in a bilateral treaty with the Soviet Union must now be applied to a convention intended to move the world community away from the scourge of chemical weapons. Mr. President, this is not a reasonable standard to apply. We insisted on parity of limitations and drawdowns with the Soviet Union because asymmetries in strategic weaponry would have been dangerous to the strategic balance. But the cold war is over; the CWC is not a bilateral treaty, and is not about the strategic balance.

In bilateral United States-Soviet arms reduction agreements, we were agreeing to reverse or forgo some weapons systems based on Soviet promises that they would undertake parallel actions. In the chemical weapons arena, we have already committed to do away

with chemical weapons and this treaty's purpose is to get other nations to do likewise.

Mr. President—to repeat, the cold war is over. The Soviet Union has dissolved. The world community now faces a serious threat from the proliferation of weapons of mass destruction, a threat that arises at least in part because of the disintegration of the Soviet Union and the loss of tight controls which that breakup entailed. The Chemical Weapons Convention is a broad treaty among many nations, intended to begin to control chemical weapons proliferation, in much the same way that the Nuclear Non-Proliferation Treaty, or NPT, set about to limit the proliferation of nuclear weapons materials and technology nearly three decades ago. When the NPT entered into force in 1970, barely 40 countries had ratified that treaty; today, well over 100 nations have joined, and the world community clearly serves to bring pressure to bear on both the nonadherent nations, and on countries like North Korea that have ratified but whose compliance is in very deep question. When the NPT was signed, a new inspection regime, under the International Atomic Energy Agency, was created to establish inspections to verify the compliance of those countries that had nuclear programs and activities.

Does the NPT guarantee that no nation will develop a nuclear weapon? Is it perfect? Is it 100 percent verifiable? The answer to each of these questions is clearly no.

There are no guarantees with NPT, nor are there guarantees with the Chemical Weapons Convention. On the other hand, does it help reduce nuclear proliferation and nuclear danger? The answer is clearly yes. The answer to those questions clearly is yes. The same will be true over a long period of time with the CWC.

Mr. President, one of the major complaints by the critics of the Chemical Weapons Convention is that it is not adequately verifiable. Clearly, a modest program to produce chemical agents can be accomplished inconspicuously. You can almost do it in the basement of your home. It can be done in a very small physical space. The CWC will impose only modest constraints, at best, on small groups of people like terrorists making small quantities of chemical weapons.

No treaty and, I might add, no domestic law, no law we could pass, could ever prevent a few people from making a small amount of chemical compounds. It could be very lethal in a small area when used in a terroristic way.

However, the fact that 160 countries have signed the Chemical Weapons Convention is bound to increase the international consciousness about the threat posed by the proliferation of these horrible weapons and materials and is bound to also heighten national concern and international cooperation in dealing both with the national threat, nation-state threat, as well as the terrorist threat.

So will it cure the problem? Will it stop terrorism? Will it eliminate chemical terrorism from being a potential threat? Absolutely not. Will it help? Yes, it will help.

As drawn, however, the CWC was not intended to primarily address the chemical weapons threat from terrorists. It is intended to eliminate national-level chemical weapons programs and to put world pressure on those nations that refuse to comply.

We need to recognize that the mere production of chemical agent is only the first step in a nation's military program to produce and have available militarily useful chemical weapons. To conduct all the subsequent steps to stockpiled, militarized weapons also in clandestine fashion is no easy feat. The critics seem to assume that every step is as concealable as a small lab required to produce some agent; this is certainly untrue.

The CWC is intended to begin a regime of data collection on the production and use of those chemicals that can readily be used in chemical weapons programs. This will be combined with a program of inspections to verify those data submissions and a system of challenging inspections to resolve ambiguities and suspicions. This will also no doubt be supplemented by what we call national technical means of verification.

We are going to have to do all this verification anyway. We do not solve any of our verification challenges in terms of terrorists, in terms of rogue nations, in terms of other nations; we do not solve a one of them by rejecting the CWC. If we are never a party to the CWC, we have all of these verification problems and challenges. Will the CWC solve them? No; it will not. Will it make it easier? Yes; it will.

Will this CWC inspection regime be ironclad from day one? Of course not. But then neither was the inspection and verification for the NPT when it first entered into force. It still is not perfect. But over the last 25 years technology has provided many new ways of safeguarding nuclear materials in peaceful nuclear energy programs around the world.

It has become much more difficult—but of course not impossible—to cheat on the NPT without running substantial risk of discovery. We should expect that the CWC will also develop more effective verification techniques once it is entered into force, techniques that one day might be more effective against the threat of terrorist use of chemical weapons and materials. But, Mr. President, if the United States does not ratify the CWC, we will not be allowed to participate in the development of the verification regime nor in the inspections themselves.

CWC safeguards are more likely to become effective faster if the United States is a party to the CWC and can bring our advanced technology to bear than if we have excluded ourselves from the administration and implementation of the CWC as the critics of this convention propose.

As former Secretary of State James Baker observed in testimony to the Senate Armed Services Committee on September 12, 1996:

> . . .[W]hen you have a lot of countries that have signed onto a treaty to eliminate these weapons, you have a much stronger political mass that you can bring to the table in any forum, whatever it is, to talk about restraints and restrictions and sanctions.

Moreover, Mr. President, to argue that we should refuse to ratify the CWC because it does not guarantee that Libya or North Korea or Iraq will be stripped of chemical weapons is to ensure that we will end up in the same category of nonparticipants with Libya, North Korea, and Iraq. Like those countries, if we do not ratify this convention, the United States will be a nonparty to the CWC. We will be subject to trade sanctions on chemical products and on technologies by all the other parties to CWC; trade sanctions, I might mention, that were proposed by our own Government under a Republican administration.

Some of the senatorial critics suggest that the negotiators should start over, that we should not enter into any limitations unless all the rogue states have been compelled to join, and unless the agreement is absolutely verifiable. Mr. President, this is mission impossible.

First, the CWC will enter into force whether the United States ratifies it or not, as I have said. It will take effect next year whether or not we are involved.

Second, the CWC itself imposes no new limits on the policy of the United States toward chemical weapons programs. By law, the United States is already committed to the elimination of all unitary chemical weapons and all unitary agent stocks by the end of 2004. By law, we are already moving in that direction. By policy decision taken by President Bush in 1991, we have forsworn the use of chemical weapons even in retaliation for their use against U.S. forces. Our Joint Chiefs also agree with that policy.

By a further policy decision by President Bush, we will eliminate our very small stockpile of binary chemical weapons as soon as the CWC enters into force, whether or not we are a party to the treaty. President Clinton has followed these same policies.

Mr. President, back in the cold war days, you could stand on the floor and say, let us reject this treaty because the Soviet Union may not comply; we may not be able to verify. Those were arguments that had great legitimacy and were very seriously important arguments because we were agreeing to draw down our weapons based on their drawing down their weapons. That was the cold war. If we were not confident we could verify it, then, of course, we

should reject that kind of treaty because we were depleting our military capability.

Here in this case, we have already decided to get rid of our chemical weapons, and the only question is whether we are going to participate in a treaty that gets other countries to get rid of their chemical weapons. It is not the same decision as cold war treaties with the Soviet Union. It is vastly different. To view it through that prism, as I think some of our colleagues are doing—I am sure in good faith from their perspective—is a profound mistake.

Mr. President, the bottom line is that the United States has already made a unilateral decision to eliminate all of its chemical weapons capabilities, whether or not we are party to the CWC. Our refusal to ratify this treaty does not help us one iota on verification. We still have all those verification challenges, and our refusal to ratify provides no bargaining leverage that I can identify against anyone whether it is Libya or North Korea or Russia, which still has large stocks of chemical weapons.

They all know that we are out of that business. Defeating the ratification of the CWC in no way restores or preserves a U.S. chemical weapons capability. To again quote former Secretary of State James Baker:

> We knew at the time that there would be rogue countries that would not participate. *** We have made a decision in this country that we're not going to have chemical weapons. We're getting rid of them. And we don't need them. We've made a policy decision that we don't need them in order to protect our national security interests. *** Whether we are able to get all countries on board or not, I think we have a critical mass of countries and I think the treaty makes sense, recognizing up front all the problems of verifying a Chemical Weapons Convention.

Finally, Mr. President, I have heard some of my colleagues argue that this treaty will pose an enormous burden and cost on U.S. industry. This argument is simply not true. If the costs and consequences to the American chemical and related industries were severe, as these critics suggest, why have the major chemical manufacturing associations not only endorsed, but also lobbied strongly in favor of ratification of the Chemical Weapons Convention? Why have 63 other nations, including most of our major industrial competitors, already ratified the CWC? Has this small group of CWC opponents discovered something that has been overlooked for the last 3 years by everyone else?

Mr. President, the truth of the matter is that the cost of implementing this regime to the vast majority of U.S. business is either negligible or nonexistent. There are two categories of chemicals made and consumed by businesses in the United States that are covered by this treaty. No more than 35 firms in the United States, all of them large corporations, produce or consume the direct precursors of chemical weapons agents that are on the first category and are subject to the strictest CWC controls.

The second category covers only large-volume producers of products that are in direct chemical weapon precursors. So no small businesses will be affected by the moderate requirements imposed by the CWC by this category.

Contrary to the argument being made by the opponents of this treaty, downstream consumers of this category of chemicals are specifically exempted from reporting and inspection requirements. While it is true that some 2,000 firms, including some small and medium-sized businesses, will be required to fill out one form per year, both private industry and the Department of Commerce estimates indicate that it will take a very small and minimal amount of time to fill out. No proprietary information whatsoever is required, and the reporting requirements are essentially the same as those already required of these businesses by the Environmental Protection Agency or other regulatory bodies.

In addition to the fact that only a small number of firms will actually be affected by the Chemical Weapons Convention, the Department of Commerce has worked very closely with the business community to develop a method of fulfilling both treaty requirements and industry requirements for protecting confidential business information. Again I would argue that if this were not the case, the American chemical manufacturing industry would not have endorsed ratification of the Chemical Weapons Convention.

Mr. President, I also point out that if the Senate continues to refuse to ratify the CWC—I am hoping the minds will be changed next year after the election is over—we are choosing to inflict international sanctions on foreign trade and one of our largest export industries, the $60 billion chemical industry. The CWC regime requires member states to impose trade sanctions against the chemical industries in nonmember states. While the entire $60 billion probably would not be immediately threatened, some $20 to $30 million would be threatened to begin with. Industry experts believe that over time U.S. interests would lose more and more business to foreign competitors who face no equivalent CWC trade sanctions from participating countries.

Mr. President, the basic bottom line which each Senator must ask him- or herself is as follows: Is the United States more likely to reduce the dangers of the proliferation of chemical weapons by joining the 63 countries that have already ratified the CWC—and the many others that will join after the 65th ratification occurs, or is America's security better served by remaining on the outside, by joining rogue regimes like Libya and North Korea in ignoring this pathbreaking effort by 161 nations to bring these terrible weapons under some degree of control?

Mr. President, I find this an easy question to answer. This is not a close question. This is not one of those questions that you can balance both sides and come out almost flipping a coin. We have many of those. This is an easy question to answer because no, it is not perfect, but yes, it does take steps in the right direction. We do enlist support from all the nations that will be signing, even those that we will have to watch very closely in terms of whether they comply.

Therefore, I would have voted to ratify the CWC had it been brought to the floor during this session. If I were here next year, I would certainly vote to ratify. I urge all of my colleagues to pursue the ratification of the CWC when it is brought up in the 105th Congress. Ratification of the Chemical Weapons Convention is in our national security interests, Mr. President, and I hope the Senate will ratify this convention next year.

I ask unanimous consent for 5 additional minutes.

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

PAYROLL TAX CREDIT PORTION OF THE USA TAX ACT OF 1995

Mr. NUNN. Mr. President, I rise today to discuss, again, another subject, the unlimited savings allowance tax legislation, USA tax, that Senators DOMENICI, KERREY, BENNETT, DODD, and I have cosponsored. I note the Senator, one of the great cosponsors here, Senator BENNETT, is in the chair today.

In previous remarks to the Senate, I addressed the issue of broader tax reform, which I will not repeat today, and, in particular, the need to make a careful review on the various tax reform proposals on an apples-to-apples basis rather than what has been done so far, which is basically comparing apples to oranges.

Today, I would like to address what I believe would be a critical component and what should be a critical component of any broad tax reform effort. That is integration of the income tax and the Social Security payroll tax.

Mr. President, the USA tax plan contains the most comprehensive solution to this issue of any tax reform proposal on the table in the form of a payroll tax. I believe no matter what emerges in tax reform, which I hope will be next year, I believe this payroll tax credit should be a central feature of that proposal. Certainly, it is a central feature and one of the strongest points in the USA tax proposal.

Mr. President, for individuals under the USA system, all income, regardless of source, forms the individual tax base. Unlike today's Income Tax Code, which is concerned about distinguishing the source of income, the USA tax proposal is more concerned about the use of that income. If your income is saved, your tax on that income is deferred. When your income is consumed, then it is taxed. In other words, you deduct your savings. From this broader

income tax base, the USA tax proposal provides a limited number of deductions, including net new savings, a family living allowance, higher education expenses, home mortgage interest, charitable contributions, and alimony.

After these deductions are made from gross income, a taxpayer would determine the amount of tax by applying progressive graduated rates to his or her taxable income. Once this calculation is made, which determines the total Federal income tax liability, the taxpayer would then subtract dollar for dollar from the income tax the amount withheld from your salary for the employee share of the Social Security payroll, or FICA tax. In other words, the amount paid in by the employee to the FICA tax, Social Security tax, is credited against income tax. It is credited dollar for dollar.

This payroll tax credit is an essential part of the USA tax system. It would reduce the regressive nature of the present payroll tax. It would reduce the disincentive to hire lower wage workers. This tax credit would be refundable so that if you had more withheld in payroll taxes than you owed in income taxes, as is the case for many people, the difference would be refunded to the taxpayer.

I believe my colleague would find it interesting that roughly 80 percent of Americans today pay more in non-income taxes than they do in income taxes. Payroll taxes make up the vast majority of non-income taxes.

We spend all of our time debating income tax. What that means is we hear from people in higher income groups, but the average American in today's society, 80 percent of Americans, pay more in non-income taxes than they do in income taxes. I hope that part of the debate will begin because it is long overdue.

Therefore, people with earned income, under our proposal, can, in effect, subtract 7.65 percent—the amount of pay withheld for the employee share of the Social Security-Medicare payroll taxes—from the USA tax base before the rates are applied. Thus, a 20 percent tax rate under the USA system is, in effect, equal to a marginal rate of 12.35 percent under today's system after you take into account the payroll tax credit.

Our proposal is often criticized because it has a 40 percent tax bracket. The first thing people ignore is that that is on assumed income. You have a right to deduct your savings before that rate is applied to a tax base. The second thing people overlook is you have to subtract the 7.65 percent from the 40 percent to get our effective tax rate because there is a credit back for the Social Security taxes paid. That is enormously important. If you are in a lower bracket, you would still subtract that.

The payroll tax is a perfect example of why fundamental tax reform is needed. As my colleague from New York, the ranking member of the Finance Committee, Senator MOYNIHAN, has so frequently and eloquently pointed out, the payroll tax is a very regressive tax. It discourages the hiring of additional workers, especially low-wage workers.

Nobody designed the system that way, of course. The payroll tax started out at a low rate, but that rate has grown considerably over the years. In 1950, the payroll tax was 1.5 percent of wage income. By 1960, it had grown to 3 percent of wage income. In 1970, it had risen to 4.8 percent of wage income. By 1980, it was 6.13 percent. By 1990, it had risen to 7.65 percent, where it remains today.

I repeat, Mr. President, 80 percent of the American people pay in non-income tax more than income tax. Of course, if you included the employer share, all of the percentages would be doubled. To state it another way, from 1960 to 1990, the Social Security tax has gone from 2 percent of our national income, or GNP, to 5 percent of our GNP. By comparison, receipts from individual income taxes have grown only slightly, from 8.1 percent to 8.5 percent over this same 30-year period.

Part of the reason for the increase in the payroll tax is due to fewer workers supporting a growing number of retirees. Another reason is that during the late 1960s and early 1970s the payroll tax working people paid grew considerably to finance large cost of living increases for retirees that were enacted in years of high inflation. Then in the late 1970s and early 1980s, payroll taxes increased again, ostensibly to build up a surplus for the retirement of the baby boomers. Unfortunately, as Senator MOYNIHAN has also pointed out, that is not what the surpluses are actually being used for. These surpluses are being used to finance Government spending and to mask the true size of the annual Federal deficit.

So we now find ourselves with a combined employer-employee payroll tax rate of 15.3 percent—a very high rate that adds significantly to the cost of labor. We set up a system for one purpose—to provide income security in retirement—that is actually hurting working people in ways that I am sure were never intended.

Our proposal does not abolish the payroll tax. It does not affect the operation of the Social Security System in any way. What it does attempt to do is to offset the negative, unintended, effects of the payroll tax by crediting the payroll tax against an individual or business's tax liability under the USA tax. Employees get a credit for their FICA tax against their individual income tax. Employers get a credit for their share against the business tax. So the same amount of revenue will continue to be deposited in the Social Security trust fund. But the payroll tax will now be integrated into the income tax in a way that offsets its regressive nature.

I know many tax reform proponents are now agreeing with the underlying wisdom of our payroll tax credit. The Kemp Tax Commission, led by the small business elements, recognized this fact and called for a payroll tax deduction in its recommendations. This deduction is a step in the right direction, a tax credit is a far better solution. I am hopeful that as others begin looking at components of sustainable tax reform they will reach a similar conclusion about the necessity of payroll tax credits.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

TRIBUTE TO SENATOR WILLIAM S. COHEN

Mr. BYRD. Mr. President, the State of Maine shares with my own beloved State of West Virginia a common character, a self-reliance born of long struggle with stony fields, harsh weather, and rich natural treasures that defy easy capture. As West Virginia coal miners daily confront the dangers below ground, battling to bring out the black compressed energy created eons and eons ago, the fishermen of Maine venture forth over the tempestuous seas to wrestle a living from the cold waters of the Atlantic. Farmers in both States work sloping fields of thin soils studded with loose rock to bring home their harvests. And emerging industries in both States must overcome the isolation of locations somewhat outside the main avenues of commerce. From these challenges comes a certain independence of judgment, and a mindset that addresses the merits of each decision before taking action.

The senior Senator from Maine exemplifies this independence of judgment. On January 3, 1979, WILLIAM S. COHEN became the 1,725th Member sworn in as a United States Senator. He joined the Senate after serving in the House of Representatives for three terms. Prior to his service in Congress, he had been a lawyer and member of the city council in Bangor, ME.

During his 18 years as a Senator from Maine, Senator COHEN's thoughtful, reasoned, and soft-spoken approach to policymaking has earned the respect and admiration of his colleagues. As a member, chairman, or subcommittee chairman on the Special Committee on Aging, the Armed Services Committee, the Governmental Affairs Committee, and the Select Committee on Intelligence, Senator COHEN has influenced a broad range of issues affecting our Nation. Always, he has attempted to keep the legislative process moving by being open to compromise and negotiation. He has been a key player in attempts to forge a bipartisan consensus on a number of difficult issues, from health care to missile defense programs. And he has always exercised his own judgment, relying on his own study and reflection rather than on party rhetoric, before taking action. He has been willing to cross party lines on contentious issues despite great pressure.

Himself a poet and author of eight books of fiction and history, Senator COHEN knows that it is as hard to accurately recount history and to draw lessons from it, as it is to create a complete and consistent fictitious history, which he does so well in his novels. His ability to draw upon the lessons of history and the possibilities of fiction is reflected in the diverse references from his reading that are found in his witty and pointed questions and statements.

One of Senator COHEN'S books, ''Men of Zeal,'' coauthored in a bipartisan effort with his former colleague from Maine, Senate Majority Leader George Mitchell, looked at the sorry Iran-Contra affair from the perspective of a man who played a critical role in upholding ethical standards in Government. Senator COHEN served on the special committee that investigated that scandal. A Republican Party member who held to a higher standard than party in order to keep the executive branch in check, as the Founding Fathers intended, Senator COHEN demonstrated the ethical toughness that has always been his most noteworthy and laudable characteristic.

Even before the Iran-Contra scandal, while a member of the Judiciary Committee in the House of Representatives in 1974, Senator Bill Cohen voted to bring impeachment charges against a Republican President. Later, he helped to create the independent counsel law, providing for special prosecutors to investigate Executive Branch wrongdoing. He worked to reauthorize the independent counsel law in 1992 and 1993, over the objections of some of the Members in his own party. Most recently, he joined with Senator LEVIN to sponsor the lobby disclosure and gift ban bill that was passed in the last session of this Congress. This effort was also marked by bipartisan negotiation and compromise that allowed the legislation to move forward.

Mr. President, Senator William Cohen has enriched the Senate with his presence here. Like his former colleague, Senator Mitchell, he brought to this floor and to these committee rooms some of the best that Maine has to offer the Nation—a willingness to work hard, to make tough and principled decisions, and a willingness to seek a common ground to serve the common good. And to that, he added his own unflappable good nature and his ability to see through partisan politics to the central policy compromise that could bring two embattled sides together. Having only just turned 56 this past August 28, he is someone about whom I can feel confident in predicting that his retirement from the Senate is only a prelude to future endeavors in new fields. Therefore, while I congratulate him for his work in the Senate, and thank him on behalf of the Senate and those of us who have been and are his colleagues in the Senate, I also wish for him and his new bride great happiness and success in the future.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WYDEN. 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. WYDEN. I thank the Chair.

ACCESS TO PATIENT INFORMATION

Mr. WYDEN. Mr. President, I rise to take just a few moments to talk a bit about the gag clause that involves the right of patients across this country to know all the information about their medical condition and the treatments that are appropriate and ought to be made available. I wish to discuss it in the context of the pipeline safety bill.

In the beginning. I particularly wish to thank the bipartisan leadership of Senator DASCHLE and Senator LOTT who have worked closely with us on this also, the continued bipartisan effort of Senators KENNEDY and KYL who, in particular, have worked very hard to try to address this legislation in a responsible way and to demonstrate the bipartisan spirit of this effort. It really all began with Dr. GANSKE of Iowa and Congressman ED MARKEY on the House side, where both pursued this effort in a bipartisan way. Senators LOTT and DASCHLE, KYL, KENNEDY, and I and others have spent several days working to reach an agreement with respect to the legislation that I originally sought to offer several weeks ago with respect to the patient's right to know. These negotiations have been lengthy, they certainly have been difficult, and they are not yet concluded.

Because there has been much good faith on the part of a number of Members on both sides of the aisle, on both the Democratic and Republican side of the aisle, I think it is fair to say that we have made a considerable amount of progress, and I want to make it very clear to the Senate I intend to keep up this fight throughout the session because it is so fundamentally important that the patients of this country in the fastest growing sector of American health care, the health management organization sector, have all the information they need in order to make choices about their health care.

I do think it is important to say tonight that I do not think it is appropriate to withhold any longer a vote on the pipeline safety bill as these negotiations go forward. The pipeline safety bill, in my view, is a good bill. It is an important bill. It, too, has bipartisan support as a result of a great deal of effort, and I would like to put in a special word for the efforts of Senator EXON, of Nebraska, who has labored for a long time on this measure. He is, of course, retiring from the Senate. His leaving will be much felt, and it seems appropriate that this important and good bill to protect the safety of our energy pipelines go forward. And so I want to make it clear to the Senate tonight I do not think the Senate should withhold a vote on the pipeline safety bill any further as the negotiations go forward with respect to the gag clause in health maintenance organizations that is so often found in plans around this country.

If I might, I wish to take a few minutes to explain why this issue is so important in American health care. Most people say to themselves, what is a gag clause? What does this have to do with me? Why is it so important that it has generated all this attention in the Senate?

A gag clause is something that really keeps the patients in our country from full and complete information about the medical condition and the treatments that are available to them. I think it is fair to say—I know the Senator from Utah, Mr. BENNETT, has done a lot of work in the health care field—reasonable people have differences of opinion with respect to the health care issue. People can differ about the role of the Federal Government; they can differ about the role of the private sector, but it seems to me absolutely indisputable that patients ought to have access to all the information—not half of it, not three-quarters, but all the information—with respect to their medical condition.

What is happening around the country is some managed care plans—this is not all of them. There is good managed care in this country. My part of the Nation pioneered managed care. Too often managed care plans, the scofflaws in the managed care field are cutting corners, and so what they do either in writing or through a pattern of oral communication, these managed care plans tell their doctors, ''Don't fill those patients in on all the information about their medical condition.'' Or they say, ''There are some treatments that may be expensive and we think you shouldn't be telling everybody about them.'' Or maybe they say, ''We're watching the referrals that you're making and if you make a lot of referrals outside the health maintenance organization to other physicians, other providers, we're going to watch that. If you make too many of them, we're going to consider getting some other people to deliver our health services.''

So these are gag clauses in the literal sense. They get in the way of the doctor-patient relationship and either in writing in the contract established by the health maintenance organization or orally through a pattern of communications between the health maintenance plan and the physician, the doctor is told in very blunt, straightforward terms, ''Look, you're not supposed to tell those patients all the facts about their medical condition or all the treatments that might be available to them.'' I think these restrictions on access to patient information

care turn American health care on its head. The Hippocratic oath, for example, to physicians starts with, ''First do no harm.''

If you have these gag clauses, essentially, instead of ''First do no harm,'' in these health maintenance organizations the charge is, first, think about the bottom line. Think about the financial condition of the plan and that maybe the plan will have a little less revenue if physicians really tell their patients what is going on and tell them about referrals and the like. Trust, in my view, is the basis of the doctor-patient relationship. Without that trust, physicians cannot perform adequately as caregivers. The patients get short-changed, in terms of the quality of their health care. And I think that, when you limit straightforward and complete information between physicians and their patients, what you are doing is prescribing bad medicine.

Mr. President, there are a number of provisions that are central to this debate and there are two or three that have consumed most of our attention over the last few days, in terms of trying to work this legislation out on a bipartisan basis. Let me say, especially Senator KYL has done yeoman work, in terms of trying to bring all sides together. He has led the effort on the Republican side. He has worked particularly hard with me on a couple of the provisions that I would like to take just a minute or two of the Senate's time to discuss this evening.

The first is with respect to enforcement provisions in this bill. Senator KYL and I both share the view that the States should take the leadership role with respect to enforcement of these gag clause provisions. There is precedent for this in the medigap legislation, the legislation to protect older people from ripoffs in the supplemental policies sold in addition to their Medicare. We have looked at other approaches. In particular, the enforcement provisions that the Senate came together on in a bipartisan way in the maternity legislation looked attractive, but Senator KYL and I have spent a special effort, trying to work out the provisions with respect to ensuring that the States are given the lead in terms of enforcing the anti-gag clause legislation. I think we have made considerable progress. All Senator ought to know there is bipartisan interest in not having some Federal micromanagement, run-from-Washington kind of operation with respect to the enforcement provisions in this gag clause legislation.

The second area that has consumed considerable amount of time in our discussions involves matters of religious and moral expression. Here, the issue, as it does so often in the U.S. Senate, involves especially abortion. Senator KYL and I have worked hard to try to ensure that an individual physician who has religious or moral views with respect to abortion would not be required to express those views in a way that was contrary to deeply held religious or moral principles that that physician had. At the same time, I think it is understood that, if this is not carefully done, such provisions could become a new form of institutional gag, which would limit communication between doctors and patients. Senator KYL and I have, I think, been able to bring about an approach that does allow an individual physician who, for religious or moral reasons, desires not to discuss abortion issues to be able to do that. I think we will be able to resolve that in a way that is good health policy, is fair, and bipartisan.

Now, the continuing resolution, of course, is before us. The Senate will be dealing with this in the hours ahead. Some may consider it will be the days ahead—but certainly the hours ahead. I want the Senate to understand that I think, with respect to the future of American health care, making sure that patients have access to all information about their medical condition and the treatments that are available to them is about as important as it gets.

The Senator from Vermont also has done a great deal of work in the health care area over the years. We have had a chance to work together on ERISA legislation, and a variety of other matters.

I come back to the proposition that there are a lot of areas where people can differ in the health field. Health is a complex riddle by anybody's calculus. And these debates about the role of the Federal Government and the role of the private sector—these are areas where reasonable people do have differences of opinion. What I think is indisputable, however, is the importance of patients getting all the facts and the patients being in a position to know all of the matters that relate to their getting the best treatment for them, given the kind of medical problems that they face.

So, this ultimately, this question of how to deal with this issue, is not an issue about abortion. No abortions are being performed or referrals made. It is not a question of Federal micromanagement, because the States are put clearly in the lead position with respect to enforcement. It is not a regulatory paradigm, in the sense that Members may have different views with respect to the type of approach. Whether it is a medical savings account approach that some have favored, or single-payer approach that some have favored, this bill does not touch any of those issues. This bill gets to one question and that is: As we look to the decisions involving 21st century health care, are we going to put patients in the driver's seat with respect to their own health care so they can get information?

It seems almost absurd to me that, at a time when we look at how medical information may be exchanged in the future using the Internet, so that folks in rural Vermont and rural Oregon can tap all these exciting new technologies so as to get more information about their health care and about the treatments available to them, it seems almost fundamental to say that, when a patient and a doctor or a nurse or chiropractor at a health plan sits down with a patient and that patient's family, that provider, that doctor or nurse or chiropractor, is in a position to say to the family, ''Look, here are all the facts that you and your loved ones face with respect to your medical condition. You may want to pursue this particular treatment. Perhaps I should refer you to Dr. A or Dr. B, who is outside the health plan.'' But whatever the ultimate choice of the consumer is at that point, at least the consumer can make it in an informed way.

Right now, while there is good managed care in our country, and I have seen it in my part of the United States, in the Pacific Northwest, too often there have been managed care plans that do not meet those high standards. There are plans that have told their physicians, their nurses, their chiropractors and others: We are going to be watching you, with respect to making referrals.

We want you to know, we are looking over your shoulder with respect to expensive treatments, and those kinds of gag provisions are getting in the way of the doctor-patient relationship, and the trust that is so important.

So I want it understood, Mr. President, that I am going to use every ounce of my strength, working with Senator KYL and Senators on both sides of the aisle, to make sure that this legislation is part of the continuing resolution.

I want to, again, let the Senate know that we are very appreciative of Senators DASCHLE and LOTT and the bipartisan leadership that has worked cooperatively with us. We want to make sure that this legislation gets into the continuing resolution.

Managed care is the fastest growing part of American health care. Both Democrats and Republicans throughout this Congress have looked to managed care repeatedly as the discussions have gone forward on Medicare and other issues. So it is important that patients in these plans get all the facts, get all the information, and we are going to go forward in good faith, as we have done over the last week.

Senator KYL and I have put a big chunk of our waking hours into this effort to try to do it in a bipartisan way. I believe we can get it done. And in the spirit of the progress that has been made and to facilitate the passage of other important legislation, I would like to make it clear that I believe that the Senate should no longer withhold a vote on the pipeline safety bill.

Mr. President, I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Thank you, Mr. President. Mr. President, I would like to express

my appreciation to the distinguished Senator from Oregon for his comments. We have been working together in a cooperative fashion. I think progress has been made. It has been one of those things where I thought it was worked out, and it didn't seem to be quite worked out.

I know there is good faith all around. Senator DASCHLE and I have been following it closely. I thank the Senator for allowing this pipeline safety legislation to go forward. It is very important legislation, and if it expired, it certainly would pose problems for pipeline safety in the country. We will work with him to see if we can come to an agreement. There is at least one more vehicle it can be attached to if we can get it worked out.

So I thank the Senator for allowing this important legislation to go forward.

MORNING BUSINESS

Mr. LOTT. Mr. President, it is my pleasure to rise today in recognition of 100 years of significant accomplishments by the American Academy of Ophthalmology. Since 1896, the four major causes of blindness in the world have been identified and are now preventable, and Academy pioneers have led the way in the eradication of cataract blindness worldwide. The Academy's mission of helping the public maintain healthy eyes and good vision is a lasting tribute to its membership.

In April 1896, Dr. Hal Foster of Kansas City sent out more than 500 invitations to physicians practicing ophthalmology and otolaryngology, inviting them to Kansas City for organizational purposes. Several name changes of the nascent medical society resulted in what ultimately became known as the American Academy of Ophthalmology and Otolaryngology, and remained so until 1979 when the two medical disciplines split into separate academies.

Today, the American Academy of Ophthalmology is the largest national membership association of ophthalmologists—the medical doctors who provide comprehensive eye care, including medical, surgical and optical care. More than 90 percent of practicing U.S. ophthalmologists are Academy members—20,000 strong—and another 3,000 foreign ophthalmologists are international members.

Many principles and strategies that the American Academy of Ophthalmology founded over the years are still championed today. The Academy has fostered a culture of outstanding clinical and educational programs, cutting edge technologies, the latest ophthalmic practice support mechanisms, and highly effective public and government advocacy activities.

Education remains the primary focus of Academy activities. Academy members will celebrate the Centennial Annual meeting in Chicago, October 27–31, 1996. One of the largest and most important ophthalmological meetings in the world, this 5-day educational event will offer symposia, scientific papers, instructional courses, films, posters, and exhibits designed to educate ophthalmologists and others about practical applications of new advances in eye care.

In the coming years, it is my sincere hope that both the individual and collective efforts of ophthalmologists will continue to transform new knowledge into improved clinical care for the benefit of the American public.

On this centennial observance, I commend the American Academy of Ophthalmology for its steadfast dedication in helping the public maintain healthy eyes and good vision. I urge my colleagues to join with me in saluting the members of the American Academy of Ophthalmology for their many sight-saving accomplishments over the past 100 years.

WYDEN-KENNEDY AMENDMENT PROHIBITING GAG RULE IN HEALTH INSURANCE PLANS

Mr. KENNEDY. Mr. President, gag rules have no place in American medicine. Americans deserve straight talk from their physicians. Physicians deserve protection against insurance companies that abuse their economic power and compel doctors to pay more attention to the health of the company's bottom line than to the health of their patients.

You would think everyone would endorse that principle. But the insurance companies that profit from abusing their patients do not—and neither does the Republican leadership in the House and Senate. Senator WYDEN and I offered an amendment to the Treasury-Postal appropriations bill to end this outrageous practice. A 51–48 majority of the Senate voted with us. But the Republican leadership used a technicality of the budget process to raise a point of order requiring 60 votes for our proposal to pass. We have now revised our proposal so that there will be no point of order when we offer it again.

But the delaying tactics of our opponents still continue. We first offered our amendment on September 10. The point of order was raised against it on September 11. We tried to offer the revised version later that day. We waited on the Senate floor all afternoon and evening, and through the next day as well. We were ready to agree on a time limit to permit a prompt vote. Still the Republican leadership said, ''no.'' Finally, the Republican leadership abandoned the whole bill, rather than allow our amendment to pass.

Since September 12, we have waited for another bill on which to offer this proposal. We were prepared to offer it on the pipeline safety bill, but the Republican leadership will not allow that bill to move forward unless we agree to drop our amendment. The pipeline bill was first offered on September 19—and then abandoned in order to block our amendment.

Since September 19, we have also been attempting to negotiate a reasonable compromise with the Republicans that would achieve the goal of protecting doctor-patient communications, but each time agreement has seemed close, new demands have surfaced. Rolling holds were used to block the Kassebaum-Kennedy bill for months. A similar tactic is being used now.

This issue could be resolved in a few minutes of debate on the Senate floor. A stricter approach than the one we proposed was approved by a 25–0 bipartisan vote in the House Health Subcommittee last June, and the full House Commerce Committee approved it by a voice vote in July. The only thing that stands between the American people and ending these outrageous HMO gag rules is the insistence of the Republican leadership on putting the insurance companies first—and patients last.

The need for this proposal is urgent, which is why we are pressing this issue so strongly in the closing days of this session. Patients deserve this protection—and so do doctors. So why is the Republican leadership in Congress protecting the insurance industry?

One of the most dramatic changes in the health care system in recent years has been the growth of health maintenance organizations and other types of managed care. Today, more than half of all Americans with private insurance are enrolled in such plans. In businesses with more than ten employees the figure is 70 percent.

Between 1990 and 1995 alone, the proportion of Blue Cross and Blue Shield enrollees in managed care plans more than doubled—from 20 percent to almost 50 percent. Even conventional fee-for-service health insurance plans have increasingly adopted features of managed care, such as continuing medical review and case management.

In many ways, these are positive developments. Managed care offers the opportunity to extend the best medical practice to all medical practice. It emphasizes helping people to stay healthy, rather than just caring for them when they are sick. Managed care often means more coordinated care and more effective care for people with multiple medical needs. It offers a needed antidote to profit incentives in the current system to order unnecessary care. These incentives have contributed a great deal to the high cost of health care in recent years.

But the same financial incentives that enable HMOs and other managed care providers to practice more cost-effective medicine can also be abused. They can lead to under-treatment or arbitrary restrictions on care, especially when expensive treatments are involved or are likely to reduce HMO profits.

There is a delicate balance between the business side of medicine and the medical side of medicine, and Congress has an important role to play, especially in cases such as this, where doctors and patients are on one side and

the insurance industry is on the other side.

As Dr. Raymond Scalettar, speaking on behalf of the Joint Commission on Accreditation of Health Care Organizations, recently testified:

The relative comfort with which the fee-for-service sector has ordered and provided health care services has been replaced with strict priorities for limiting the volume of services, especially expensive specialty services, whenever possible * * * [T]hese realities are legitimate causes for concern, because no one can predict the precise point at which overall cost-cutting and quality care intersect. The American public wants to be assured that managed care is a good value, and that they will receive the quality of care they expect, regardless of age, type of disorder, existence of a chronic condition or other potential basis for discrimination.

It is easy for insurance companies to put their bottom line ahead of their patients' well-being—and to pressure physicians in their plans to do the same. Common abuses include failure to inform patients of particular treatment options; barriers to reduce referrals to specialists for evaluation and treatment; unwillingness to order needed diagnostic tests; and reluctance to pay for potentially life-saving treatments. It is hard to talk to a physician these days without hearing a story about insurance company behavior that raises questions about quality of care.

In some cases, insurance company behavior has had tragic consequences. The experience of Alan and Christy DeMeurers is a case in point. An HMO cancer specialist recommended—in violation of the HMO's rules—that Christy should obtain a bone marrow transplant. The doctor made the necessary referral. The DeMeurers then spent months trying to obtain this treatment. The HMO tried to deny the treatment. It also attempted to prevent the DeMeurers from obtaining information about the treatment. The delays they experienced may have cost Christy her life.

Alan DeMeurers made the trip to Washington from Oregon several weeks ago to speak out in support of our amendment. I had the opportunity to meet with him. His story is powerful support for ending abuse as soon as possible—now, this year, not next year.

Our amendment bans the most abusive types of gag rule—those that forbid physicians to discuss all possible treatment options with the patient and make the best medical recommendation, including recommendations for a service not covered by the HMO.

Specifically, our amendment forbids plans from ''prohibiting or restricting any medical communication'' with a patient with respect to the patient's physical or mental condition or treatment options.''

This is a basic rule which almost everyone endorses in theory, even though it is being violated in practice. The standards of the Joint Commission on Accreditation of Health Care Organizations require that ''Physicians cannot be restricted from sharing treatment options with their patients, whether or not the options are covered by the plan.''

As Dr. John Ludden of the Harvard Community Health Plan, testifying for the American Association of Health Plans has said, The AAHP firmly believes that there should be open communications between health professionals and their patients about health status, medical conditions, and treatment options.

But too often these days, that basic principle is being ignored.

The best HMO plans do not use gag rules. In our view, no plan should be allowed to use them. Most of us came to this debate with the assumption that HMOs which prevent physicians from giving the best possible medical advice to their patients are rare exceptions. But the vehemence with which the insurance industry opposes this simple, obvious rule—a rule which is entirely consistent with every ethical statement issued by the industry—leads us to wonder just how widespread this practice is.

Our amendment has strong support from both the American Medical Association and Consumer's Union—because it is a cause that unites the interests of patients and doctors. It has been strongly endorsed by President Clinton. It passed the House Commerce Committee by an overwhelming, bipartisan vote. It has already received a majority vote in the Senate. The only thing that stands between this bill and passage is the insurance industry and its allies in the Republican leadership in Congress.

These are the same groups that fought the Kassebaum-Kennedy insurance reform bill. They tried to defeat the Domenici mental health parity bill and the Bradley bill to protect mothers and newborn infants from being forced prematurely out of the hospital.

In each case, the Republican leadership knew it could not win the battle in the open. So they resorted to the tactic of delay in public and denial behind closed doors. That tactic failed on those bills, and it should fail on the gag rule bill. Unscrupulous insurance companies have no right to gag doctors and keep patients in the dark.

If this bill does not pass this year, the American people will have a chance in November to cast their votes for a Democratic Congress and a Democratic President that will make fair play for patients our first priority next year.

VA/HUD APPROPRIATIONS

Mr. KERRY. Mr. President, on the night of September 24, the Senate very quickly took up and passed by unanimous consent the Veterans Administration/Housing and Urban Development/Independent Agencies Appropriations Bill for Fiscal Year 1997. Because it was not possible for me to comment on the bill at that time, I would like to do so today.

Mr. President, there is much to commend this bill, but there are a few glaring faults. I will focus first on the positive features.

Part of the good news is that the bill provides level funding for the HOME and CDBG programs. These are two of HUD's model programs that provide an appropriate mix of local flexibility within federal priorities.

I am also particularly pleased that the final conference agreement includes a provision that I sponsored in the Senate with Senator DOMINICI to provide $50 million for vouchers for disabled individuals. These vouchers are a critical housing resource for those disabled people who are affected when public housing authorities designate certain buildings for elderly residents only when those buildings used to be available also to nonelderly disabled individuals. I thank the Chairman and the Ranking Member for including this provision in the final agreement.

The mental health parity provisions the Senate added by floor amendment were included in this bill, and I congratulate Senators DOMINICI AND WELLSTONE, who initially proposed this legislation, for their efforts. Many health plans now impose lifetime limits of $50,000 and annual caps of $10,000 for treatment of mental illness—far lower than comparable limits for physical treatments in most insurance policies. The mental health parity provision will require greater equality between the lifetime and annual limits for mental health coverage and the limits for physical health coverage. Millions of American families will now be able to get the therapy and other mental health treatment they need.

Mr. President, we have taken another very important step in this bill by including Senator BRADLEY's legislation to ban ''drive through deliveries.'' Health insurers will now be required to allow mothers and their newborns to remain in the hospital for a minimum of 48 hours after a normal vaginal delivery and 96 hours after a Caesarean section. By taking the decision of how long to stay in the hospital out of the hands of insurance companies and placing it in the hands of health care providers and mothers who have just given birth, we will have healthier babies during their first days and we will give the mothers the help and security they deserve.

Mr. President, I am also pleased that my colleagues have chosen to place the needs of children suffering from spina bifida, a serious neural tube defect, ahead of partisan politics. This conference report contains the Agent Orange Benefits Amendment, which extends health care and related benefits from the Department of Veterans Affairs to children of Vietnam veterans who suffer from spina bifida. In March, the National Academy of Sciences issued a report citing new evidence supporting the link between exposure of service men and women who served in Vietnam to Agent Orange, the chemical defoliant sprayed over much of Vietnam, and the occurrence of spina bifida in their children.

Mr. President, we in the Senate are legislators, not scientists. I believe it is entirely appropriate for us to accept the Academy's recommendations regarding the effects of Agent Orange as we did when we unanimously passed the Agent Orange Act of 1991, which I coauthored. The NAS has published its conclusions and President Clinton and Secretary of Veterans Affairs Jesse Brown both have asked that the Department of Veterans Affairs be given the authority to provide care for the children of Vietnam Veterans who suffer from spina bifida. I am proud that this legislation which I offered with Senators Tom DASCHLE and JOHN D. ROCKEFELLER IV provides that necessary authority.

By passing this legislation, we take another definitive step forward in repaying our debt to those who have honorably served their country and are still suffering as a result of their service in Vietnam many years ago. I am hopeful that the families in Massachusetts who will benefit from this legislation, as well as the families around the country, will find some comfort—knowing that their children will be guaranteed special care to address their specific needs.

Mr. President, I am also pleased that the appropriators have met the housing needs of people living with AIDS. The Housing Opportunities for People With AIDS (HOPWA) program is a vital component in our national response to the HIV-epidemic. As people with HIV-disease are living longer, services they require become more acute and public resources more strained. My colleagues know how important this program is to me and the city of Boston: I urged the appropriators to increase the HOPWA account by $25 million in order to provide housing for thousands of individuals and families who currently need shelter. The conferees responded favorably and increased the funding for HOPWA for FY 1997 to $196 million.

It is necessary that I also address the deficiencies in the bill, and I regret to say that there are several that are quite serious. The most distressing of these faults is the Republican effort to continue to reduce the federal assistance to clean up Boston Harbor. The VA/HUD conference report contains just $40 million of the $100 million requested by the President for fiscal year 1997. Senator KENNEDY and I have fought to retain the President's level during the appropriations process. Regrettably, the Republican-controlled House included funding for only half of this amount and the Republicans in the Senate refused to approve any funding for this worthy environmental protection program. The conference settled on the $40 million figure.

Believe it is in the national interest for the federal government to provide direct assistance to the Massachusetts Water Resources Authority (MWRA) for the Boston Harbor project. It is a massive undertaking which will provide water and sewer services to over 2.5 million people in 61 communities with a total cost, including the combined sewer overflow (CSO) and capital cost improvements, of more than $5 billion. The sewage treatment plant is being built under a federal court-ordered schedule that requires completion by 1999.

Mr. President, as many of my colleagues are well aware, when the Clean Water Act was originally enacted, Congress acknowledged the great importance of the federal role in cleaning the water we drink and use for so many other purposes. It did so by providing federal support equaling 50 to 90 percent of the costs of projects on the scale of the Boston Harbor project.

The goals of the federal Clean Water Act are laudable and the environmental benefits to Boston Harbor from the initial water infrastructure improvements are already being felt in the surrounding Bay area. However, while the goals and standards of the Clean Water Act have remained and should continue to remain intact, over the past 15 years we have seen the federal assistance for large water infrastructure projects decline. In the case of the Boston Harbor project, the share of the secondary sewerage treatment project costs to date that have been paid with federal funds is less then twenty percent, and this excludes the CSO and other improvements that will be required in the future.

Cleaning up Boston Harbor has been and should continue to be a bipartisan issue. Unfortunately, during the 104th Congress, it has turned into a partisan issue where the Democrats in Congress and the President are continuing to fight to protect the environment and the Republicans in the House and Senate are playing political games at the expense of the citizens of Massachusetts.

During the House-Senate conference on the VA/HUD bill, the Republicans would not yield to efforts of the White House and Congressional Democrats to support the full $100 million funding request. With much urging by the Democratic conferees, the Republicans yielded to $40 million. Senator MIKULSKI made one final effort to add back funding to reach the level appropriated in last year's budget: $50 million. That amendment was defeated on a party-line vote.

I thank the President and my colleagues in the House and Senate, in particular Senator MIKULSKI and Congressmen OBEY and STOKES, for their support during the conference. I greatly regret that Republicans killed the deal.

Mr. President, this bill also continues to underfund HUD and many of its key housing programs. There are more than 5 million Americans with severe housing needs. We are not doing enough to meet the housing and service needs of the homeless, the elderly, and the disabled. Moreover, I am concerned that the strict budget for HUD exposes the federal government to future liabilities if our payments for existing developments fail to provide for adequate maintenance or cuts in staffing lead to inadequate monitoring. It is very clear that the appropriations for core HUD programs like public housing operating subsidies, public housing modernization, homeless assistance, and incremental Section 8 assistance are inadequate.

The funding decision with respect to the low-income housing preservation program is one of my greatest disappointments in the bill. I cosponsored a successful amendment in the Senate with Senators CRAIG, MOSELEY-BRAUN, SARBANES, and MURRAY to provide $500 million for this program. Then I joined my distinguished colleague, Senator LARRY CRAIG, in sending a letter to the conferees requesting at least $900 million for the program. We were joined by 10 other members of the Senate from both sides of the aisle.

Instead, the conference committee provided only $350 million for the preservation program. After setting aside $100 million for vouchers and $75 million for projects affected by special problems, only $175 million remains for sales to residents and resident-supported nonprofits. This is stunning given a queue of projects awaiting funding with funding needs totaling over $900 million. Thousands of residents around the country have been working closely with nonprofits over several years to organize and to assemble financial packages to purchase these buildings. This bill dashes the hopes of many who have worked hard to preserve this housing and to empower its residents.

The conference committee also imposed new cost caps on preservation projects even though these projects already have HUD-approved plans of action. While the Congress should continue to consider reforms to the program to reduce its cost, changing the rules for projects that have reached this stage of processing is unfair. We have seen no analysis assessing the impact of the cost caps or comparing this approach to other alternatives. I believe that the Secretary should exercise the discretion granted him in the legislation to provide waivers to the cost caps as necessary to preserve affordable housing.

Further, I strongly urge the Department of Housing and Urban Development to consider the discretion it has within the appropriations language to fund as many of the developments awaiting sale as possible. There is strong evidence that the Department will not need anywhere near the entire $100 million for vouchers, for example. It should, therefore, make a large portion of the voucher amount available for sales early in the year. Likewise, the Administration should strongly consider using other legal authorities it has to recapture prior year funds and other balances available for sales under this program. The mission of this program—preserving affordable housing—is vital.

Mr. President, I also want to express my regret that the conference agreement did not follow the wisdom of the Senate in the funding level for the Youthbuild program. Although $30 million is provided, which is $10 million more than in fiscal year 1996, the Senate this year provided $40 million. The higher level was warranted by Youthbuild's proven success in giving young adults in our inner cities a chance to make something of their lives, while simultaneously adding to the low income housing stock in our cities. I do want to commend the Senate appropriations for including $40 million in the Senate bill, and especially Ranking Member BARBARA MIKULSKI for her assistance in this effort.

I also would like to offer my sincere congratulations to Ms. Dorothy Stoneman, the founder and President of Youthbuild USA, who was recently awarded the prestigious MacArthur Foundation award in recognition of her long fight to improve the lives of youths on the margins of poor communities. It is richly-deserved recognition of her work and commitment.

Mr. President, that is the good, the bad and the ugly of this legislation. There are many Americans who will be helped greatly by this bill, but it leaves out many others. It evidences vision in some respects, but myopia in others. And with respect to the latter, I plan to devote myself to correcting the bill's inequities when the 105th Congress convenes next year.

FOREIGN OIL CONSUMPTION: HERE'S WEEKLY BOX SCORE

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending September 20, the U.S. imported 7,296,000 barrels of oil each day, 16,000 more than the 7,280,000 imported during the same week a year ago.

Americans relied on foreign oil for 53 percent of their needs last week, and there are no signs that the upward spiral will abate. Before the Persian Gulf War, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970s, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil—by U.S. producers using American workers? Politicians had better ponder the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the United States—now 7,296,000 barrels a day.

TRIBUTE TO CONGRESSMAN GLEN BROWDER

Mr. HEFLIN. Mr. President, I want to pay tribute today to another of the many outstanding Members of Congress who will be leaving as the 104th Congress draws to a close. That Member is my good friend from Alabama's Third Congressional District, Representative GLEN BROWDER.

GLEN BROWDER has served in the House of Representatives since winning an April 4, 1989 special election to succeed long-time Congressman Bill Nichols, who had passed away unexpectedly on December 13, 1988. Throughout his seven and a half years in Congress, he has been a loyal friend to the people of his district and an outspoken leader on national defense issues. He approaches his job with a deliberative, studied, and professorial approach that has helped him make the right decisions for his constituents and for the nation as a whole.

This type of leadership is not surprising coming from GLEN BROWDER, who holds a doctoral degree in political science from Emory University in Atlanta. He also has a bachelor of arts in history from Presbyterian College in Clinton, South Carolina and a master of arts in political science, also from Emory.

Congressman BROWDER was born in Sumter, South Carolina on January 15, 1943. He attended the elementary schools in Sumter, where he graduated from Edmunds High School in 1961. He spent the next ten years or so earning all these academic credentials—his BA in 1965 and his MA and Ph.D. by 1971. He is married to Sara Rebecca (Becky) Browder and they have a daughter, Jenny Rebecca.

While he was in college, the future Congressman from Alabama worked as a public relations assistant at Presbyterian College, sportswriter for the Alabama Journal, and investigator for the Civil Service Commission in Atlanta. Since 1971, he has been a professor of political science at Jacksonville State University in his hometown, Jacksonville. He has been on a leave of absence from the university since coming to Congress.

Before his election to the House, he had served in the Alabama House of Representatives from 1982 through 1986 and as Alabama Secretary of State from 1987 through 1989.

Congressman BROWDER fought tenaciously to keep Fort McClellan open. He led two successful Base Closure Commission battles to defeat the ill-advised effort of the Army and the Department of Defense to close it. As the home of the chemical corps of the Army and of the only live-agent training facility in the world, Fort McClellan garnered his unyielding support. Senator SHELBY and I were totally supportive of Congressman BROWDER'S leadership, but his studied expertise in the field of defensive chemical warfare allowed him to make arguments on what was in the best interests of the nation, in addition to the one based on the anticipated detrimental effects to the local economy.

I will never forget his superb presentation to the Base Closure Commission in a classified hearing on the need for live-agent training as well as the threat of chemical warfare from terrorist nations around the world. The third BRAC round led to a decision to finally close Fort McClellan, since the vote was a tie vote and a majority was necessary to take action to keep a base open. He was an excellent field marshall throughout each of these battles.

GLEN BROWDER also won many battles for the Anniston Army Depot and Fort Benning, a portion of which is located in the southern part of his district.

Congressman BROWDER has done an excellent job of balancing the various needs of his diverse district and has looked after the interests of the entire State of Alabama. As a member of the House Armed Services and Science, Space, and Technology Committees, he has fought for our national security and for continued funding for the space program, which has a large presence in north Alabama.

He has also compiled a conservative legislative record, while at the same time supporting the Democratic party leadership on most crucial votes. His district contains the largest number of textile and apparel businesses in the nation, and he has always fought for the interests of this industry as well as its workers.

His district contains Tuskegee University, Jacksonville State University, and Auburn University. He has consistently and strongly supported both higher education in general and the particular interests of these outstanding institutions of higher learning.

I am proud to have been able to serve with Congressman BROWDER in the Alabama delegation over the last seven years. It has been a pleasure to work with him on base closure and other vital issues. He is a proven leader who will be sorely missed when the 105th Congress convenes early next year, but I am confident that we will see him in other leadership roles in the future. I congratulate him and wish him well.

GADSDEN, AL, CELEBRATES ITS 150TH ANNIVERSARY

Mr. HEFLIN. Mr. President, on October 12, 1996, Gadsden, AL, will celebrate its sesquicentennial. The city will mark its 150th birthday with a large parade, sidewalk sale, dedications, awards, ceremonies, fireworks, and other activities. The theme of Gadsden's celebration is ''Proud of Our Past, Confident of Our Future.'' Under the guidance of the Etowah County Historical Society, the Turrentine Avenue Historical District and the Aryle Circle Historical District have been established. Efforts are currently under way to designate downtown Gadsden a historical district.

Gadsden's rich and colorful history goes all the way back to the early 1800's, when the Cherokee Indians occupied most of the territory in what is today northeast Alabama. In 1825, John Riley and his Cherokee Indian wife

moved from Turkeytown, AL, to a place near the Coosa River called Double Springs where they built a log cabin. This structure, the first to be built in what is now the city of Gadsden, still stands near the intersection of Third Street and Tuscaloosa Avenue, its original wall enclosed in an outer frame structure. This house was later used as a stage coach stop and post office on the route from Huntsville, Alabama to Rome, Georgia.

After the Indians were pushed west of the Mississippi River in 1838, many pioneers began moving into the expansive Cherokee Country from North Carolina, Georgia, and Tennessee. One of the earliest of these, John S. Moragne, began buying property on the west side of the Coosa River. Another, Joel C. Lewis, settled with his family on the east side. General D.C. Turrentine and his wife moved into the area in 1842, purchased some land at the lower end of what is now Broad Street, and built a hotal called the Turrentine Inn. Surrounding this tract was the land which was to become the actual town site, owned by three of the earliest pioneers: Moragne, Joseph Hughes, and Lewis Rhea. On these 120 acres, the original survey of Gadsden was made in 1846, consisting of 260 lots. Its boundaries were First, Locust, Chestnut, and Sixth Streets.

Shortly before this, a steamboat landing had been located at the foot of Broad Street, then known as Railroad Street. The first steam boat to sail up the river into Gadsden was the Coosa, built by Captain Lafferty on the banks of the Ohio River in Cincinnati and brought to Gadsden on July 4, 1845. The city founders wanted to name their new town Lafferty, but the captain objected. The name Gadsden was instead chosen to honor General James Gadsden, a soldier and diplomat who negotiated the Gadsden Purchase from Mexico.

John Lay, who moved from Virginia to Cherokee Country, was a pioneer in flatboat commerce. His grandson, William Patrick Lay, was later the founder of the Alabama Power Company and the first hydroelectric plant in the world.

General Turrentine organized a group of children into the county's first Sunday School, and from this core grew the religious denominations of the growing town. The First Methodist Church was organized in 1845; the First Baptist Church in 1855; and the First Presbyterian Church in 1860.

By September 1857, the young village of Gadsden had a total of 150 residents. The young, energetic North Carolinian named Robert Benjamin Kyle was typical of those moving into the area round this time. He had already enjoyed a successful business career as a merchant and railroad contractor in Columbus, GA. When he came to Gadsden, his dynamic personal energy, resourcefulness, and capital made him a catalyst for the rapid growth to follow. He saw the need for a lumber business there and worked diligently to make Gadsden a railroad and steamboat center. At the outbreak of the Civil War, he was commissioned as the first recruiting agent for the Confederate Army. In 1862, he and Isaac P. Moragne organized a Gadsden volunteer infantry company which later became Company A, 31st Alabama Volunteers. During the war, the county furnished five companies of soldiers.

After the war and during the Reconstruction Period, Kyle continued to develop Gadsden's natural advantages through lumber manufacturing, railroad construction, and mercantile business. One of his proudest accomplishments was the opening of Kyle's Opera House in 1881. Other churches were established, including Catholic, Episcopalian, Jewish, Christian Scientist, and Lutheran congregations.

In 1867, Etowah County had been carved out of Cherokee, Saint Clair, Marshall, Calhoun, Blount, and DeKalb counties and given the name ''Baine,'' in honor of Colonel D.W. Baine, who had been killed in 1862 with the 14th Alabama Regiment. When the Reconstruction's military government was established in 1868, officials protested so vigorously that the county's name was changed to ''Etowah,'' which is a Cherokee word meaning ''good tree,'' in 1869.

Ten years after the war, Gadsden was no longer a small village: It had over 2,000 inhabitants. Nineteen businesses boasted a trade of more than one million dollars each and the first public school opened in 1877. The 1880's saw the organization of the first fire department, erection of street lamps, and a garbage department. It had become a center for coal, iron ore, timber, and cotton.

By the turn of the century, Gadsden was fast becoming the ''Queen City of the Coosa.'' Industry was looking at and coming its way. In 1895, the Dwight Manufacturing Co. opened a plant in nearby Alabama City. The first steel plant was erected in Gadsden in 1905, the Alabama Power Co. in 1906, and Goodyear in 1929.

During World War I, men from Gadsden fought with the famous ''Rainbow'' division from the area. Nearby Rainbow City, Rainbow Memorial Bridge, and Rainbow Drive were all named in honor of these servicemen. This division had been raised and coordinated by a young Douglas McArthur.

In 1925, East Gadsden merged with Gadsden, the same year the Alabama School of Trades was built. In 1926, the Noccalula Falls lands were purchased by the city. Today, these grounds are among the most popular and beautiful tourist attractions in Alabama. The Etowah County Memorial Bridge was built and dedicated in 1927. In 1932, Alabama City and Gadsden merged into one city. In 1937, the third largest steel company in the U.S., Republic, came to Gadsden. This plant has been in continuous operation since then.

During World War II, major construction occurred as the Gadsden Ordnance Plant was built and the Gadsden Air Force Depot was completed. It was closed in 1958.

During the Korean Conflict, the Congressional Medal of Honor was awarded to Gadsden native Ola Lee Mize for bravery during this war. He was later a Green Beret in Vietnam.

Gadsden Mall opened in 1974, the same year that the Nichols Library was added to the National Register. It was the first library in Alabama to issue books to the public. In 1986, Gadsden changed its form of government from a commission type to a mayor-council form.

Today, the city's factories, churches, businesses, schools, and tourism industry stand as testimonials to a heritage of which the citizens of modern Gadsden may be justifiably proud. As it celebrates its 150th anniversary, Gadsden will prove itself once again a ''City of Champions'' and an ''All-American City.''

TRIBUTE TO SENATOR JIM EXON

Mr. CONRAD. Mr. President, before Congress adjourns for the year, I wanted to take a moment to pay tribute to Senator JIM EXON, who is retiring this year.

For more than a quarter-century, JIM EXON has served the people of Nebraska as Governor and as United States Senator. He has represented his state well. JIM EXON has been a leader on budget issues, a good friend to agriculture and the needs of rural America, and an accomplished legislator in the areas of transportation and national defense policy.

I was privileged to serve on the Senate Budget Committee with JIM EXON. He joined the committee in 1979, and in 1995 became the ranking member. Senator EXON and I usually saw eye-to-eye on budget issues, probably because we share Midwestern values about the need to control spending and keep our Nation's fiscal house in order. Senator EXON worked hard for passage of the balanced budget amendment. But his support for the amendment did not stop him from speaking out frankly this year when he believed the issue had become a political football, rather than an honest effort by those who truly wanted to balance the budget. JIM EXON also worked for years to draw attention to our skyrocketing national debt, because he understands that this debt is not a legacy we want to leave for future generations.

Senator EXON has also been a good friend to our Nation's family farmers. Throughout his time in the Senate, he fought for sensible agricultural policies and a safety net for our Nation's producers. Senator EXON and I were a terrific team on the Senate Budget Committee, ensuring that deficit reduction efforts treated agriculture fairly. JIM EXON always understood the special needs of rural areas, and promoted programs like Essential Air Service, that are so important to smaller towns and cities.

During the last Congress Senator EXON chaired the Commerce Committee's Subcommittee on Surface Transportation. In 1994 he succeeded in ensuring the termination of the ICC would occur in a manner that still protected the needs of agricultural shippers who needed effective oversight of the rail industry. Senator EXON was also a champion of rail safety issues, and in 1994 led the fight to authorize rail safety programs and ensure minimum safety standards for railroad cars.

Senator EXON has also worked for some time on nuclear weapons testing issues, at one time chairing the Armed Services subcommittee with jurisdiction over this issue. He joined Senator HATFIELD and former Majority Leader George Mitchell in 1992 in support of a measure to restrict and eventually end U.S. testing of nuclear weapons. Just this week we have seen the fruits of those efforts, with the signing of a Comprehensive Nuclear Test Ban Treaty at the United Nations. Senator EXON attended that signing, and should be proud that through the efforts of many, the world will be a safer place for our children and grandchildren.

Senator EXON will soon return to his home in Lincoln. With more time for leisure activities, I am certain he won't miss many baseball games when the St. Louis Cardinals are playing. But Jim EXON's dedication and expertise on many issues will be missed greatly in the U.S. Senate, even as Nebraskans welcome him home. I will miss my good friend and colleague.

THE 35th ANNIVERSARY OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Mr. PELL. Mr. President, today marks the 35th anniversary of the founding of the U.S. Arms Control and Disarmament Agency in the first year of John F. Kennedy's Presidency.

The groundwork had been laid earlier in the Eisenhower administration, and the effort reached fruition in 1961. I was privileged to be part of that process as a new Senator in his first year of service.

I had become quite interested in the new processes of arms control, and I went with my more veteran and most distinguished colleagues, Senator Hubert Humphrey of Minnesota and Senator Joseph Clark of Pennsylvania, to argue the case that the new agency would have more weight and authority if it were established not by Executive order, but by the Congress as a statutory agency of the Federal Government. Fortunately, our friends in the White House agreed, and, over the next several months, the agency was created.

The Agency was started with much hope and high expectations. Some even feared that the Director of the Agency would be too powerful and might take steps that endangered the national security by moving too precipitously to control arms. In the process of compromise, the statute was worked out so that the Agency could fulfill high expectations, but the nation would be protected from precipitous arms control.

As matters have worked out, it is clear that those who feared that ACDA would go too far have had their fears unrealized. Those who hoped that the Agency would soar to new heights of arms control have had their dreams only partially realized. Nonetheless, the 35 years have been marked by many solid arms control achievements that have helped to ensure the protection of the national interests of the United States and that have served to demonstrate to the rest of the world that the United States is willing to continue on the course of arms control.

The achievements during the period of ACDA's existence include: the Limited Test Ban Treaty, Outer Space Treaty, Protocols to the Latin American Nuclear-Free Zone Treaty, Non-Proliferation Treaty, Seabed Arms Control Treaty, Biological Weapons Convention, Incidents at Sea Agreement, the Anti-Ballistic Missile Treaty, the SALT I Interim Agreement, the Threshold Test Ban Treaty, Peaceful Nuclear Explosions Treaty, Environmental Modification Convention, Intermediate-Range Nuclear Forces Treaty, START I Treaty, START II Treaty, the Chemical Weapons Convention to be considered a-new by the Senate next year, and the recently signed Comprehensive Test Ban.

The ACDA involvement has varied among the treaties—some were achieved by Presidential envoys, and some by officials of the Department of State. In other cases, the Agency had the lead. But, in almost all cases of significant agreements, the Agency provided much of the necessary technical and legal expertise and provided the continuing backstopping that was necessary for success in negotiations year-in and year-out. The Arms Control Agency has provided an arms control perspective and expertise whenever needed by others in the executive branch. In the most successful times for the Agency as in this administration, the President and the Secretary of State have turned to the Director and to his staff as principal advisers on arms control and, often, nonproliferation. This experience has demonstrated the wisdom of President Kennedy and the Congress in their decision to give arms control a real boost by creating the only separate agency of its type in the world.

Now that the cold war is over, some question the continued need for an arms control and disarmament agency. Some ask whether the essential tasks of arms control and disarmament are not done. In recent rounds of budget cutting, the Agency has indeed become beleaguered. It is fighting even now for a budgetary level at which it can successfully accomplish the tasks assigned to it. I hope very much that the effort to have ACDA adequately funded will be successful. Should we not adequately fund ACDA—with a budgetary level equivalent to the cost of a single fighter aircraft—I believe that we will rue that decision when we come to realize that the Agency made a great difference to our true national security interests.

One can legitimately ask whether there are any truly significant challenges ahead. The able and dedicated current Director, John Holum, gave a chilling look at the challenges that truly face this country in the area of nonproliferation alone when he said in February at George Washington University:

> "Meanwhile, the Soviet-American arms race has been overshadowed by a danger perhaps even more ominous: proliferation of weapons of mass destruction—whether nuclear, chemical or biological, or the missiles to deliver them—to rogue regimes and terrorists around the world.
>
> By reputable estimates, more than 40 countries now would have the technical and material ability to develop nuclear weapons, if they decided to do so.
>
> More than 15 nations have at least short range ballistic missiles, and many of these are seeking to acquire, or already have, weapons of mass destruction.
>
> We believe that more than two dozen countries—many hostile to us—have chemical weapons programs.
>
> The deadly gas attack in Tokyo's subway last year crossed a fateful threshold: the first use of weapons of mass destruction not by governments but terrorists, against an urban civilian population.
>
> Revelations about Iraq have provided a chilling reminder that biological weapons are also attractive to outlaw governments and groups.
>
> And recalling the World Trade Center and Oklahoma City bombings, we must ponder how even more awful the suffering would be if even primitive nuclear, chemical or biological weapons ever fell into unrestrained and evil hands."

Mr. President, I commend the Arms Control Agency and its excellent staff. I hope very much that the Congress of the U.S. will have the wisdom to provide the necessary support and backing to the United States Arms Control and Disarmament Agency as it serves us and all Americans in the future in helping to find ways to deal with the threats to peace and security, the United States, its friends, and its allies will face in the period ahead.

RETIREMENT OF SENATOR HOWELL HEFLIN

Mr. CONRAD. Mr. President, I rise today to pay tribute to one of the most well-liked and respected members of the Senate. Judge HEFLIN has brought to this body a keen mind, a sharp wit, and a pleasant sense of humor that makes it a true pleasure to serve with him. His retirement this year is a tremendous loss to the Senate, his State, and the Nation.

I have come to know The Judge best through our work on the Senate Agriculture Committee. Since I joined the Senate in 1987, Judge HEFLIN and I have worked together to improve the quality of life for rural citizens. Senator

HEFLIN represents a rural State, Alabama, and he knows what's needed to maintain quality of life. He knows that everything which makes up the rural way of life—jobs, schools, hospitals, the rural infrastructure—depends on having a vibrant economic base.

As it is in North Dakota, agriculture is key to rural life in Alabama. Senator HEFLIN understands the need to preserve and protect the economic viability of American farmers in fiercely competitive global agricultural markets. He understands the complexities of world agricultural trade and has stood strongly behind U.S. farmers in their efforts to compete. A staunch defender of U.S. peanut growers, The Judge is always willing to go the extra mile to ensure their concerns are heard in the development of agricultural legislation. But more than that, he always works hard to convey to the nonagriculture community the importance of maintaining a strong, broad-based agricultural system in the United States.

Closely linked with agriculture is the rural infrastructure, and Senator HEFLIN knows perhaps better than anyone in this body that a strong infrastructure is absolutely crucial to preserving the economic base of rural areas. Rural electric and telephone cooperatives are the lifeblood of rural areas, and without them many citizens would receive poor service, expensive service, or no service at all. Senator HEFLIN fights off critics of Federal Government rural development efforts with stern determination, clear arguments and effective strategies. I truly admire him for it, and am glad to say I've joined him in that effort.

I'm sure every Member of this body has a favorite story about HOWELL HEFLIN. His character and personality have often brought easy smiles into what many times have been very difficult situations. One of my favorites occurred just last year in the Senate Agriculture Committee during negotiations on the 1996 farm bill. The Committee Democrats were present, waiting for our Republican counterparts to finish their caucus and enter the room. Suddenly, above the din of the Members, staff, and lobbyists came a bellowing call, ''Sound the pachyderm horns!'' The Judge had made it known he wasn't interested in waiting for the Republicans any longer. They promptly returned.

But it will not be for just his wit that I will miss Judge HEFLIN. He is a good friend, a great Senator, and a remarkable American. I admire him greatly for all that he has done. And knowing that this week he admitted himself into an Alabama hospital, I can only say that I wish him a speedy recovery, my sincerest appreciation for the years we've served together, and my best heart-felt wishes for a long, happy, and comfortable retirement.

RETIREMENT OF SENATOR HANK BROWN

Mr. CONRAD. Mr. President, I rise today to pay tribute and bid farewell to the distinguished Senator from Colorado, Senator HANK BROWN.

Senator BROWN has committed many years to the people of Colorado, spending 10 years in the House of Representatives and 6 here in the Senate. Though he has much to offer this body, Senator BROWN has chosen to limit his time in Washington. The Senate will certainly miss his leadership and commitment.

Senator BROWN and I share a common concern for getting this country's fiscal house in order, though, at times, that involves making difficult choices. I have had the great pleasure of working with Senator BROWN as a member of the Centrist Coalition, a bipartisan group of Senators. This group worked diligently to agree to an alternative budget plan. This plan incorporated the suggestions of the National Governors' Association on welfare and Medicaid issues, while preserving a safety net for our Nation's most vulnerable populations. Though our plan was narrowly defeated, it was the only bipartisan budget effort to receive strong support during the 104th Congress. I was honored to work with Senator BROWN on the effort.

Prior to his time in Congress, HANK BROWN served our country in Vietnam. A decorated veteran, he has maintained a commitment to ensuring that the United States dealings with Vietnam are appropriate and fair. His unique knowledge and perspective have made him an invaluable contributor to the debates on foreign policy and U.S. military involvement in the world community.

Senator BROWN has also exhibited leadership on behalf of ranchers; as a Senator from North Dakota, I fully appreciate his efforts in this area. During debate on the 1994 Interior appropriations bill, HANK BROWN led the fight against an amendment to raise grazing fees. I was proud to join him in this successful fight, and the ranchers of my State are thankful for his leadership.

Above all, it is Senator BROWN's integrity, thoughtfulness, and commitment to principles that make him a valued Member of the Senate. He will be greatly missed in this body, and I wish him well as he embarks on the next stage of his life.

HONORING THE TAFTS ON THEIR 65TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data are undeniable:

Individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of ''till death us do part'' seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Clarence and Ethel Taft of Springfield, MO, who on September 10, 1996, will celebrate their 65th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. Clarence and Ethel's commitment to the principles and values of their marriage deserves to be saluted and recognized.

TRIBUTE TO RETIRING SENATOR DAVID PRYOR

Mr. CONRAD. Mr. President, today I salute one of my Democratic colleagues who is retiring at the end of this Congress, Senator DAVID PRYOR of Arkansas. I have been privileged to serve with David PRYOR not only in the Senate but also on the Finance and Agriculture Committees. Senator PRYOR is a true gentleman, a thoughtful statesman, and a champion for all taxpayers, farmers, and senior citizens. His presence in the United States Senate will be missed.

Senator PRYOR's service to his constituents in Arkansas and the Nation is remarkable. He was elected to the first of three terms as a U.S. Congressman for the Fourth District of Arkansas in 1966. He became Governor in 1974. In 1978, the people of Arkansas elected him to serve in the U.S. Senate. Senator PRYOR was elected to his third Senate term in 1990 without a challenger.

Through his service on the Senate Finance Committee, Senator PRYOR has made a difference in the day-to-day life of every American. The Taxpayer Bill of Rights will be considered as one of Senator PRYOR's lasting legacies. Thanks to his efforts in enacting this legislation, taxpayers are guaranteed certain basic rights when dealing with the Internal Revenue Service.

The Agriculture Committee provided Senator PRYOR with the perfect venue to improve the lives of America's farmers and ensure an abundant and safe food supply for this country and the world. He has been a watchdog for the interests of Arkansas farmers. His work on improving food quality and safety will be remembered by many future generations.

Senator PRYOR is probably best known for his work on behalf of our senior citizens. The Senate Special Committee on Aging was chaired by Senator PRYOR for 6 years and he currently serves as the ranking minority member. Senator PRYOR fought to save the Social Security system and reform the nursing home industry. He also focused the Nation's attention on the soaring prices of prescription drugs. His dedication to the issues facing our senior citizens is inspiring.

Mr. President, dedication, integrity, and humility are characteristics that best describe Senator PRYOR's presence in the Senate. He has worked tirelessly on behalf of his Arkansas constituents

and the Nation to achieve important goals in health care, aging issues, and agriculture. His accomplishments have been remarkable, and will be recognized for many years. I have been deeply honored to serve with my distinguished colleague Senator PRYOR, and wish him every happiness and good health in the years to come.

SENATOR SAM NUNN

Mr. CONRAD. Mr. President, I rise to pay tribute to one of the Senate's most respected and accomplished Senators, SAM NUNN of Georgia. Despite the counsel of Democrats, Republicans, and even the President to seek an assured and well deserved fifth term, Senator NUNN has decided to retire from the Senate at the end of the 104th Congress.

Clearly, Senator NUNN's departure is this Chamber's loss. As anyone who has attended or testified before a hearing of the Senate Armed Services Committee over the last 24 years is well aware, there is no member on Capitol Hill today who understands defense issues better than the Senior Senator from Georgia. Throughout his nearly two and a half decades on the Armed Services Committee and 10 years as its chairman or ranking member, Senator NUNN has been routinely consulted by Senators—including this one—when particularly difficult and complex issues have been before the Senate. With little doubt, few Senators in the history of this distinguished body have shown Senator NUNN's acumen for balancing Congress' prerogative to raise and support our Armed Forces with respect for the judgment of our military's leadership.

Mr. President, in his capacity as chairman and ranking member of the Armed Services Committee and as a member of this Chamber, my friend from Georgia has conducted his career in the best tradition of the Senate. The reputation of Senator NUNN's committee for bipartisanship is due in part to the leadership of the Georgia Senator. Better than most, SAM NUNN has understood that compromise is absolutely essential if the Senate is to function as effectively and fairly as the American people expect, and deserve.

Although I do not expect it to last, Senator NUNN's departure from the national stage will be the Nation's loss. His influence has been apparent in the policies of every administration since the senior Senator from Georgia was elected to this body in 1972, and has been especially evident over the last decade. Since the end of the cold war, Senator NUNN has guided the reorganization and reduction of our global military posture, effectively balancing the necessity to maintain forces appropriate for an increasingly complex threat environment, with the need to put our fiscal house in order. Senator NUNN's participation in a bipartisan budget coalition testifies to his commitment to the cause of responsible deficit reduction, and it has been my honor and privilege to work with him toward this important end.

Mr. President, Senator NUNN has established the benchmark for sound leadership, and I have no doubt that his influence will continue to be felt once he leaves the Senate. As my friend from Georgia is aware, there has been speculation for years that he would one day become Secretary of Defense or Secretary of State. But as many of his colleagues have knowingly observed, Senator NUNN has long exercised influence on defense matters worthy of the Secretary's job itself. I wish Senator NUNN the very best as he begins a new chapter of his life. As a Senator and citizen, I offer my sincere thanks to the Georgia Senator for his excellent service, for which we are all better off. I know that I speak for all Senators when I say that Senator SAM NUNN will be sorely missed, but never forgotten.

TRIBUTE TO ALAN SIMPSON

Mr. CONRAD. Mr. President, the Senate this year will lose a long-time friend, ALAN SIMPSON of Wyoming. Senator SIMPSON has served his state well for three decades, including 18 years in this chamber, and 12 years before that in Wyoming's House of Representatives. As many here know, he was raised in politics: his father Milward was a former governor and U.S. Senator.

While I congratulate Senator SIMPSON on his retirement, I also have to say I am sorry to see him go. As members of different parties, we have not always seen eye to eye. But even in those times I have disagreed strongly with him, I have always been impressed by his passion. He is a formidable opponent, and any Senator who challenges him better be fully versed on the issue and ready for a tough debate. Because ALAN SIMPSON is always ready. This smart, principled legislator also possesses a unique sense of humor that can inject laughter into even the most difficult situations. And on many issues, such as the current immigration debate which he has led in the Senate, he has shown a willingness to find a bipartisan solution to our mutual problems.

In a Congress that has become increasingly more partisan, many of Senator SIMPSON's colleagues in both chambers and on both sides of the aisle, would do well to heed his example. Compromise and cooperation are seen by some as a lack of leadership. But the ''my way or the highway'' attitude often short-changes the American people. Senator SIMPSON's willingness to achieve solutions for the greater good is the embodiment of leadership.

On the Senate Finance Committee, Senator SIMPSON and I have examined some of the most pressing issues before us; reduction of our national debt and the future of entitlement programs like Social Security, Medicare, Medicaid, and veterans' benefits. As colleagues on the bipartisan Centrist Coalition we worked together to find a fair and reasonable solution to reducing the deficit and controlling the growth of entitlements, when the White House and congressional leaders reached an impasse.

Anyone who works with him on these issues knows without a doubt that Senator SIMPSON cares as deeply about the future of our country as anyone in Congress. Federal spending on entitlement programs is growing at an alarming rate, but suggesting change to entitlement programs is considered political suicide by some. But that has never stopped Senator SIMPSON. His work on the Bipartisan Commission on Entitlement and Tax Reform confirms that he is willing to advocate tough solutions to these growing problems. I may disagree with some of his conclusions, but the fight to reform these programs, as well as the fight to reach a fair balanced budget, is ongoing. I am saddened that he is not staying on to help lead these fights. But perhaps in the coming years, all of us in Congress will learn to embody the virtues of courage and leadership that we have seen in ALAN SIMPSON.

RETIREMENT OF SENATOR NANCY KASSEBAUM

Mr. CONRAD. Mr. President, today, I offer tribute to my friend and colleague, Senator Nancy KASSEBAUM. The Senate will miss this respected and fair minded policy maker. While the distinguished Senator from Kansas may no longer physically be present on the floor of the Senate to fight the battles she believes in, she will leave a legacy of intelligence, honesty, and common sense that will always be respected and never forgotten.

Among her many accomplishments, Senator KASSEBAUM will go down in the textbooks of American history as the first woman to Chair a major Senate committee, the Senate Committee on Labor and Human Resources. This fact makes a statement about the strength of Nancy KASSEBAUM as a leader. Senator KASSEBAUM successfully challenged institutional gender biases, paving the way for other women who aspire to become powerful Members of the Senate. I compliment Senator KASSEBAUM for this significant accomplishment.

Throughout her 18 years of dedicated service as a member of the Senate and her tenure as Chair of the Senate Committee on Labor and Human Resources, Senator KASSEBAUM has fought to preserve the health and dignity of America's families, children, and the poor. She was a moderating force throughout the welfare debate. Her strong stance on issues such as ensuring abused and neglected children are protected, increasing the availability of child care for low-income families, and preserving child care health and safety standards was a key to the successful passage of

a welfare reform bill that received bipartisan support.

I had the recent privilege of working closely with Senator KASSEBAUM on a comprehensive budget proposal formulated by a bipartisan group of Senators. This proposal was based on compromise, fiscal responsibility, common sense, and fairness. It balanced the unified budget by 2002, while preserving important social safety nets for some of our most vulnerable citizens. My colleagues and I worked long hours on this proposal, which received substantial support on the Senate floor. I was proud to have the opportunity to work with Senator KASSEBAUM on this compromise agreement and was impressed by her diligence and thoughtfulness throughout the discussions.

Senator KASSEBAUM's spirit of fairness is exemplified by her work in the Foreign Relations Committee. As a member and Chair of the African Affairs Subcommittee, she fought to break down the barriers that oppress and divide people. She would not condone intolerance and took decisive action to suppress apartheid by supporting sanctions against the South African Government in 1986. She applauded the fall of apartheid in 1993 and the election of Nelson A. Mandela as President of South Africa in 1994. People and governments worldwide will thank Senator KASSEBAUM for her work on this issue.

In closing, I will look back on the long career of a great Senator, NANCY KASSEBAUM, with admiration and respect. I thank Senator KASSEBAUM for her honesty and fairness and wish her well in her future pursuits.

REPORT BY SENATOR PELL

Mr. THOMAS. Mr. President, yesterday—in my capacity as chairman of the Subcommittee on East Asian and Pacific Affairs—I introduced into the RECORD a portion of a report prepared by the very distinguished ranking minority member of the Foreign Relations Committee, Senator PELL.

The report, entitled ''Democracy: An Emerging Asian Value,'' details the Senator's recent trip to Asia. I was very interested in the distinguished Senator's observations because the countries he visited—Taiwan, Vietnam, and Indonesia—fall within the jurisdiction of my subcommittee. I thought my colleagues would benefit by having the report readily available to them, and had a portion of it reproduced in the RECORD yesterday. But because of space considerations, Mr. President, only a portion could be reprinted.

Consequently, today I ask unanimous consent to have the remainder of Senate Print 104–45 [pages 1 through 9] printed in the RECORD.

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

DEMOCRACY: AN EMERGING ASIAN VALUE

TAIWAN

A. Introduction

The political and economic development on Taiwan has been truly amazing. For 40 years after Chiang Kai-Shek led his defeated Nationalist Party (KMT) to Taiwan in 1948, the government in Taipei was controlled by Mainlanders to the exclusion and detriment of the native Taiwanese. The KMT's political control was absolute and oppressive. But in the economic sphere capitalism flourished. Taiwan became one of the world's fastest growing economies and its citizens enjoyed surging prosperity.

Political liberalization began in the late 1980s under President Chiang Ching-kuo, including the lifting of martial law in 1986 and the legalization of opposition parties in 1989. Contested elections to the Legislative Yuan, the government's main legislative body, took place in 1992.

This year, democratization reached a new level with the direct election of President Lee Teng-hui. Until this year, the president had been elected by the National Assembly. Lee himself had been a main proponent of this electoral change. Lee's election represented the first time in 5,000 years of Chinese history that the Chinese people directly chose their leader. Four candidates ran for the Presidency; the three losing candidates peacefully accepted the results of the election.

I have found these breathtaking political developments very satisfying. In the 1970s and 1980s I was one of a small number of American political figures who regularly criticized Taiwan's authoritarian regime and the dominating KMT Party for their political inflexibility, and I urged political liberalization and reform. That Taiwan has come so far in such a short time is truly impressive and is a great compliment to the people of Taiwan and to their current leaders.

Democratization has brought new problems as well as benefits to Taiwan. In the past the KMT had complete control over the government. Now the party has the presidency, but only a one-seat majority in the legislature, where three main parties are represented: the KMT, the Democratic Progressive Party (DPP) and the New Party. All politicians and government officials are learning new ways of interacting under these changed circumstances.

As freedom of speech has grown in Taiwan, so too have voices advocating a formal declaration of independence and separation from China. As Taiwain's identity as a democratic society has increased, President Lee has tried to raise its international identity as well. The government has called for Taiwan's membership in the UN and other international fora. Senior leaders, including the President, have made numerous visits abroad, some billed as private ''golf trips,'' in what has become known as ''vacation diplomacy.'' And some members of the DPP have openly called for a formal declaration of Taiwan's separateness from the Mainland.

The People's Republic of China has reacted strongly and negatively to the new internationally active Taiwan. Beijing has seemed particularly provoked both by the idea of an ''independent'' Taiwan and by the process of democratization itself. Tensions between China and Taiwan, and between China and the U.S., have risen in the last year to levels not seen since the 1950s. China has held four sets of military exercises clearly meant to intimidate Taiwan, the most serious of which was just before the presidential elections in March. One of Taiwan's greatest challenges in the next few years will be managing relations with its largest and most contentious neighbor.

b. Political development

I had a very warm meeting with President Lee Teng-hui, who spoke optimistically about the ''new history of China.'' Naturally pleased with Taiwan's recent democratic exercises, he made clear that he believes Taiwan's transition to a totally democratic society is not yet complete. He spoke of the work he feels must still be done, focusing not on political institutions but on the people's minds and expectations. He argued that the people of Taiwan still lack a truly democratic mind set, a sense that free will can shape their future. Arguing that he was following the philosophy of Dr. Sun Yat-sen to first change the public sphere, then focus on the private, he is now focusing on educational reform and cultural change, along with judicial reform. He recognizes that such changes take a long time—''maybe a hundred years''—but that they are important. He feels this mission is his personally, that if he, as the first directly-elected president, does not undertake to make these changes, then an opportunity for profound change will be missed.

Yet structural challenges remain and structural changes are continuing. Just before I arrived the Legislative Yuan, in an unprecedented exercise of budgetary control, rejected the Executive's request for funding of a fourth nuclear power plant. The role of the President vis-a-vis the Premier is also under discussion. Structurally, official power rests with the Premier's office, with the President's power coming as head of the KMT. In past practice, however, the President has wielded considerable influence and Lee's popularity may serve to increase that influence even more. President Lee and National Security Council Secretary-General Ting Mou-shi both mentioned that this was an on-going issue that would be discussed at the next National Assembly meeting, expected to take place this summer. Some opposition party members, members of the Legislative Yuan and constitutional scholars have questioned this trend and have recommended finding ways to check the power of the Presidency, such as by increasing the power of the legislative branch.

President Lee also expressed the need for continued economic liberalization and internationalization. He said that the government's new direction is toward changing local laws and regulations to be more open to foreign investment. President Lee said his first priority will be to take concrete steps toward this end, once his new Cabinet is formed.

President Lee sent his thanks to the U.S. Senate for its support for the world's ''youngest democratic country'' and especially for its support during the recent military threats from the Mainland. He said that the U.S. carrier groups sent to the Taiwan Strait helped to insure stability during the presidential election in March, and he thanked us for the many Congressional resolutions of support. Taiwan's gratitude for U.S. support was reiterated by all other government officials with whom I met in Taipei.

Finally, President Lee said that relations between the U.S. and Taiwan, while always good, would be particularly close now that Taiwan was a ''full-fledged democracy.'' He said he hoped that the U.S. would continue to ''support us under the wording and spirit'' of the Taiwan Relations Act (TRA), a request that National Security Council Secretary-General Ding also made to us. The TRA, passed by Congress in 1978, requires the U.S. to ''make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability.'' Taiwan would very much like to increase its defense purchases from the U.S.

C. Taiwan-Mainland China relations

Beijing has accused President Lee of abandoning the long-standing ''one-China'' policy by seeking a higher international profile for Taiwan. President Lee assured us that this is not true, though he said his government's definition of a one-China policy is quite different from Beijing's. He said that the reality today is that there are two distinct political systems and that there would only be ''one China'' after the two sides reunified. His government, of course, wants to see one Republic of China, not one People's Republic of China.

In President Lee's vision, one China would also include a truly autonomous Tibet. While arguing that Tibet is a part of China, he said that there would be no problems there if Beijing allowed Tibet the freedom to make its own internal decisions. A truly ''autonomous'' region should expect no less. President Lee also voiced his respect and admiration for His Holiness, the Dalai Lama.

President Lee is, of course, carefully watching how Beijing manages the takeover of Hong Kong, seeing this transition as an indication of how Beijing would manage reunification with Taiwan. Beijing's recent threats to dismantle Hong Kong's legislature and its plans to garrison a larger number of troops in Hong Kong than are currently there make Lee pessimistic that a China-Taiwan reunification, under current circumstances, could go smoothly.

Beijing has particularly objected to Taiwan's quest for membership in international fora, especially the UN. Officials in Taipei told me, in what appears to be an attempt to defuse this contentious issue, that Taiwan is not asking for an actual seat in the UN, but only for a study on how Taiwan could participate in some UN agencies and meetings without actual membership. Officials stressed that the twenty-one million people of Taiwan deserve some sort of representation in the world body, but what form of representation is still an open question. Since I have returned, there have been news reports that the government is pulling back even more on this effort and may focus instead on attaining membership in the World Bank or the International Monetary Fund.

Officials in Taipei repeated their commitment to dialogue with the Mainland and to strengthening ties that could lead to a more easy co-existence. Government officials acknowledged support within Taiwan's business community for direct links that would facilitate trade, but argued that such links could only occur if Beijing recognized Taipei as an equal partner in negotiations. There was some talk, I was told, of opening representative offices along the lines of what Taiwan and the U.S. have in their respective capitals, but that idea, too, was conditioned on the Mainland's being ''realistic'' in dealing with Taiwan as a separate entity.

A meeting with two representatives of different factions of the DPP, Mark Chen and Trong Chai, highlighted the divisions within the DPP on how to handle relations with the P.R.C. Chai, from the ''Welfare State'' faction, believes that Taiwan should hold a plebiscite on the question of independence. Without independence, this faction believes, the rest of the world will recognize only the P.R.C. Eventually, they believe, Taiwan will be forcible incorporated into the mainland and lose the freedoms its people enjoy today.

Chen argued that democratization in Taiwan was complete in terms of its system (although he said the KMT still holds an unfair share of the resources necessary to win a presidential election or to gain the majority in the legislature). He argued that, with 21 million people and a democratic system, Taiwan has all the attributes of a full-fledged country and asked what more it takes for the international community to recognize it as one. Both men wanted to know how that community, and especially the U.S., would react if reunification were not handled peacefully. Neither accepted the thesis that a declaration of independence by Taiwan would precipitate a non-peaceful reaction, from the P.R.C.

I should note that I have known and worked closed with Dr. Chai and Dr. Chen since the late 1970s when they were expatriate native Taiwanese activists in the United States. As the political system liberalized, they sought to return to their native land. That they are now back and participating vigorously in Taiwan's newfound democracy is another remarkable sign of what has occurred in Taiwan in a few short years.

The exciting thing about Taiwan is that democracy, while still young, is functioning. It is clear from my discussions that officials are trying to work out new power arrangements within and between the different branches of government. The government in Taipei must now formulate domestic and foreign policies that reflect the often-conflicting views of the population at large. The three main parties—the KMT, the DPP and the New Party—all have different views as to how this should be done. But the process they are using to work through these differences and to develop new power arrangements is democracy in action.

VIETNAM

A. Introduction

It has been said of the Communist Party in Vietnam that, after winning the war with Western capitalists, it has now lost the peace. Economic reforms begun in the 1980s, known as doi moi, have brought tremendous change to Vietnam's level of economic development. There are also signs that these reforms could lead to some limited, but still important, changes in the country's politics as well. In the most recent Constitution of 1992, the Party is still specified as the leading force in both the State and in society at large while other parties are banned. Nonetheless, last year in elections for local, provincial, and then national assemblies, some candidates ran as independents.

The Communist leadership in Vietnam clearly aims to continue economic development, while tightly controlling the direction of that development and prohibiting political liberalization. Their role models for this seem to be the early years of economic transformation in Singapore, South Korea and Taiwan. The government's plan for implementing this goal will be a major topic of discussion at the next Party Congress meeting, being held this month. Other important issues to be considered at this meeting include legal reform and potential leadership changes.

Vietnam's economic changes have been dramatic since the government introduced market-liberalization policies in 1989. The industrial and services sectors, for example, have been growing at an average of 9% per year. Agriculture, which accounts for 73% of all employment, has grown at a much slower 3% per year. Yet here, too, reforms have had a profound effect; Vietnam has moved from an importer of rice to the world's third largest exporter (after Thailand and the U.S.) GNP per capita remains low, however, at roughly US$230 at given exchange rates (although real incomes may be higher because much of the economy involves non-cash transactions). The government's current goal is to double per capita GNP by the year 2000.

B. Political developments

The Vietnamese government remains under the control of the Communist Party. But the Vietnamese people appear to enjoy greater individual freedom than in most other Communist countries. Analysts have reported that people do not fear speaking up against certain policies. Local officials, while still mostly Communist effect on their daily operations and decisions.

This attitude was reflected in my meetings with top officials, who stressed repeatedly that they were aiming for a government ''of, for, and by the people.'' While final authority continues to rest with a small group of Politburo leaders who operate without scrutiny or accountability, much was made of the ability of individual citizens to complain to their National Assembly Committee representative or to have input at the local level on documents being prepared for the Party Congress.

When asked about individual rights, officials quickly said that, while they recognized the universality of human rights, the promotion of these rights has to take place within the context of Vietnam's circumstances today, which is different from that of the West. I was repeatedly told that an individual's fundamental right was to live in a free and independent country, which Vietnam had only achieved after a long and difficult struggle. Officials stressed that ''Asian values'' were most appropriate for their society, meaning that individuals can not exercise their rights at the expense of others or the law. In spite of these arguments, and the claim that it is not Vietnamese policy to jail political dissidents, officials admit that their legal system ''needs work.''

To the end, the government is considering several proposals to further develop the rule of law. Decisions on these proposals will be made at the June Party Congress.

It was also stressed to us that Vietnam is going through a period of great change, a process of ''nation-building.'' During this time, officials say, they will consider suggestions and ideas from other countries, but will apply any they adopt to Vietnam's specific conditions. The National Assembly President, Nong Duc Manh, said that there was a great interest in the National Assembly for more contact with the U.S. Congress. Aside from being able to learn about the technical aspects of our system, Manh said that he wanted both sides to gain a greater understanding of each other's legislative institutions and practices.

The decisions that will be made at the upcoming Party Congress about policy reforms and about the changes in—or retention of top Party officials will provide a critical roadmap for all Vietnamese development—economic, political and social—for the next 10 years. It will be an indication to ordinary Vietnamese and to the outside world were the leadership plan to move the country.

C. Economic development

An entrepreneurial spirit pervades the streets of Hanoi. Children and young women aggressively pursue foreigners hawking postcards and good-luck decorations, refusing to accept repeated ''No thank you's.'' Storefront shops offer a wide variety of goods and services, such as jewelry, linens, housewares, mufflers and mechanical repairs. I was told that most of these stores were probably ''illegal,'' meaning that their owners had likely not obtained the licenses or paid the taxes required to operate legally. As illegal operations, they were subject to random ''crackdowns'' by the police. As I was leaving Hanoi, I saw this practice at work. A police truck randomly stopped at street stalls and police got out to talk with store owners. I was told that the police in this case were most likely collecting their ''cut.'' Indeed, the truck was loaded with furniture which may well have been collected as payment.

Deputy Vice Foreign Minister Le Mai told me that the largest mistake Vietnam ever made was implementing a command economy. He said the laws of capitalism ''just are,'' which I took to mean that they are the natural order of things. He said the private sector is recognized in the 1992 Constitution as equally important to the State and Collective sectors. He acknowledged that private ownership of land has not yet been recognized and that this creates an incentive problem, especially in agriculture. Mai said that Vietnam was moving slowly in this sector to avoid the chaos it believes came to Eastern Europe after private ownership of land was allowed.

While Vietnamese officials repeatedly stressed their desire for increased foreign investment to stimulate further economic development, several barriers exist for foreign companies trying to operate in Vietnam today. I benefited immensely from a lengthy meeting with American business representatives struggling to do business in Hanoi today. One of the problems they cited is the requirement for a license for every aspect of a company's operation. Licenses are narrowly drawn, limiting a company's activities. Such a system naturally lends itself to corruption. Many companies make use of middlemen to deal with these headaches and such services add appreciably to costs.

Another problem arises from the lack of private ownership of property. Without private ownership of real estate, businesses cannot mortgage their property to raise capital for further investment. Foreign investors also lack direct access to a distribution system and are forbidden from holding inventory.

The heart of the problem for foreign investment, however, is the lack of a rule of law. No one can count on the government to honor a contract and there is no recourse to objective arbitration. Again, this leads to corruption ''from top to bottom'' because officials may demand a bribe to live up to what they have already promised. One U.S. businessman referred to contracts as ''water soluble glue.'' Unless or until government officials take significant steps toward creating a sound and transparent legal system, foreign investment will be hampered.

D. Relations with the U.S.

This visit was only my second to Vietnam and my first to Hanoi. My first trip was with Senator Mansfield in 1962 during the early stages of the war. What surprised me above all else was the friendliness of the people and their willingness, even eagerness to deal with Americans, even though it was only some 20 years ago that American bombs were raining down on their country. Other Americans I met there also noted their sense that the Vietnamese were eager for closer relations with the U.S., in spite of our two countries' recent history.

Vietnamese officials welcomed President Clinton's announcement, the week before I arrived, of his nomination of Congressman Douglas B. ''Pete'' Peterson to be Ambassador to Vietnam. They agreed that having a former prisoner of war as Ambassador symbolized the willingness of both countries to put the war behind them. They seemed to understand that the dynamics of U.S. electoral politics could delay his confirmation and actual posting to Hanoi.

All officials in Hanoi, both Vietnamese and U.S., went to great lengths to assure me that cooperation on the most contentious bilateral issue—POW/MIAs—was strong and productive. At a lunch at the Charge's residence, U.S. embassy officials were unanimous in their assessment of Vietnamese cooperation: it could not be better. The U.S. military official in charge of the issue in Hanoi described how his team was able to investigate every lead they received, to go where ever they wanted and to view all documents they requested. He emphasized that there were no roadblocks from the Vietnamese. I am convinced that the government of Vietnam is being fully cooperative with the U.S. on the POW/MIA issue and that, while this cooperation must continue, the issue should not in any way hamper further development of the bilateral relationship.

Le Mai raised an interesting point with us. He said that his government had tried to cooperate whenever and wherever it could, but that he and his colleagues often felt U.S. demands were unrealistic. He pointed out that only weeks before we arrived a U.S. commercial aircraft had crashed in the Everglades in Florida. Despite knowing exactly when and where the plane went down, and using the best equipment and best trained people to recover the remains of passengers, the U.S. had yet to recover a single identifiable remain. Yet if the Vietnamese government cannot produce finding of a crash that may have occurred 25 years ago, in a broadly-identified area, then critics in the U.S. will accuse them of stonewalling.

In discussing regional security issues, officials emphasized their desire for peace and stability to foster an environment conducive to economic growth for all. Deputy Foreign Minister Le Mai emphasized the need to have a ''balance'' between the various powers in the region, such as the U.S. and China, and U.S. and Japan, or Japan and China. While Mai did not name China as a threat regional stability, in the context of a discussion of recent Chinese military aggression in the Spratly Islands and the Taiwan Strait, he suggested that if ''any one country'' tried to increase its power, Vietnam would be open to an increasing U.S. presence to preserve the balance.

Government officials went to great lengths to stress the importance of continuing the normalization of relations between the U.S. and Vietnam. They also emphasized the ''great potential'' of improved economic ties. Specifically, Hanoi would like Washington to grant most-favored-nation (MFN) tariff treatment, Export-Import Bank financing, and Overseas Private Investment Corporation (OPIC) guarantees.

Perhaps the strongest argument for increased economic ties between the two countries came from U.S. business people living in Hanoi. They argued that through negotiating the trade agreement necessary to grant MFN and OPIC, Hanoi would be forced to address some of the more difficult problems facing U.S. investors, as described above. They further emphasized that by providing these trade preferences, the U.S. government would be helping U.S. businesses, not just the Vietnamese. Likewise, by denying them, the government hurts U.S. businesses and encourages the Vietnamese to shop elsewhere.

With both logic and passion, this business group argued that, despite the many structural problems they face daily in Vietnam and despite the fact that it is harder to do business there than in Russia or Mongolia, it was in both their personal interests and in our national interests to say. Over the next 20 years, Southeast Asia will be one of the fastest—and perhaps the fastest—growing regions in the world. Vietnam's geographic position makes it a natural hub for all types of trade and transportation. The question is not if Vietnam becomes another dynamic Asian market but when it does, will the U.S. be there? If our companies do not gain a presence there now, we risk losing market access later, possibly permanently. This is a problem the U.S. faces all over Asia where our experience and involvement is generally lacking.

This business group believes that Vietnamese leaders understand the problems in their legal system and are willing and able to correct them, albeit slowly. Vietnam's membership into ASEAN will help to guarantee the further development of a stable market attractive to even more foreign investment. American products, from consumer goods to elevators to computers, are popular in Vietnam. U.S. businesses have a tremendous advantage because the Vietnamese respect the quality of our products and would choose our companies if the financing were equal.

Finally, this group said that their working relationship with the U.S. Embassy in Hanoi could not have been better. In a centrally-planned economy, government-to-government relations are the only legitimate ones; these companies could not function without the Embassy. Even under these circumstances, they stressed that their relationship with the Embassy was better than in any other country they had worked. I, too, was very impressed with the Embassy staff, especially with Desaix Anderson, our Charge d'affaires there.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, September 25, the Federal debt stood at $5,198,780,826,934.47.

One year ago, September 25, 1995, the Federal debt stood at $4,949,969,000,000.

Five years ago, September 25, 1991, the Federal debt stood at $3,630,755,000,000.

Ten years ago, September 25, 1986, the Federal debt stood at $2,109,249,000,000.

Fifteen years ago, September 25, 1981, the Federal debt stood at $979,210,000,000. This reflects an increase of more than $4 trillion ($4,319,570,826,934.47) during the 15 years from 1981 to 1996.

MESSAGES FROM THE HOUSE

At 9:51 a.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, without amendment:

S. 1834. An act to reauthorize the Indian Environmental General Assistance Program Act of 1992, and for other purposes.

The message announced that the House has passed the following bills, each with an amendment, in which it requests the concurrence of the Senate:

S. 868. An act to provide authority for leave transfer for Federal employees who are adversely affected by disasters or emergencies, and for other purposes.

S. 919. An act to modify and reauthorize the Child Abuse Prevention and Treatment Act, and for other purposes.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1499. An act to improve the criminal law relating to fraud against consumers.

H.R. 3155. An act to amend the Wild and Scenic Rivers Act by designating the Wekiva River, Seminole Creek, and Rock Springs Run in the State of Florida for study and potential addition to the National Wild and Scenic Rivers System.

H.R. 391. An act to amend the Solid Waste Disposal Act to require at least 85 percent of funds appropriated to the Environmental Protection Agency from the Leaking Underground Storage Tank Trust Fund to be distributed to States for cooperative agreements for undertaking corrective action and for enforcement of subtitle I of such Act.

H.R. 3568. An act to designate 51.7 miles of the Clarion River, located in Pennsylvania, as a component of the National Wild and Scenic Rivers System.

H.R. 4036. An act to making certain provisions with respect to internationally recognized human rights, refugees, and foreign relations.

H.R. 4167. An act to provide for the safety of journeymen boxers, and for other purposes.

At 2:20 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 3116) to amend title 18, United States Code, with respect to the crime of false statement in a Government matter, with an amendment.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2092. An act to expedite State reviews of criminal records of applicants for private security officer employment, and for other purposes.

H.R. 3497. An act to expand the boundary of the Snoqualmie National Forest, and for other purposes.

H.R. 4137. An act to combat drug-facilitated crimes of violence, including sexual assaults.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 51. Concurrent resolution expressing the sense of the Congress concerning economic development, environmental improvement, and stability in the Baltic region.

H. Con. Res. 180. Concurrent resolution commending the members of the Armed Forces and civilian personnel of the Government who served the United States faithfully during the Cold War.

The message also announced that the House has passed the following bills, without amendment:

S. 1675. An act to provide for the nationwide tracking of convicted sexual predators, and for other purposes.

S. 1802. An act to direct the Secretary of the Interior to convey certain property containing a fish and wildlife facility to the State of Wyoming, and for other purposes.

S. 2101. An act to provide educational assistance to the dependents of Federal law enforcement officials who are killed or disabled in the performance of their duties.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 1834. An act to reauthorize the Indian Environmental General Assistance Program Act of 1992.

H.R. 1350. An act to amend the Merchant Marine Act, 1936 to revitalize the United States-flag merchant marine, and for other purposes.

H.R. 2366. An act to repeal an unnecessary medical device reporting requirement.

H.R. 2504. An act to designate the Federal building located at the corner of Patton Avenue and Otis Street, and the United States courthouse located on Otis Street, in Asheville, North Carolina, as the ''Veach-Baley Federal Complex''.

H.R. 2685. An act to repeal the Medicare and Medicaid Coverage Data Bank.

H.R. 3056. An act to permit a county-operated health insurance organization to qualify as an organization exempt from certain requirements otherwise applicable to health insuring organizations under the Medicaid program notwithstanding that the organization enrolls Medicaid beneficiaries residing in another county.

H.R. 3186. An act to designate the Federal building located at 1655 Woodson Road in Overland, Missouri, as the ''Sammy L. Davis Federal Building.''

H.R. 3400. An act to designate the Federal building and United States courthouse to be constructed at a site on 18th Street between Dodge and Douglas Streets in Omaha, Nebraska, as the ''Roman L. Hruska Federal Building and United States Courthouse.''

H.R. 3710. An act to designate the United States courthouse under construction at 611 North Florida Avenue in Tampa, Florida, as the ''Sam M. Gibbons United States Courthouse.''

The enrolled bills were signed subsequently by the President pro tempore [Mr. THURMOND].

At 5:13 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 640) to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

At 5:54 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, without amendment:

S. 1970. An act to amend the national Museum of the American Indian Act to make improvements in the Act, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 2660) to increase the amount authorized to be appropriated to the Department of the Interior for the Tensas River National Wildlife Refuge.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 3068) to accept the request of the Prairie Island Indian Community to revoke their charter of incorporation issued under the Indian Reorganization Act.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2505. An act to amend the Alaska Native Claims Settlement Act to make certain clarifications to the land bank protection provisions, and for other purposes.

H.R. 2579. An act to establish the National Tourism Board and the National Tourism Organization to promote international travel and tourism to the United States.

H.R. 3700. An act to amend the Federal Election Campaign Act of 1971 to permit interactive computer services to provide their facilities free of charge to candidates for Federal offices for the purposes of disseminating campaign information and enhancing public debate.

H.R. 3804. An act to remove the restriction on the distribution of certain revenues from the Mineral Springs parcel to certain members of the Agua Caliente Band of Cahuilla Indians.

H.R. 3852. An act to prevent the illegal manufacturing and use of methamphetamine.

H.R. 3973. An act to provide for a study of the recommendations of the Joint Federal-State Commission on Policies and Programs Affecting Alaska Natives.

H.R. 4168. An act to amend the Helium Act to authorize the Secretary to enter into agreements with private parties for the recovery and disposal of helium on Federal lands, and for other purposes.

MEASURE PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar:

H.R. 4134. An act to amend the Immigration and Nationality Act to authorize States to deny public education benefits to aliens not lawfully present in the United States who are not enrolled in public schools during the period beginning September 1, 1996, and ending July 1, 1997.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on September 26, 1996 he had presented to the President of the United States, the following enrolled bill:

S. 1834. An act to reauthorize the Indian Environmental General Assistance Program Act of 1992.

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–4179. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, two rules including a rule entitled ''Solid Waste Disposal Facility Criteria,'' (RIN2050–AE24, FRL5607–3) received on September 24, 1996; to the Committee on Environment and Public Works.

EC–4180. A communication from the Chairman and Management Member of the U.S. Railroad Retirement Board, transmitting jointly, the notice of opposition to the proposed ''Railroad Retirement Amendment Act of 1996''; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–676. A resolution adopted by the House of Representatives of the Commonwealth of Massachusetts; to the Committee on Commerce, Science, and Transportation.

''*Whereas,* there has been strong indication that Amtrak is seriously considering the elimination of trains 448 and 449, the New England States section of its Lake Shore limited passenger train operating between Boston, Massachusetts and Albany, New York; and

''*Whereas,* this train provides the only intercity rail passenger service to the city of Pittsfield and the County of Berkshire and interconnects this region to the Amtrak national hub at Chicago, Illinois and there is no commercial airline passenger service in Pittsfield, no interstate highway running through the city or a viable connection to a distant one, and extremely limited intercity bus service in Pittsfield or Berkshire County since the elimination of Greyhound Lines service several years ago; and

''*Whereas,* several thousand passengers per year use this service Amtrak provides both arriving and departing this city each year and over ⅓ million passengers per year use this train traveling to and from New England; and

''*Whereas,* the United States Postal Service uses this train to transport substantial amounts of mail generating healthy revenues for Amtrak that covers a large portion of the operating expenses of this train; and

''*Whereas,* this train provides needed transportation for persons from this area who have no other means of mobility and provides transportation to this area for persons arriving here for business, personal and tourism reasons it generates needed income for many businesses in the area: Therefore be it

''*Resolved,* That the Massachusetts House of Representatives opposes any discontinuance of this above mentioned rail passenger train service after having made substantial capital investments for Amtrak in improving the local rail passenger station over the last fifteen years and urges Amtrak to continue operating trains 448 and 449 making cost savings in the operation of the trains rather than eliminating them; and be it further

''*Resolved,* That a copy of these resolutions be forwarded by the Clerk of the House of Representatives to the United States Congress.''

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SIMPSON, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 1359. A bill to amend title 38, United States Code, to revise certain authorities relating to management and contracting in the provision of health care services (Rept. No. 104–372).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation:

Jerry M. Melillo, of Massachusetts, to be an Associate Director of the Office of Science and Technology Policy.

Kerri-Ann Jones, of Maryland, to be an Associate Director of the Office of Science and Technology Policy.

(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. MOSELEY-BRAUN:

S. 2132. A bill to amend the Internal Revenue Code of 1986 to provide comprehensive pension protection for women; to the Committee on Finance.

By Mr. AKAKA:

S. 2133. A bill to authorize the establishment of the Center for American Cultural Heritage within the National Museum of American History of the Smithsonian Institution, and for other purposes; to the Committee on Rules and Administration.

By Mr. BIDEN (by request):

S. 2134. A bill to amend the Higher Education Act of 1965 to authorize Presidential Honors Scholarships to be awarded to all students who graduate in the top five percent of their secondary school graduating class, to promote and recognize high academic achievement in secondary school, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. COCHRAN (for himself and Mr. CONRAD):

S. 2135. A bill to amend the Internal Revenue Code of 1986 to provide reductions in required contributions to the United Mine Workers of America Combined Benefit Fund, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SARBANES:

S. Res. 301. A resolution to designate October 13, 1996, as ''National Fallen Firefighters Memorial Day''; to the Committee on the Judiciary.

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 302. A resolution to authorize the production of records by the Committee on Indian Affairs; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. MOSELEY-BRAUN:

S. 2132. A bill to amend the Internal Revenue Code of 1986 to provide comprehensive pension protection for women; to the Committee on Finance.

THE WOMEN'S PENSION EQUITY ACT OF 1996

Ms. MOSELEY-BRAUN. Mr. President, this legislation brings together some of the best ideas on women's pension legislation that have come before the House or the Senate. The legislation contains three new proposals to increase the security, the equity and the accessibility of our pension system. As the first permanent woman of the Senate Finance Committee, I have undertaken work in this area precisely because retirement security is so vitally important to all Americans, but especially to America's women.

Many of America's women face retirement without economic security. The majority of the elderly are women, and the retirement system in our country is, unfortunately, failing them. Younger women are not earning the pension benefits they think they are, and older women are losing the pension benefits they thought they had. To make certain that the ''golden years'' are not the ''disposable years,'' women need to take charge of their own retirement.

Last year, I introduced, and many of my colleagues cosponsored, the Women's Pension Equity Act of 1996 to begin to address one of the leading causes of poverty for the elderly—little or no pension benefits. Less than a third of all female retirees have pensions, and the majority of those who do earn less than $5,000 a year from them. The lack of pension benefits for many women means the difference between a comfortable retirement and a difficult one. Three of the six provisions of that bill, the Women's Pension Equity Act, are now law.

Today we have introduced the Comprehensive Women's Pension Protection Act to put Congress on notice that we will continue to push for pension reforms that enable women to achieve a secure retirement. Congress should expect to hear from American women in the coming months about the need for pension policy that allows women to retire with dignity. We are here today, and we will be back in the beginning of the 105th Congress, because addressing pension issues is an integral part of the solution to women's economic insecurity.

In addition, pension issues are critical to our Nation as a whole. In light of the demographic trends facing America, retirement security is increasingly important to the quality of life for all of our citizens. With regard to women's pensions, specifically, though, I believe the first step is for women to take charge of their own retirement.

Women should create their own pension checklist to prepare for economic security when their working days are over. There are eight items that should be on any such checklist. Women should, first, find out if they are earning now or if they have ever earned a pension; second, learn if their employer has a pension plan and how to be eligible for that plan; third, contribute to a pension plan if they have the chance; fourth, not spend pension earnings if given a one-time payment when leaving a job, which is very important, also; fifth, if married, find out if their husband has a pension; sixth, not sign away a future right to their husband's pension if he dies; seventh, during a divorce, if that unfortunately happens, consider the pension to be a valuable, jointly earned asset to be divided; and eighth, find out about their pension rights and fight for them.

Even when women take charge of their own retirement, however, and if they have gone through the steps, they often face a brick wall of pension law that prevent women from investing enough for the future.

The pension laws, when they were originally written, were not written to reflect the patterns of women's work or, frankly, women's lives. Women are more likely than not to move in and out of the work force, to work at home, to earn less for the work that they do, and to work in low-paying industries. These factors limit our ability to access or accrue pension benefits. Women are also more likely to be widowed, to divorce, to live alone, and to live longer in their retirement years without having adequate coverage for retirement.

The bill that we have introduced today, which is also being introduced in the House of Representatives by Congresswoman KENNELLY, a long-time champion of women pension rights, addresses the range of concerns that women face as they consider retirement.

This legislation preserves women's pensions by ending the practice of integration by the year 2000, the practice whereby pension benefits are reduced by a portion of Social Security benefits. It provides for the automatic division of pensions upon divorce if the divorce decree is silent on pension benefits. It allows a widow or divorced widow to collect her husband's civil service pension if he leaves his job and dies before collecting benefits. And it continues the payment of court ordered tier II railroad retirement benefits to a divorced widow.

This legislation protects women's pensions by prohibiting 401(k) plans, the fastest growing type of plans in the country, from investing in collectibles or the companies own stock. It requires annual benefits statements for plan participants. And it applies spousal consent rules governing pension fund withdrawals to 401(k) plans.

This legislation helps prepare women for retirement by creating a women's pension hotline, creating a real opportunity for women to get answers to their questions. Since introducing the Women's Pension Equity Act of 1996, my office has received hundreds of letters and calls from women just wanting information. The hotline is sorely needed.

By preserving and protecting women's pensions and preparing women for retirement, we in Congress can provide women with the tools they need to prepare for their own retirement. By introducing legislation today and again at the beginning of 1997, we are giving notice that pension policy will be at the top of the agenda for the 105th Congress.

Pension policy decisions will determine, in no small part, the kind of life Americans will live in their older years. With a baby boomer turning 50 every 9 seconds, we cannot ignore the problems facing people as they grow older. Now, more than ever all Americans need to consider the role that pensions play in determining they kind of life every American will lead.

In closing, Mr. President, I would like to add that pension policy retirement security has often been likened to a three-legged stool. There are three constituent parts of retirement security, one being Social Security, another being private savings, and the third being pensions.

First, with regard to Social Security, we are taking up in the Finance Committee and in this body a number of issues going to the protection of Social Security to make certain that that system remains viable.

Second, with regard to private savings, we are looking at the issue pertaining to encouraging people to save, particularly for their retirement, and making their savings plans more accessible to working people.

Third, with regard to the pensions specifically, this is an area in which there are a range of concerns which are being taken up. But, suffice it to say, I think it is vitally important that we begin the dialog now on the importance of retirement savings and the importance for retirement security. The graying of America will mean Americans will need more than ever to have in place the kind of protection for their retirement so we do not have a declining standard of living for retirees, but, as much to the point, so we do not have a diminished standard of living for all Americans.

So it is for those reasons that we have introduced this bill today in arguably the last week of the session of the 104th Congress. But it is done really as a place marker; that this is an area in which we intend to be active and in which we intend to spread the gospel of retirement security and that we intend to work in this Congress collaboratively.

I look forward to a bipartisan effort in this regard. I look forward to working with my colleagues on the Finance Committee as well as in this body—generally both in the House and in the Senate—so that we can put in place pension protections and the pension policy decisions that will allow people, in the first instance, to access pensions, to hold onto the pension rights they have, and not to alienate them, and to allow them to have pension protection that is real for them and that is actually there for them when they retire, avoiding retirement poverty.

I think this is a major aspect of policy that we need to look at given the demographic trends in this country, and I look forward very much to working with my colleagues in the Senate as well as in the House in behalf of the retirement security for Americans.

Mr. President, I ask unanimous consent that a summary of the bill, and a copy of the legislation be printed in the RECORD.

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

S. 2132

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the ''Comprehensive Women's Pension Protection Act of 1996''.

(b) TABLE OF CONTENTS.—

Sec. 1. Short title.

TITLE I—PENSION REFORM

Sec. 101. Pension integration rules.
Sec. 102. Application of minimum coverage requirements with respect to separate lines of business.
Sec. 103. Division of pension benefits upon divorce.
Sec. 104. Clarification of continued availability of remedies relating to matters treated in domestic relations orders entered before 1985.
Sec. 105. Entitlement of divorced spouses to railroad retirement annuities independent of actual entitlement of employee.
Sec. 106. Effective dates.

TITLE II—PROTECTION OF RIGHTS OF FORMER SPOUSES TO PENSION BENEFITS UNDER CERTAIN GOVERNMENT AND GOVERNMENT-SPONSORED RETIREMENT PROGRAMS

Sec. 201. Extension of tier II railroad retirement benefits to surviving former spouses pursuant to divorce agreements.
Sec. 202. Survivor annuities for widows, widowers, and former spouses of Federal employees who die before attaining age for deferred annuity under civil service retirement system.
Sec. 203. Court orders relating to Federal retirement benefits for former spouses of Federal employees.
Sec. 204. Prevention of circumvention of court order by waiver of retired pay to enhance civil service retirement annuity.

TITLE III—REFORMS RELATED TO 401(K) PLANS

Sec. 301. 401(k) plans prohibited from investing in collectibles.
Sec. 302. Requirement of annual, detailed investment reports applied to certain 401(k) plans.
Sec. 303. 10-percent limitation on acquisition and holding of employer securities and employer real property applied to 401(k) plans.

TITLE IV—MODIFICATIONS OF JOINT AND SURVIVOR ANNUITY REQUIREMENTS

Sec. 401. Modifications of joint and survivor annuity requirements.

TITLE V—SPOUSAL CONSENT REQUIRED FOR DISTRIBUTIONS FROM SECTION 401(K) PLANS

Sec. 501. Spousal consent required for distributions from section 401(k) plans.

TITLE VI—WOMEN'S PENSION TOLL-FREE PHONE NUMBER

Sec. 601. Women's pension toll-free phone number.

TITLE VII—ANNUAL PENSION BENEFITS STATEMENTS

Sec. 701. Annual pension benefits statements.

TITLE I—PENSION REFORM

SEC. 101. PENSION INTEGRATION RULES.

(a) APPLICABILITY OF NEW INTEGRATION RULES EXTENDED TO ALL EXISTING ACCRUED

BENEFITS.—Notwithstanding subsection (c)(1) of section 1111 of the Tax Reform Act of 1986 (relating to effective date of application of nondiscrimination rules to integrated plans) (100 Stat. 2440), effective for plan years beginning after the date of the enactment of this Act, the amendments made by subsection (a) of such section 1111 shall also apply to benefits attributable to plan years beginning on or before December 31, 1988.

(b) INTEGRATION DISALLOWED FOR SIMPLIFIED EMPLOYEE PENSIONS.—

(1) IN GENERAL.—Subparagraph (D) of section 408(k)(3) of the Internal Revenue Code of 1986 (relating to permitted disparity under rules limiting discrimination under simplified employee pensions) is repealed.

(2) CONFORMING AMENDMENT.—Subparagraph (C) of such section 408(k)(3) is amended by striking ''and except as provided in subparagraph (D),''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to taxable years beginning on or after January 1, 1996.

(c) EVENTUAL REPEAL OF INTEGRATION RULES.—Effective for plan years beginning on or after January 1, 2003—

(1) subparagraphs (C) and (D) of section 401(a)(5) of the Internal Revenue Code of 1986 (relating to pension integration exceptions under nondiscrimination requirements for qualification) are repealed, and subparagraph (E) of such section 401(a)(5) is redesignated as subparagraph (C); and

(2) subsection (l) of section 401 of such Code (relating to nondiscriminatory coordination of defined contribution plans with OASDI) is repealed.

SEC. 102. APPLICATION OF MINIMUM COVERAGE REQUIREMENTS WITH RESPECT TO SEPARATE LINES OF BUSINESS.

(a) IN GENERAL.—Subsection (b) of section 410 of the Internal Revenue Code of 1986 (relating to minimum coverage requirements) is amended—

(1) in paragraph (1), by striking ''A trust'' and inserting ''In any case in which the employer with respect to a plan is treated, under section 414(r), as operating separate lines of business for a plan year, a trust'', and by inserting ''for such plan year'' after ''requirements''; and

(2) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively and by inserting after paragraph (2) the following new paragraph:

''(3) SPECIAL RULE WHERE EMPLOYER OPERATES SINGLE LINE OF BUSINESS.—In any case in which the employer with respect to a plan is not treated, under section 414(r), as operating separate lines of business for a plan year, a trust shall not constitute a qualified trust under section 401(a) unless such trust is designated by the employer as part of a plan which benefits all employees of the employer.''.

(b) LIMITATION ON LINE OF BUSINESS EXCEPTION.—Paragraph (6) of section 410(b) of such Code (as redesignated by subsection (a)(2) of this section) is amended by inserting ''other than paragraph (1)(A)'' after ''this subsection''.

SEC. 103. DIVISION OF PENSION BENEFITS UPON DIVORCE.

(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Subsection (a) of section 401 of the Internal Revenue Code of 1986 (relating to requirements for qualification) is amended—

(A) by inserting after paragraph (31) the following new paragraph:

''(32) DIVISION OF PENSION BENEFITS UPON DIVORCE.—

''(A) IN GENERAL.—In the case of a divorce of a participant in a pension plan from a spouse who is, immediately before the divorce, a beneficiary under the plan, a trust forming a part of such plan shall not constitute a qualified trust under this section unless the plan provides that at least 50 percent of the marital share of the accrued benefit of the participant under the plan ceases to be an accrued benefit of such participant and becomes an accrued benefit of such divorced spouse, determined and payable upon the earlier of the retirement of the participant, the participant's death, or the termination of the plan, except to the extent that a qualified domestic relations order in connection with such divorce provides otherwise.

''(B) LIMITATION.—Subparagraph (A) shall not be construed—

''(i) to require a plan to provide any type or form of benefit, or any option, not otherwise provided under the plan,

''(ii) to require the plan to provide increased benefits (determined on the basis of actuarial value),

''(iii) to require the payment of benefits to the divorced spouse which are required to be paid to another individual in accordance with this paragraph or pursuant to a domestic relations order previously determined to be a qualified domestic relations order, or

''(iv) to require payment of benefits to the divorced spouse in the form of a qualified joint and survivor annuity to the divorced spouse and his or her subsequent spouse.

''(C) DEFINITIONS.—For purposes of this paragraph—

''(i) DOMESTIC RELATIONS ORDER; QUALIFIED DOMESTIC RELATIONS ORDER.—The terms 'domestic relations order' and 'qualified domestic relations order' shall have the meanings provided in section 414(p).

''(ii) MARITAL SHARE.—The term 'marital share' means, in connection with an accrued benefit under a pension plan, the product derived by multiplying—

''(I) the actuarial present value of the accrued benefit, by

''(II) a fraction, the numerator of which is the period of time, during the marriage between the spouse and the participant in the plan, which constitutes creditable service by the participant under the plan, and the denominator of which is the total period of time which constitutes creditable service by the participant under the plan.

''(iii) QUALIFIED JOINT AND SURVIVOR ANNUITY.—The term 'qualified joint and survivor annuity' has the meaning provided in section 417(b).

''(D) REGULATIONS.—In prescribing regulations under this paragraph, the Secretary shall consult with the Secretary of Labor.''; and

(B) in the last sentence, by striking ''and (20)'' and inserting ''(20), and (32)''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 401(a)(13) of such Code (relating to special rules for domestic relations orders) is amended by inserting ''or if such creation, assignment, or recognition pursuant to such order is necessary for compliance with the requirements of paragraph (32)'' before the period.

(B) Subsection (p) of section 414 of such Code (defining qualified domestic relations orders) is amended—

(i) in paragraph (3)(C), by inserting ''or to a divorced spouse of the participant in connection with a previously occurring divorce as required under section 401(a)(32)'' before the period; and

(ii) in paragraph (7)(C), by striking ''if there had been no order'' and inserting ''in accordance with section 401(a)(32) as if there had been no qualified domestic relations order''.

(b) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Section 206 of Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056) is amended by adding at the end the following new subsection:

''(e)(1) In the case of a divorce of a participant in a pension plan from a spouse who is, immediately before the divorce, a beneficiary under the plan, the plan shall provide that at least 50 percent of the marital share of the accrued benefit of the participant under the plan ceases to be an accrued benefit of such participant and becomes an accrued benefit of such divorced spouse, determined and payable upon the earlier of the retirement of the participant, the participant's death, or the termination of the plan, except to the extent that a qualified domestic relations order in connection with such divorce provides otherwise.

''(2) Paragraph (1) shall not be construed—

''(A) to require a plan to provide any type or form of benefit, or any option, not otherwise provided under the plan,

''(B) to require the plan to provide increased benefits (determined on the basis of actuarial value),

''(C) to require the payment of benefits to the divorced spouse which are required to be paid to another individual in accordance with this subsection or pursuant to a domestic relation order previously determined to be a qualified domestic relations order, or

''(D) to require payment of benefits to the divorced spouse in the form of a joint and survivor annuity to the divorced spouse and his or her subsequent spouse.

''(3) For purposes of this subsection—

''(A) The terms 'domestic relations order' and 'qualified domestic relations order' shall have the meanings provided in subsection (d)(3)(B).

''(B) The term 'marital share' means, in connection with an accrued benefit under a pension plan, the product derived by multiplying—

''(i) the actuarial present value of the accrued benefit, by

''(ii) a fraction—

''(I) the numerator of which is the period of time, during the marriage between the spouse and the participant in the plan, which constitutes creditable service by the participant under the plan, and

''(II) the denominator of which is the total period of time which constitutes creditable service by the participant under the plan.

''(C) The term 'qualified joint and survivor annuity' shall have the meaning provided in section 205(d).

''(4) In prescribing regulations under this subsection, the Secretary shall consult with the Secretary of the Treasury.''.

(2) CONFORMING AMENDMENTS.—Section 206(d) of such Act (29 U.S.C. 1056(d)) is amended—

(A) in the first sentence of paragraph (3)(A), by inserting ''or if such creation, assignment, or recognition pursuant to such order is necessary for compliance with the requirements of subsection (e)'' before the period;

(B) in paragraph (3)(D)(iii), by inserting ''or to a divorced spouse of the participant in connection with a previously occurring divorce as required under subsection (e)'' before the period; and

(C) in paragraph (3)(H)(iii), by striking ''if there had been no order'' and inserting ''in accordance with subsection (e) as if there had been no qualified domestic relations order''.

SEC. 104. CLARIFICATION OF CONTINUED AVAILABILITY OF REMEDIES RELATING TO MATTERS TREATED IN DOMESTIC RELATIONS ORDERS ENTERED BEFORE 1985.

(a) IN GENERAL.—In any case in which—

(1) under a prior domestic relations order entered before January 1, 1985, in an action for divorce—

(A) the right of a spouse under a pension plan to an accrued benefit under such plan was not divided between spouses,

(B) any right of a spouse with respect to such an accrued benefit was waived without the informed consent of such spouse, or

(C) the right of a spouse as a participant under a pension plan to an accrued benefit under such plan was divided so that the other spouse received less than such other spouse's pro rata share of the accrued benefit under the plan, or

(2) a court of competent jurisdiction determines that any further action is appropriate with respect to any matter to which a prior domestic relations order entered before such date applies,

nothing in the provisions of section 104, 204, or 303 of the Retirement Equity Act of 1984 (Public Law 98–397) or the amendments made thereby shall be construed to require or permit the treatment, for purposes of such provisions, of a domestic relations order, which is entered on or after the date of the enactment of this Act and which supersedes, amends the terms of, or otherwise affects such prior domestic relations order, as other than a qualified domestic relations order solely because such prior domestic relations order was entered before January 1, 1985.

(b) DEFINITIONS.—For purposes of this section—

(1) IN GENERAL.—Terms used in this section which are defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002) shall have the meanings provided such terms by such section.

(2) PRO RATA SHARE.—The term ''pro rata share'' of a spouse means, in connection with an accrued benefit under a pension plan, 50 percent of the product derived by multiplying—

(A) the actuarial present value of the accrued benefit, by

(B) a fraction—

(i) the numerator of which is the period of time, during the marriage between the spouse and the participant in the plan, which constitutes creditable service by the participant under the plan, and

(ii) the denominator of which is the total period of time which constitutes creditable service by the participant under the plan.

(3) PLAN.—All pension plans in which a person has been a participant shall be treated as one plan with respect to such person.

SEC. 105. ENTITLEMENT OF DIVORCED SPOUSES TO RAILROAD RETIREMENT ANNUITIES INDEPENDENT OF ACTUAL ENTITLEMENT OF EMPLOYEE.

Section 2 of the Railroad Retirement Act of 1974 (45 U.S.C. 231a) is amended—

(1) in subsection (c)(4)(i), by striking ''(A) is entitled to an annuity under subsection (a)(1) and (B)''; and

(2) in subsection (e)(5), by striking ''or divorced wife'' the second place it appears.

SEC. 106. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title, other than section 101, shall apply with respect to plan years beginning on or after January 1, 1996, and the amendments made by section 103 shall apply only with respect to divorces becoming final in such plan years.

(b) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, subsection (a) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for ''January 1, 1996'' the date of the commencement of the first plan year beginning on or after the earlier of—

(1) the later of—

(A) January 1, 1996, or

(B) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 1999.

(c) PLAN AMENDMENTS.—If any amendment made by this title requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 1996, if—

(1) during the period after such amendment made by this title takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment made by this title, and

(2) such plan amendment applies retroactively to the period after such amendment made by this title takes effect and such first plan year.

A plan shall not be treated as failing to provide definitely determinable benefits or contributions, or to be operated in accordance with the provisions of the plan, merely because it operates in accordance with this subsection.

TITLE II—PROTECTION OF RIGHTS OF FORMER SPOUSES TO PENSION BENEFITS UNDER CERTAIN GOVERNMENT AND GOVERNMENT-SPONSORED RETIREMENT PROGRAMS

SEC. 201. EXTENSION OF TIER II RAILROAD RETIREMENT BENEFITS TO SURVIVING FORMER SPOUSES PURSUANT TO DIVORCE AGREEMENTS.

(a) IN GENERAL.—Section 5 of the Railroad Retirement Act of 1974 (45 U.S.C. 231d) is amended by adding at the end the following new subsection:

''(d) Notwithstanding any other provision of law, the payment of any portion of an annuity computed under section 3(b) to a surviving former spouse in accordance with a court decree of divorce, annulment, or legal separation or the terms of any court-approved property settlement incident to any such court decree shall not be terminated upon the death of the individual who performed the service with respect to which such annuity is so computed unless such termination is otherwise required by the terms of such court decree.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 202. SURVIVOR ANNUITIES FOR WIDOWS, WIDOWERS, AND FORMER SPOUSES OF FEDERAL EMPLOYEES WHO DIE BEFORE ATTAINING AGE FOR DEFERRED ANNUITY UNDER CIVIL SERVICE RETIREMENT SYSTEM.

(a) BENEFITS FOR WIDOW OR WIDOWER.—Section 8341(f) of title 5, United States Code, is amended—

(1) in the matter preceding paragraph (1) by—

(A) by inserting ''a former employee separated from the service with title to deferred annuity from the Fund dies before having established a valid claim for annuity and is survived by a spouse, or if'' before ''a Member''; and

(B) by inserting ''of such former employee or Member'' after ''the surviving spouse'';

(2) in paragraph (1)—

(A) by inserting ''former employee or'' before ''Member commencing''; and

(B) by inserting ''former employee or'' before ''Member dies''; and

(3) in the undesignated sentence following paragraph (2)—

(A) in the matter preceding subparagraph (A) by inserting ''former employee or'' before ''Member''; and

(B) in subparagraph (B) by inserting ''former employee or'' before ''Member''.

(b) BENEFITS FOR FORMER SPOUSE.—Section 8341(h) of title 5, United States Code, is amended—

(1) in paragraph (1) by adding after the first sentence ''Subject to paragraphs (2) through (5) of this subsection, a former spouse of a former employee who dies after having separated from the service with title to a deferred annuity under section 8338(a) but before having established a valid claim for annuity is entitled to a survivor annuity under this subsection, if and to the extent expressly provided for in an election under section 8339(j)(3) of this title, or in the terms of any decree of divorce or annulment or any court order or court-approved property settlement agreement incident to such decree.''; and

(2) in paragraph (2)—

(A) in subparagraph (A)(ii) by striking ''or annuitant,'' and inserting ''annuitant, or former employee''; and

(B) in subparagraph (B)(iii) by inserting ''former employee or'' before ''Member''.

(c) PROTECTION OF SURVIVOR BENEFIT RIGHTS.—Section 8339(j)(3) of title 5, United States Code, is amended by inserting at the end the following:

''The Office shall provide by regulation for the application of this subsection to the widow, widower, or surviving former spouse of a former employee who dies after having separated from the service with title to a deferred annuity under section 8338(a) but before having established a valid claim for annuity.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply only in the case of a former employee who dies on or after such date.

SEC. 203. COURT ORDERS RELATING TO FEDERAL RETIREMENT BENEFITS FOR FORMER SPOUSES OF FEDERAL EMPLOYEES.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) IN GENERAL.—Section 8345(j) of title 5, United States Code, is amended—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

''(3) Payment to a person under a court decree, court order, property settlement, or similar process referred to under paragraph (1) shall include payment to a former spouse of the employee, Member, or annuitant.''.

(2) LUMP-SUM BENEFITS.—Section 8342 of title 5, United States Code, is amended—

(A) in subsection (c) by striking ''Lump-sum benefits'' and inserting ''Subject to subsection (j), lump-sum benefits''; and

(B) in subsection (j)(1) by striking ''the lump-sum credit under subsection (a) of this section'' and inserting ''any lump-sum credit or lump-sum benefit under this section''.

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—Section 8467 of title 5, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

''(c) Payment to a person under a court decree, court order, property settlement, or similar process referred to under subsection (a) shall include payment to a former spouse of the employee, Member, or annuitant.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 204. PREVENTION OF CIRCUMVENTION OF COURT ORDER BY WAIVER OF RETIRED PAY TO ENHANCE CIVIL SERVICE RETIREMENT ANNUITY.

(a) CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM.—

(1) IN GENERAL.—Subsection (c) of section 8332 of title 5, United States Code, is amended by adding at the end the following:

''(4) If an employee or Member waives retired pay that is subject to a court order for which there has been effective service on the Secretary concerned for purposes of section 1408 of title 10, the military service on which the retired pay is based may be credited as service for purposes of this subchapter only if, in accordance with regulations prescribed by the Director of the Office of Personnel Management, the employee or Member authorizes the Director to deduct and withhold from the annuity payable to the employee or Member under this subchapter, and to pay to the former spouse covered by the court order, the same amount that would have been deducted and withheld from the employee's or Member's retired pay and paid to that former spouse under such section 1408.''.

(2) CONFORMING AMENDMENT.—Paragraph (1) of such subsection is amended by striking out ''Except as provided in paragraph (2)'' and inserting ''Except as provided in paragraphs (2) and (4)''.

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—

(1) IN GENERAL.—Subsection (c) of section 8411 of title 5, United States Code, is amended by adding at the end the following:

''(5) If an employee or Member waives retired pay that is subject to a court order for which there has been effective service on the Secretary concerned for purposes of section 1408 of title 10, the military service on which the retired pay is based may be credited as service for purposes of this chapter only if, in accordance with regulations prescribed by the Director of the Office of Personnel Management, the employee or Member authorizes the Director to deduct and withhold from the annuity payable to the employee or Member under this subchapter, and to pay to the former spouse covered by the court order, the same amount that would have been deducted and withheld from the employee's or Member's retired pay and paid to that former spouse under such section 1408.''.

(2) CONFORMING AMENDMENT.—Paragraph (1) of such subsection is amended by striking out ''Except as provided in paragraph (2) or (3)'' and inserting ''Except as provided in paragraphs (2), (3), and (5)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1997.

TITLE III—REFORMS RELATED TO 401(K) PLANS

SEC. 301. 401(k) PLANS PROHIBITED FROM INVESTING IN COLLECTIBLES.

(a) IN GENERAL.—Paragraph (4) of section 401(k) of the Internal Revenue Code of 1986 (relating to cash or deferred arrangements) is amended by adding at the end the following new subparagraph:

''(D) INVESTMENT IN COLLECTIBLES TREATED AS DISTRIBUTIONS.—The rules of section 408(m) shall apply to a cash or deferred arrangement of any employer.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 302. REQUIREMENT OF ANNUAL, DETAILED INVESTMENT REPORTS APPLIED TO CERTAIN 401(k) PLANS.

(a) IN GENERAL.—Paragraph (4) of section 401(k) of the Internal Revenue Code of 1986 (relating to cash or deferred arrangements), as amended by section 1, is amended by adding at the end the following new subparagraph:

''(E) ANNUAL, DETAILED INVESTMENT REPORTS REQUIRED.—

''(i) IN GENERAL.—A cash or deferred arrangement of any employer with less than 100 participants shall not be treated as a qualified cash or deferred arrangement unless the plan of which it is a part provides to each participant an annual investment report detailing the name of each investment acquired during such plan year and the date and cost of such acquisition, the name of each investment sold during such year and the date and net proceeds of such sale, and the overall rate of return for all investments for such year.

''(ii) EXCEPTION.—Clause (i) shall not apply with respect to any participant described in section 404(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104(c)).''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 303. 10-PERCENT LIMITATION ON ACQUISITION AND HOLDING OF EMPLOYER SECURITIES AND EMPLOYER REAL PROPERTY APPLIED TO 401(K) PLANS.

(a) IN GENERAL.—Subparagraph (A) of section 407(d)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1107(d)(3)) is amended by adding at the end the following new sentence: ''Such term also excludes an individual account plan that includes a qualified cash or deferred arrangement described in section 401(k) of the Internal Revenue Code of 1986, if such plan, together with all other individual account plans maintained by the employer, owns more than 10 percent of the assets owned by all pension plans maintained by the employer. For purposes of the preceding sentence, the assets of such plan subject to participant control (within the meaning of section 404(c)) shall not be taken into account.''.

(b) EFFECTIVE DATE; TRANSITION RULE.—

(1) EFFECTIVE DATE.—Except as provided in paragraph (2), the amendment made by this section shall apply to plans on and after the date of the enactment of this Act.

(2) TRANSITION RULE FOR PLANS HOLDING EXCESS SECURITIES OR PROPERTY.—In the case of a plan which on the date of the enactment of this Act has holdings of employer securities and employer real property (as defined in section 407(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1107(d)) in excess of the amount specified in such section 407, the amendment made by this section shall apply to any acquisition of such securities and property on or after such date of enactment, but shall not apply to the specific holdings which constitute such excess during the period of such excess.

TITLE IV—MODIFICATIONS OF JOINT AND SURVIVOR ANNUITY REQUIREMENTS

SEC. 401. MODIFICATIONS OF JOINT AND SURVIVOR ANNUITY REQUIREMENTS.

(a) AMENDMENTS TO ERISA.—

(1) AMOUNT OF ANNUITY.—

(A) IN GENERAL.—Paragraph (1) of section 205(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(a)) is amended by inserting ''or, at the election of the participant, shall be provided in the form of a qualified joint and two-thirds survivor annuity'' after ''survivor annuity,''.

(B) DEFINITION.—Subsection (d) of section 205 of such Act (29 U.S.C. 1055) is amended—

(i) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(ii) by inserting ''(1)'' after ''(d)'', and

(iii) by adding at the end the following new paragraph:

''(2) For purposes of this section, the term ''qualified joint and two-thirds survivor annuity'' means an annuity—

''(A) for the participant while both the participant and the spouse are alive with a survivor annuity for the life of the surviving individual (either the participant or the spouse) equal to 66⅔ percent of the amount of the annuity which is payable to the participant while both the participant and the spouse are alive,

''(B) which is the actuarial equivalent of a single annuity for the life of the participant, and

''(C) which, for all other purposes of this Act, is treated as a qualified joint and survivor annuity.''.

(2) ILLUSTRATION REQUIREMENT.—Clause (i) of section 205(c)(3)(A) of such Act (29 U.S.C. 1055(c)(3)(A)) is amended to read as follows:

''(i) the terms and conditions of each qualified joint and survivor annuity and qualified joint and two-thirds survivor annuity offered, accompanied by an illustration of the benefits under each such annuity for the particular participant and spouse and an acknowledgement form to be signed by the participant and the spouse that they have read and considered the illustration before any form of retirement benefit is chosen,''.

(b) AMENDMENTS TO INTERNAL REVENUE CODE.—

(1) AMOUNT OF ANNUITY.—

(A) IN GENERAL.—Clause (i) of section 401(a)(11)(A) of the Internal Revenue Code of 1986 (relating to requirement of joint and survivor annuity and preretirement survivor annuity) is amended by inserting ''or, at the election of the participant, shall be provided in the form of a qualified joint and two-thirds survivor annuity'' after ''survivor annuity,''.

(B) DEFINITION.—Section 417 of such Code (relating to definitions and special rules for purposes of minimum survivor annuity requirements) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) DEFINITION OF QUALIFIED JOINT AND TWO-THIRDS SURVIVOR ANNUITY.—For purposes of this section and section 401(a)(11), the term ''qualified joint and two-thirds survivor annuity'' means an annuity—

''(1) for the participant while both the participant and the spouse are alive with a survivor annuity for the life of the surviving individual (either the participant or the spouse) equal to 66⅔ percent of the amount of the annuity which is payable to the participant while both the participant and the spouse are alive,

''(2) which is the actuarial equivalent of a single annuity for the life of the participant, and

''(3) which, for all other purposes of this title, is treated as a qualified joint and survivor annuity.''.

(2) ILLUSTRATION REQUIREMENT.—Clause (i) of section 417(a)(3)(A) of such Code (relating to explanation of joint and survivor annuity) is amended to read as follows:

''(i) the terms and conditions of each qualified joint and survivor annuity and qualified joint and two-thirds survivor annuity offered, accompanied by an illustration of the benefits under each such annuity for the particular participant and spouse and an acknowledgement form to be signed by the participant and the spouse that they have read and considered the illustration before any form of retirement benefit is chosen,''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 1996.

(2) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers

ratified on or before the date of the enactment of this Act, the amendments made by this section shall apply to the first plan year beginning on or after the earlier of—

(A) the later of—

(i) January 1, 1997, or

(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(B) January 1, 1998.

(3) PLAN AMENDMENTS.—If any amendment made by this section requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 1998, if—

(A) during the period after such amendment made by this section takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment made by this section, and

(B) such plan amendment applies retroactively to the period after such amendment made by this section takes effect and such first plan year.

A plan shall not be treated as failing to provide definitely determinable benefits or contributions, or to be operated in accordance with the provisions of the plan, merely because it operates in accordance with this paragraph.

TITLE V—SPOUSAL CONSENT REQUIRED FOR DISTRIBUTIONS FROM SECTION 401(K) PLANS

SEC. 501. SPOUSAL CONSENT REQUIRED FOR DISTRIBUTIONS FROM SECTION 401(K) PLANS.

(a) IN GENERAL.—Paragraph (2) of section 401(k) of the Internal Revenue Code of 1986 (defining qualified cash or deferred arrangement) is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) which provides that no distribution may be made unless—

''(i) the spouse of the employee (if any) consents in writing (during the 90-day period ending on the date of the distribution) to such distribution, and

''(ii) requirements comparable to the requirements of section 417(a)(2) are met with respect to such consent.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in plan years beginning after December 31, 1996.

TITLE VI—WOMEN'S PENSION TOLL-FREE PHONE NUMBER

SEC. 601. WOMEN'S PENSION TOLL-FREE PHONE NUMBER.

(a) IN GENERAL.—The Secretary of Labor shall contract with an independent organization to create a women's pension toll-free telephone number and contact to serve as—

(1) a resource for women on pension questions and issues;

(2) a source for referrals to appropriate agencies; and

(3) a source for printed information.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000 for each of the fiscal years 1997, 1998, 1999, and 2000 to carry out subsection (a).

TITLE VII—ANNUAL PENSION BENEFITS STATEMENTS

SEC. 701. ANNUAL PENSION BENEFITS STATEMENTS.

(a) IN GENERAL.—Subsection (a) of section 105 of Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025) is amended by striking ''shall furnish to any plan participant or beneficiary who so requests in writing,'' and inserting ''shall annually furnish to any plan participant and shall furnish to any plan beneficiary who so requests,''.

(b) CONFORMING AMENDMENT.—Subsection (a) of section 105 of such Act (29 U.S.C. 1025) is amended by striking ''participant or''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1996.

COMPREHENSIVE WOMEN'S PENSION PROTECTION ACT OF 1996

TITLE I

Ends Social Security integration by the year 2000.

Divides pensions not divided at the time of divorce pursuant to a court order (effectively making the Retirement Equity Act retroactive).

Clarifies integration with regard to Simplified Employee Pensions (SEPs).

Provides for the division of pensions in divorce unless otherwise provided in a qualified domestic relations order.

TITLE II

Allows a widow or divorced widow to collect her husband's civil service pensions if he leaves his job and dies before collecting benefits.

Allows a court that awards a women part of her husband's civil service pension upon divorce, to extend that award to any lump sum payment made if the husband dies before collecting benefits.

Allows a spouse to continue receiving Tier II railroad retirement benefits awarded upon divorce upon the death of her husband.

TITLE III

Prohibits 401(k) plans from investing in collectibles.

Requires annual detailed investment reports of 401(k) plans.

Prevents employers from forcing employees to keep 401(k) contributions in stock of the employer.

TITLE IV

Provides equal survivor annuities to both husbands and wives.

TITLE V

Applies spousal consent rules to Retirement Equity Act to 401(k) plans, thereby requiring a spousal signature before 401(k) money could be withdrawn.

TITLE VI

Gives Labor Department authority to set up a women's pension hotline.

Authorizes appropriations of up to $500,000 in each of the next four years.

TITLE VII

Requires pension plans to provide participants with annual benefit statements.

By Mr. AKAKA:

S. 2133. A bill to authorize the establishment of the Center for American Cultural Heritage within the National Museum of American History of the Smithsonian Institution, and for other purposes; to the Committee on Rules and Administration.

THE CENTER FOR AMERICAN CULTURAL HERITAGE ACT

● Mr. AKAKA.

Mr. President, this year marks the 150th anniversary of the founding of the Smithsonian Institution, our premier educational institution dedicated to the ''increase and diffusion of knowledge among men.'' To mark this important anniversary, I am today introducing legislation to expand the scope of the Smithsonian's National Museum of American History to include a new entity, the Center for American Cultural Heritage.

The Center for American Cultural Heritage would be dedicated to presenting one of the most significant experiences in American history, the complex movement of people, ideas, and cultures across boundaries—whether voluntary or involuntary, internal or external—that resulted in the peopling of America and the development of a unique, pluralist society. In large measure, this experience defines who we are as individuals and ultimately binds us together as a nation.

Under my bill, the Center would serve as:

A location for permanent and temporary exhibits and programs depicting the history of America's diverse peoples and their interactions with each other. The exhibits would form a unified narrative of the historical processes by which the United States was developed.

A center for research and scholarship to ensure that future generations of scholars will have access to resources necessary for telling the story of American pluralism.

A repository for the collection of relevant artifacts, artworks, and documents to be preserved, studied, and interpreted.

A venue for integrated public education programs, including lectures, films, and seminars, based on the Center's collections and research.

A location for a standardized index of resources within the Smithsonian dealing with the heritages of all Americans. The Smithsonian holds millions of artifacts which have not been identified or classified for this purpose.

A clearinghouse for information on ethnic documents, artifacts, and artworks that may be available through non-Smithsonian sources, such as other federal agencies, museums, academic institutions, individuals, or foreign entities.

A folklife center highlighting the cultural expressions of the peoples of the United States. The current Smithsonian Center for Folklife Programs and Cultural Studies, which already performs this function, could be integrated with the Center.

A center to promote mutual understanding and tolerance. The Center would facilitate programs designed to encourage greater understanding of, and respect for, each of America's diverse ethnic and cultural heritages. The Center would also disseminate techniques of conflict resolution currently being developed by social scientists.

An oral history center developed through interviews with volunteers and visitors. The Center would also serve as an oral history repository and a clearinghouse for oral histories held by other institutions.

A user-friendly visitor center providing individually tailored orientation guides to Smithsonian visitors. Visitors would use the Center as an initial

orientation phase for ethnically or culturally related artifacts, artworks, or information that can be found throughout the Smithsonian.

A location for training museum professionals in museum practices relating to the life, history, art, and culture of the peoples of the United States. The Center would sponsor training programs for professionals or students involved in teaching, researching, and interpreting the heritages of America's peoples.

A location for testing and evaluating new museum-related technologies that could facilitate the operation of the Center. The Center could serve as a test bed for cutting-edge technologies that could later be used by other museums.

My legislation also calls for the Center to be organized as an arm of the National Museum of American History, not as a free-standing entity, with the director of the Center reporting to the director of the National Museum. In other words, the Center represents an expansion of an existing Smithsonian entity, National Museum, as opposed to the establishment of a new museum. My bill also stipulates that the Center be located in new or existing Smithsonian facilities on or near the National Mall. Finally, my bill establishes an Advisory Committee on American Cultural Heritage to provide guidance on the operation and direction of the proposed Center.

Mr. President, aside from the original Americans who have lived here for thousands of years, Americans are travellers from other lands. From the most recent immigrants from Southeast Asia to the first Europeans who came as explorers and conquerors, from the Africans who were forcibly brought over as slaves to the Mexicans of Nuevo Mexico and the French of the Louisiana Territory who, through treaty or land purchase or conquest were brought into the American fold through a change in political boundaries—all were once visitors to this great country.

America is thus defined by the movement of its peoples, both internally and externally. This complex journey has shaped our national character and determined who we are as a nation. The grand progress to and across the American landscape, via exploration, the slave trade, traditional immigration, or internal migration, gave rise to the interactions that make the American experience unique in history.

So much of who we are is bound to the cultures and traditions that our forebears brought from other shores, as well as by the new traditions and cultures that were created on arrival. Whether we settled in the agrarian West or the industrialized North, whether we lived in the small towns of the Midwest or the genteel cities of the South, we inevitably formed relationships with peoples of other backgrounds and cultures. It is therefore impossible to comprehend our joint heritage as Americans unless we know the history of our various American cultures, as they were brought over from other lands and as they were transformed by encounters with other cultures in America. As one eminent cultural scholar has noted:

> How can one learn about slavery, holocausts, immigration, ecological adaptation or ways of seeing the world without some type of comparative perspective, without some type of relationship between cultures and peoples. How can we understand the history of any one cultural group—for example, the Irish—without reference to other groups—for example, the British. How can we understand African American culture without placing it in some relationship to its diverse African cultural roots, the creolized cultures of the Caribbean, the Native American bases of Maroon and Black Seminole cultures, the religious, economic and linguistic cultures of the colonial Spanish in Columbia, the French in Haiti, the Dutch in Suriname, and the English in the United States?

The purpose of the Center for American Cultural Heritage is to explore the intercultural and interethnic dialogue of the American people, specifically by exploring our fundamental common experience, the process by which this land was peopled. This manifold experience is central to our appreciation of ourselves as individuals, as representatives of particular ethnic, racial, religious, or regional groups, and ultimately, as citizens of the United States. Understanding the peopling of America process is key to a fuller comprehension of our relationships with each other—past, present, and future.

Mr. President, it is strange and remarkable that the Smithsonian, our leading national educational institution, has never properly devoted itself to presenting this central experience in our history. Aside from occasional, temporary exhibits on a specific immigration or migration subject, such as the National Museum's current exhibit on the northern migration of African Americans, none of the Smithsonian's many museums and facilities has taken it upon itself to examine any aspect of the peopling of America phenomenon, much less offered a global review of the subject.

In part, this derives from the fact that the Smithsonian, for all its reputation as world-class research and educational organization, remains an institution rooted in 19th century intellectual taxonomy. For example, during the early years of the Smithsonian, the cultures of Northern and Western European Americans were originally represented at the Museum of Science and Industry, which eventually became the National Museum of American History. However, African Americans, Asian Americans, Native Americans, and others were treated ''ethnographically'' as part of the National Museum of Natural History. This artificial bifurcation of our cultural patrimonies is still in place today. Consequently, the collections of various ethnic and cultural groups have been fragmented among various Smithsonian entities, making it difficult to view these groups in relation to each other or as part of a larger whole.

Mr. President, the establishment of a Smithsonian Center of American Cultural Heritage is long overdue. The saga of the peopling of America deserves a national venue, a place where all Americans, regardless of ethnic origin, can come to discover and celebrate their many-branched roots. The Smithsonian, with its unequalled stature, reputation, resources, and, of course, location in the Nation's Capital, is the only institution capable of telling this magnificent story, one that transformed us from strangers from many different shores into neighbors unified in our inimitable diversity—Americans all.

Mr. President, in May 1995, the Commission on the Future of the Smithsonian Institution, a blue ribbon panel charged with pondering the future of the 150-year-old institution, issued its final report. In its preface, the Commission noted:

> The Smithsonian Institution is the principal repository of the nation's collective memory and the nation's largest public cultural space. It is dedicated to preserving, understanding, and displaying the land we inhabit and the diversity and depth of American civilization in all its timbres and color. It holds in common for all Americans that set of beliefs—in the form of artifacts—about our past that, taken together, comprise our collective history and symbolize the ideals to which we aspire as a polity. The Smithsonian—with its 140 million objects, 16 museums and galleries, the national Zoo, and 29 million annual visits—has been, for a century and a half, a place of wonder, a magical place where Americans are reminded of how much we have in common.
>
> The story of America is the story of a plural nation. As epitomized by our nation's motto, America is a composite of peoples. Our vast country was inhabited by various cultures long before the Pilgrims arrived. Slaves and immigrants built a new nation from ''sea to shining sea,'' across mountains, plains, deserts and great rivers, all rich in diverse climates, animals, and plants. One of the Smithsonian's essential tasks is to make the history of our country come alive for each new generation of American children.
>
> We cannot even imagine an ''American'' culture that is not multiple in its roots and in its branches. In a world fissured by differences of ethnicity and religion, we must all learn to live without the age-old dream of purity—whether of bloodlines or cultural inheritance—and learn to find comfort, solace, and even fulfillment in the rough magic of the cultural mix. And it is the challenge to preserve and embody that marvelous mix—the multi-various mosaic that is our history, culture, land, and the people who have made it—that the Smithsonian Institution, on the eve of the twenty-first century, must rededicate itself.

Mr. President, what more appropriate or compelling argument in favor of a Center for American Cultural Heritage can be found than in these words? What initiative other than the Center for American Cultural Heritage would more directly address the Smithsonian's role in presenting ''the diversity and depth of American civilizations in all its timbres and color,'' or

making ''the history of our country come alive for each new generation of American children,'' or preserving ''the multi-various mosaic that is our history, culture, land, and the people who have made it''?

Mr. President, I believe that the Center is a worthy initiative that is consistent with the mission of the Smithsonian. Nevertheless, I understand that my colleagues will need time to consider the merits of this major, new proposal. I am aware that the Smithsonian has a large number of costly projects already underway that require Congress's full attention. For this reason, I harbor no illusions that a Center for American Cultural Heritage can be established anytime soon, perhaps not until the next century. However, I hope that this legislation will initiate a national conversation about the role that the Smithsonian should play in preserving America's diverse cultural patrimony. I look forward to beginning this conversation with my colleagues, the academic community, and the interested public.

Mr. President, I ask unanimous consent that the full 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. 2133

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 ''Center for American Cultural Heritage Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The history of the United States is in large measure the history of how the United States was populated.

(2) The evolution of the American population is broadly termed the ''peopling of America'' and is characterized by the movement of groups of people across external and internal boundaries of the United States as well as by the interactions of such groups with each other.

(3) Each of these groups has made unique, important contributions to American history, culture, art, and life.

(4) The spiritual, intellectual, cultural, political, and economic vitality of the United States is a result of the pluralism and diversity of the population.

(5) The Smithsonian Institution operates 16 museums and galleries, a zoological park, and 5 major research facilities. None of these public entities is a national institution dedicated to presenting the history of the peopling of the United States as described in paragraph (2).

(6) The respective missions of the National Museum of American History of the Smithsonian Institution and the Ellis Island Immigration Museum of the National Park Service limit the ability of such museums to present fully and adequately the history of the diverse population and rich cultures of the United States.

(7) The absence of a national facility dedicated solely to presenting the history of the peopling of the United States restricts the ability of the citizens of the United States to fully understand the rich and varied heritage of the United States derived from the unique histories of many peoples from many lands.

(8) The establishment of a Center for American Cultural Heritage to conduct educational and interpretive programs on the history of the United States' multiethnic, multiracial character will help to inspire and better inform the citizens of the United States about the rich and diverse cultural heritage of the citizens of the United States.

SEC. 3. ESTABLISHMENT OF THE CENTER FOR AMERICAN CULTURAL HERITAGE.

(a) ESTABLISHMENT.—There is established within the National Museum of American History of the Smithsonian Institution a facility that shall be known as the ''Center for American Cultural Heritage''.

(b) PURPOSES OF THE CENTER.—The purposes of the Center are to—

(1) promote knowledge of the life, art, culture, and history of the many groups of people who comprise the United States;

(2) illustrate how such groups cooperated, competed, or otherwise interacted with each other; and

(3) explain how the diverse, individual experiences of each group collectively helped forge a unified national experience.

(c) COMPONENTS OF THE CENTER.—The Center shall include—

(1) a location for permanent and temporary exhibits depicting the historical process by which the United States was populated;

(2) a center for research and scholarship relating to the life, art, culture, and history of the groups of people of the United States;

(3) a repository for the collection, study, and preservation of artifacts, artworks, and documents relating to the diverse population of the United States;

(4) a venue for public education programs designed to explicate the multicultural past and present of the United States;

(5) a location for the development of a standardized index of documents, artifacts, and artworks in collections that are held by the Smithsonian Institution and classified in a manner consistent with the purposes of the Center;

(6) a clearinghouse for information on documents, artifacts, and artworks on the groups of people of the United States that may be available to researchers, scholars, or the general public through non-Smithsonian collections, such as documents, artifacts, and artworks of such groups held by other Federal agencies, museums, universities, individuals, and foreign institutions;

(7) a folklife center committed to highlighting the cultural expressions of various peoples within the United States;

(8) a center to promote mutual understanding and tolerance among the groups of people of the United States through exhibits, films, brochures, and other appropriate means;

(9) an oral history library developed through interviews with volunteers, including visitors;

(10) a location for a visitor center that shall provide individually tailored orientation guides for visitors to all Smithsonian Institution facilities;

(11) a location for the training of museum professionals and others in the arts, humanities, and sciences with respect to museum practices relating to the life, art, history, and culture of the various groups of people of the United States; and

(12) a location for developing, testing, demonstrating, evaluating, and implementing new museum-related technologies that assist to fulfill the purposes of the Center, enhance the operation of the Center, and improve accessibility of the Center.

SEC. 4. LOCATION AND CONSTRUCTION.

(a) LOCATION.—The Center shall be located in new or existing Smithsonian Institution facilities on or near the National Mall located in the District of Columbia.

(b) CONSTRUCTION.—The Board of Regents is authorized to plan, design, reconstruct, or construct appropriate facilities to house the Center.

SEC. 5. DIRECTOR AND STAFF.

(a) IN GENERAL.—The Secretary of the Smithsonian Institution shall appoint and fix the compensation and duties of a Director, Assistant Director, Secretary, and Chief Curator of the Center and any other officers and employees necessary for the operation of the Center. The Director of the Center shall report to the Director of the National Museum of American History. The Director, Assistant Director, Secretary, and Chief Curator shall be qualified through experience and training to perform the duties of their offices.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Secretary of the Smithsonian Institution may—

(1) appoint the Director and 5 employees under subsection (a), without regard to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(2) fix the pay of the Director and such 5 employees, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

SEC. 6. ADVISORY COMMITTEE ON AMERICAN CULTURAL HERITAGE.

(a) ESTABLISHMENT OF ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—There is established an advisory committee to be known as the ''Advisory Committee on American Cultural Heritage''.

(2) MEMBERSHIP.—

(A) COMPOSITION.—The Committee shall be composed of 15 members who shall—

(i) be appointed by the Secretary;

(ii) have expertise in immigration history, ethnic studies, museum science, or any other academic or professional field that involves matters relating to the cultural heritage of the citizens of the United States; and

(iii) reflect the diversity of the citizens of the United States.

(B) INITIAL APPOINTMENTS.—The initial appointments of the members of the Committee shall be made not later than 6 months after the date of enactment of this Act.

(3) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Committee. Any vacancy in the Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

(4) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Committee have been appointed, the Committee shall hold its first meeting.

(5) MEETINGS.—The Committee shall meet at the call of the Chairperson, but shall meet not less than 2 times each fiscal year.

(6) QUORUM.—A majority of the members of the Committee shall constitute a quorum, but a lesser number of members may hold hearings.

(7) CHAIRPERSON AND VICE CHAIRPERSON.—The Committee shall select a Chairperson and Vice Chairperson from among its members.

(b) DUTIES OF THE COMMITTEE.—The Committee shall advise the Secretary, the Director of the National Museum of American History, and the Director of the Center on policies and programs affecting the Center.

(c) COMMITTEE PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—Each member of the Committee who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive

Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Committee. All members of the Committee who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) TRAVEL EXPENSES.—The members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Committee.

(3) STAFF.—

(A) IN GENERAL.—The Chairperson of the Committee may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Committee to perform its duties. The employment of an executive director shall be subject to confirmation by the Committee.

(B) COMPENSATION.—The Chairperson of the Committee may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(4) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Committee without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(5) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Committee may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 7. DEFINITIONS.

As used in this Act:

(1) BOARD OF REGENTS.—The term ''Board of Regents'' means the Board of Regents of the Smithsonian Institution.

(2) CENTER.—The term ''Center'' means the Center for American Cultural Heritage established under section 3(a).

(3) COMMITTEE.—The term ''Committee'' means the advisory Committee on American Cultural Heritage established under section 8(a).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Smithsonian Institution.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act such sums as may be necessary for each fiscal year.●

By Mr. BIDEN (by request):

S. 2134. A bill to amend the Higher Education Act of 1965 to authorize Presidential honors scholarships to be awarded to all students who graduate in the top 5 percent of their secondary school graduating class, to promote and recognize high academic achievement in secondary school, and for other purposes; to the Committee on Labor and Human Resources.

THE PRESIDENTIAL HONORS SCHOLARSHIP ACT OF 1996

● Mr. BIDEN. Mr. President, I am pleased today to introduce on behalf of the Administration the Presidential Honors Scholarship Act of 1996. I want to commend President Clinton for this particular initiative and for his overall outstanding leadership on behalf of education.

Over the past 4 years, I have worked with President Clinton most closely on anti-crime and drug legislation. But, I have watched, admired, and tried to help his efforts on behalf of education as well. George Bush said he wanted to be the education president. Bill Clinton has been. And, this bill on merit scholarships is an important part of his agenda.

In August, I introduced comprehensive legislation to make college more affordable for middle-class families. The Growing the Economy for Tomorrow: Assuring Higher Education is Affordable and Dependable Act—GET AHEAD for short—would provide tax cuts for the cost of college, encourage families to save for a college education, and award merit scholarships to high school students in the top of their classes academically.

I included merit scholarships in the Get Ahead Act and I have agreed—even though our proposals differ in a few minor details—to introduce the administration's bill today for one simple reason. We need to reward students who succeed in meeting high academic standards.

If we are going to reform education—I mean, really reform education so that our children will be an educated workforce able to compete in the international economy—then we must first set tough academic standards. Students must know what is expected of them. Parents must know what their children should be learning. Teachers must stay focused on the mission of educating children. And, we all should know that a high school diploma means something.

But, Mr. President, not only should States be setting high academic standards for our students—with support and assistance from the Federal Government—but we should be rewarding those students who meet the high standards. The best way to reward them is to make it just a little bit easier to go to college, which is by the way, another key incredient—in addition to tough standards—in ensuring a highly educated American workforce.

The Presidential Honors Scholarship Act would provide a $1,000 scholarship to all graduating seniors in public and private schools who finish in the top 5 percent of their class. These Presidential honors scholars could use the scholarship in their freshman year at the college of their choice, and the scholarship would not be used in determining eligibility for other financial aid.

Although $1,000 may not seem like a lot, it is about two-thirds of the cost of the average tuition at a community college. And, more importantly, it is the principle that counts. Those who work hard and succeed ought to be recognized and rewarded.

Now, there are some—and I have heard from them already—who believe that the money for merit scholarships would be better spent helping those in financial need. I do not disagree with the notion that we should help all students who are qualified to go to college get to college. But, of those who finish in the top 5 percent of their high school graduating class—those who would benefit from this bill—81 percent come from families with incomes under $75,000 per year. I suggest they are exactly the ones in need, given the high cost of college today—and there were reports in this morning's paper that tuition costs at public colleges have gone up another 6 percent, more than double the rate of inflation. But, regardless of who benefits, I also believe that we should start to reward excellence for excellence's sake.

I have no illusions—and the administration does not either—that this bill is going to pass here in the waning days of the 104th Congress. Our intent is merely to introduce the bill now, and to come back next year to try to see it become law as part of the reauthorization of the Higher Education Act. I encourage my colleagues to take a look at this legislation and to support the idea of merit scholarships.●

ADDITIONAL COSPONSORS

S. 684

At the request of Mr. HATFIELD, the names of the Senator from North Carolina [Mr. FAIRCLOTH] and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 684, a bill to amend the Public Health Service Act to provide for programs of research regarding Parkinson's disease, and for other purposes.

S. 729

At the request of Mr. BAUCUS, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as cosponsors of S. 729, a bill to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund, and for other purposes.

S. 1660

At the request of Mr. GLENN, the names of the Senator from Kansas [Mrs. KASSENBAUM] and the Senator from Missouri [Mr. BOND] were added as cosponsors of S. 1660, a bill to provide for ballast water management to prevent the introduction and spread of nonindigenous species into the waters of the United States, and for other purposes.

S. 2091

At the request of Mr. PRESSLER, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as cosponsors of S. 2091, a bill to provide for

small business and agriculture regulatory relief.

S. 2123

At the request of Mr. BAUCUS, the name of the Senator from North Dakota [Mr. CONRAD] was added as cosponsors of S. 2123, a bill to require the calculation of Federal-aid highway apportionments and allocations for fiscal year 1997 to be determined so that States experience no net effect from a credit to the Highway Trust Fund made in correction of an accounting error made in fiscal year 1994, and for other purposes.

SENATE RESOLUTION 301—DESIGNATING NATIONAL FALLEN FIREFIGHTERS MEMORIAL DAY

Mr. SARBANES submitted the following resolution; which was referred to the Committee on the Judiciary.

S. RES. 301

Whereas children's eyes fill with wonderment when they announce that their life's ambition is to become a firefighter, and adults are inspired by the bravery of the men and women of the fire service;

Whereas the men and women of the fire service are advocates for preventing the great amount of injuries, death, and damage to property that fire causes in this Nation, as well as the first line of defense in preventing these problems;

Whereas career and volunteer firefighters of this Nation enrich the communities in which they live and work, and exemplify the highest standards of service, dedication, dependability, selfless determination, honor, and civic spirit;

Whereas twenty years ago, when thousands of individuals were dying as the result of fires, and men and women of the fire service helped to focus this Nation's attention on fire prevention and safety, thereby reducing by half the number of fire related deaths;

Whereas due to the commitment and support of the men and women of the fire service, this Nation continues to make fire prevention and safety a top priority;

Whereas by placing the safety and well-being of others above their own, firefighters confront grave dangers every day in order to protect this Nation from the devastation caused by fires and other emergencies;

Whereas 102 firefighters died in the line of duty in 1995 and more than 94,500 were injured;

Whereas on Sunday, October 13, 1996, at the National Fallen Firefighters Memorial in Emmitsburg, Maryland, this Nation will pay its respects to the firefighters who have given their lives to protect this Nation; and

Whereas the men and women of the fire service who have given their lives in order to protect this nation are truly American heroes: Now, therefore, be it

Resolved, That the Senate designates October 13, 1996, as ''National Fallen Firefighters Memorial Day''. The President is requested—

(1) to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities; and

(2) to urge all Federal agencies, entities of each branch of the Federal Government, and interested organizations, groups, and individuals to fly the flag of the United States at half-staff on October 13, 1996, in honor of the individuals who have died as a result of their service as firefighters.

Mr. SARBANES. Mr. President, today I am submitting a resolution to designate October 13, 1996 as National Fallen Firefighters Memorial Day. At a time when we bemoan our Nation's lack of heroes, I contend that we can find them in every firehall across the country. The fire service, career and volunteers alike, confront grave dangers day in and day out in protecting lives and property against the devastation of fire. More than 100 firefighters die in the line of duty during the average year, making firefighting one of the world's most dangerous professions. As a cochairman of the Congressional Fire Services Caucus, it has always been one of my top priorities to ensure that our men and women in the fire service receive the recognition they deserve. While the National Fallen Fighters Memorial Service on the campus of the National Fire Academy in Emmitsburg, MD provides a deeply moving tribute and strong support for the friends and families of the fallen each year, I contend that as a nation we can always do more to recognize the sacrifice and commitment demonstrated by the fire service.

It is for that purpose that I have introduced this legislation. This resolution requests that the President issue a proclamation calling on the Nation as a whole to observe this day with appropriate ceremonies and activities along with all those gathered at the National Fallen Fire Fighters Memorial in Emmitsburg. This Presidential Proclamation would also urge all Federal agencies, entities of each branch of the Federal Government, and interested organizations, groups, and individuals to fly the flag of the United States at half-staff on October 13, 1996, in honor of the individuals who have died as a result of their service as firefighters. I urge my colleagues to support this resolution.

SENATE RESOLUTION 302—TO AUTHORIZE THE PRODUCTION OF RECORDS BY THE COMMITTEE ON INDIAN AFFAIRS

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 302

Whereas, the United States Department of Justice and counsel for the plaintiff-relators and defendant in the case of *United States of America ex rel. William I. Koch, et al.* v. *Koch Industries, Inc., et al.*, Case No. 91–CV–763–B, pending in the United States District Court for the Northern District of Oklahoma, have requested that the Committee on Indian Affairs provide them with copies of records of the former Special Committee on Investigations of the Committee on Indian Affairs for use in connection with the pending civil action;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers, and records under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Ranking Minority Member of the Committee on Indian Affairs, acting jointly, are authorized to provide to the United States Department of Justice, counsel for the plaintiff-relators and defendant in *United States of America ex rel. William I. Koch, et al.* v. *Koch Industries, Inc., et al.*, and other requesting individuals and entities, copies of records of the Special Committee on Investigations for use in connection with pending legal proceedings, except concerning matters for which a privilege should be asserted.

AMENDMENTS SUBMITTED

THE NATIONAL INSTITUTES OF HEALTH REVITALIZATION ACT OF 1996

KASSEBAUM AMENDMENT NO. 5404

Mr. LOTT (for Mrs. KASSEBAUM) proposed an amendment to the bill (S. 1897) to amend the Public Health Service Act to revise and extend certain programs relating to the National Institutes of Health, and for other purposes; as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; REFERENCES; AND TABLE OF CONTENTS

(a) SHORT TITLE.—This Act may be cited as the ''National Institutes of Health Revitalization Act of 1996''.

(b) REFERENCES.—Whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; references; and table of contents

TITLE I—PROVISIONS RELATING TO THE NATIONAL INSTITUTES OF HEALTH

Sec. 101. Director's discretionary fund.
Sec. 102. Children's vaccine initiative.

TITLE II—PROVISIONS RELATING TO THE NATIONAL RESEARCH INSTITUTES

Sec. 201. Research on osteoporosis, paget's disease, and related bone disorders.
Sec. 202. National Human Genome Research Institute.
Sec. 203. Increased amount of grant and other awards.
Sec. 204. Meetings of advisory committees and councils.
Sec. 205. Elimination or modification of reports.

TITLE III—SPECIFIC INSTITUTES AND CENTERS

Subtitle A—National Cancer Institute

Sec. 301. Authorization of appropriations.
Sec. 302. DES study.

Subtitle B—National Heart Lung and Blood Institute

Sec. 311. Authorization of appropriations.

Subtitle C—National Institute of Allergy and Infectious Diseases

Sec. 321. Terry Beirn community-based AIDS research initiative.

Subtitle D—National Institute of Child Health and Human Development
Sec. 331. Research centers for contraception and infertility.
Subtitle E—National Institute on Aging
Sec. 341. Authorization of appropriations.
Subtitle F—National Institute on Alcohol Abuse and Alcoholism
Sec. 351. Authorization of appropriations.
Sec. 352. National Alcohol Research Center.
Subtitle G—National Institute on Drug Abuse
Sec. 361. Authorization of appropriations.
Sec. 362. Medication development program.
Sec. 363. Drug Abuse Research Centers.
Subtitle H—National Institute of Mental Health
Sec. 371. Authorization of appropriations.
Subtitle I—National Center for Research Resources
Sec. 381. Authorization of appropriations.
Sec. 382. General Clinical Research Centers.
Sec. 383. Enhancement awards.
Sec. 384. Waiver of limitations.
Subtitle J—National Library of Medicine
Sec. 391. Authorization of appropriations.
Sec. 392. Increasing the cap on grant amounts.
TITLE IV—AWARDS AND TRAINING
Sec. 401. Medical scientist training program.
Sec. 402. Raise in maximum level of loan repayments.
Sec. 403. General loan repayment program.
Sec. 404. Clinical research assistance.
TITLE V—RESEARCH WITH RESPECT TO AIDS
Sec. 501. Comprehensive plan for expenditure of AIDS appropriations.
Sec. 502. Emergency AIDS discretionary fund.
TITLE VI—GENERAL PROVISIONS
Subtitle A—Authority of the Director of NIH
Sec. 601. Authority of the Director of NIH.
Subtitle B—Office of Rare Disease Research
Sec. 611. Establishment of Office for Rare Disease Research.
Subtitle C—Certain Reauthorizations
Sec. 621. National Research Service Awards.
Sec. 622. National Foundation for Biomedical Research.
Subtitle D—Miscellaneous Provisions
Sec. 631. Establishment of National Fund for Health Research.
Sec. 632. Definition of clinical research.
Sec. 633. Establishment of a pediatric research initiative.
Sec. 634. Diabetes research.
Sec. 635. Parkinson's research.
Sec. 636. Pain research consortium.
Subtitle E—Repeals and Conforming Amendments
Sec. 641. Repeals and conforming amendments.

TITLE I—PROVISIONS RELATING TO THE NATIONAL INSTITUTES OF HEALTH

SEC. 101. DIRECTOR'S DISCRETIONARY FUND.

Section 402(i)(3) (42 U.S.C. 282(i)(3)) is amended by striking ''$25,000,000'' and all that follows through the period and inserting ''such sums as may be necessary for fiscal year 1997.''.

SEC. 102. CHILDREN'S VACCINE INITIATIVE.

Section 404B(c) (42 U.S.C. 283d(c)) is amended by striking ''$20,000,000'' and all that follows through the period and inserting ''such sums as may be necessary for fiscal year 1997.''.

TITLE II—PROVISIONS RELATING TO THE NATIONAL RESEARCH INSTITUTES

SEC. 201. RESEARCH ON OSTEOPOROSIS, PAGET'S DISEASE, AND RELATED BONE DISORDERS.

Section 409A(d) (42 U.S.C. 284e(d)) is amended by striking ''$40,000,000'' and all that follows through the period and inserting ''such sums as may be necessary for fiscal year 1997.''.

SEC. 202. NATIONAL HUMAN GENOME RESEARCH INSTITUTE.

(a) IN GENERAL.—Part C of title IV (42 U.S.C. 285 et seq.) is amended by adding at the end thereof the following new subpart:

''Subpart 18—National Human Genome Research Institute

''SEC. 464Z. PURPOSE OF THE INSTITUTE.

''(a) IN GENERAL.—The general purpose of the National Human Genome Research Institute is to characterize the structure and function of the human genome, including the mapping and sequencing of individual genes. Such purpose includes—

''(1) planning and coordinating the research goal of the genome project;

''(2) reviewing and funding research proposals;

''(3) conducting and supporting research training;

''(4) coordinating international genome research;

''(5) communicating advances in genome science to the public;

''(6) reviewing and funding proposals to address the ethical, legal, and social issues associated with the genome project (including legal issues regarding patents); and

''(7) planning and administering intramural, collaborative, and field research to study human genetic disease.

''(b) RESEARCH.—The Director of the Institute may conduct and support research training—

''(1) for which fellowship support is not provided under section 487; and

''(2) that is not residency training of physicians or other health professionals.

''(c) ETHICAL, LEGAL, AND SOCIAL ISSUES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), of the amounts appropriated to carry out subsection (a) for a fiscal year, the Director of the Institute shall make available not less than 5 percent of amounts made available for extramural research for carrying out paragraph (6) of such subsection.

''(2) NONAPPLICATION.—With respect to providing funds under subsection (a)(6) for proposals to address the ethical issues associated with the genome project, paragraph (1) shall not apply for a fiscal year if the Director of the Institute certifies to the Committee on Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, that the Director has determined that an insufficient number of such proposals meet the applicable requirements of sections 491 and 492.

''(d) TRANSFER.—

''(1) IN GENERAL.—There are transferred to the National Human Genome Research Institute all functions which the National Center for Human Genome Research exercised before the date of enactment of this subpart, including all related functions of any officer or employee of the National Center for Human Genome Research. The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred under this subsection shall be transferred to the National Human Genome Research Institute.

''(2) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, regulations, privileges, and other administrative actions which have been issued, made, granted, or allowed to become effective in the performance of functions which are transferred under this subsection shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law.

''(3) REFERENCES.—References in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the National Center for Human Genome Research shall be deemed to refer to the National Human Genome Research Institute.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for fiscal year 1997.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 401(b) (42 U.S.C. 281(b)) is amended—

(A) in paragraph (1), by adding at the end thereof the following new subparagraph:

''(R) The National Human Genome Research Institute.''; and

(B) in paragraph (2)—

(i) by striking subparagraph (D); and

(ii) by redesignating subparagraph (E) as subparagraph (D).

(2) Subpart 3 of part E of title IV (42 U.S.C. 287c et seq.) is repealed.

SEC. 203. INCREASED AMOUNT OF GRANT AND OTHER AWARDS.

Section 405(b)(2)(B) (42 U.S.C. 284(b)(2)(B) is amended—

(1) in clause (i), by striking ''$50,000'' and inserting ''$100,000''; and

(2) in clause (ii), by striking ''$50,000'' and inserting ''$100,000''.

SEC. 204. MEETINGS OF ADVISORY COMMITTEES AND COUNCILS.

(a) IN GENERAL.—Section 406 (42 U.S.C. 284a) is amended—

(1) in subsection (e), by striking '', but at least three times each fiscal year''; and

(2) in subsection (h)(2)—

(A) in subparagraph (A)—

(i) in clause (iv), by adding ''and'' after the semicolon;

(ii) in clause (v), by striking ''; and'' and inserting a period; and

(iii) by striking clause (vi); and

(B) in subparagraph (B), by striking '', except'' and all that follows through ''year''.

(b) PRESIDENT'S CANCER PANEL.—Section 415(a)(3) (42 U.S.C. 285a–4(a)(3)) is amended by striking '', but not less often than four times a year''.

(c) INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES INTERAGENCY COORDINATING COMMITTEES.—Section 429(b) (42 U.S.C. 285c–3(b)) is amended by striking '', but not less often than four times a year''.

(d) INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES INTERAGENCY COORDINATING COMMITTEES.—Section 439(b) (42 U.S.C. 285d–4(b)) is amended by striking '', but not less often than four times a year''.

(e) INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS INTERAGENCY COORDINATING COMMITTEES.—Section 464E(d) (42 U.S.C. 285m–5(d)) is amended by striking '', but not less often than four times a year''.

(f) INSTITUTE OF NURSING RESEARCH ADVISORY COUNCIL.—Section 464X(e) (42 U.S.C. 285q–2(e)) is amended by striking '', but at least three times each fiscal year''.

(g) CENTER FOR RESEARCH RESOURCES ADVISORY COUNCIL.—Section 480(e) (42 U.S.C. 287a(e)) is amended by striking '', but at least three times each fiscal year''.

(h) APPLICATION OF FACA.—Part B of title IV (42 U.S.C. 284 et seq.) is amended by adding at the end thereof the following new section:

''SEC. 409B. APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.

''Notwithstanding any other provision of law, the provisions of the Federal Advisory Committee Act (5 U.S.C. Ap. 2) shall not

apply to a scientific or technical peer review group, established under this title.''.

SEC. 205. ELIMINATION OR MODIFICATION OF REPORTS.

(a) PUBLIC HEALTH SERVICE ACT REPORTS.—The following provisions of the Public Health Service Act are repealed:

(1) Section 403 (42 U.S.C. 283) relating to the biennial report of the Director of the National Institutes of Health to Congress and the President.

(2) Subsection (c) of section 439 (42 U.S.C. 285d-4(c)) relating to the annual report of the Arthritis and Musculoskeletal Diseases Interagency Coordinating Committee and the annual report of the Skin Diseases Interagency Coordinating Committee.

(3) Subsection (j) of section 442 (42 U.S.C. 285d-7(j)) relating to the annual report of the National Arthritis and Musculoskeletal and Skin Diseases Advisory Board.

(4) Subsection (b) of section 494A (42 U.S.C. 289c–1(b)) relating to the annual report of the Secretary of Health and Human Services on health services research relating to alcohol abuse and alcoholism, drug abuse, and mental health.

(5) Subsection (b) of section 503 (42 U.S.C. 290aa–2(b)) relating to the triennial report of the Secretary of Health and Human Services to Congress.

(b) REPORT ON DISEASE PREVENTION.—Section 402(f)(3) (42 U.S.C. 282(f)(3)) is amended by striking ''annually'' and inserting ''biennially''.

(c) REPORTS OF THE COORDINATING COMMITTEES ON DIGESTIVE DISEASES, DIABETES MELLITUS, AND KIDNEY, UROLOGIC AND HEMATOLOGIC DISEASES.—Section 429 (42 U.S.C. 285c–3) is amended by striking subsection (c).

(d) REPORT OF THE TASK FORCE ON AGING RESEARCH.—Section 304 of the Home Health Care and Alzheimer's Disease Amendments of 1990 (42 U.S.C. 242q–3) is repealed.

(e) SUDDEN INFANT DEATH SYNDROME RESEARCH.—Section 1122 (42 U.S.C. 300c–12) is amended—

(1) in subsection (a)—

(A) by striking the subsection designation and heading; and

(B) by striking ''of the type'' and all that follows through ''adequate,'' and insert '', such amounts each year as will be adequate for research which relates generally to sudden infant death syndrome, including high-risk pregnancy and high-risk infancy research which directly relates to sudden infant death syndrome, and to the relationship of the high-risk pregnancy and high-risk infancy research to sudden infant death syndrome,''; and

(2) by striking subsections (b) and (c).

(f) U.S.-JAPAN COOPERATIVE MEDICAL SCIENCE PROGRAM.—Subsection (h) of section 5 of the International Health Research Act of 1960 is repealed.

(g) BIOENGINEERING RESEARCH.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Commerce of the House of Representatives, a report containing specific plans and timeframes on how the Director will implement the findings and recommendations of the report to Congress entitled ''Support for Bioengineering Research'' (submitted in August of 1995 in accordance with section 1912 of the National Institutes of Health Revitalization Act of 1993 (42 U.S.C. 282 note)).

(h) CONFORMING AMENDMENTS.—Title IV is amended—

(1) in section 404C(c) (42 U.S.C. 283e(c)), by striking ''included'' and all that follows through the period and inserting ''made available to the committee established under subsection (e) and included in the official minutes of the committee'';

(2) in section 404E(d)(3)(B) (42 U.S.C. 283g(d)(3)(B)), by striking ''for inclusion in the biennial report under section 403'';

(3) in section 406(g) (42 U.S.C. 284a(g))—

(A) by striking ''for inclusion in the biennial report made under section 407'' and inserting ''as it may determine appropriate''; and

(B) by striking the second sentence;

(4) in section 407 (42 U.S.C. 284b)—

(A) in the section heading, to read as follows:

''REPORTS''; and

(B) by striking ''shall prepare for inclusion in the biennial report made under section 403 a biennial'' and inserting ''may prepare a'';

(5) in section 416(b) (42 U.S.C. 285a–5(b)) by striking ''407'' and inserting ''402(f)(3)'';

(6) in section 417 (42 U.S.C. 285a–6), by striking subsection (e);

(7) in section 423(b) (42 U.S.C. 285b–6(b)), by striking ''407'' and inserting ''402(f)(3)'';

(8) by striking section 433 (42 U.S.C. 285c–7);

(9) in section 451(b) (42 U.S.C. 285g–3(b)), by striking ''407'' and inserting ''402(f)(3)'';

(10) in section 452(d) (42 U.S.C. 285g–4(d))—

(A) in paragraph (3)—

(i) in subparagraph (A), by striking ''(A) Not'' and inserting ''Not''; and

(ii) by striking subparagraph (B); and

(B) in the last sentence of paragraph (4), by striking ''contained'' and all that follows through the period and inserting ''transmitted to the Director of NIH.'';

(11) in section 464I(b) (42 U.S.C. 285n–1(b)), by striking ''407'' and inserting ''402(f)(3)'';

(12) in section 464M(b) (42 U.S.C. 285o–1)(b)), by striking ''407'' and inserting ''402(f)(3)'';

(13) in section 464S(b) (42 U.S.C. 285p–1(b)), by striking ''407'' and inserting ''402(f)(3)'';

(14) in section 464X(g) (42 U.S.C. 285q–2(g)) is amended—

(A) by striking ''for inclusion in the biennial report made under section 464Y'' and inserting ''as it may determine appropriate''; and

(B) by striking the second sentence;

(15) in section 464Y (42 U.S.C. 285q–3)—

(A) in the section heading, to read as follows:

''REPORTS''; and

(B) by striking ''shall prepare for inclusion in the biennial report made under section 403 a biennial'' and inserting ''may prepare a'';

(16) in section 480(g) (42 U.S.C. 287a(g))—

(A) by striking ''for inclusion in the biennial report made under section 481'' and inserting ''as it may determine appropriate''; and

(B) by striking the second sentence;

(17) in section 481 (42 U.S.C. 287a–1)—

(A) in the section heading, to read as follows:

''REPORTS''; and

(B) by striking ''shall prepare for inclusion in the biennial report made under section 403 a biennial'' and inserting ''may prepare a'';

(18) in section 486(d)(5)(B) (42 U.S.C. 287d(d)(5)(B)), by striking ''for inclusion in the report required in section 403'';

(19) in section 486B (42 U.S.C. 287d–2) by striking subsection (b) and inserting the following new subsection:

''(b) SUBMISSION.—The Director of the Office shall submit each report prepared under subsection (a) to the Director of NIH.''; and

(20) in section 492B(f) (42 U.S.C. 289a–2(f)), by striking ''for inclusion'' and all that follows through the period and inserting ''and the Director of NIH.''.

TITLE III—SPECIFIC INSTITUTES AND CENTERS

Subtitle A—National Cancer Institute

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Section 417B (42 U.S.C. 286a–8) is amended—

(1) in subsection (a), by striking ''$2,728,000,000'' and all that follows through the period and inserting ''$3,000,000,000 for fiscal year 1997.'';

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in the first sentence of subparagraph (A), by striking ''$225,000,000'' and all that follows through the first period and inserting ''such sums as may be necessary for fiscal year 1997.''; and

(ii) in the first sentence of subparagraph (B), by striking ''$100,000,000'' and all that follows through the first period and inserting ''such sums as may be necessary for fiscal year 1997.''; and

(B) in the first sentence of paragraph (2), by striking ''$75,000,000'' and all that follows through the first period and inserting ''such sums as may be necessary for fiscal year 1997.''; and

(3) in the first sentence of subsection (c), by striking ''$72,000,000'' and all that follows through the first period and inserting ''such sums as may be necessary for fiscal year 1997.''.

SEC. 302. DES STUDY.

Section 403A(e) (42 U.S.C. 283a(e)) is amended by striking ''1996'' and inserting ''1997''.

Subtitle B—National Heart Lung and Blood Institute

SEC. 311. AUTHORIZATION OF APPROPRIATIONS.

Section 425 (42 U.S.C. 285b–8) is amended by striking ''$1,500,000,000'' and all that follows through the period and inserting ''$1,600,000,000 for fiscal year 1997.''.

Subtitle C—National Institute of Allergy and Infectious Diseases

SEC. 321. TERRY BEIRN COMMUNITY-BASED AIDS RESEARCH INITIATIVE.

Section 2313(e) (42 U.S.C. 300cc–13(e)) is amended—

(1) in paragraph (1), by striking ''1996'' and inserting ''1997''; and

(2) in paragraph (2), by striking ''1996'' and inserting ''1997''.

Subtitle D—National Institute of Child Health and Human Development

SEC. 331. RESEARCH CENTERS FOR CONTRACEPTION AND INFERTILITY.

Section 452A(g) (42 U.S.C. 285g–5(g)) is amended by striking ''$30,000,000'' and all that follows through the period and inserting ''such sums as may be necessary for fiscal year 1997.''.

Subtitle E—National Institute on Aging

SEC. 341. AUTHORIZATION OF APPROPRIATIONS.

Section 445I (42 U.S.C. 285e–11) is amended by striking ''$500,000,000'' and all that follows through the period and inserting ''$550,000,000 for fiscal year 1997.''.

Subtitle F—National Institute on Alcohol Abuse and Alcoholism

SEC. 351. AUTHORIZATION OF APPROPRIATIONS.

Section 464H(d)(1) (42 U.S.C. 285n(d)(1)) is amended by striking ''300,000,000'' and all that follows through the period and inserting ''$330,000,000 for fiscal year 1997.''.

SEC. 352. NATIONAL ALCOHOL RESEARCH CENTER.

Section 464J(b) (42 U.S.C. 285n–2(b)) is amended—

(1) by striking ''(b) The'' and inserting ''(b)(1) The'';

(2) by striking the third sentence; and

(3) by adding at the end thereof the following new paragraph:

''(2) As used in paragraph (1), the terms 'construction' and 'cost of construction' include—

''(A) the construction of new buildings, the expansion of existing buildings, and the acquisition, remodeling, replacement, renovation, major repair (to the extent permitted by regulations), or alteration of existing buildings, including architects' fees, but not including the cost of the acquisition of land or offsite improvements; and

''(B) the initial equipping of new buildings and of the expanded, remodeled, repaired, renovated, or altered part of existing buildings; except that

such term shall not include the construction or cost of construction of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship.''.

Subtitle G—National Institute on Drug Abuse

SEC. 361. AUTHORIZATION OF APPROPRIATIONS.

Section 464L(d)(1) (42 U.S.C. 285o(d)(1)) is amended by striking ''$440,000,000'' and all that follows through the period and inserting ''$500,000,000 for fiscal year 1997.''.

SEC. 362. MEDICATION DEVELOPMENT PROGRAM.

Section 464P(e) (42 U.S.C. 285o–4(e)) is amended by striking ''$85,000,000'' and all that follows through the period and inserting ''such sums as may be necessary for fiscal year 1997''.

SEC. 363. DRUG ABUSE RESEARCH CENTERS.

Section 464N(b) (42 U.S.C. 285o–2(b)) is amended—

(1) by striking ''(b) The'' and inserting ''(b)(1) The'';

(2) by striking the last sentence; and

(3) by adding at the end thereof the following new paragraph:

''(2) As used in paragraph (1), the terms 'construction' and 'cost of construction' include—

''(A) the construction of new buildings, the expansion of existing buildings, and the acquisition, remodeling, replacement, renovation, major repair (to the extent permitted by regulations), or alteration of existing buildings, including architects' fees, but not including the cost of the acquisition of land or offsite improvements; and

''(B) the initial equipping of new buildings and of the expanded, remodeled, repaired, renovated, or altered part of existing buildings; except that

such term does not include the construction or cost of construction of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship.''.

Subtitle H—National Institute of Mental Health

SEC. 371. AUTHORIZATION OF APPROPRIATIONS.

Section 464R(f)(1) (42 U.S.C. 285p(f)(1)) is amended by striking ''$675,000,000'' and all that follows through the period and inserting ''$750,000,000 for fiscal year 1997.''.

Subtitle I—National Center for Research Resources

SEC. 381. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION.—Section 481A(h) (42 U.S.C. 287a–2(h)) is amended by striking ''$150,000,000'' and all that follows through the period and inserting ''such sums as may be necessary for fiscal year 1997.''.

(b) RESERVATION FOR CONSTRUCTION OF REGIONAL CENTERS.—Section 481B(a) (42 U.S.C. 287a–3(a)) is amended—

(1) by striking ''shall'' and inserting ''may'';

(2) by striking ''through 1996'' and inserting ''through 1997''; and

(3) by striking ''$5,000,000'' and inserting ''such sums as may be necessary for each such fiscal year''.

SEC. 382. GENERAL CLINICAL RESEARCH CENTERS.

Part B of title IV (42 U.S.C. 284 et seq.), as amended by section 205(h), is further amended by adding at the end thereof the following new section:

''SEC. 409C. GENERAL CLINICAL RESEARCH CENTERS.

''(a) GRANTS.—The Director of the National Center for Research Resources shall award grants for the establishment of general clinical research centers to provide the infrastructure for clinical research including clinical research training and career enhancement. Such centers shall support clinical studies and career development in all settings of the hospital or academic medical center involved.

''(b) ACTIVITIES.—In carrying out subsection (a), the Director of NIH shall expand the activities of the general clinical research centers through the increased use of telecommunications and telemedicine initiatives.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under subsection (a), such sums as may be necessary for eahc of the fiscal years 1996 and 1997.''.

SEC. 383. ENHANCEMENT AWARDS.

Part B of title IV (42 U.S.C. 284 et seq.), as amended by sections 205(h) and 382, is further amended by adding at the end thereof the following new section:

''SEC. 409D. ENHANCEMENT AWARDS.

''(a) CLINICAL RESEARCH CAREER ENHANCEMENT AWARD.—

''(1) IN GENERAL.—The Director of the National Center for Research Resources shall make grants (to be referred to as 'clinical research career enhancement awards') to support individual careers in clinical research.

''(2) APPLICATIONS.—An application for a grant under this subsection shall be submitted by an individual scientist at such time as the Director may require.

''(3) LIMITATIONS.—The amount of a grant under this subsection shall not exceed $130,000 per year per grant. Grants shall be for terms of 5 years. The Director shall award not more than 20 grants in the first fiscal year in which grants are awarded under this subsection. The total number of grants awarded under this subsection for the first and second fiscal years in which grants such are awarded shall not exceed 40 grants.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under paragraph (1), such sums as may be necessary for fiscal year 1997.

''(b) INNOVATIVE MEDICAL SCIENCE AWARD.—

''(1) IN GENERAL.—The Director of the National Center for Research Resources shall make grants (to be referred to as 'innovative medical science awards') to support individual clinical research projects.

''(2) APPLICATIONS.—An application for a grant under this subsection shall be submitted by an individual scientist at such time as the Director requires.

''(3) LIMITATIONS.—The amount of a grant under this subsection shall not exceed $100,000 per year per grant.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under paragraph (1), such sums as may be necessary for fiscal year 1997.

''(c) PEER REVIEW.—The Director of NIH, in cooperation with the Director of the National Center for Research Resources, shall establish peer review mechanisms to evaluate applications for clinical research fellowships, clinical research career enhancement awards, and innovative medical science award programs. Such review mechanisms shall include individuals who are exceptionally qualified to appraise the merits of potential clinical research trainees.''.

SEC. 384. WAIVER OF LIMITATIONS.

Section 481A (42 U.S.C. 287a–2) is amended—

(1) in subsection (b)(3)(A), by striking ''9'' and inserting ''12'';

(2) in subsection (e)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking ''50'' and inserting ''40''; and

(ii) in subparagraph (B), by striking ''40'' and inserting ''30''; and

(B) in paragraph (4), by striking ''for applicants meeting the conditions described in paragraphs (1) and (2) of subsection (c)''; and

(3) in subsection (h), by striking $150,000,000'' and all that follows through ''1996'' and inserting ''such sums as may be necessary for fiscal year 1997''.

Subtitle J—National Library of Medicine

SEC. 391. AUTHORIZATION OF APPROPRIATIONS.

Section 468(a) (42 U.S.C. 286a–2(a)) is amended by striking ''$150,000,000'' and all that follows through the period and inserting ''$160,000,000 for fiscal year 1997.''.

SEC. 392. INCREASING THE CAP ON GRANT AMOUNTS.

Section 474(b)(2) (42 U.S.C. 286b–5(b)(2)) is amended by striking ''$1,000,000'' and inserting ''$1,250,000''.

TITLE IV—AWARDS AND TRAINING

SEC. 401. MEDICAL SCIENTIST TRAINING PROGRAM.

(a) EXPANSION OF PROGRAM.—Notwithstanding any other provision of law, the Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall expand the Medical Scientist Training Program to include fields that will contribute to training clinical investigators in the skills of performing patient-oriented clinical research.

(b) DESIGNATION OF SLOTS.—In carrying out subsection (a), the Director of the National Institutes of Health shall designate a specific percentage of positions under the Medical Scientist Training Program for use with respect to the pursuit of a Ph.D. degree in the disciplines of economics, epidemiology, public health, bioengineering, biostatistics and bioethics, and other fields determined appropriate by the Director.

SEC. 402. RAISE IN MAXIMUM LEVEL OF LOAN REPAYMENTS.

(a) REPAYMENT PROGRAMS WITH RESPECT TO AIDS.—Section 487A (42 U.S.C. 288–1) is amended—

(1) in subsection (a), by striking ''$20,000'' and inserting ''$35,000''; and

(2) in subsection (c), by striking ''1996'' and inserting ''1997''.

(b) REPAYMENT PROGRAMS WITH RESPECT TO CONTRACEPTION AND INFERTILITY.—Section 487B(a) (42 U.S.C. 288–2(a)) is amended by striking ''$20,000'' and inserting ''$35,000''.

(c) REPAYMENT PROGRAMS WITH RESPECT TO RESEARCH GENERALLY.—Section 487C(a)(1) (42 U.S.C. 288–3(a)(1)) is amended by striking ''$20,000'' and inserting ''$35,000''.

(d) REPAYMENT PROGRAMS WITH RESPECT TO CLINICAL RESEARCHERS FROM DISADVANTAGED BACKGROUNDS.—Section 487E(a) (42 U.S.C. 288–5(a)) is amended—

(1) in paragraph (1), by striking ''$20,000'' and inserting ''$35,000''; and

(2) in paragraph (3), by striking ''338C'' and inserting ''338B, 338C''.

SEC. 403. GENERAL LOAN REPAYMENT PROGRAM.

Part G of title IV (42 U.S.C. 288 et seq.) is amended by inserting after section 487E, the following new section:

''SEC. 487F. GENERAL LOAN REPAYMENT PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary, acting through the Director of NIH, shall carry out a program of entering into agreements with appropriately qualified health professionals under which such health professionals agree to conduct research with respect to the areas

identified under paragraph (2) in consideration of the Federal Government agreeing to repay, for each year of such service, not more than $35,000 of the principal and interest of the educational loans of such health professionals.

''(2) RESEARCH AREAS.—In carrying out the program under paragraph (1), the Director of NIH shall annually identify areas of research for which loan repayments made be awarded under paragraph (1).

''(3) TERM OF AGREEMENT.—A loan repayment agreement under paragraph (1) shall be for a minimum of two years.

''(b) APPLICABILITY OF CERTAIN PROVISIONS.—With respect to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III, the provisions of such subpart shall, except as inconsistent with subsection (a) of this section, apply to the program established in such subsection (a) in the same manner and to the same extent as such provisions apply to the National Health Service Corps Loan Repayment Program established in such subpart.

''(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for fiscal year 1997.''.

SEC. 404. CLINICAL RESEARCH ASSISTANCE.

(a) NATIONAL RESEARCH SERVICE AWARDS.—Section 487(a)(1)(C) (42 U.S.C. 288(a)(1)(C)) is amended—

(1) by striking ''50 such'' and inserting ''100 such''; and

(2) by striking ''1996'' and inserting ''1997''.

(b) LOAN REPAYMENT PROGRAM.—Section 487E (42 U.S.C. 288–5) is amended—

(1) in the section heading, by striking ''FROM DISADVANTAGED BACKGROUNDS'';

(2) in subsection (a)(1), by striking ''who are from disadvantaged backgrounds'';

(3) in subsection (b)—

(A) by striking ''Amounts'' and inserting the following:

''(1) IN GENERAL.—Amounts''; and

(B) by adding at the end thereof the following new paragraph:

''(2) DISADVANTAGED BACKGROUNDS SET-ASIDE.—In carrying out this section, the Secretary shall ensure that not less than 50 percent of the amounts appropriated for a fiscal year are used for contracts involving those appropriately qualified health professionals who are from disadvantaged backgrounds.''; and

(4) by adding at the end thereof the following new subsections:

''(c) CLINICAL RESEARCH TRAINING POSITION.—A position shall be considered a clinical research training position under subsection (a)(1) if such position involves an individual serving in a general clinical research center or other organizations and institutions determined to be appropriate by the Director of NIH, or a physician receiving a clinical research career enhancement award or NIH intramural research fellowship.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each fiscal year.''.

TITLE V—RESEARCH WITH RESPECT TO AIDS

SEC. 501. COMPREHENSIVE PLAN FOR EXPENDITURE OF AIDS APPROPRIATIONS.

Section 2353(d)(1) (42 U.S.C. 300cc–40b(d)(1)) is amended by striking ''through 1996'' and inserting ''through 1997''.

SEC. 502. EMERGENCY AIDS DISCRETIONARY FUND.

Section 2356(g)(1) (42 U.S.C. 300cc–43(g)(1)) is amended by striking ''$100,000,000'' and all that follows through the period and inserting ''such sums as may be necessary for fiscal year 1997''.

TITLE VI—GENERAL PROVISIONS

Subtitle A—Authority of the Director of NIH

SEC. 601. AUTHORITY OF THE DIRECTOR OF NIH.

Section 402(b) (42 U.S.C. 282(b)) is amended—

(1) in paragraph (11), by striking ''and'' at the end thereof;

(2) in paragraph (12), by striking the period and inserting a semicolon; and

(3) by adding after paragraph (12), the following new paragraphs:

''(13) may conduct and support research training—

''(A) for which fellowship support is not provided under section 487; and

''(B) which does not consist of residency training of physicians or other health professionals; and

''(14) may appoint physicians, dentists, and other health care professionals, subject to the provisions of title 5, United States Code, relating to appointments and classifications in the competitive service, and may compensate such professionals subject to the provisions of chapter 74 of title 38, United States Code.''.

Subtitle B—Office of Rare Disease Research

SEC. 611. ESTABLISHMENT OF OFFICE FOR RARE DISEASE RESEARCH.

Part A of title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end thereof the following new section:

''SEC. 404F. OFFICE FOR RARE DISEASE RESEARCH.

''(a) ESTABLISHMENT.—There is established within the Office of the Director of the National Institutes of Health an office to be known as the Office for Rare Disease Research (in this section referred to as the 'Office'). The Office shall be headed by a director, who shall be appointed by the Director of the National Institutes of Health.

''(b) PURPOSE.—The purpose of the Office is to promote and coordinate the conduct of research on rare diseases through a strategic research plan and to establish and manage a rare disease research clinical database.

''(c) ADVISORY COUNCIL.—The Secretary shall establish an advisory council for the purpose of providing advice to the director of the Office concerning carrying out the strategic research plan and other duties under this section. Section 222 shall apply to such council to the same extent and in the same manner as such section applies to committees or councils established under such section.

''(d) DUTIES.—In carrying out subsection (b), the director of the Office shall—

''(1) develop a comprehensive plan for the conduct and support of research on rare diseases;

''(2) coordinate and disseminate information among the institutes and the public on rare diseases;

''(3) support research training and encourage the participation of a diversity of individuals in the conduct of rare disease research;

''(4) identify projects or research on rare diseases that should be conducted or supported by the National Institutes of Health;

''(5) develop and maintain a central database on current government sponsored clinical research projects for rare diseases;

''(6) determine the need for registries of research subjects and epidemiological studies of rare disease populations; and

''(7) prepare biennial reports on the activities carried out or to be carried out by the Office and submit such reports to the Secretary and the Congress.''.

Subtitle C—Certain Reauthorizations

SEC. 621. NATIONAL RESEARCH SERVICE AWARDS.

Section 487(d) (42 U.S.C. 288(d)) is amended by striking ''$400,000,000'' and all that follows through the first period and inserting ''such sums as may be necessary for fiscal year 1997.''.

SEC. 622. NATIONAL FOUNDATION FOR BIOMEDICAL RESEARCH.

Section 499(m)(1) (42 U.S.C. 290b(m)(1)) is amended by striking ''an aggregate'' and all that follows through the period and inserting ''such sums as may be necessary for fiscal year 1997.''.

Subtitle D—Miscellaneous Provisions

SEC. 631. ESTABLISHMENT OF NATIONAL FUND FOR HEALTH RESEARCH.

Part A of title IV (42 U.S.C. 281 et seq.), as amended by section 611, is further amended by adding at the end thereof the following new section:

''SEC. 404G. ESTABLISHMENT OF NATIONAL FUND FOR HEALTH RESEARCH.

''(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as the 'National Fund for Health Research' (hereafter in this section referred to as the 'Fund'), consisting of such amounts as are transferred to the Fund and any interest earned on investment of amounts in the Fund.

''(b) OBLIGATIONS FROM FUND.—

''(1) IN GENERAL.—Subject to the provisions of paragraph (2), with respect to the amounts made available in the Fund in a fiscal year, the Secretary shall distribute all of such amounts during any fiscal year to research institutes and centers of the National Institutes of Health in the same proportion to the total amount received under this section, as the amount of annual appropriations under appropriations Acts for each member institute and centers for the fiscal year bears to the total amount of appropriations under appropriations Acts for all research institutes and centers of the National Institutes of Health for the fiscal year.

''(2) TRIGGER AND RELEASE OF MONIES.—No expenditure shall be made under paragraph (1) during any fiscal year in which the annual amount appropriated for the National Institutes of Health is less than the amount so appropriated for the prior fiscal year.''.

SEC. 632. DEFINITION OF CLINICAL RESEARCH.

Part A of titleIV (42 U.S.C. 281 et seq.) as amended by sections 611 and 631, is further amended by adding at the end thereof the following new section:

''SEC. 404H. DEFINITION OF CLINICAL RESEARCH.

''As used in this title, the term 'clinical research' means patient oriented clinical research conducted with human subjects, or research on the causes and consequences of disease in human populations, or on material of human origin (such as tissue specimens and cognitive phenomena) for which an investigator or colleague directly interacts with human subjects in an outpatient or inpatient setting to clarify a problem in human physiology, pathophysiology, or disease, epidemiologic or behavioral studies, outcomes research, or health services research.''.

SEC. 633. ESTABLISHMENT OF A PEDIATRIC RESEARCH INITIATIVE.

Part A of title IV (42 U.S.C. 281 et seq.), as amended by sections 611, 631, and 632, is further amended by adding at the end the following new section:

''SEC. 404I. PEDIATRIC RESEARCH INITIATIVE

''(a) ESTABLISHMENT.—The Secretary shall establish within the Office of the Director of NIH a Pediatric Research Initiative (hereafter in this section referred to as the 'Initiative'). The Initiative shall be headed by the Director of NIH.

''(b) PURPOSE.—The purpose of the Initiative is to provide funds to enable the Director of NIH to encourage—

''(1) increased support for pediatric biomedical research within the National Institutes of Health to ensure that the expanding opportunities for advancement in scientific investigations and care for children are realized;

''(2) enhanced collaborative efforts among the Institutes to support multidisciplinary research in the areas that the Director deems most promising;

''(3) increased support for pediatric outcomes and medical effectiveness research to demonstrate how to improve the quality of children's health care while reducing cost;

''(4) the development of adequate pediatric clinical trials and pediatric use information to promote the safer and more effective use of prescription drugs in the pediatric population; and

''(5) recognition of the special attention pediatric research deserves.

''(c) DUTIES.—In carrying out subsection (b), the Director of NIH shall—

''(1) consult with the Institutes and other advisors as the Director determines appropriate when considering the role of the Institute for Child Health and Human Development;

''(2) have broad discretion in the allocation of any Initiative assistance among the Institutes, among types of grants, and between basic and clinical research so long as the—

''(A) assistance is directly related to the illnesses and diseases of children; and

''(B) assistance is extramural in nature; and

''(3) be responsible for the oversight of any newly appropriated Initiative funds and be accountable with respect to such funds to Congress and to the public.

''(d) AUTHORIZATION.—There is authorized to be appropriated to carry out this section, $50,000,000 for fiscal years 1997 through 1999.

''(e) TRANSFER OF FUNDS.—The Director of NIH may transfer amounts appropriated to any of the Institutes for a fiscal year to the Initiative to carry out this section.''.

SEC. 634. DIABETES RESEARCH.

(a) FINDINGS.—The Congress finds as follows:

(1) Diabetes is a serious health problem in America.

(2) More than 16,000,000 Americans suffer from diabetes.

(3) Diabetes is the fourth leading cause of death in America, taking the lives of more than 169,000 people annually.

(4) Diabetes disproportionately affects minority populations, especially African-Americans, Hispanics, and Native Americans.

(5) Diabetes is the leading cause of new blindness in adults over age 30.

(6) Diabetes is the leading cause of kidney failure requiring dialysis or transplantation, affecting more than 56,000 Americans each year.

(7) Diabetes is the leading cause of nontraumatic amputations, affecting 54,000 Americans each year.

(8) The cost of treating diabetes and its complications are staggering for our Nation.

(9) Diabetes accounted for health expenditures of $105,000,000,000 in 1992.

(10) Diabetes accounts for over 14 percent of our Nation's health care costs.

(11) Federal funds invested in diabetes research over the last two decades has led to significant advances and, according to leading scientists and endocrinologists, has brought the United States to the threshold of revolutionary discoveries which hold the potential to dramatically reduce the economic and social burden of this disease.

(12) The National Institute of Diabetes and Digestive and Kidney Diseases supports, in addition to many other areas of research, genetic research, islet cell transplantation research, and prevention and treatment clinical trials focusing on diabetes. Other research institutes within the National Institutes of Health conduct diabetes-related research focusing on its numerous complications, such as heart disease, eye and kidney problems, amputations, and diabetic neuropathy.

(b) INCREASED FUNDING REGARDING DIABETES.—With respect to the conduct and support of diabetes-related research by the National Institutes of Health, there are authorized to be appropriated for such purpose—

(1) for each of the fiscal years 1997 through 1999, an amount equal to the amount appropriated for such purpose for fiscal year 1996; and

(2) for the 3-fiscal year period beginning with fiscal year 1997, an additional amount equal to 25 percent of the amount appropriated for such purpose for fiscal year 1996.

SEC. 635. PARKINSON'S RESEARCH.

Part B of title IV (42 U.S.C. 284 et seq.), as amended by sections 204, 382 and 383, is further amended by adding at the end the following section:

''PARKINSON'S DISEASE

''SEC. 409E. (a) IN GENERAL.—The Director of NIH shall establish a program for the conduct and support of research and training with respect to Parkinson's disease.

''(b) INTER-INSTITUTE COORDINATION.—

''(1) IN GENERAL.—The Director of NIH shall provide for the coordination of the program established under subsection (a) among all of the national research institutes conducting Parkinson's research.

''(2) CONFERENCE.—Coordination under paragraph (1) shall include the convening of a research planning conference not less frequently than once every 2 years. Each such conference shall prepare and submit to the Committee on Appropriations and the Committee on Labor and Human Resources of the Senate and the Committee on Appropriations and the Committee on Commerce of the House of Representatives a report concerning the conference.

''(c) MORRIS K. UDALL RESEARCH CENTERS.—

''(1) IN GENERAL.—The Director of NIH shall award Core Center Grants to encourage the development of innovative multidisciplinary research and provide training concerning Parkinson's. The Director shall award not more than 10 Core Center Grants and designate each center funded under such grants as a Morris K. Udall Center for Research on Parkinson's Disease.

''(2) REQUIREMENTS.—

''(A) IN GENERAL.—With respect to Parkinson's, each center assisted under this subsection shall—

''(i) use the facilities of a single institution or a consortium of cooperating institutions, and meet such qualifications as may be prescribed by the Director of the NIH; and

''(ii) conduct basic and clinical research.

''(B) DISCRETIONARY REQUIREMENTS.—With respect to Parkinson's, each center assisted under this subsection may—

''(i) conduct training programs for scientists and health professionals;

''(ii) conduct programs to provide information and continuing education to health professionals;

''(iii) conduct programs for the dissemination of information to the public;

''(iv) separately or in collaboration with other centers, establish a nationwide data system derived from patient populations with Parkinson's, and where possible, comparing relevant data involving general populations;

''(v) separately or in collaboration with other centers, establish a Parkinson's Disease Information Clearinghouse to facilitate and enhance knowledge and understanding of Parkinson's disease; and

''(vi) separately or in collaboration with other centers, establish a national education program that fosters a national focus on Parkinson's and the care of those with Parkinson's.

''(3) STIPENDS REGARDING TRAINING PROGRAMS.—A center may use funds provided under paragraph (1) to provide stipends for scientists and health professionals enrolled in training programs under paragraph (2)(B).

''(4) DURATION OF SUPPORT.—Support of a center under this subsection may be for a period not exceeding five years. Such period may be extended by the Director of NIH for one or more additional periods of not more than five years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended.

''(d) MORRIS K. UDALL AWARDS FOR INNOVATION IN PARKINSON'S DISEASE RESEARCH.—The Director of NIH shall establish a grant program to support innovative proposals leading to significant breakthroughs in Parkinson's research. Grants under this subsection shall be available to support outstanding neuroscientists and clinicians who bring innovative ideas to bear on the understanding of the pathogenesis, diagnosis and treatment of Parkinson's disease.

''(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $80,000,000 for fiscal year 1997.''.

SEC. 636. PAIN RESEARCH CONSORTIUM.

(a) SHORT TITLE.—This section may be cited as the ''Pain Research Consortium Act of 1996''.

(b) OPERATION.—Part E of title IV (42 U.S.C. 287 et seq.) is amended by adding at the end thereof the following new subpart:

''Subpart 5—Pain Research Consortium

''SEC. 485E. ESTABLISHMENT AND PURPOSE OF THE CONSORTIUM.

''(a) ESTABLISHMENT.—The Director of NIH shall, subject to the availability of appropriations, and acting in cooperation with appropriate Institutes and with leading experts in pain research and treatment, establish within the National Institutes of Health, a Pain Research Consortium (hereafter referred to in this subpart as the 'Consortium').

''(b) PURPOSE.—It is the purpose of the Pain Research Consortium to—

''(1) provide a structure for coordinating pain research activities;

''(2) facilitate communications among Federal and State governmental agencies and private sector organization (including extramural grantees) concerned with pain;

''(3) share information concerning research and related activities being conducted in the area of pain;

''(4) encourage the recruitment and retention of individuals desiring to conduct pain research;

''(5) develop collaborative pain research efforts;

''(6) avoid unnecessary duplication of pain research efforts; and

''(7) achieve a more efficient use of Federal and private sector research funds.

''(c) COMPOSITION.—The Consortium shall be composed of representatives of—

''(1) the National Institute of Neurological Disorders and Stroke;

''(2) the National Institute of Drug Abuse;

''(3) the National Institute of General Medical Sciences;

''(4) the National Institute of Dental Research;

''(5) the National Health, Lung, and Blood Institute;

''(6) the National Cancer Institute;

''(7) the National Institute of Mental Health;

''(8) the National Institute of Nursing Research;

''(9) the National Center for Research Resources;

''(10) the National Institute of Child Health and Human Development;

''(11) the National Institute of Arthritis and Musculoskeletal and Skin Diseases;

''(12) the National Institute on Aging;

''(13) pain management practitioners, which may include physicians, psychologists, physical medicine and rehabilitation service representatives (including physical therapists and occupational therapists), nurses, dentists, and chiropractors; and

''(14) patient advocacy groups.

''(d) ACTIVITIES.—The Consortium shall coordinate and support research, training, health information dissemination and related activities with respect to—

''(1) acute pain;

''(2) cancer and HIV-related pain;

''(3) back pain, headache pain, and facial pain; and

''(4) other painful conditions.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 1997.''.

Subtitle E—Repeals and Conforming Amendments

SEC. 641. REPEALS AND CONFORMING AMENDMENTS.

(a) RENAMING OF DIVISION OF RESEARCH RESOURCES.—Section 403(5) (42 U.S.C. 283(5)) is amended by striking ''Division of Research Resources'' and inserting ''National Center for Research Resources''.

(b) RENAMING OF NATIONAL CENTER FOR NURSING RESEARCH.—

(1) Section 403(5) (42 U.S.C. 283(5)) is amended by striking ''National Center for Nursing Research'' and inserting ''National Institute of Nursing Research''.

(2) Section 408(a)(2) (42 U.S.C. 284c(a)(2)) is amended by striking ''National Center for Nursing Research'' and inserting ''National Institute of Nursing Research''.

(c) RENAMING OF CHIEF MEDICAL DIRECTOR FOR VETERANS AFFAIRS.—

(1) Section 406 (42 U.S.C. 284a) is amended—

(A) in subsection (b)(2)(A), by striking ''Chief Medical Director of the Department of Veterans Affairs or the Chief Dental Director of the Department of Veterans Affairs'' and inserting ''Under Secretary for Health of the Department of Veterans Affairs''; and

(B) in subsection (h)(2)(A)(v) by striking ''Chief Medical Director of the Department of Veterans Affairs,'' and inserting ''Under Secretary for Health of the Department of Veterans Affairs''.

(2) Section 424(c)(3)(B)(x) (42 U.S.C. 285b–7(c)(3)(B)(x)) is amended by striking ''Chief Medical Director of the Veterans' Administration'' and inserting ''Under Secretary for Health of the Department of Veterans Affairs''.

(3) Section 429(b) (42 U.S.C. 285c–3(b)) is amended by striking ''Chief Medical Director of the Veterans' Administration'' and inserting ''Under Secretary for Health of the Department of Veterans Affairs''.

(4) Section 430(b)(2)(A)(i) (42 U.S.C. 285c–4(b)(2)(A)(i)) is amended by striking ''Chief Medical Director of the Department of Veterans Affairs'' and inserting ''Under Secretary for Health of the Department of Veterans Affairs''.

(5) Section 439(b) (42 U.S.C. 285d–4(b)) is amended by striking ''Chief Medical Director of the Department of Veterans Affairs'' and inserting ''Under Secretary for Health of the Department of Veterans Affairs''.

(6) Section 452(f)(3)(B)(xi) (42 U.S.C. 285g–4(f)(3)(B)(xi)) is amended by striking ''Chief Medical Director of the Department of Veterans Affairs'' and inserting ''Under Secretary for Health of the Department of Veterans Affairs''.

(7) Section 466(a)(1)(B) (42 U.S.C. 286a(a)(1)(B)) is amended by striking ''Chief Medical Director of the Department of Veterans Affairs'' and inserting ''Under Secretary for Health of the Department of Veterans Affairs''.

(8) Section 480(b)(2)(A) (42 U.S.C. 287a(b)(2)(A)) is amended by striking ''Chief Medical Director of the Department of Veterans Affairs'' and inserting ''Under Secretary for Health of the Department of Veterans Affairs''.

(b) ADVISORY COUNCILS.—Section 406(h) (42 U.S.C. 284a(h)) is amended—

(1) by striking paragraph (1); and

(2) in paragraph (2)—

(A) by striking ''(2)(A) The'' and inserting ''(1) The'';

(B) by redesignating subparagraph (B) as paragraph (2); and

(C) by redesignating clauses (i) through (vi) of paragraph (1) (as so redesignated) as subparagraphs (A) through (F), respectively.

(c) DIABETES AND DIGESTIVE AND KIDNEY DISORDERS ADVISORY BOARDS.—Section 430 (42 U.S.C. 285c–4) is repealed.

(d) NATIONAL ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES ADVISORY BOARD.—Section 442 (42 U.S.C. 285d–7) is repealed.

(e) RESEARCH CENTERS REGARDING CHRONIC FATIGUE SYNDROME.—Subpart 6 of part C of title IV (42 U.S.C. 285f et seq.) is amended by redesignating the second section 447 (42 U.S.C. 285f–1) as section 447A.

(f) NATIONAL INSTITUTE ON DEAFNESS ADVISORY BOARD.—Section 464D (42 U.S.C. 285m–4) is repealed.

(g) BIOMEDICAL AND BEHAVIORAL RESEARCH PERSONNEL STUDY.—Section 489 (42 U.S.C. 288b) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

(h) NATIONAL COMMISSION ON ALCOHOLISM AND OTHER ALCOHOL-RELATED PROBLEMS.—Section 18 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1979 (42 U.S.C. 4541 note) is repealed.

(i) ADVISORY COUNCIL ON HAZARDOUS SUBSTANCES RESEARCH AND TRAINING.—Section 311(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9660(a)) is amended—

(1) by striking paragraph (5); and

(2) in the last sentence of paragraph (6), by striking ''the relevant Federal agencies referred to in subparagraph (A) of paragraph (5)'' and inserting ''relevant Federal agencies''.

THE INDIAN CHILD WELFARE ACT AMENDMENTS OF 1996

MCCAIN AMENDMENT NO. 5405

Mr. LOTT (for Mr. MCCAIN) proposed an amendment to the bill (S. 1962) to amend the Indian Child Welfare Act of 1978, and for other purposes; as follows:

On page 13, line 18, insert ''if in the best interests of an Indian child,'' after ''approve,''.

On page 14, lines 15 and 16, strike the dash and all that follows through the paragraph designation and adjust the margin accordingly.

On page 14, line 16, insert a dash after ''willfully''.

On page 14, line 16, insert '' '(1)'' before ''falsifies'' and adjust the margin accordingly.

THE WILDLIFE SUPPRESSION AIRCRAFT TRANSFER ACT OF 1996

KEMPTHORNE (AND OTHERS) AMENDMENT NO. 5406

Mr. LOTT (for Mr. KEMPTHORNE, Mr. BINGAMAN, Mr. CRAIG, and Mr. KYL) proposed an amendment to the bill (S. 2078) to authorize the sale of excess Department of Defense aircraft to facilitate the suppression of wildfire; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This act may be cited as the ''Wildfire Suppression Aircraft Transfer Act of 1996''.

SEC. 2. AUTHORITY TO SELL AIRCRAFT AND PARTS FOR WILDFIRE SUPPRESSION PURPOSES.

(a) AUTHORITY.—(1) Notwithstanding section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) and subject to subsections (b) and (c), the Secretary of Defense may, during the period beginning on October 1, 1996, and ending on September 30, 2000, sell the aircraft and aircraft parts referred to in paragraph (2) to persons or entities that contract with the Federal Government for the delivery of fire retardant by air in order to suppress wildfire.

(2) Paragraph (1) applies to aircraft and aircraft parts of the Department of Defense that are determined by the Secretary to be—

(A) excess to the needs of the Department; and

(B) acceptable for commercial sale.

(b) CONDITIONS OF SALE.—Aircraft and aircraft parts sold under subsection (a)—

(1) may be used only for the provision of airtanker services for wildfire suppression purposes; and

(2) may not be flown or otherwise removed from the United States unless dispatched by the National Interagency Fire Center in support of an international agreement to assist in wildfire suppression efforts or for other purposes jointly approved by the Secretary of Defense and the Secretary of Agriculture in writing in advance.

(c) CERTIFICATION OF PERSONS AND ENTITIES.—The Secretary of Defense may sell aircraft and aircraft parts to a person or entity under subsection (a) only if the Secretary of Agriculture certifies to the Secretary of Defense, in writing, before the sale that the person or entity is capable of meeting the terms and conditions of a contract to deliver fire retardant by air.

(d) REGULATIONS.—(1) As soon as practicable after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of Agriculture and the Administrator of General Services, prescribe regulations relating to the sale of aircraft and aircraft parts under this section.

(2) The regulations shall—

(A) ensure that the sale of the aircraft and aircraft parts is made at fair market value (as determined by the Secretary of Defense) and, to the extent practicable, on a competitive basis;

(B) require a certification by the purchaser that the aircraft and aircraft parts will be used only in accordance with the conditions set forth in subsection (b);

(C) establish appropriate means of verifying and enforcing the use of the aircraft and aircraft parts by the purchaser and other end users in accordance with the conditions set forth in subsections (b) and (e); and

(D) ensure, to the maximum extent practicable, that the Secretary consults with the Administrator of General Services and with the heads of appropriate departments and agencies of the Federal Government regarding alternative requirements for such aircraft and aircraft parts before the sale of such aircraft and aircraft parts under this section.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of Defense may require such other terms and conditions in connection with each sale of aircraft and aircraft parts under this section as the Secretary considers appropriate for such sale. Such terms and conditions shall meet the requirements of the regulations prescribed under subsection (d).

(f) REPORT.—Not later than March 31, 2000, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the Secretary's exercise of authority under this section. The report shall set forth—

(1) the number and type of aircraft sold under the authority, and the terms and conditions under which the aircraft were sold;

(2) the persons or entities to which the aircraft were sold; and

(3) an accounting of the current use of the aircraft sold.

(g) CONSTRUCTION.—Nothing in this section may be construed as affecting the authority of the Administrator of the Federal Aviation Administration under any other provision of law.

THE NAVAJO-HOPI LAND DISPUTE SETTLEMENT ACT OF 1996

McCAIN AMENDMENTS NOS. 5407–5411

Mr. LOTT (for Mr. MCCAIN) proposed five amendments to the bill (S. 1973) to provide for the settlement of the Navajo-Hopi land dispute, and for other purposes; as follows:

AMENDMENT NO. 5407

On page 13, between lines 20 and 21, insert the following:

(8) NEWLY ACQUIRED TRUST LANDS.—The term ''newly acquired trust lands'' means lands taken into trust for the Tribe within the State of Arizona pursuant to this Act or the Settlement Agreement.

AMENDMENT NO. 5408

On page 15, line 18, strike ''town (as that term is'' and insert ''town or city (as those terms are''.

AMENDMENT NO. 5409

On page 12, line 12, strike ''and''

On page 12, line 18, strike the period and insert ''; and ''.

on Page 12, between lines 18 and 19, insert the following:

(7) neither the Navajo Nation nor the Navajo families residing upon Hopi Partitioned lands were parties to or signers of the Settlement Agreement between the United States and the Hopi Tribe.

AMENDMENT NO. 5410

On page 15, between lines 20 and 21, insert the following:

(4) EXPEDITIOUS ACTION BY THE SECRETARY.—Consistent with all other provisions of this Act, the Secretary is directed to take lands into trust under this Act expeditiously and without undue delay.

AMENDMENT NO. 5411.

On page 19, after line 15, add the following:

SEC. 11. EFFECT OF THIS ACT ON CASES INVOLVING THE NAVAJO NATION AND THE HOPI TRIBE.

Nothing in this Act or the amendments made by this Act shall be interpreted or deemed to preclude, limit, or endorse, in any manner, actions by the Navajo Nation that seek, in court, an offset from judgments for payments received by the Hopi Tribe under the Settlement Agreement.

SEC. 12. WATER RIGHTS.

(a) IN GENERAL.—

(1) WATER RIGHTS.—Subject to the other provisions of this section, newly acquired trust lands shall have only the following water rights:

(A) The right to the reasonable use of groundwater pumped from such lands.

(B) All rights to the use of surface water on such lands existing under State law on the date of acquisition, with the priority date of such right under State law.

(C) The right to make any further beneficial use on such lands which is unappropriated on the date each parcel of newly acquired trust lands is taken into trust. The priority date for the right shall be the date the lands are taken into trust.

(2) RIGHTS NOT SUBJECT TO FORFEITURE OR ABANDONMENT.—The Tribe's water rights for newly acquired trust lands shall not be subject to forfeiture or abandonment arising from events occurring after the date the lands are taken into trust.

(b) RECOGNITION AS VALID USES.—

(1) GROUNDWATER.—With respect to water rights associated with newly acquired trust lands, the Tribe, and the United States on the Tribe's behalf, shall recognize as valid all uses of groundwater which may be made from wells (or their subsequent replacements) in existence on the date each parcel of newly acquired trust land is acquired and shall not object to such groundwater uses on the basis of water rights associated with the newly acquired trust lands. The Tribe, and the United States on the Tribe's behalf, may object only to the impact of groundwater uses on newly acquired trust lands which are initiated after the date the lands affected are taken into trust and only on grounds allowed by the State law as it exists when the objection is made. The Tribe, and the United States on the Tribe's behalf, shall not object to the impact of groundwater uses on the Tribe's right to surface water established pursuant to subsection (a)(3) when those groundwater uses are initiated before the Tribe initiates its beneficial use of surface water pursuant to subsection (a)(3).

(2) SURFACE WATER.—With respect to water rights associated with newly acquired trust lands, the Tribe, and the United States on the Tribe's behalf, shall recognize as valid all uses of surface water in existence on or prior to the date each parcel of newly acquired trust land is acquired and shall not object to such surface water uses on the basis of water rights associated with the newly acquired trust lands, but shall have the right to enforce the priority of its rights against all junior water rights the exercise of which interfere with the actual use of the Tribe's senior surface water rights.

(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1) or (2) shall preclude the Tribe, or the United States on the Tribe's behalf, from asserting objections to water rights and uses on the basis of the Tribe's water rights on its currently existing trust lands.

(c) APPLICABILITY OF STATE LAW ON LANDS OTHER THAN NEWLY ACQUIRED LANDS.—The Tribe, and the United States on the Tribe's behalf, further recognize that State law applies to water uses on lands, including subsurface estates, that exist within the exterior boundaries of newly acquired trust lands and that are owned by any party other than the Tribe.

(d) ADJUDICATION OF WATER RIGHTS ON NEWLY ACQUIRED TRUST LANDS.—The Tribe's water rights on newly acquired trust lands shall be adjudicated with the rights of all other competing users in the court now presiding over the Little Colorado River Adjudication, or if that court no longer has jurisdiction, in the appropriate State or Federal court. Any controversies between or among users arising under Federal or State law involving the Tribe's water rights on newly acquired trust lands shall be resolved in the court now presiding over the Little Colorado River Adjudication, or, if that court no longer has jurisdiction, in the appropriate State or Federal court. Nothing in this subsection shall be construed to affect any court's jurisdiction; provided, that the Tribe shall administer all water rights established in subsection (a).

(e) PROHIBITION.—Water rights for newly acquired trust lands shall not be used, leased, sold, or transported for use off of such lands or the Tribe's other trust lands, provided that the Tribe may agree with other persons having junior water rights to subordinate the Tribe's senior water rights. Water rights for newly acquired trust lands can only be used on those lands or other trust lands of the Tribe located within the same river basin tributary to the main stream of the Colorado River.

(f) SUBSURFACE INTERESTS.—On any newly acquired trust lands where the subsurface interest is owned by any party other than the Tribe, the trust status of the surface ownership shall not impair any existing right of the subsurface owner to develop the subsurface interest and to have access to the surface for the purpose of such development.

(g) STATUTORY CONSTRUCTION WITH RESPECT TO WATER RIGHTS OF OTHER FEDERALLY RECOGNIZED INDIAN TRIBES.—Nothing in this section shall affect the water rights of any other federally recognized Indian tribe with a priority date earlier than the date the newly acquired trust lands are taken into trust.

(h) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to determine the law applicable to water use on lands owned by the United States, other than on the newly acquired trust lands. The granting of the right to make beneficial use of unappropriated surface water on the newly acquired trust lands with a priority date such lands are taken into trust shall not be construed to imply that such right is a Federal reserved water right. Nothing in this section or any other provision of this Act shall be construed to establish any Federal reserved right to groundwater. Authority for the Secretary to take land into trust for the Tribe pursuant to the Settlement Agreement and this Act shall be construed as having been provided solely by the provisions of this Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 26, 1996, at 10 a.m. to hold a hearing.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. SANTORUM. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, September 26, 1996, at 10 a.m. for a hearing on the annual report of the Postmaster General.

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

COMMITTEE ON THE JUDICIARY

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, September 26, 1996, at 2 p.m. to hold a hearing on annual refugee consultation.

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

SPECIAL COMMITTEE ON AGING

Mr. COHEN. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Thursday, September 26 at 9 a.m. to hold a hearing to discuss increasing funding for biomedical research.

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

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Subcommittee on Oversight and Investigations of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, September 26, 1996, for purposes of conducing a subcommittee hearing which is scheduled to begin at 2 p.m. The purpose of this oversight hearing is to examine the NEPA decisionmaking process including the role of the Council on Environmental Quality.

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

ADDITIONAL STATEMENTS

REPUBLIC OF CHINA'S 85TH NATIONAL DAY

● Mr. HATFIELD. Mr. President, in the last few years, the Republic of China has continued to prosper and develop as a democratic model. It is our sixth largest trading partner and the world's 13th largest trading nation. Its per capita income of $12,000 is one of the highest in Asia.

Alongside its economic success, Taiwan has embarked upon a course of democratization, including political pluralism, press liberalization, island-wide elections, a first ever presidential election in March 1996, and full constitutional reform.

On the eve of the 85th anniversary of the founding of the Republic of China, I extend my best wishes to President Lee Teng-hui, Foreign Minister John H. Chang, and Ambassador Jason Hu. May they long continue to be a shining example of democracy in Asia.●

RETIREMENT OF AGENT JIM FREEMAN

● Mrs. FEINSTEIN. Mr. President. I rise today to recognize and honor a respected leader in the law enforcement community and a friend. Jim Freeman has graciously served our Nation for over 30 years as a Special Agent at the FBI.

Mr. Freeman began his career by receiving his appointment as a Special Agent of the Federal Bureau of Investigation [FBI] in July 1964, following his receipt of a bachelor of arts degree from San Francisco State University that same year. He has served as special agent in charge of the San Francisco Division of the FBI since August 1993, where he is responsible for approximately 650 employees and a territory that extends from Monterey to the Oregon border. The majority of his assignments in this area deal with organized crime and drugs, white collar crime, violent crimes, terrorism and foreign counterintelligence.

In 1995, Mr. Freeman was named as the FBI's official adviser to the Technology Theft Prevention Foundation, which is comprised of insurance and electronic industry executives with the mission of reducing high-technology crimes through a variety of initiatives awareness training and law enforcement support. During his tenure, the San Francisco Division of the FBI has created a high-tech crimes squad in San Jose which investigates crimes ranging from robbery of components and semiconductors, to the theft of intellectual property, as well as a computer intrusion squad in San Francisco which investigates serious computer hacking crimes. His other assignments have included the development of the Crimes Against Children Task Force in San Francisco in February 1994, and assuming the leadership of the UNABOM Task Force on April 1, 1994.

Mr. President, Mr. Freeman's previous postings were as a special agent in the Oklahoma City and Los Angeles bureau divisions; a supervisory special agent in Los Angeles; assistant special agent in charge in Miami; an inspector in FBI Headquarters' Inspection Division; and special agent in charge of Honolulu Division of the FBI.

In 1986, he was elected as the FBI's representative to the U.S. Department of State's Senior Seminar at the Foreign Service Institute in Rosslyn, VA, for the 1986–1987 session. On November 20, 1988, Mr. Freeman was selected as a member of the Senior Executive Service.

Mr. President, in conclusion, I want to commend Agent Freeman for his leadership and hard work he has demonstrated during his active years as law enforcement officer. His service to the State of California is greatly appreciated and will not be forgotten. I wish him all the best in years to come.●

COMMENDING RONALD A. SMITH

● Mr. LUGAR. Mr. President, I rise today to commend a fellow Hoosier, Ronald A. Smith of Rochester, Indiana who will be installed as president of the Nation's largest insurance association—the Independent Insurance Agents of America [IIAA]. Ron is President of Smith, Sawyer & Smith, Inc., an independent insurance agency located in Rochester.

Ron's career as an independent insurance agent has been marked with outstanding dedication to his clients, his community, IIAA, the Independent Insurance Agents of Indiana, his colleagues and his profession.

At the State level, Ron served as chairman of numerous committees and held several elective offices in the Independent Insurance Agents of Indiana, culminated by a term as president. In recognition of his contributions, his peers named Ron the 1992 Indiana Agent of the Year.

Ron began his service to the national organization by serving as Indiana's representative to IIAA's National Board of State Directors from 1987 to 1993. At the same time, he served the national association as chairman of its membership committee and dues study task force and as a member of the agency/company operating practices task force on solvency and McCarran-Ferguson.

Ron was elected to IIAA's executive committee in 1993. In the time since then, he has exhibited a spirit of dedication and concern for his 300,000 independent agent colleagues around the country.

Outside of IIAA, Ron has served the insurance industry as a member of the board of trustees of the American Institute for CPCU and the Insurance Institute of America and a member of the board of directors for the Insurance Education Foundation, Inc.

Ron's selfless attitude also extends to his involvement in Rochester-area community activities. He currently serves on the Rochester Telephone Co. board of directors and is a member of the Rochester Community School Building Corp. In the past, he served as chairman of the Fulton County United Way, president of the Rochester Kiwanis, president of the Rochester Chamber of Commerce, and chairman of the board of trustees of Grace United Methodist Church.

I am confident that Ron will serve with distinction and provide leadership as president of the Independent Insurance Agents of America over the next year. I wish Ron and his wife Maureen all the best as IIAA's president and first lady.●

AD HOC HEARING ON TOBACCO

● Mr. LAUTENBERG. Mr. President, on September 11, I cochaired with Senator KENNEDY an ad hoc hearing on the problem of teen smoking. We were joined by Senators HARKIN,

WELLSTONE, BINGAMAN, and SIMON. Regrettably, we were forced to hold an ad hoc hearing on this pressing public health issue because the Republican leadership refused to hold a regular hearing, despite our many pleas.

Yesterday I entered into the RECORD the testimony of the witnesses from the first panel. Today I am entering the testimony of the witnesses from the second panel which included Minnesota Attorney General Hubert Humphrey III and Dr. Ian Uydess, a former research scientist for Philip Morris.

Mr. President, I ask that the testimony from the second panel of this ad hoc hearing be printed in the RECORD.

The material follows:

TESTIMONY AT THE AD HOC HEARING ON PROPOSED LEGISLATION TO HALT FDA REGULATIONS, AND GRANT TOBACCO INDUSTRY SPECIAL IMMUNITY FROM STATE LAW ENFORCEMENT ACTIONS, U.S. SENATE

STATEMENT OF MINNESOTA ATTORNEY GENERAL HUBERT H. HUMPHREY III

Thank you, Senator. I appreciate you holding these discussions today on the issue of proposed federal legislation to resolve all litigation and regulation affecting the tobacco industry.

Publicly airing these issues before any action is taken is absolutely critical. Clearly, any legislation to terminate state tobacco lawsuits and to half FDA's controls on marketing to kids will have a sweeping effect on the whole nation, and in fact would raise insurmountable constitutional concerns.

I would also encourage you to get direct input from health advocates. Clearly, their views must guide us in approaching this issue, because ultimately the public health issues at stake are monumental.

It's no secret that I am personally very skeptical about the legislation being discussed in news reports. While I cannot comment on the litigation discussions I have had with my colleagues from other states on this issue or specific terms of an acceptable resolution, I can reiterate the general concerns I have raised about this approach.

Specifically, these are a few of my major concerns.

Concern number one: As a general proposition, I am very skeptical about forcing these law enforcement matters out of state courts and into Congress. First, I do not believe that an attempt to preempt the pending legislation of sovereign states would be constitutional. Beyond the constitutional issue, reports this week indicating that the largest cigarette maker, Philip Morris, spent more money to influence Congress last year than did any other corporation or special interest group does not make me feel any more comfortable. Obviously, we would not feel comfortable presenting our case before any jury that had been the recipient of $15 million worth of ''persuasion.'' This is the bottom line: The tobacco industry believes it will never find a more favorable jury than the U.S. Congress.

Concern number two: I am very skeptical about any legislative deal to let the tobacco industry have special immunity from obeying the same state laws that every other industry must obey. Just last week, I enforced Minnesota antitrust laws against a pharmaceutical giant. A few weeks before, I enforced Minnesota consumer fraud laws against a small local auto dealer. These businesses, big and small, were held responsible for their lawbreaking. If these businesses—and hundreds of others—are held accountable for their lawbreaking, I ask you to consider whether it is fair and honorable to cut a backroom political deal that would grant the politically powerful tobacco industry blanket immunity from obeying the same consumer fraud and antitrust laws that every other business must obey.

At a minimum, it is essential that this deadly product, like every other product Americans eat or drink or ingest, be placed under the on-going jurisdiction of an appropriate federal agency, such as the FDA. Issues such as the addictiveness of nicotine, the hazards of tobacco's secret chemical additives, and possible technologies for making safer cigarettes must be considered.

My final concern: I am very skeptical about any legislation whose terms don't meet the three bottom line principles I have insisted on since we launched our case over two years ago.

(1) The first principle we have insisted on from the beginning is an ironclad guarantee that the tobacco industry stop marketing tobacco to kids. The legislative proposal's insistence that the FDA be cut out of the regulatory picture clearly is a major setback to attaining that all-important principle.

(2) Our second principle we have insisted all along is to recover taxpayer damages commensurate with the harm done by the tobacco industry's lawbreaking. Considering that we are talking about decades of lawbreaking and that the costs of tobacco-related health problems is estimated by the CDC to be about $50 billion per year, I have serious questions about whether the proposal is consistent with this important principle.

(3) The final principle we have insisted on from the very beginning is that the tobacco industry tell the whole truth about health and smoking. The public demands to know what the tobacco industry knew and when they knew it. But the proposal being discussed does not require the tobacco industry to open up its documents so that we learn things such as how to make safer cigarettes that can save lives. Allowing the tobacco industry to continue to cover-up this information from those who could benefit from it would be a huge step backward from this third important principle.

Senator Lautenberg and members of the Committee, in Minnesota we are two years and over 10 million documents down the road. We have spent tremendous time, energy, and resources preparing to go to trial with the strongest case the tobacco industry has ever seen. We still have far to go, but we have now come more than half the distance toward our goal. We ask Congress not to undercut us, but instead to support us.

Despite our unflagging determination to build our case and proceed to trial, we are always ready to talk settlement—with the defendants, that is. Settlement talks between the plaintiffs and defendants are one thing. We always are open to that. But federally-mandated global termination of all state law enforcement actions against the single industry—simply because that industry is politically powerful—is quite another.

Let me leave you with this final thought. Over 30 years ago, some in Congress undoubtedly thought they were doing the right thing when they passed legislation to require labeling of cigarettes. We now know, however, that the tobacco industry actually participated in the writing of the labeling legislation. As a Lorillard Tobacco company attorney now explains, the industry understood all along that the labeling law provided the industry with an argument against smoker's liability suits. The book Ashes to Ashes documents that, quote ''even the tobacco spokesman kept saying for the record that they opposed the warning label, 'privately'—the Lorillard attorney is quoted as saying—'we desperately needed it.' I suggest that this is an important lesson for us to keep in mind in 1996 as Congress contemplates its appropriate role in this matter.

I appreciate your invitation to share my concerns with you today. You are doing the country a great service by airing these issues. I would be pleased to answer any questions you might have.

STATEMENT OF I.L. UYDESS

Introduction & Background: My name is Ian Uydess and I worked as a Research Scientist at Philip Morris USA for more than 10 years (Dec. 1977 to Sept. 1989). During that time I headed-up a number of basic and applied research projects, developed a patented bioengineering process designed to produce a 'safer' cigarette, and conducted a variety of lab and field experiments on tobacco. I also learned a fair amount about what Philip Morris knew about its products and possibly a bit too much about some of the experimental work that it was conducting on cigarette smoke and nicotine both in the United States and in Europe. I also began to understand the basis for some of the company's fears. A rather extensive account of my work at Philip Morris is already on record in my February 1996 statement to the Food and Drug Administration and for that reason, is not discussed in great detail here.

While I was provided with a variety of opportunities an challenges at Philip Morris, I decided to leave the employment of that company in September 1989 as a result of a number of factors including my disillusionment and great disappointment with the decisions and direction of that company, my deep concern regarding the adverse consequences of smoking, and my conviction that the public had the right to know what the cigarette industry has known about tobacco and its products for a great many years.

I sincerely believe that there are many people who are either still working at Philip Morris or who have left that company over the past several years, who could be sitting beside me right now if only they had the formal support and protection of this Congress. Like myself, I think they would be willing to come forward with the hope that their testimony would in some small measure help this Congress to take a more formal and united stance on this critically important issue.

The apparent unwillingness of some of our congressional leaders to openly and effectively support an official hearing on these matters only makes it that much more difficult for other concerned individuals from within the cigarette companies to come forward to share their knowledge and information with us.

I sincerely hope that with your help, we can remedy this situation.

My concern regarding the adverse consequences of smoking is not new, but dates back to when I was a graduate student at Roswell Park in Buffalo, NY. This was when I first began to understand the magnitude of the real-world consequences of smoking since many of the patients at Roswell Park were victims of smoking-related cancers. It was no secret, even then, that Roswell Park had a position on this topic. Dr. George Moore, the director of the institute at that time (circa 1969), frequently voiced his concerns regarding the adverse consequences of smoking.

And he was not alone. Years before the institute had established a 'Rogues Gallery' that featured portraits of famous individuals who had lost their lives to smoking. Roswell Park was, and still is, one of the nation's most innovative centers for the study and treatment of neoplastic disease. Smoking is one of the principal reasons why many patients have gone there.

I think we all recognize that cancer is a frightening, unpredictable and devastating

disease that in one form or another can strike anyone, at anytime, even when all the recommended health precautions are taken. That is why it is still so hard for me to understand why anyone would knowingly subject themselves to such a known hazard that could increase their risk of contracting this terrible and debilitating disease (although the answer to this is one of the reasons why we are gathered here today).

The truth of the matter is that I am still haunted by the memories that I associate with my days at Roswell Park, although it is these very memories which, coupled to my recent experiences within the tobacco industry, that have compelled me to appear before you today.

What I didn't fully appreciate or understand at that time, were the varied and interwoven reasons why so many people continue to smoke even in the face of the known dangers of smoking. However, after working in the tobacco industry for more than a decade I have now come to understand this situation better.

To a large extent, smoking is a result of a complex system of events which first attract and then 'hook' the smoker. We now know that this includes a variety of physical, psychological and chemical factors and is perpetuated by the cigarette manufacturer's targeted advertising practices toward children and their historic lack of truthfulness and candor about what they have known about the adverse effects and addictive qualities of smoking for many years.

I, too, was once unsure of my position on many of these issues until I had a chance to work within, and learn about this industry. My education about tobacco was provided to me by Philip Morris. They taught me how tobacco was cultivated, purchased, blended and processed and how cigarettes are manufactured. I also learned about the extensive knowledge that Philip Morris had about tobacco, smoke and cigarette design and how it used its knowledge, experience and technical capabilities to formulate and manufacture its products. Over the years, Philip Morris invested a substantial amount of time and effort to make sure that I understood and could apply this knowledge to my job, and that's exactly what I did.

As my career at Philip Morris developed, I was asked to take on increased responsibilities and given broader access to the various departments and operating units of the company (both in the U.S. and Europe). I communicated regularly with the senior management and scientific staff of R&D and collaborated on numerous occasions with the engineers, chemists and product development scientists in Richmond. Between 1978 and 1989 my responsibilities included basic and applied research on the structure, biochemistry and microbiology of tobacco, as well as a number of efforts in support of process and/or product development. I was also responsible for setting up and conducting field experiments on tobacco using local Virginia tobacco farms contracted by Philip Morris.

During the 1980's, some of my highest priority efforts were targeted at developing new or improved methods to remove 'biologically-active' (toxic and/or mutagenic) materials from tobacco. This included developing a microbiological process to remove nitrate and nitrite from 'SEL' (the 'strong extract liquor' used by Philip Morris to manufacture its reconstituted tobacco sheet, 'RL', at Park 500), as well as conducting experiments to learn how to limit the uptake and distribution by the tobacco plant of toxic chemicals like cadmium. Although substantial progress was made in each of these areas (the denitrification process was successfully scaled-up to pilot plant/production levels, and the cadmium experiments were beginning to yield valuable information about the uptake and distribution of cadmium in lab-grown tobacco plants), both programs were unexpectedly and summarily shut down by PM management—the denitrification program because of what were alleged to be 'product quality' problems, and the cadmium program because PM management decided that it wanted this work to be continued 'outside' of the company.

My concern and disappointment over these decisions was largely due to the fact that both of these projects could have led to safer products for both the company and its customers. Instead, they became lost opportunities for everyone.

There have been other lost opportunities as well. Safer products could also have been produced by Philip Morris years ago, if it had only used the wealth of information that it had generated regarding the removal of other dangerous compounds from tobacco like the 'nitrosamines'. It may well have taken some additional work to get it into production, but wouldn't it have been worth it? A similar situation was encountered in the reduced alkaloid (reduced nicotine) program, 'ART', which like denitrification, was exhaustively researched in the lab, successfully scaled-up to pilot plant levels and then shut down for 'product quality' reasons.

It is interesting to note, however, that at least two of these 'failed' programs (denitrification and reduced alkaloids) are frequently cited by Philip Morris as legitimate attempts to improve their products (''We tried''). I've been told that one-ranking scientist at PM was even credited with saying that the reduced alkaloid (lowered nicotine) program was, the best $350 million dollars the company had ever spent! I'd hate to believe that this statement meant that Philip Morris was sometimes happy to spend millions of dollars on a successful technology which could have led to safer or less addictive products, with no real intent on using those technologies (unless it had to) just so that it could say 'it tried'.

The truth of the matter is, that some of these efforts both within Philip Morris as well as within some of its competitors (RJR and B&W) could well have led to the development of 'safer' and/or less addictive products that ultimately could have saved lives. But that didn't happen at least in part, because of the lack of responsibility and commitment of the cigarette industry to do something substantial to safeguard the health and well being of their customers.

But then again, why should they? They are still not regulated and therefore, are neither accountable nor liable for their actions (or lack of the same). So why should they spend their hard-earned cash just to safeguard the health and well being of the public when by doing so, they might lose a bit of their market share, particularly if they remove the very thing that keeps their smokers 'hooked'? Who'd want to explain that to their board of directors? It would be far better to do nothing, deny everything, and to keep on doing that for as long as they can. After all, what can anyone really do about it today? The lack of law means that the law is on their side.

We are very fortunate to live in a free and democratic society in which we each have the right to make our own, informed decisions about the products that we make and use. I, for one, do not want to change that. But the manufacturers of cigarettes should, like the manufacturers of other ingestible products, be accountable for the quality of what they make and market to the public, especially when it comes to safety.

We could, as the cigarette manufacturers have suggested, leave it up to them to police themselves in this matter. However, considering the cigarette manufacturers history up to this point, it seems unlikely that they would now do this responsibly. When it comes to the health and safety of the public, voluntary self-regulation by the cigarette industry is clearly unacceptable.

That's why our elected representatives created the FDA years ago to help set the standards by which the public would be protected from the accidental, negligent or irresponsible acts of the manufacturers of our foods, drugs and cosmetics. This wasn't a partisan effort or some sort of devious plot, but rather the result of our nation working together to create a new agency to help formulate, monitor and enforce regulations to protect the citizens of this country from unsafe products and the injury they may cause. And how did we do this? By working together to make sure that the manufacturers these products were accountable, by law, for their actions.

But somehow along the way, we left out tobacco. It was one of those 'historic' agricultural industries that escaped FDA regulation, even though their products were ingested like so many of the other goods that we wanted to have regulated by that agency. Allowing tobacco to go unregulated may have seemed reasonable back then given our cursory knowledge of nicotine's role in addition and our limited understanding of the cause-and-effect relationship between smoking and cancer. But that was then. Today we know much more. And as a research scientist who spent more than 10 years of his career working within Philip Morris, I can attest to the fact that at least this company knew more than it was willing to tell.

We can't change the fact that cigarettes weren't specifically addressed in the FDA guidelines of 1938 or, in the various amendments that have been enacted since then. But what is of concern to me today is the fact that until just recently, we haven't taken any formal action to correct this situation.

Don't we have enough scientific data regarding the adverse consequences of smoking? Aren't more than 400,000 of our family, friends, coworkers and neighbors dying each year from smoking-related diseases?

Haven't we seen and read enough to convince us that nicotine is additive and that the manufacturers of cigarettes are carefully controlling the design of these products to ensure that effect?

Haven't some of the cigarette industry's own internal documents, executives and research scientists attested to these very facts?

Can we think of any other industry in this nation that we allow to go so totally unchecked with regard to the safety and/or contents of its products?

And don't we, the public, deserve to be fully informed about, and protected from, the known hazards of inhaled tobacco smoke?

And yet it is only recently that the FDA with the support of the President, has begun to address this problem by mandating that the sale and marketing of cigarettes to children be regulated by that agency. But even that has been a battle.

So how as a society do we explain this? Is it all simply a matter of semantics, rhetoric and fruitless, circular discussions? Can we afford to have the final decision about regulation and compliance be left in the hands of the tobacco industry?

The cigarette manufacturers would like us to believe that they are unfairly and unjustly under attack by those whose specific intent it is to deprive them of their rights and to destroy their industry. They would also like us to believe that any attempt to

regulate them would result in the total collapse of state and local economies, the loss of countless jobs and the irrevocable loss of business to all those companies that are in any way dependent upon this industry. Maybe that's why the cigarette manufacturers find it advantageous to keep this topic partisan and adversarial ('us' against 'them') when the truth of the matter is, that it is not.

This is a 'we' issue that in all probability has, in one form or another, already touched the lives of each of us. How many of us have lost a parent, relative, friend or neighbor to a smoking-related illness like cancer or emphysema? How many of us know someone who has tried to quit smoking but has failed? Is smoking really 'an adult choice', or are there other factors involved in this 'habit' that make smoking less of a 'free choice' than the industry would like us to know?

I often wonder what the tobacco company CEOs, their board of directors and attorneys say to their families and especially to their children when they're asked about what they know about nicotine, addition or smoking and health?

Who is really being fooled by this, and why are we still arguing about it?

The only conclusion that I can reach, is that we are in the midst of a national tragedy; a crisis of indecision and lack of appropriate action that has crippled our nation for far too many years, although one hopes that the recent initiatives taken by President Clinton, Dr. Kessler and the FDA will mark the beginning of a new and more responsible era.

We cannot continue to allow ourselves to be repeatedly engaged in the fruitless, repetitive and transparent rhetoric of the tobacco industry given the extraordinary numbers of smoking-related deaths and illnesses that we know occur each year. Where else in the history of our society have we failed so thoroughly to act on such a critical and immediate topic of public health even when the data were far more scarce, the impact of the situation a mere fraction of what we see today, and the cause-and-effect relationships much more obscure? We've taken faster, more affirmative action in the past when we just thought that a red dye in our food might adversely affect our health or, when an artificial sweetener that was already on the market was suddenly suspected of being a big less safe than we had originally believed.

The bottom line is that we have allowed ourselves to be lulled into complacency and manipulated by the politics, semantics and financial wealth of this industry in much the same manner that it has manipulated information about smoking and the content of its products these past 20–30 years.

We've appealed to the cigarette manufacturers to become proactive partners to help implement solutions, but they have only further tightened their circle of resistance.

On top of that, the cigarette industry would like us to continue to believe that any attempt to regulate them would be illegal and if implemented, would result in certain ruin for tobacco workers, tobacco farmers, the tobacco states, the industry itself, its advertisers, the grocery store next door, the nation as a whole, everyone!

But once again, that is not true.

Regulation of tobacco products will be a difficult at first, but not impossible. It will also not be anywhere near as injurious to the nation as the tobacco manufacturers and their allies would have us believe. There are even those who think that it can be beneficial. To be successful, however, it will take a concerted effort on the part of each and every one of us and possibly for some, temporary sacrifices. It is not a personal agenda item or political issue, but one of the safety and well being of the public for generations to come.

Regulation of the tobacco industry by the FDA is totally consistent with what our country originally intended this agency to do—to protect us—and it is clearly in the best interests of this nation, its businesses and most importantly, its people.

The sad fact is, that much of the misery, frustration and fear that we are witnessing today could have been avoided if we had only acted earlier. I sincerely hope that the members of this congress can put aside their differences and join together if for no other reason than to save the lives of the children who have not yet begun to smoke.

Thank you.●

COMMENDING THE SENTEL CORP.

● Mr. WARNER. Mr. President, I rise today to congratulate the SENTEL Corporation of Alexandria, VA for its designation by the Small Business Administration as the Subcontractor of the Year for Region III, which encompasses the District of Columbia, Delaware, Maryland, Pennsylvania, Virginia, and West Virginia.

Under the leadership of President James Garrett, SENTEL has become a leading firm providing software used to deconflict the electromagnetic spectrum in military operations. SENTEL was also selected by NASA to reengineer the space shuttle quality assurance inspection process to a paperless, wireless environment. Furthermore, SENTEL developed the Navy's first chemical-biological detection system and was one of the many small contractors whose systems performed so well during the Desert Storm operation in Iraq.

The SENTEL Corp. represents the best of what the Section 8(a) program was designed to achieve. Although SENTEL has 2 years remaining in the 8(a) program, SENTEL's services are contracted not because it is a minority organization but because it provides top-notch products and services. In fact, SENTEL is ranked by Technology Transfer Business Magazine as one of the top 500 fastest-growing technology companies in the United States and by Washington Technology Magazine as one of the 50 fastest-growing companies in the Washington metropolitan area for the fifth consecutive year.

To point out the growth of high technology industries in Virginia, Gov. George Allen has referred to Virginia as the Silicon Dominion. SENTEL represents the best of these great Virginia businesses. On behalf of the people of Virginia, I am proud to express my admiration and congratulations to SENTEL for its designation as Subcontractor of the Year.●

POSSESSIONS TAX CREDIT

● Mr. BREAUX. Mr. President, on July 9 the Senate passed H.R. 3448, the Small Business Job Protection Act of 1996. Before this bill was reported out of conference, I spoke concerning the provision relating to section 936 of the Internal Revenue Code, the possessions tax credit. The Senate passed version of this legislation had created a long-term wage credit for the 150,000 employees working in Puerto Rico. I supported this provision because it represented a major step forward for those working Americans in our poorest jurisdiction. Unfortunately, the House-passed bill contained no such long-term incentives for the economy of Puerto Rico and the conference agreement did not preserve the Senate position on section 936. Under the law as passed a wage credit for companies currently doing business in Puerto Rico was created. We need to carefully examine this wage credit to make sure it addresses the economic development needs of Puerto Rico. Mr. President, I am here today to express my interest in addressing the important issues of economic growth, new jobs, and new investments in Puerto Rico at the earliest opportunity. Growth in this region is very important and should be a concern to us all.●

MISCELLANEOUS TRADE AND TECHNICAL CORRECTIONS ACT OF 1996

● Mr. ROTH. Mr. President, I rise to notify my colleagues that, yesterday, the Committee on Finance completed a markup of H.R. 3815, respecting trade technical corrections and other miscellaneous trade measures. I'm pleased to inform the Senate that the committee favorably reported out the bill unanimously.

I want to emphasize to those Members who expressed concern about the inclusion of controversial items on this legislation, that we were careful to craft a non-controversial bill. Any items that turned out to be controversial, including items I strongly supported, were either not included in this bill or were removed from the draft markup document. What we have ended up with on this bill are many worthy miscellaneous trade items that are of interest to many of the Members on and off the Finance Committee.

Since time is obviously short, Senator MOYNIHAN and I will seek Senate passage of this bill by unanimous consent as quickly as possible. We have been working closely with the Ways and Means Committee, and hope that the House could accept the current version of the bill by unanimous consent. With a number of additional items, the Finance Committee version of the bill contains all of the provisions that were in the House version with the exception of the hand tools marking provision that had considerable opposition in the Senate.

Mr. President, in closing, I just want to emphasize that if Members seek to put any controversial provisions on this bill, we will not have time to get this bill done. Therefore, any help Members can offer to assure speedy passage of this meritorious, non-controversial, and bipartisan bill before

the end of this Congress will be greatly appreciated.●

NAHRO AWARDS OF MERIT

● Mr. HATFIELD. Mr. President, each year the National Association of Housing and Redevelopment Officials (NAHRO) honors low-income housing and community development agencies nationwide through the NAHRO Agency Awards of Merit in Housing and Community Development. This awards program recognizes the efforts of agencies that have demonstrated a clear commitment and ability to address the unique and special needs of their communities. I would like to take a moment to recognize the three recipients of this award from the State of Oregon for their dedicated efforts.

The first Oregon recipient is the Housing Authority of Washington County for their Claire Court project. Recently purchased and renovated by the Authority, Claire Court is an apartment residence that was built in 1945 with a substantial amount of war surplus materials. While the housing complex had an excellent framework, the extensive use of lead-base paint, asbestos insulation, and outdated plumbing and wiring had created a significant hazard for residents. The renovation of Claire Court not only removed and replaced hazardous materials with safe, energy-efficient products, but also maintained neighborhood architecture and adapted two of the eight units to ADA and UFAS accessible living standards.

The Housing Authority of Portland, for the Fairview Oaks and Woods Interpretive Nature Trail, is the second Oregon recipient of the NAHRO Award of Merit. This 3,000-foot trail was created as a part of the new 328-unit Fairview Oaks and Fairview Woods housing complex, and utilized the cooperative efforts of high school students, apartment residents, and other local agencies. The interpretive nature trail, which features detailed markings and is handicapped accessible, serves as an excellent example of an innovative solution to balancing the growing need for affordable housing, while also preserving natural wildlife areas.

The final award recipient from Oregon is the Housing Authority of the City of Salem for their Family Stabilization Program. While many agencies of this kind are successful in helping individuals in the community, the Salem Housing Authority devised this program in an attempt to bring community providers together and transfer their success with individuals into success for their families as well. The Family Stabilization Program has helped coordinate the efforts of programs dealing in drug prevention, family self-sufficiency, and parenting—among others—and has resulted in increased participation by families in all areas.

The State of Oregon is truly fortunate to have such dedicated and innovative housing and community development agencies working in our communities. I am honored to recognize these groups for their efforts, and to congratulate them on receiving the NAHRO Award of Merit.●

REAUTHORIZATION OF THE EPA LONG ISLAND SOUND OFFICE

● Mr. LIEBERMAN. Mr. President, I rise today to note the critical importance of this legislation, the Water Resources Development Act, to the future of Connecticut's most valuable natural resource, Long Island Sound.

Included in the bill is a provision reauthorizing the EPA's Long Island Sound Office [LISO], which was established by legislation I was proud to sponsor 6 years ago, and which is now responsible for coordinating the massive clean-up effort ongoing in the Sound. Quite simply, the LISO is the glue holding this project together, and I want to express my deep appreciation to the chairman and ranking member of the Environment and Public Works Committee—Senators CHAFEE and BAUCUS—for their help in making sure this Office stays open for business.

Mr. President, the Long Island Sound Office has been given a daunting task—orchestrating a multibillion dollar, decade-long initiative that requires the cooperation of nearly 150 different Federal, State, and municipal agents and offices. Despite the odds, and the limited resources it has had to work with, the LISO is succeeding. Over the last few years, the EPA office has developed strong working relationships with the State environmental protection agencies in Connecticut and New York, local government officials along the Sound coastline and a number of proactive citizen groups. Together, these many partners have made tremendous progress toward meeting the six key goals we identified in the Sound's long-term conservation and management plan.

The plan's top priority is fighting hypoxia, which is caused by the release of nutrients into the Sound's 1,300 square miles of water. Thanks in part to the LISO's efforts, nitrogen loads have dropped 5,000 pounds per day from the baseline levels of 1990, exceeding all expectations. In addition, all sewage treatment plants in Connecticut and in New York's Westchester, Suffolk and Nassau counties are now in compliance with the ''no net increase'' agreement brokered by the LISO, while the four New York City plants that discharge into the East River are expected to be in compliance by the end of this year. And the LISO is coordinating 15 different projects to retrofit treatment plants with new equipment that will help them reduce the amount of nitrogen reaching the Sound.

The LISO and its many partners have made great strides in other areas, such as cracking down on the pathogens, toxic substances, and litter that have been finding their way into the Sound watershed and onto area beaches. A major source of toxic substances are industrial plants, and over the last few years the LISO has helped arrange more than 30 ''pollution prevention'' assessments at manufacturing facilities in Connecticut that enable companies to reduce emissions and cut their costs. Also, New York City has recently reduced the amount of floatable debris it produces by 70%, thanks to the use of booms on many tributaries and efforts to improve the capture of combined sewer overflows.

With Congress's help, the LISO will soon be able to build on that progress and significantly broaden its efforts to bring the Sound back to life. This week the House and Senate approved an appropriation of the $700,000 for the Long Island Sound Office, doubling our commitment from the current fiscal year. These additional funds will be used in part to launch an ambitious habitat restoration project. The States of New York and Connecticut have been working with the LISO and the U.S. Fish and Wildlife Service to develop a long-term strategy in this area, and they have already identified 150 key sites. The next step is to provide grants to local partnerships with local towns and private groups such as the National Fish and Wildlife Foundation and The Nature Conservancy, which would focus on restoring tidal and freshwater wetlands, submerged aquatic vegetation, and areas supporting anadromous fish populations.

The funding will also be used for site-specific surveys to identify and correct local sources of non-point source pollution. This effort will focus on malfunctioning septic systems, stormwater management and illegal stormwater connections, improper vessel waste disposal, and riparian protection. All of these sources contribute in some way to the release of pathogens and toxic compounds into the Sound, a problem that is restricting the use of area beaches and shellfish beds and hurting our regional economy.

Finally, the LISO will continue to build on the successful public education and outreach campaign it initiated last year. In New York, the LISO has already been in contact with public leaders in 50 local communities, held follow-up meetings with officials in 15 key areas, and scheduled on-the-water workshops for this fall. The LISO is planning to conduct a similar effort to reach out to Connecticut communities in 1997.

All of this could have been put in jeopardy, however, if we had not acted to extend the LISO's authorization, which is set to expire next week. The clean-up project is a team effort, with many important contributors, but it would be extremely difficult for those many partners to work in concert and keep moving forward without the leadership and coordination that the LISO has supplied. So I want to thank my colleagues, especially my friends from Rhode Island and from Montana, for

passing this provision before the LISO's authorization lapsed.

The people of Connecticut care deeply about the fate of the Sound, not only because of its environmental importance but also because of its importance as one of our region's most valuable economic assets. With the steps we've taken this week, we have reassured them that we remained committed to preserving this great natural resource, and that we are not about to sell Long Island Sound short.

Mr. President, I ask that my statement be included in the RECORD along with the conference report on the Water Resources Development Act.●

THE 35TH ANNIVERSARY OF THE ARMS CONTROL AND DISARMAMENT AGENCY

● Mr. HATFIELD. Mr. President, today marks the 35th anniversary of the Arms Control and Disarmament Agency—the only Federal agency devoted solely to arms control, nonproliferation, and disarmament. This unique Agency has played a critical role in ensuring that arms control considerations are taken into account in formulating our Nation's national security policy.

Since the creation of ACDA, we have seen the realization of more than 10 major arms control treaties and significant progress on many others including the recently signed Comprehensive Nuclear Test Ban Treaty. Before ACDA was created, only one major arms control treaty was ratified in the period between 1945 and 1961.

Some of the major arms control accomplishments we have seen in the last 35 years include:

The elimination by the United States and Russia of two-thirds of their strategic nuclear forces, including more than 14,000 of their strategic nuclear warheads.

The ratification and permanent extension of the nuclear nonproliferation treaty by more than 181 countries, making it the most widely accepted arms control agreement in history.

The elimination of above ground nuclear tests through the Limited Test Ban Treaty, and the establishment of an international norm against underground testing through the Comprehensive Nuclear Test Ban Treaty signed earlier this week by the United States and the other declared nuclear weapons states.

We have accomplished much over the last 35 years. However, our work is not done. The United States must ratify the Chemical Weapons Convention to stop the production and use of these dangerous weapons. We must ensure that the Russian's ratify the START II Treaty and continue their commitment to reducing their nuclear arsenal. We must continue to pressure India to ratify the Comprehensive Nuclear Test Ban Treaty so the treaty will enter into force.

In the words of the current Director of ACDA, John Holum:

> [W]e have demonstrated in one hard-won agreement after another that when we control arms we control our fate . . . buttress our freedom . . . enhance our security and our prosperity.

I applaud ACDA and join in celebrating its 35 years of success. I hope we can continue this success for another 35 years for the hopes and lives of future generations of Americans depend on our ability to control the spread of weapons of mass destruction.●

ARMS CONTROL AND DISARMAMENT AGENCY'S 35TH ANNIVERSARY

● Mr. SIMON. Mr. President, today marks the 35th anniversary of the Arms Control and Disarmament Agency. Established in 1961, ACDA remains the only Government agency devoted entirely to arms control, disarmament and nonproliferation. In this Congress, ACDA was on the chopping block and threatened with elimination as an obsolete agency. Fortunately, ACDA survived. The historic signing of the Comprehensive Test Ban Treaty this week shows the worth of ACDA, and offers an example of the importance of maintaining an independent and robust ACDA.

ACDA was founded on a bipartisan basis to serve as the lead agency for U.S. disarmament and arms control activities, with its director as the principal advisor to the President on these matters. It was created not only to provide increased focus on arms control, but also to elevate these issues so that they wouldn't get lost in the bureaucracies of the State and Defense Departments.

The list of arms control agreements during the three and a half decades of ACDA is staggering: the 1963 Limited Test Ban Treaty, the 1968 Non-Proliferation Treaty, the 1972 Anti-Ballistic Missile Treaty, the 1987 Intermediate Nuclear Forces Treaty, the Strategic Arms Reduction Treaties and the 1993 Chemical Weapons Convention, as well as many others. These successes have immeasurably improved the security of the United States. During the cold war, we faced the persistent and ominous threat of nuclear warfare, and today we see the dangers of nuclear, chemical and biological terrorism. Would we be safer today without these treaties? Of course we wouldn't. Will we be safer tomorrow with continued pursuit of arms control? Yes, and this compels the continued existence of a strong and independent ACDA.

Considering the billions that have been saved through reductions in nuclear arsenals, the ending of the testing program and other arms control measures, ACDA's annual budget of around $40 million and its staff of 250 proves to be a real bargain. In the coming years ACDA responsibilities will include monitoring the START II nuclear arms reductions, verifying the Comprehensive Test Ban Treaty and implementing the Chemical Weapons Convention, provided these last two treaties are ratified in the next Congress, and I strongly believe that they should be.

I cannot comment on the importance of ACDA without mentioning my colleague, Senator CLAIBORNE PELL of Rhode Island, who has throughout his career been a tireless champion of ACDA, from its creation in 1961 to the revitalization legislation passed in 1994. His leadership on arms control and as an advocate for multilateral solutions to security problems will be sorely missed by the Senate and the Nation.

Arms control is not obsolete, and we need ACDA to make it happen. I commend Director John Holum and the rest of the staff of ACDA on the agency's 35th anniversary, and wish them the best of success in the future.●

UNITED STATES-JAPAN INSURANCE AGREEMENT

● Mr. ROTH. Mr. President, I rise today to express, once again, my profound concerns over the Japanese Ministry of Finance's [MOF] behavior regarding the United States-Japan Insurance Agreement. I have written several times to the Finance Minister of Japan and the President of the United States and spoken directly with the negotiators involved in this matter, yet Japan continues to fail to fulfill its obligations under the agreement to increase access to its insurance market for foreign competitors.

And now, according to reliable reports, MOF intends to take steps that would actually violate the agreement. On or soon after October 1, MOF apparently will allow Japanese companies to enter the third sector of Japan's insurance market, the only sector in which foreign companies have any consequential presence. If MOF takes this action, I believe Japan will have clearly violated the agreement.

I have particularly great concerns with the Ministry of Finance's behavior on this issue because it calls into question the entire Government of Japan's willingness to fulfill its written commitments. That is why I consider this the most serious trade matter facing our two countries.

Mr. President, our patience has been tested by the continuing refusal of Japan to honor its commitments. If MOF now chooses to violate the agreement, the United States will have no choice but to take appropriate actions in response. I want the Ministry of Finance and the Government of Japan to be under no illusions about how strongly I would view such a violation. I will be working closely with Chairman ARCHER of the House Ways and Means Committee in urging the White House, the USTR, the Treasury Department and the Department of State to take appropriate actions in response to any violation of the agreement.●

EXPANDING HEALTH CARE COVERAGE FOR CALIFORNIANS

● Mrs. FEINSTEIN. Mr. President, I commend the Senate for approving last night, at my urging, H.R. 3056, which makes a small change in Federal law to enable a California county that operates a Medicaid managed care plan to provide services to Medicaid beneficiaries in another county. This bill, introduced by Congressman FRANK RIGGS, is needed because the Health Care Financing Administration concluded that current law limits coverage under these county-operated plans solely to the county in which an organization operates.

This bill was requested by Solano and Napa Counties in California so that Solano County could expand its Health Partnership Plan to Napa County, thus providing care to 12,000 individuals. Currently, these Medicaid beneficiaries have ''hit or miss'' health care. Some are refused care by private physicians. The health care they do get is inconsistent and unreliable. Many end up in emergency rooms when illnesses are exacerbated and care is expensive. When Solano started its plan, emergency room visits were cut in half the first year because Medicaid beneficiaries were linked up with a primary care physician. This resulted in major savings.

In short, this bill will mean more access, more care and better health.

The Congressional Budget Office estimates that the bill could save up to $500,000 per year.

The bill is supported by Gov. Pete Wilson, the California Department of Health Services, and the Solano and Napa County Boards of Supervisors.

I thank Senators LOTT, DASCHLE, ROTH, and MOYNIHAN for their help in moving this legislation and I urge my colleagues to support it.●

A NATIONAL COMMISSION ON THE YEAR 2000 COMPUTER PROBLEM

● Mr. MOYNIHAN. Mr. President, yesterday I introduced S. 2131, a bill to establish a bipartisan National Commission on the Year 2000 Computer Problem. I ask that the permanent RECORD be changed to include the text of the bill at the beginning of my remarks. I further ask that the title of my remarks yesterday be corrected to read ''A National Commission on The Year 2000 Computer Problem.''

The text of the bill follows:

SEC. 1. SHORT TITLE.—(A) This title may be cited as the ''Commission on the Year 2000 Computer Problem Act.''

SEC. 2. FINDINGS.—The Congress makes the following findings:

(A) Whereas the Congress of the United States recognizes the existence of a severe computer problem that may have extreme negative economic and national security consequences in the year 2000 and beyond.

(B) Whereas most computer programs (particularly in mainframes) in both the public and private sector express dates with only two digits and assume the first two digits are ''19'', and that therefore most programs read 00–01–01 as January 1, 1900; and that these programs will not recognize the year 2000 or the 21st century without a massive rewriting of codes.

(C) Whereas the Congressional Research Service (CRS) has completed a report on the implications of the ''Year 2000 Computer Problem'' and according to CRS, each line of computer code will need to be analyzed and either passed on or be rewritten and this worldwide problem could cost as much as $600 billion to repair. We recognize that no small share of the American burden will fall on the shoulders of the Federal Government and on State and local governments.

(D) Whereas six issues need to be addressed:

(1) an analysis of the history and background concerning the reasons for the occurence of the Year 2000 problem;

(2) the cost of reviewing and rewriting codes for both the Federal and State governments over the next 3 years, including a legal analysis of responsibilities for such costs and possible equitable bases for sharing them;

(3) the time it will take to get the job done and, if not by 2000, what agencies are at risk of not being able to perform basic services;

(4) the development of balanced and sound contracts with the computer industry available for use by Federal agencies, and if such outside contractual assistance is needed, to assist such agencies in contracting for and effectuating Year 2000 compliance for current computer programs and systems as well to ensure Year 2000 compliance for all programs and systems acquired in the future;

(5) an analysis of what happens to the United States economy if the problem is not resolved by mid-1999;

(6) recommendations to the President and the Congress concerning lessons to be learned and policies and actions to be taken in the future to minimize the Year 2000 public and private sector costs and risks.

(E) Whereas the Congress recognizes that an Executive Branch Interagency Committee has been established to raise awareness of this problem and facilitate efforts at solving it; but that in order to best minimize the impact and cost of this problem, and recognizing the extreme urgency of this problem, this bipartisan commission will be established to both address these issues and take responsibility for assuring that all Federal agencies be computer compliant by January 1, 1999.

SEC. 3. ESTABLISHMENT OF COMMISSION.—(A) There is established a commission to be known as the ''National Commission on the Year 2000 Computer Problem'' (hereinafter in this section referred to as the ''Commission''). The Commission shall be composed of 15 members appointed or designated by the President and selected as follows:

(1) Five members selected by the President from among officers or employees of the Executive Branch, private citizens of the United States, or both. Not more than three of the members selected by the President shall be members of the same political party;

(2) Five members selected by the President Pro Tempore of the Senate, in consultation with the Majority and Minority Leaders, from among officers or employers of the Senate, private citizens of the United States, or both. Not more than three of the members selected by the President Pro Tempore shall be members of the same political party;

(3) Five members selected by the Speaker of the House of Representatives, in consultation with the Majority and Minority Leaders, from among members of the House, private citizens of the United States, or both. Not more than three of the members selected by the Speaker shall be members of the same political party.

(B) The President shall designate a Chairman from among the members of the Commission.

SEC. 4. FUNCTION OF COMMISSION.—(A) It shall be the function of the Commission to conduct a study on the historical, current and long term condition of computer programs as they relate to date fields and the year 2000; identify problems that threaten the proper functions of computers as the public and private sectors approach the 21st Century; analyze potential solutions to such problems that will address the brief time there remains to meet this problem, the substantial cost of reviewing and rewriting codes, and the shared responsibilities for such costs; and provide appropriate recommendations (including potential balanced and sound contracts with the computer industry available for use by Federal agencies) to the Secretary of Defense (as this is a matter of National Security), the President and the Congress.

(B) the Commission shall submit to Congress a final report containing such recommendations concerning the Year 2000 Computer problem; including proposing new procedures, rules, regulations, or legislation that is needed to ensure the proper transition of the computers of the Federal Government and local and State governments from the year 1999 to the year 2000.

(C) the Commission shall make its report to the President by December 31, 1997.

SEC. 5. ADMINISTRATION.—(A) The heads of Executive Agencies shall, to the extent permitted by law, provide the Commission such information as it may require for the purpose of carrying out its functions.

(B) Members of the Commission shall serve without any additional compensation for their work on the Commission.

(C) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses including per diem in lieu of substance, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

(D) The Commission shall have a staff headed by an Executive Director. Any expenses of the Commission shall be paid from such funds as may be available to the Secretary of Defense.

SEC. 6. TERMINATION.—(A) The Commission, and all the authorities of this title, shall terminate thirty days after submitting its report.●

SALUTE TO SYLVIA DAVIDSON LOTT BUCKLEY LOUISIANA POET LAUREATE

● Mr. BREAUX. Mr. President, I commend Mrs. Sylvia Davidson Lott Buckley, Louisiana State poet laureate, for achieving the distinction of writing the only poem recognized by the State of Louisiana.

Mrs. Buckley was inspired to write the poem, ''America, We the People,'' when she received a stick pin from her grandson, Hue Lott, inscribed with the words, ''We the people.'' Reflecting on the fact that justice is a most important word that all the rest of our government rests on, and that citizens are demanding freedom and justice for all, she wrote the poem within 25 minutes.

The Louisiana Legislature passed, and the Governor subsequently signed, legislation that makes ''America, We the People,'' the Official State Judicial Poem.

Mr. President, I would like to share Mrs. Buckley's poem with my colleagues and other readers of the CONGRESSIONAL RECORD. I ask that this poem be printed in the RECORD.

The poem follows:

''AMERICA, WE THE PEOPLE''

THE OFFICIAL LOUISIANA JUDICIAL POEM

America
We the people
Justice, the word most sought by all, seek God to bless the courts with truth, for through His wisdom we rise or fall.

America
We the people
Do honor this great lady fair, who with her mighty arms still holds, the scales of Justice for all to share.

America
We the people
Do offer threads of hope to all, for Justice covers everyone; she does not measure, short or tall.

America
We the people
Boldly make this pledge to thee that Justice will, in mind and heart, guide each destiny.

America
We . . . the . . . people.—Sylvia Davidson Lott Buckley, Louisiana State Poet Laureate.●

GONZAGA COLLEGE HIGH SCHOOL ANNIVERSARY

● Mr. HOLLINGS. Mr. President, this year Gonzaga College High School here in Washington, DC, is observing its 175th anniversary. This weekend, the Gonzaga community will celebrate this occasion with a block party at the school on Sunday, September 29.

I submit some additional information about the school and its long history and ask it be printed in the RECORD.

The material follows:

D.C.'S OLDEST SCHOOL MARKS 175TH ANNIVERSARY

Washington, D.C.—This year Gonzaga College High School located on North Capitol and Eye Street, N.W. is celebrating 175 years of service to the community. The oldest educational institution in the federal city of Washington, Gonzaga through the years has educated the sons of government leaders and the sons of janitors, teaching strong moral values interwoven with its rigorous academic disciplines, and producing graduates which the school fondly calls ''Men for Others.''

Founded by the Society of Jesus in 1821 and originally named the Washington Seminary, Gonzaga grew from a tiny school to a major inner-city presence by the turn of the century. Gonzaga prospered during that period and well into the 1900's, a reflection of the city of Washington at large. So, too, was the school a reflection of the city in the late 1960's when racial tensions began to ignite. Enrollment at the Eye Street, N.W. school began to decline. Immediately after the assassination of Martin Luther King, Jr. in April 1968, the community around Gonzaga literally caught fire and the riots destroyed some neighborhoods and made others uninhabitable.

This tense period (1968–1973) marked the turning point in the life of Gonzaga. The Jesuit community and its supporters then made the crucial decision to remain on North Capitol Street, rather than close down or flee to the suburbs. This decision to stay and help restore the inner-city, both physically and spiritually, makes possible this 175th anniversary celebration.

The arrival of Father Bernard Dooley in 1974 as Gonzaga's new president was the single most significant event in this turnaround. He discovered that the school had no endowment, that its buildings were old and inadequate, and the prospective students were going elsewhere to high school.

Father Dooley led the turnaround campaign to a stunning success. During his twenty years at the school (1974–1994) Dooley and his team built new buildings, increased the endowment and revived the spirit of the Gonzaga community. This fall, 820 students will be enrolled at Gonzaga, the largest enrollment in its history and a far cry from the dark days of the early 1970's.

During these 175 years, great leaders have visited Gonzaga. President John Quincy Adams put the students through their paces in Latin and Greek at one graduation ceremony, and President Zachary Taylor spoke at another. Much more recently, Mother Theresa of Calcutta reminded the 1988 graduating class of its duty to care for the poorest of the poor.

Gonzaga may be best known and best represented by its heroes who are not household names—such as Father Horace McKenna, S.J., Father Raymond Lelii, S.J., Joe Kozik and John Carmody. These men and others like them demonstrated by their example that community service is the primary mission of a Gonzaga man.

Father Allen Novotny is the current President of Gonzaga, succeeding Dooley in 1994. A member of the Society of Jesus, Father Novotny holds degrees from Loyola College in Baltimore (MS and MBA), and the Weston School of Theology (M.Div.)●

GARRET LAVELLE RECEIVES THEODORE ROOSEVELT ASSOCIATION AWARD

● Mr. MOYNIHAN. Mr. President, On Wednesday, May 8, 1996, New York Police officer Garret Lavelle was awarded the Fourteenth Annual Theodore Roosevelt Association Award. Each year the Theodore Roosevelt Association honors one member of the New York City Police Department who has overcome a handicap and contributed outstanding service to the New York community with this prestigious award.

Garret Lavelle has been a police officer with the Brooklyn South Narcotics Unit for 14 years. Mr. Lavelle has received three Meritorious Police Duty Citations, one Commendation, and three Excellent Police Duty Citations. In addition, he has been active in the Patrolmen's Benevolence Association.

Five years ago Officer Lavelle was diagnosed with a chronic form of leukemia, and has since undergone chemotherapy, a bone marrow transplant, suffered from pneumonia, hepatitis, a complete muscular breakdown, and hypertension.

While Officer Lavelle could have taken a disability pension, he courageously chose to return to active duty. Although currently serving desk duty, Officer Lavelle looks forward to returning to the streets where he excels at serving his community. Furthermore, Mr. and Mrs. Lavelle now take time to counsel people diagnosed with leukemia. It is this kind of service which sets a standard for public servants across the nation, and it is only fitting that such heroism is rewarded with this great honor in Theodore Roosevelt's name.●

ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996—CONFERENCE REPORT

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of the conference report accompanying the immigration bill, H.R. 2202.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, 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 PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 24, 1996.)

CLOTURE MOTION

Mr. LOTT. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative 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, do hereby move to bring to a close debate the conference report to accompany H.R. 2202, the illegal immigration reform bill.

Trent Lott, Richard Shelby, Jon Kyl, Craig Thomas, Bob Bennett, Slade Gorton, Mark O. Hatfield, Sheila Frahm, Orrin Hatch, Hank Brown, Dan Coats, Judd Gregg, Rod Grams, Frank H. Murkowski, Al Simpson, and Don Nickles.

Mr. LOTT. Mr. President, I ask unanimous consent that the cloture vote occur on Monday, September 30, at a time to be determined by the majority leader, after consultation with the Democratic leader, and that the mandatory quorum under rule XXII be waived.

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

Mr. LOTT. Mr. President, in view of this agreement that has been worked out, I would like to announce there will be no further votes tonight. I know that there are a number of very important events occurring. I wanted to give that notice to the Senators as early as possible.

I have worked with Senator DASCHLE and Senator KENNEDY to get an agreement to get this illegal immigration conference report considered. This will guarantee that we will get to a cloture vote on Monday, if necessary, and to final passage at a time after that, either Monday night or certainly not later than next Tuesday.

In the meantime, we continue to hope, and, I believe, maybe agreement can be reached to work out a compromise so that the illegal immigration legislation can be included in the continuing resolution which will be connected to the Department of Defense conference report.

There will be a meeting tonight, I think, at 9:30 of the Senators and Congressmen and administration officials who are interested in this area. We hope they can get it worked out and maybe it can be included in an agreed-to package tomorrow night just in case that doesn't happen. Illegal immigration is such an important issue in this country and people expect us to act on it.

After the effort was made and agreement was reached to take out one provision that had been objected to by the President and others, we thought this legislation would move forward. It should. But there are some problems that are being expressed by the administration. We will work on those. If we don't get it worked out, we will have a cloture vote on Monday.

ACCOUNTABLE PIPELINE SAFETY AND PARTNERSHIP ACT OF 1996

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate resume consideration of S. 1505, the pipeline safety bill; that the committee substitute be agreed to, the bill be advanced to third reading and passed, and the motion to reconsider be laid upon the table, all without intervening action or debate.

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

The committee amendment was agreed to.

The bill (S. 1505), as amended, was deemed read the third time and passed, as follows:

S. 1505

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 ''Accountable Pipeline Safety and Partnership Act of 1996''.

SEC. 2. REFERENCES.

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 title 49, United States Code.

SEC. 3. DEFINITIONS.

(a) IN GENERAL.—Section 60101(a) is amended—

(1) by striking the periods at the end of paragraphs (1) through (22) and inserting semicolons;

(2) by striking paragraph (21)(B) and inserting the following:

''(B) does not include the gathering of gas, other than gathering through regulated gathering lines, in those rural locations that are located outside the limits of any incorporated or unincorporated city, town, or village, or any other designated residential or commercial area (including a subdivision, business, shopping center, or community development) or any similar populated area that the Secretary of Transportation determines to be a nonrural area, except that the term 'transporting gas' includes the movement of gas through regulated gathering lines;''; and

(3) by adding at the end the following:

''(23) 'risk management' means the systematic application, by the owner or operator of a pipeline facility, of management policies, procedures, finite resources, and practices to the tasks of identifying, analyzing, assessing, reducing, and controlling risk in order to protect employees, the general public, the environment, and pipeline facilities;

''(24) 'risk management plan' means a management plan utilized by a gas or hazardous liquid pipeline facility owner or operator that encompasses risk management; and

''(25) 'Secretary' means the Secretary of Transportation.''.

(b) GATHERING LINES.—Section 60101(b)(2) is amended by inserting '', if appropriate,'' after ''Secretary'' the first place it appears.

SEC. 4. GENERAL AUTHORITY.

(a) MINIMUM SAFETY STANDARDS.—Section 60102(a) is amended—

(1) by striking ''transporters of gas and hazardous liquid and to'' in paragraph (1)(A);

(2) by striking paragraph (1)(C) and inserting the following:

''(C) shall include a requirement that all individuals who operate and maintain pipeline facilities shall be qualified to operate and maintain the pipeline facilities.''; and

(3) by striking paragraph (2) and inserting the following:

''(2) The qualifications applicable to an individual who operates and maintains a pipeline facility shall address the ability to recognize and react appropriately to abnormal operating conditions that may indicate a dangerous situation or a condition exceeding design limits. The operator of a pipeline facility shall ensure that employees who operate and maintain the facility are qualified to operate and maintain the pipeline facilities.''.

(b) PRACTICABILITY AND SAFETY NEEDS STANDARDS.—Section 60102(b) is amended to read as follows:

''(b) PRACTICABILITY AND SAFETY NEEDS STANDARDS.—

''(1) IN GENERAL.—A standard prescribed under subsection (a) shall be—

''(A) practicable; and

''(B) designed to meet the need for—

''(i) gas pipeline safety, or safely transporting hazardous liquids, as appropriate; and

''(ii) protecting the environment.

''(2) FACTORS FOR CONSIDERATION.—When prescribing any standard under this section or section 60101(b), 60103, 60108, 60109, 60110, or 60113, the Secretary shall consider—

''(A) relevant available—

''(i) gas pipeline safety information;

''(ii) hazardous liquid pipeline safety information; and

''(iii) environmental information;

''(B) the appropriateness of the standard for the particular type of pipeline transportation or facility;

''(C) the reasonableness of the standard;

''(D) based on a risk assessment, the reasonably identifiable or estimated benefits expected to result from implementation or compliance with the standard;

''(E) based on a risk assessment, the reasonably identifiable or estimated costs expected to result from implementation or compliance with the standard;

''(F) comments and information received from the public; and

''(G) the comments and recommendations of the Technical Pipeline Safety Standards Committee, the Technical Hazardous Liquid Pipeline Safety Standards Committee, or both, as appropriate.

''(3) RISK ASSESSMENT.—In conducting a risk assessment referred to in subparagraphs (D) and (E) of paragraph (2), the Secretary shall—

''(A) identify the regulatory and nonregulatory options that the Secretary considered in prescribing a proposed standard;

''(B) identify the costs and benefits associated with the proposed standard;

''(C) include—

''(i) an explanation of the reasons for the selection of the proposed standard in lieu of the other options identified; and

''(ii) with respect to each of those other options, a brief explanation of the reasons that the Secretary did not select the option; and

''(D) identify technical data or other information upon which the risk assessment information and proposed standard is based.

''(4) REVIEW.—

''(A) IN GENERAL.—The Secretary shall—

''(i) submit any risk assessment information prepared under paragraph (3) of this subsection to the Technical Pipeline Safety Standards Committee, the Technical Hazardous Liquid Pipeline Safety Standards Committee, or both, as appropriate; and

''(ii) make that risk assessment information available to the general public.

''(B) PEER REVIEW PANELS.—The committees referred to in subparagraph (A) shall serve as peer review panels to review risk assessment information prepared under this section. Not later than 90 days after receiving risk assessment information for review

pursuant to subparagraph (A), each committee that receives that risk assessment information shall prepare and submit to the Secretary a report that includes—

''(i) an evaluation of the merit of the data and methods used; and

''(ii) any recommended options relating to that risk assessment information and the associated standard that the committee determines to be appropriate.

''(C) REVIEW BY SECRETARY.—Not later than 90 days after receiving a report submitted by a committee under subparagraph (B), the Secretary—

''(i) shall review the report;

''(ii) shall provide a written response to the committee that is the author of the report concerning all significant peer review comments and recommended alternatives contained in the report; and

''(iii) may revise the risk assessment and the proposed standard before promulgating the final standard.

''(5) SECRETARIAL DECISIONMAKING.—Except where otherwise required by statute, the Secretary shall propose or issue a standard under this Chapter only upon a reasoned determination that the benefits of the intended standard justify its costs.

''(6) EXCEPTIONS FROM APPLICATION.—The requirements of subparagraphs (D) and (E) of paragraph (2) do not apply when—

''(A) the standard is the product of a negotiated rulemaking, or other rulemaking including the adoption of industry standards that receives no significant adverse comment within 60 days of notice in the Federal Register;

''(B) based on a recommendation (in which three-fourths of the members voting concur) by the Technical Pipeline Safety Standards Committee, the Technical Hazardous Liquid Pipeline Safety Standards Committee, or both, as applicable, the Secretary waives the requirements; or

''(C) the Secretary finds, pursuant to section 553(b)(3)(B) of title 5, United States Code, that notice and public procedure are not required.

''(7) REPORT.—Not later than March 31, 2000, the Secretary shall transmit to the Congress a report that—

''(A) describes the implementation of the risk assessment requirements of this section, including the extent to which those requirements have affected regulatory decisionmaking and pipeline safety; and

''(B) includes any recommendations that the Secretary determines would make the risk assessment process conducted pursuant to the requirements under this chapter a more effective means of assessing the benefits and costs associated with alternative regulatory and nonregulatory options in prescribing standards under the Federal pipeline safety regulatory program under this chapter.''.

(c) FACILITY OPERATION INFORMATION STANDARDS.—The first sentence of section 60102(d) is amended—

(1) by inserting ''as required by the standards prescribed under this chapter'' after ''operating the facility'';

(2) by striking ''to provide the information'' and inserting ''to make the information available''; and

(3) by inserting ''as determined by the Secretary'' after ''to the Secretary and an appropriate State official''.

(d) PIPE INVENTORY STANDARDS.—The first sentence of section 60102(e) is amended—

(1) by striking ''and, to the extent the Secretary considers necessary, an operator of a gathering line that is not a regulated gather line (as defined under section 60101(b)(2) of this title),''; and

(2) by striking ''transmission'' and inserting ''transportation''.

(e) SMART PIGS.—

(1) MINIMUM SAFETY STANDARDS.—Section 60102(f) is amended by striking paragraph (1) and inserting the following:

''(1) MINIMUM SAFETY STANDARDS.—The Secretary shall prescribe minimum safety standards requiring that—

''(A) the design and construction of new natural gas transmission pipeline or hazardous liquid pipeline facilities, and

''(B) when the replacement of existing natural gas transmission pipeline or hazardous liquid pipeline facilities or equipment is required, the replacement of such existing facilities be carried out, to the extent practicable, in a manner so as to accommodate the passage through such natural gas transmission pipeline or hazardous liquid pipeline facilities of instrumented internal inspection devices (commonly referred to as 'smart pigs'). The Secretary may extend such standards to require existing natural gas transmission pipeline or hazardous liquid pipeline facilities, whose basic construction would accommodate an instrumented internal inspection device to be modified to permit the inspection of such facilities with instrumented internal inspection devices.''.

(2) PERIODIC INSPECTIONS.—Section 60102(f)(2) is amended—

(A) by striking ''(2) Not later than'' and inserting the following:

''(2) PERIODIC INSPECTIONS.—Not later than''; and

(B) by inserting '', if necessary, additional'' after ''the Secretary shall prescribe''.

(f) UPDATING STANDARDS.—Section 60102 is amended by adding at the end the following:

''(l) UPDATING STANDARDS.—The Secretary shall, to the extent appropriate and practicable, update incorporated industry standards that have been adopted as part of the Federal pipeline safety regulatory program under this chapter.''.

(g) MAPPING.—Section 60102(c) is amended by adding at the end thereof the following:

''(4) PROMOTING PUBLIC AWARENESS.—

''(A) Not later than one year after the date of enactment of the Accountable Pipeline Safety and Accountability Act of 1996, and annually thereafter, the owner or operator of each interstate gas pipeline facility shall provide to the governing body of each municipality in which the interstate gas pipeline facility is located, a map identifying the location of such facility.

''(B)(i) Not later than June 1, 1998, the Secretary shall survey and assess the public education programs under section 60116 and the public safety programs under section 60102(c) and determine their effectiveness and applicability as components of a model program. In particular, the survey shall include the methods by which operators notify residents of the location of the facility and its right of way, public information regarding existing One-Call programs, and appropriate procedures to be followed by residents of affected municipalities in the event of accidents involving interstate gas pipeline facilities.

''(ii) Not later than one year after the survey and assessment are completed, the Secretary shall institute a rulemaking to determine the most effective public safety and education program components and promulgate if appropriate, standards implementing those components on a nationwide basis. In the event that the Secretary finds that promulgation of such standards are not appropriate, the Secretary shall report to Congress the reasons for that finding.''.

(h) REMOTE CONTROL.—Section 60102(j) is amended by adding at the end thereof the following:

''(3) REMOTELY CONTROLLED VALVES.—(A) Not later than June 1, 1998, the Secretary shall survey and assess the effectiveness of remotely controlled valves to shut off the flow of natural gas in the event of a rupture of an interstate natural gas pipeline facility and shall make a determination about whether the use of remotely controlled valves is technically and economically feasible and would reduce risks associated with a rupture of an interstate natural gas pipeline facility.

''(B) Not later than one year after the survey and assessment are completed, if the Secretary has determined that the use of remotely controlled valves is technically and economically feasible and would reduce risks associated with a rupture of an interstate natural gas pipeline facility, the Secretary shall prescribe standards under which an operator of an interstate natural gas pipeline facility must use a remotely controlled valve. These standards shall include, but not be limited to, requirements for high-density population areas.''.

SEC. 5. RISK MANAGEMENT.

(a) IN GENERAL.—Chapter 601 is amended by adding at the end the following:

''§ 60126. Risk management

''(a) RISK MANAGEMENT PROGRAM DEMONSTRATION PROJECTS.—

''(1) IN GENERAL.—The Secretary shall establish risk management demonstration projects—

''(A) to demonstrate, through the voluntary participation by owners and operators of gas pipeline facilities and hazardous liquid pipeline facilities, the application of risk management; and

''(B) to evaluate the safety and cost-effectiveness of the program.

''(2) EXEMPTIONS.—In carrying out a demonstration project under this subsection, the Secretary, by order—

''(A) may exempt an owner or operator of the pipeline facility covered under the project (referred to in this subsection as a 'covered pipeline facility'), from the applicability of all or a portion of the requirements under this chapter that would otherwise apply to the covered pipeline facility; and

''(B) shall exempt, for the period of the project, an owner or operator of the covered pipeline facility, from the applicability of any new standard that the Secretary promulgates under this chapter during the period of that participation, with respect to the covered facility.

''(b) REQUIREMENTS.—In carrying out a demonstration project under this section, the Secretary shall—

''(1) invite owners and operators of pipeline facilities to submit risk management plans for timely approval by the Secretary;

''(2) require, as a condition of approval, that a risk management plan submitted under this subsection contain measures that are designed to achieve an equivalent or greater overall level of safety than would otherwise be achieved through compliance with the standards contained in this chapter or promulgated by the Secretary under this chapter;

''(3) provide for—

''(A) collaborative government and industry training;

''(B) methods to measure the safety performance of risk management plans;

''(C) the development and application of new technologies;

''(D) the promotion of community awareness concerning how the overall level of safety will be maintained or enhanced by the demonstration project;

''(E) the development of models that categorize the risks inherent to each covered pipeline facility, taking into consideration the location, volume, pressure, and material transported or stored by that pipeline facility;

''(F) the application of risk assessment and risk management methodologies that are suitable to the inherent risks that are determined to exist through the use of models developed under subparagraph (E);

''(G) the development of project elements that are necessary to ensure that—

''(i) the owners and operators that participate in the demonstration project demonstrate that they are effectively managing the risks referred to in subparagraph (E); and

''(ii) the risk management plans carried out under the demonstration project under this subsection can be audited;

''(H) a process whereby an owner or operator of a pipeline facility is able to terminate a risk management plan or, with the approval of the Secretary, to amend, modify, or otherwise adjust a risk management plan referred to in paragraph (1) that has been approved by the Secretary pursuant to that paragraph to respond to—

''(i) changed circumstances; or

''(ii) a determination by the Secretary that the owner or operator is not achieving an overall level of safety that is at least equivalent to the level that would otherwise be achieved through compliance with the standards contained in this chapter or promulgated by the Secretary under this chapter;

''(I) such other elements as the Secretary, with the agreement of the owners and operators that participate in the demonstration project under this section, determines to further the purposes of this section; and

''(J) an opportunity for public comment in the approval process; and

''(4) in selecting participants for the demonstration project, take into consideration the past safety and regulatory performance of each applicant who submits a risk management plan pursuant to paragraph (1).

''(c) EMERGENCIES AND REVOCATIONS.—Nothing in this section diminishes or modifies the Secretary's authority under this title to act in case of an emergency. The Secretary may revoke any exemption granted under this section for substantial noncompliance with the terms and conditions of an approved risk management plan.

''(d) PARTICIPATION BY STATE AUTHORITY.—In carrying out this section, the Secretary may provide for consultation by a State that has in effect a certification under section 60105. To the extent that a demonstration project comprises an intrastate natural gas pipeline or an intrastate hazardous liquid pipeline facility, the Secretary may make an agreement with the State agency to carry out the duties of the Secretary for approval and administration of the project.

''(e) REPORT.—Not later than March 31, 2000, the Secretary shall transmit to the Congress a report on the results of the demonstration projects carried out under this section that includes—

''(1) an evaluation of each such demonstration project, including an evaluation of the performance of each participant in that project with respect to safety and environmental protection; and

''(2) recommendations concerning whether the applications of risk management demonstrated under the demonstration project should be incorporated into the Federal pipeline safety program under this chapter on a permanent basis.''.

(f) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at the end the following:

''60126. Risk management.''.

SEC. 6. INSPECTION AND MAINTENANCE.

Section 60108 is amended—

(1) by striking ''transporting gas or hazardous liquid or'' in subsection (a)(1) each place it appears;

(2) by striking the second sentence in subsection (b)(2);

(3) by striking ''NAVIGABLE WATERS'' in the heading for subsection (c) and inserting ''OTHER WATERS''; and

(4) by striking clause (ii) of subsection (c)(2)(A) and inserting the following:

''(ii) any other pipeline facility crossing under, over, or through waters where a substantial likelihood of commercial navigation exists, if the Secretary decides that the location of the facility in those waters could pose a hazard to navigation or public safety.''.

SEC. 7. HIGH-DENSITY POPULATION AREAS AND ENVIRONMENTALLY SENSITIVE AREAS.

(a) IDENTIFICATION.—Section 60109(a)(1)(B)(i) is amended by striking ''a navigable waterway (as the Secretary defines by regulation)'' and inserting ''waters where a substantial likelihood of commercial navigation exists''.

(b) UNUSUALLY SENSITIVE AREAS.—Section 60109(b) is amended to read as follows:

''(b) AREAS TO BE INCLUDED AS UNUSUALLY SENSITIVE.—When describing areas that are unusually sensitive to environmental damage if there is a hazardous liquid pipeline accident, the Secretary shall consider areas where a pipeline rupture would likely cause permanent or long-term environmental damage, including—

''(1) locations near pipeline rights-of-way that are critical to drinking water, including intake locations for community water systems and critical sole source aquifer protection areas; and

''(2) locations near pipeline rights-of-way that have been identified as critical wetlands, riverine or estuarine systems, national parks, wilderness areas, wildlife preservation areas or refuges, wild and scenic rivers, or critical habitat areas for threatened and endangered species.''.

SEC. 8. EXCESS FLOW VALVES.

Section 60110 is amended—

(1) by inserting '', if any,'' in the first sentence of subsection (b)(1) after ''circumstances'';

(2) by inserting '', operating, and maintaining'' in subsection (b)(4) after ''cost of installing'';

(3) by inserting '', maintenance, and replacement'' in subsection (c)(1)(C) after ''installation''; and

(4) by inserting after the first sentence in subsection (e) the following: ''The Secretary may adopt industry accepted performance standards in order to comply with the requirement under the preceding sentence.''.

SEC. 9. CUSTOMER-OWNED NATURAL GAS SERVICE LINES.

Section 60113 is amended—

(1) by striking the caption of subsection (a); and

(2) by striking subsection (b).

SEC. 10. TECHNICAL SAFETY STANDARDS COMMITTEES.

(a) PEER REVIEW.—Section 60115(a) is amended by adding at the end the following: ''The committees referred to in the preceding sentence shall serve as peer review committees for carrying out this chapter. Peer reviews conducted by the committees shall be treated for purposes of all Federal laws relating to risk assessment and peer review (including laws that take effect after the date of the enactment of the Accountable Pipeline Safety and Partnership Act of 1996) as meeting any peer review requirements of such laws.''.

(b) COMPOSITION AND APPOINTMENT.—Section 60115(b) is amended—

(1) by inserting ''or risk management principles'' in paragraph (1) before the period at the end;

(2) by inserting ''or risk management principles'' in paragraph (2) before the period at the end;

(3) by striking ''4'' in paragraph (3)(B) and inserting ''5'';

(4) by striking ''6'' in paragraph (3)(C) and inserting ''5'';

(5) by adding at the end of paragraph (4)(B) the following: ''At least 1 of the individuals selected for each committee under paragraph (3)(B) shall have education, background, or experience in risk assessment and cost-benefit analysis. The Secretary shall consult with the national organizations representing the owners and operators of pipeline facilities before selecting individuals under paragraph (3)(B).''; and

(6) by inserting after the first sentence of paragraph (4)(C) the following: ''At least 1 of the individuals selected for each committee under paragraph (3)(C) shall have education, background, or experience in risk assessment and cost-benefit analysis.''.

(c) COMMITTEE REPORTS.—Section 60115(c) is amended—

(1) by inserting ''including the risk assessment information and other analyses supporting each proposed standard'' before the semicolon in paragraph (1)(A);

(2) by inserting ''including the risk assessment information and other analyses supporting each proposed standard'' before the period in paragraph (1)(B);

(3) by inserting ''and supporting analyses'' before the first comma in the first sentence of paragraph (2);

(4) by inserting ''and submit to the Secretary'' in the first sentence of paragraph (2) after ''prepare'';

(5) by inserting ''cost-effectiveness,'' in the first sentence of paragraph (2) after ''reasonableness,''; and

(6) by inserting ''and include in the report recommended actions'' before the period at the end of the first sentence of paragraph (2); and

(7) by inserting ''any recommended actions and'' in the second sentence of paragraph (2) after ''including''.

(d) MEETINGS.—Section 60115(e) is amended by striking ''twice'' and inserting ''up to 4 times''.

(e) EXPENSES.—Section 60115(f) is amended—

(1) by striking ''PAY AND'' in the subsection heading;

(2) by striking the first 2 sentences; and

(3) by inserting ''of a committee under this section'' after ''A member''.

SEC. 11. PUBLIC EDUCATION PROGRAMS.

Section 60116 is amended—

(1) by striking ''person transporting gas'' and inserting ''owner or operator of a gas pipeline facility'';

(2) by inserting ''the use of a one-call notification system prior to excavation,'' after ''educate the public on''; and

(3) by inserting a comma after ''gas leaks''.

SEC. 12. ADMINISTRATIVE.

Section 60117 is amended—

(1) by adding at the end of subsection (b) the following: ''The Secretary may require owners and operators of gathering lines to provide the Secretary information pertinent to the Secretary's ability to make a determination as to whether and to what extent to regulate gathering lines.'';

(2) by adding at the end thereof the following:

''(k) AUTHORITY FOR COOPERATIVE AGREEMENTS.—To carry out this chapter, the Secretary may enter into grants, cooperative agreements, and other transactions with any person, agency, or instrumentality of the United States, any unit of State or local government, any educational institution, or any other entity to further the objectives of this chapter. The objectives of this chapter include the development, improvement, and promotion of one-call damage prevention

programs, research, risk assessment, and mapping.''; and

(3) by striking ''transporting gas or hazardous liquid'' in subsection (b) and inserting ''owning''.

SEC. 13. COMPLIANCE.

(a) Section 60118 (a) is amended—

(1) by striking ''transporting gas or hazardous liquid or'' in subsection (a); and

(2) by striking paragraph (1) and inserting the following:

''(1) comply with applicable safety standards prescribed under this chapter, except as provided in this section or in section 60126;''.

(b) Section 60118 (b) is amended to read as follows:

''(b) COMPLIANCE ORDERS.—The Secretary of Transportation may issue orders directing compliance with this chapter, an order under section 60126, or a regulation prescribed under this chapter. An order shall state clearly the action a person must take to comply.''.

(c) Section 60118(c) is amended by striking ''transporting gas or hazardous liquid'' and inserting ''owning''.

SEC. 14. DAMAGE REPORTING.

Section 60123(d)(2) is amended—

(1) by striking ''or'' at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following:

''(B) a pipeline facility that does not report the damage promptly to the operator of the pipeline facility and to other appropriate authorities; or''.

SEC. 15. BIENNIAL REPORTS.

(a) BIENNIAL REPORTS.—

(1) SECTION HEADING.—The section heading of section 60124 is amended to read as follows:

''§ 60124. Biennial reports''.

(2) REPORTS.—Section 60124(a) is amended by striking the first sentence and inserting the following: ''Not later than August 15, 1997, and every 2 years thereafter, the Secretary of Transportation shall submit to Congress a report on carrying out this chapter for the 2 immediately preceding calendar years for gas and a report on carrying out this chapter for such period for hazardous liquid.''.

(c) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by striking the item relating to section 60124 and inserting the following:

''60124. Biennial reports.''.

SEC. 16. POPULATION ENCROACHMENT.

(a) IN GENERAL.—Chapter 601, as amended by section 5, is further amended by adding at the end the following new section:

''§ 60127. Population encroachment

''(a) LAND USE RECOMMENDATIONS.—The Secretary of Transportation shall make available to an appropriate official of each State, as determined by the Secretary, the land use recommendations of the special report numbered 219 of the Transportation Research Board, entitled 'Pipelines and Public Safety'.

''(b) EVALUATION.—The Secretary shall—

''(1) evaluate the recommendations in the report referred to in subsection (a);

''(2) determine to what extent the recommendations are being implemented;

''(3) consider ways to improve the implementation of the recommendations; and

''(4) consider other initiatives to further improve awareness of local planning and zoning entities regarding issues involved with population encroachment in proximity to the rights-of-way of any interstate gas pipeline facility or interstate hazardous liquid pipeline facility.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by inserting after the item relating to section 60126 the following:

''60127. Population encroachment.''.

SEC. 17. USER FEES.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall transmit to the Congress a report analyzing the present assessment of pipeline safety user fees solely on the basis of mileage to determine whether—

(1) that measure of the resources of the Department of Transportation is the most appropriate measure of the resources used by the Department of Transportation in the regulation of pipeline transportation; or

(2) another basis of assessment would be a more appropriate measure of those resources.

(b) CONSIDERATIONS.—In making the report, the Secretary shall consider a wide range of assessment factors and suggestions and comments from the public.

SEC. 18. DUMPING WITHIN PIPELINE RIGHTS-OF-WAY.

(a) AMENDMENT.—Chapter 601, as amended by section 16, is further amended by adding at the end the following new section:

''§ 60128. Dumping within pipeline rights-of-way

''(a) PROHIBITION.—No person shall excavate for the purpose of unauthorized disposal within the right-of-way of an interstate gas pipeline facility or interstate hazardous liquid pipeline facility, or any other limited area in the vicinity of any such interstate pipeline facility established by the Secretary of Transportation, and dispose solid waste therein.

''(b) DEFINITION.—For purposes of this section, the term 'solid waste' has the meaning given that term in section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).''.

(b) CONFORMING AMENDMENTS.—

(1) CROSS-REFERENCE.—Section 60123(a) is amended by striking ''or 60118(a)'' and inserting '', 60118(a), or 60128''.

(2) CHAPTER ANALYSIS.—The analysis for chapter 601 is amended by adding at the end the following new item:

''60128. Dumping within pipeline rights-of-way.''.

SEC. 19. PREVENTION OF DAMAGE TO PIPELINE FACILITIES.

Section 60117(a) is amended by inserting after ''and training activities'' the following: ''and promotional activities relating to prevention of damage to pipeline facilities''.

SEC. 20. TECHNICAL CORRECTIONS.

(a) SECTION 60105.—The heading for section 60105 is amended by inserting ''**pipeline safety program**'' after ''**State**''.

(b) SECTION 60106.—The heading for section 60106 is amended by inserting ''**pipeline safety**'' after ''**State**''.

(c) SECTION 60107.—The heading for section 60107 is amended by inserting ''**pipeline safety**'' after ''**State**''.

(d) SECTION 60114.—Section 60114 is amended—

(1) by striking ''60120, 60122, and 60123'' in subsection (a)(9) and inserting ''60120 and 60122'';

(2) by striking subsections (b) and (d); and

(3) by redesignating subsections (c) and (e) as subsections (b) and (d), respectively.

(e) CHAPTER ANALYSIS.—The analysis for chapter 601 is amended—

(1) by inserting ''pipeline safety program'' in the item relating to section 60105 after ''State'';

(2) by inserting ''pipeline safety'' in the item relating to section 60106 after ''State''; and

(3) by inserting ''pipeline safety'' in the item relating to section 60107 after ''State''.

(f) SECTION 60101.—Section 60101(b) is amended by striking ''define by regulation'' each place it appears and inserting ''prescribe standards defining''.

(g) SECTION 60102.—Section 60102 is amended by striking ''regulations'' each place it appears in subsections (f)(2), (i), and (j)(2) and inserting ''standards''.

(h) SECTION 60108.—Section 60108 is amended—

(1) by striking ''regulations'' in subsections (c)(2)(B), (c)(4)(B), and (d)(3) and inserting ''standards''; and

(2) by striking ''require by regulation'' in subsection (c)(4)(A) and inserting ''establish a standard''.

(i) SECTION 60109.—Section 60109(a) is amended by striking ''regulations'' and inserting ''standards''.

(j) SECTION 60110.—Section 60110 is amended by striking ''regulations'' in subsections (b), (c)(1), and (c)(2) and inserting ''standards''.

(k) SECTION 60113.—Section 60113(a) is amended by striking ''regulations'' and inserting ''standards''.

SEC. 21. AUTHORIZATION OF APPROPRIATIONS.

(a) GAS AND HAZARDOUS LIQUID.—Section 60125 is amended—

(1) by striking subsection (a) and inserting the following new subsection:

''(a) GAS AND HAZARDOUS LIQUID.—To carry out this chapter (except for sections 60107 and 60114(b)) related to gas and hazardous liquid, there are authorized to be appropriated to the Department of Transportation—

''(1) $19,448,000 for fiscal year 1996;

''(2) $20,028,000 for fiscal year 1997, of which $14,600,000 is to be derived from user fees for fiscal year 1997 collected under section 60301 of this title;

''(3) $20,729,000 for fiscal year 1998, of which $15,100,000 is to be derived from user fees for fiscal year 1998 collected under section 60301 of this title;

''(4) $21,442,000 for fiscal year 1999, of which $15,700,000 is to be derived from user fees for fiscal year 1999 collected under section 60301 of this title''; and

''(5) $22,194,000 for fiscal year 2000, of which $16,300,000 is to be derived from user fees for fiscal year 2000 collected under section 60301 of this title.''.

(b) STATE GRANTS.—Section 60125(c)(1) is amended by adding at the end the following:

''(D) $12,000,000 for fiscal year 1996.

''(E) $14,000,000 for fiscal year 1997, of which $12,500,000 is to be derived from user fees for fiscal year 1997 collected under section 60301 of this title.

''(F) $14,490,000 for fiscal year 1998, of which $12,900,000 is to be derived from user fees for fiscal year 1998 collected under section 60301 of this title.

''(G) $15,000,000 for fiscal year 1999, of which $13,300,000 is to be derived from user fees for fiscal year 1999 collected under section 60301 of this title.

''(H) $15,524,000 for fiscal year 2000, of which $13,700,000 is to be derived from user fees for fiscal year 2000 collected under section 60301 of this title.''.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 99–498, appoints Dr. Robert C. Khayat, of Mississippi, to the Advisory Committee on Student Financial Assistance for a 3-year term effective October 1, 1996.

MARSHAL OF THE SUPREME COURT AND THE SUPREME COURT POLICE AUTHORITY EXTENSION ACT OF 1996

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 626, S. 2100.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2100) to provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police.

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. LOTT. Mr. President, I ask unanimous consent the bill be deemed read a third time, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at the appropriate place in the RECORD.

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

The bill (S. 2100) was deemed read the third time and passed, as follows:

S. 2100

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF AUTHORITY.

Section 9(c) of the Act entitled ''An Act relating to the policing of the building and grounds of the Supreme Court of the United States'', approved August 18, 1949 (40 U.S.C. 13n(c)) is amended in the first sentence by striking ''1996'' and inserting ''2000''.

INDIAN CHILD WELFARE ACT AMENDMENTS OF 1996

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 541, S. 1962.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1962) to amend the Indian Child Welfare Act of 1978, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

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

AMENDMENT NO. 5405

(Purpose: To make technical corrections)

Mr. LOTT. Mr. President, I understand Senator MCCAIN has a technical amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mr. MCCAIN, proposes an amendment numbered 5405.

The amendment is as follows:

On page 13, line 18, insert ''if in the best interests of an Indian child,'' after ''approve,''.

On page 14, lines 15 and 16, strike the dash and all that follows through the paragraph designation and adjust the margin accordingly.

On page 14, line 16, insert a dash after ''willfully''.

On page 14, line 16, insert '''(1)'' before ''falsifies'' and adjust the margin accordingly.

Mr. LOTT. Mr. President, I ask unanimous consent that the amendment be agreed to.

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

The amendment (No. 5405) was agreed to.

Mr. McCAIN. Mr. President, I wish to thank my colleagues for moving quickly to consideration of S. 1962, a bill to make certain compromise amendments to the Indian Child Welfare Act of 1978 [ICWA]. I urge its immediate adoption.

S. 1962 represents broad consensus legislation that has been crafted with great care to resolve many of the differences between Indian tribes and adoption advocates.

Let me say, first, that the issue of Indian child welfare stirs the deepest of emotions. Until nearly eighteen years ago, disproportionately high numbers of Indian children were virtually kidnapped from their families and tribal communities and placed in foster and adoptive care. Although sometimes these efforts were motivated by good intentions, the results were many times tragic. Generations of Indian children were denied their rich cultural and political heritage as Native Americans. The well-documented abuses from that dark era are horrifying. One study concluded that between 25 and 35 percent of all Indian children were torn from their birth families and tribes.

In 1978, Congressman Mo Udall and others in Congress responded to this crisis by enacting the Indian Child Welfare Act [ICWA] to prevent further abuses of Indian children. Under ICWA, adoptions of Indian children could still go forward, but the best interests of the Indian children had the additional protection of the involvement of their own tribe.

In recent years, a new tragedy has emerged as ICWA has been implemented, this one borne by non-Indian adoptive families who in a handful of high-profile cases have seen their adoptions of Indian children disrupted months and years after they have received the child.

In some of these controversial cases, people facilitating the adoptions have been accused of knowingly and willfully lying to the courts, the adoptive families, and the tribes, hiding the fact that these children were Indians covered by ICWA procedures. In other cases, some Indian tribes have been accused of retroactively conveying membership on a birth parent who wanted to revoke his or her consent long after the adoption placement was voluntarily established.

Because Indian tribes typically have not been made aware of an adoption, in most of the controversial cases, until very late in the placement, the tribes have been faced with a tragic choice—either intervene late in the proceeding and disrupt the certainty sought by the adoptive family and child, or stay out of the case and lose any chance to be involved in the life of the Indian child. The result has been great uncertainty and heartache on all sides. No matter the outcome in each of these cases, the Indian children have been the losers.

The measure we have under consideration today will amend ICWA to dramatically improve this situation. Mr. President, most of the people who deal on a daily basis with ICWA believe S. 1962 will make ICWA work much better for Indian children and for adoptive families.

S. 1962 will dramatically increase the opportunities for greater certainty, speed and stability in adoptions of Indian children. S. 1962 reflects the agreement of attorneys representing adoptive families and representatives of the Indian tribes. Enactment of the provisions they can agree upon will dramatically improve ICWA and clearly be in the best interests of the Indian children involved.

S. 1962 will change ICWA so that it better serves the best interests of Indian children without trampling on tribal sovereignty and without eroding fundamental principles of Federal-Indian law. The legislation will achieve greater certainty and speed in adoptions involving Indian children through new guarantees of early and effective notice in all cases combined with new, strict time restrictions placed on both the right of Indian tribes to intervene and the right of Indian birth parents to revoke their consent to an adoptive placement.

Perhaps of most interest to the Members of the Senate is the fact that the provisions of S. 1962 will encourage early identification of the cases involving controversy, and promote settlement by making visitation agreements enforceable. One example of such a case is that of a non-Indian Ohio couple, Jim and Colette Rost, who have been trying to adopt twin daughters—now nearly three years old—placed with them at birth by an adoption attorney who failed to disclose that the children were Indians. The Rost's current attorney now supports quick enactment by the Congress of the compromise provisions that comprise S. 1962 because they will provide authority where none exists to enforce a visitation agreement that will very likely settle the Rost and other similar cases.

I am very pleased with the provisions of this bill for another reason. I have long given active support to legislative efforts that encourage and facilitate adoptions in all instances. It is my belief that it is our solemn responsibility to work to increase the opportunities for all children to enjoy stable and loving family relationships as quickly as possible. At a minimum, this means removing every unreasonable obstacle to adoption. Equally important for me is the priority I place on encouraging adoption as a positive alternative to

abortion. Because of these considerations, I was an early and strong supporter of the 1996 amendments to the Multi-Ethnic Placement Act, facilitating adoptions, we recently sent to the President for signature into law. Likewise, I am deeply committed to enactment of the consensus-based provisions of S. 1962 because they will encourage and facilitate adoptions of Indian children, and, arguably, discourage abortions, by providing greater certainty, speed and stability to Indian adoptions than that provided under existing law.

Let me take a moment to clarify a related matter that has drawn some attention in recent days having to do with what is authorized, and what is not authorized, by subsection (h) of Section 8 dealing with the enforceability of visitation agreements after an adoption decree is final. First, I must stress the fact that subsection (h) addresses only those situations where all those involved in the voluntary adoption of an Indian child have voluntarily and mutually entered into an agreement on visitation. The parties to such an agreement may include the birth family, the adoptive family, and the child's Indian tribe. Subsection (h) could not, and should not, be construed to impose any right of visitation or contact not agreed to by those individuals involved in each case. The provision simply says that, if and only if those parties involved have agreed to certain terms for visitation or contact to take place after the adoption is final, then the agreement reached by the parties is enforceable against those parties in any court of law. If those involved have not agreed to visitation, then there is no agreement to enforce under the terms of subsection (h). I wish to emphasize that this provision does not create separate authority for any court or any party to impose upon another party a so-called open adoption; this would remain a matter for State law. The waiver of any individual privacy rights are exclusively within the hands of those individuals entering into, or refusing to enter into, such a voluntary agreement. Subsection (h) simply says that when the adoptive family and the others involved in a voluntary adoption proceeding under the Indian Child Welfare Act choose, of their own accord, to agree to certain visitation or contact privileges that can occur after the adoption is final, their agreement can be enforced by the courts. This authority is no different than the enforcement powers commonly exercised by courts over commercial agreements in which the parties demonstrate their good faith by agreeing to submit the terms of their agreement to judicial enforcement. I have asked as part of the Senate's consideration of this bill, that a minor amendment be made to subsection (h) to clarify what has been our intention all along, that a judge must consider what are the best interests of the child when the judge exercises his or her discretion as to whether or not to include provisions to enforce a voluntary visitation agreement in a final decree of adoption.

In addition, a concern has been raised about a matter that S. 1962 does not address in any way—that the adoptive placement preferences in the underlying ICWA law would lead an expectant mother seeking privacy to prefer abortion over adoption. Any close examination of the 1978 law will reveal that this concern about adoptive placement preferences is without reasonable foundation. Under title 25, U.S.C. section 1915(c), the 1978 act actually directs a State court judge to give weight to the placement choice of a birth parent who evidences a desire for privacy. The 1978 law declares that, as a matter of Federal-Indian child welfare policy, the best interests of Indian children are to be protected. Under title 25, U.S.C. section 1915 (a), a State court judge must give a ''preference'' to an Indian adoptive family in his or her adoptive placement decisions involving an Indian child, ''in the absence of good cause to the contrary.'' The presumption is that a placement with the child's Indian or non-Indian extended family, or with an Indian family, is in the best interest of the Indian child. These preferences are not mandatory quotas. They must be considered, but the State court judge has the discretion to prefer another placement if there is good cause. State court judges in many cases have found good cause for placing Indian children with non-Indian adoptive families for a variety of reasons, including the wishes of a birth parent, or the judge's determination that a particular non-Indian placement would be in the best interests of the child under the act given the particular facts of the case or the available placement options. Let me be clear—the bill before us today, S. 1962, does not in any way alter the existing law on adoptive placement preferences set forth in 25 U.S.C. 1915. No consensus could be reached on any changes to section 1915. However, because the preference provisions under section 1915 have been the subject of some misunderstandings during consideration of S. 1962, I thought it would be helpful at this juncture to recite what section 1915 does and does not do in order to remove any additional concerns that might arise in the future.

Finally, there is one other technical and conforming amendment that we have asked be made to the bill as reported, which would make clear that the sanctions mirror those found in title 18, section 1001, touching only upon willful and knowing acts or omissions. Through an oversight in drafting, the reported bill was not completely clear on this issue, and the technical change should resolve the questions that have been raised.

S. 1962 places new, strict time restrictions on the right of an Indian tribe to intervene in a State court adoption proceeding involving an Indian child. Under current law, a tribe can do so at any point up to entry of the final decree of adoption. The bill allows adoptive parents to limit this period to as little as 30 days after the tribe receives notice of a voluntary adoption proceeding. The bill makes many other changes to ICWA. With proper notice, an Indian tribe's failure to act early in the placement proceedings is final. A tribal waiver of its right is binding. An Indian tribe seeking to intervene must accompany its motion with a certification that the child is, or is eligible to be, a member of the tribe and document it. Once a tribe notifies a party or court that a child is not an Indian, the tribe cannot later change its mind. Unless we pass S. 1962, none of these restrictions will be law.

The bill places new, strict time restrictions on the right of birth parents to revoke their consent to an adoptive placement. Under current law, a birth parent can revoke consent at any time up to entry of the final decree of adoption. The bill limits revocations to the 180-day period following notice.

The bill requires that early notice be given to a tribe if a child is reasonably known to be an Indian. Attorneys who represent adoptive families tell me they welcome the chance to use this notice requirement so they can identify the relatively few cases involving controversy either before or within the first weeks of an adoptive placement. This would provide far more speed, stability and certainty than now exists under ICWA.

The bill promotes settlement of contested cases by providing judges with the authority, in their discretion, to enforce a settlement agreement voluntarily entered into by those involved in a case that would permit visitation or other agreed-upon contact after the adoption decree is final. Attorneys who represent adoptive families say this provision will encourage early settlements that do not disrupt placements and, because it offers them an opportunity to obtain enforceable agreements for future contact, will encourage the many pregnant women who seek such agreements to choose adoption over abortion.

Finally, the bill applies standard criminal penalties to knowing and willful efforts to lie, by persons other than birth parents, in a court proceeding subject to ICWA, about whether a child or a parent is an Indian. Attorneys representing adoptive families say these sanctions will help deter fraudulent conduct which, under current law, risks an eventual disruption of adoptive placements long after they have begun.

All of these changes are improvements to ICWA. They will make a pregnant woman's choice to place a child for adoption more attractive than it now is under current law. In turn, this should lead to fewer abortions.

Mr. President, I believe adoptive families simply seek certainty, speed, and stability throughout the adoption process. They do not want surprises

that threaten to take away from them a child for whom they have loved and cared for a substantial period of time. At the same time, Indian tribes simply seek early and substantive notice of proposed adoptions, the ability to become involved in the adoption process, and the continued protections of tribal sovereignty. They do not want to learn, many months and years after the fact, that their young tribal members have been placed for adoption outside of the Indian community. The landmark, compromise bill we have under consideration today will meet all of these concerns.

I am very pleased that what seemed a few months ago to be intractable problems with ICWA have in large part been resolved by the good faith efforts of representatives of the adoption attorneys and the Indian tribes. As with all compromises, each side would have preferred language that is better for them. But on behalf of the Indian children and their birth and adoptive parents, I want to extend my personal thanks to persons on all sides of this debate who have led the way to a compromise in which everyone, but most importantly, the Indian children, are the winners.

The national board of governors of the American Academy of Adoption Attorneys has endorsed the bill, as has the Academy of California Adoption Attorneys, the Child Welfare League of America, Catholic Charities USA, the U.S. Bureau of Catholic Indian Missions, the National Congress of American Indians, the National Indian Child Welfare Association, and virtually every Indian tribal government. Let me just stress that these all are organizations who have years of experience working with thousands upon thousands of Indian adoption cases. Catholic Charities USA, for example, is a pro-life organization that has 1,400 local agencies and institutions which last year provided adoption services for more than 42,000 people. Of perhaps equal note is the fact that the current attorney for the Rosts, an Ohio family trying to adopt twin Indian daughters who are members of a California tribe, helped draft the bill and has lent it strong support because its provisions would enable a final settlement of the Rost case controversy and settle or prevent many other cases like that involving the Rosts.

Mr. President, I ask unanimous consent that a copy of letters from the American Academy of Adoption Attorneys, the Child Welfare League of America, Catholic Charities USA, the U.S. Bureau of Catholic Indian Missions, and the Association on American Indian Affairs be reprinted in the CONGRESSIONAL RECORD at the conclusion of these remarks.

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

(See exhibit 1.)

I am glad to see that Congresswoman DEBORAH PRYCE and Congressmen DON YOUNG, GEORGE MILLER, and BILL RICHARDSON have indicated their agreement with the approach taken in S. 1962. And S. 1962 has the strong support of the administration, including both the Department of the Interior and the Department of Justice. Because it is a delicately balanced compromise, I intend to urge our colleagues in the House to promptly adopt this bill without change so that it can be sent on to the President for signature into law as quickly as possible.

The compromise that is embodied in S. 1962 is the best that can be obtained. The alternative is to make no change to ICWA and lose this chance to improve ICWA for the sake of the best interests of Indian children. Mr. President, it is with these children on my mind and in my heart that I ask the Senate to enact S. 1962.

EXHIBIT 1

AMERICAN ACADEMY OF ADOPTION ATTORNEYS,
Washington, DC, August 21, 1996.

U.S. Senate, Committee on Indian Affairs, Washington, DC.

DEAR SENATOR MCCAIN and the Honorable Members of the Senate Committee on Indian Affairs: This letter is to reaffirm our support of S. 1962 notwithstanding the recent letter of Douglas Johnson (dated August 1, 1996) to Senator Lott asking that the bill be halted. Mr. Johnson does not explain in his letter how the bill might impact abortion, but instead quotes National Council for Adoption for the proposition that ''it would be the end of voluntary adoptions of children with any hint of Indian ancestry.'' Presumably, NCFA bases this assertion on the theory that agencies and attorneys would be so fearful of the criminal provisions of the amendments that they would refuse to work with birthparents of Indian ancestry. NCFA believes that the resultant projected inability of such birthparents to find professionals willing to help them place their children for adoption, would lead to more abortions. Though this reasoning is not spelled out it is the only connection to abortion we can possibly infer.

Our continued support of the bill is *not* based on a desire to see more abortions. Rather, we seriously question the basic premise of Mr. Johnson's letter that S. 1962 would have *any* impact on abortion.

The bill is intended to encourage the adoption of children of Indian ancestry by making such adoption *safer* for adoptive parents. The one or two percent of the children of Indian ancestry who are ''Indian children,'' as defined by the I.C.W.A., would be identified early in the process (likewise, the remaining 90% would be promptly identified as *not* subject to the I.C.W.A.).

Within a short time (compared to the present situation) tribes would be required to give adoptive parents notice of a potential problem and their failure to do so would eliminate the possibility of a problem. Because the bill would make adoption safer for adoptive parents, we support it.

The criminal sanctions contained in the bill deal with *fraudulent* efforts to avoid the law. Reputable agencies and attorneys do not commit fraud and have nothing to fear. The fact that adoption attorneys and agencies willing to comply with the I.C.W.A. support this bill, refutes the entire thrust of NRLC and NCFA's position.

Adoption attorneys and agencies should be more willing to work with birthparents of Indian ancestry if S. 1962 passes, than under present law. Pregnant women exploring adoption will find that more families will be desirous of adopting their children than they are today, and thus, they will have more alternatives to abortion.

Please do what you can to make S. 1962 the law immediately and count on our continued support.

Yours truly,

SAMUEL C. TOTARO, JR.,
President.

CHILD WELFARE LEAGUE OF AMERICA, INC.,
Washington, DC, September 10, 1996.

Hon. JOHN MCCAIN,
Chairman, Committee on Indian Affairs, U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: I am writing in support of the amendments to the Indian Child Welfare Act outlined in both S. 1962 and H.R. 3828 as an alternative to earlier amendments outlined in H.R. 3286.

As you know the Child Welfare League of America is a national organization that is committed to preserving, protecting, and promoting the well-being of children and families. As such we believe that the principles outlined in the Indian Child Welfare Act provide an appropriate and necessary framework for addressing the permanency and child welfare needs of Indian children. We likewise believe that the ICWA amendments proposed in S. 1962 and H.R. 3828 support reasonable and effective improvements that will strengthen the implementation of ICWA in voluntary adoptions involving Indian children. First, they will help to strengthen the responsibility of agencies and individuals to conduct timely and time-limited notification to tribes and family members thereby promoting speedy movement toward adoption. Second, we believe that the amendments will discourage the dissolution of existing adoptions and provide greater security for Indian children and for their adoptive families.

We are encouraged that the process for developing these amendments has involved representatives from Indian Country and private adoption attorneys and that the proposed changes balance the needs of prospective adoptive parents and tribes while maintaining a focus on the permanency needs of Indian children. CWLA is optimistic that this bill will promote successful adoptions for Indian children who are in need of permanent families.

Sincerely,

DAVID LIEDERMAN,
Executive Director.

CATHOLIC CHARITIES USA,
Alexandria, VA, September 24, 1996.

Hon. JOHN MCCAIN,
Chair, Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

DEAR CHAIRMAN MCCAIN: On behalf of Catholic Charities USA's 1,400 local agencies and institutions, I am writing to commend you for your efforts to reform problems in the current system of adoption of Native American children. Last year, our agencies provided adoption services for 42,134 people.

After consultation with our agencies in ''Indian Country,'' we have concluded that your bill to amend the Indian Child Welfare Act of 1978 (S. 1962) would improve the current rules for adoption of Native American children.

As you know, Catholic Charities USA's member agencies have a strong and unwavering commitment to the sanctity of every human life. Catholic Charities USA would not support any bill that we believe has potential for increasing abortions. We are convinced that your bill will make adoption a more attractive option than abortion to the women and families affected.

Please let us know how we can be helpful in assuring passage of your bill in this Congress.

Sincerely,

REV. FRED KAMMER, SJ,
President.

BUREAU OF CATHOLIC INDIAN MISSIONS,
Washington, DC, September 4, 1996.

Senator TRENT LOTT,
Majority Leader, U.S. Senate, U.S. Congress, Washington, DC.

DEAR SENATOR LOTT: I am writing in support of the amendment, S. 1962, to keep in effect the basic provisions of the Indian Child Welfare Act of 1978. Those who are opposed to that act for fear that Indian women will be driven to seek abortions, I believe, are without grounds. It was not the attitude of Indians to seek abortions. Indians welcomed infants. As tribal people they see infants as the promise of the future.

As this legislation stands, it provides the efficiency, speed and certainly of adoption. Delays and prolonging of the process are excluded now that the time limits are reduced. The birth-mother does not have the uncertainty that the old law mandated. It is efficient and speedy. For mothers, unfortunately forced by circumstances to give up their children for adoption, this present bill provides the surest means for adoption.

Thank you!

Sincerely yours,

THEODORE F. ZUERN, S.J.,
Legislative Director.

[From the New York Times, August 17, 1996]

INDIAN ADOPTIONS AREN'T BLOCKED BY LAW

To the Editor: Assertions by Representative Pete Geren that the Indian Child Welfare Act applies to anyone with the remotest ancestry and supplies tribes with veto power over off-reservations adoptions are wrong (letter, July 26).

Ancestry alone does not trigger the provisions of the law. The law applies only when a child is a member of an Indian tribe or is the child of a member and eligible for membership. The notion that a person whose family has had no contact with an Indian tribe for generations would suddenly become subject to the law is not reality.

Even if a child is covered by the law, a tribe cannot veto a placement sought by a birth parent. If the law applies, the tribe may intervene in the state court proceeding. It may seek to transfer the case to tribal court, but an objection by either birth parent would prevent that.

Even where a parent does not object, a state court may deny transfer for good cause. If the case remains in state court, the tribe may seek to apply the placement preferences in the law (extended family, tribal members and other Indian families, in that order), but the state court may place a child outside the preferences if it finds good cause to do so.

The Indian Child Welfare Act was enacted in response to a tragedy. Studies revealed that 25 percent to 30 percent of Indian children had been separated from their families and communities, usually without just cause, and placed mostly with non-Indian families. The act formalized the authority of tribes in the child welfare process in order to protect Indian children and provided procedural protections to families to prevent arbitrary removals and placements of Indian children.

The law is based upon a conclusion, supported by clinical evidence, that it is usually in an Indian child's best interest to retain a connection with his or her tribe and heritage.

Mr. GLENN. Mr. President, I am pleased to support passage of this legislation to amend the Indian Child Welfare Act (ICWA). By clarifying and improving a number of provisions of ICWA, this legislation brings more stability and certainty to Indian child adoptions while preserving the underlying policies and objectives of ICWA. This bill embodies the consensus agreement reached when Indian tribes from around the Nation met in Tulsa, OK, to address questions regarding ICWA's application. Mr. President, I believe that the overriding goal of this agreement, which I support, is to serve the best interests of children.

This bill deals with several issues critical to the application of ICWA to child custody proceedings including notice to Indian tribes for voluntary adoptions, time lines for tribal intervention in voluntary cases, criminal sanctions to discourage fraudulent practices in Indian adoptions and a mandate that attorneys and adoption agencies must inform Indian parents under ICWA. I believe that the formal notice requirements to the potentially affected tribe as well as the time limits for tribal intervention after the tribe has been notified are significant improvements in providing needed certainty in placement proceedings.

Mr. President, I am also pleased that this legislation contains provisions addressing my specific concern—the retroactive application of ICWA in child custody proceedings. ICWA currently allows biological parents to withdraw their consent to an adoption for up to 2 years until the adoption is finalized. With the proposed changes, the time that the biological parents may withdraw their consent under ICWA is substantially reduced. I believe that a shorter deadline provides greater certainty for the potential adoptive family, the Indian family, the tribe and the extended family. This certainty is vital for the preservation of the interest of the child.

Mr. President, my concern with this issue and my insistence on the need to address the problem of retroactive application of ICWA was a direct response to a situation with a family in Columbus, OH. The Rost family of Columbus received custody of twin baby girls in the State of California in November, 1993, following the relinquishment of parental rights by both birth parents. The biological father did not disclose his native American heritage in response to a specific question on the relinquishment document. In February 1994, the birth father informed his mother of the pending adoption of the twins. Two months later, in April 1994, the birth father's mother enrolled herself, the birth father and the twins with the Pomo Indian Tribe in California. The adoption agency was then notified that the adoption could not be finalized without a determination of the applicability of ICWA.

The Rost situation made me aware of the harmful impact that retroactive application of ICWA could have on children. While I would have preferred tighter restrictions to preclude other families enduring the hardship the Rosts have experienced, I appreciated the effort of Senator MCCAIN, other members of the committee and the Indian tribes to address these concerns. I believe that the combination of measures contained in this bill will significantly lessen the possibility of future Rost cases. Taken together the imposition of criminal sanctions for attorneys and adoption agencies that knowingly violate ICWA, the imposition of formal notice requirements and the imposition of deadlines for tribal intervention, provide new protection in law for children and families involved in child custody proceedings.

Mr. President, I have reviewed the Rost case to reiterate that my interest in reforming ICWA has been limited to the issue of retroactive application. Once a voluntary legal agreement has been entered into, I do not believe that it is in the best interest of the child for this proceeding to be disrupted because of the retroactive application of ICWA. To allow this to happen could have a harmful impact on the child. I know that my colleagues share my overriding concern in assuring the best interest of children, and I am pleased that the bill we are passing today reflects that concern.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be considered 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 placed at the appropriate place in the RECORD.

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

The bill (S. 1962), as amended, was passed as follows:

S. 1962

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the ''Indian Child Welfare Act Amendments of 1996''.

(b) REFERENCES.—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 Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.).

SEC. 2. EXCLUSIVE JURISDICTION.

Section 101(a) (25 U.S.C. 1911(a)) is amended—

(1) by inserting ''(1)'' after ''(a)''; and

(2) by striking the last sentence and inserting the following:

''(2) An Indian tribe shall retain exclusive jurisdiction over any child custody proceeding that involves an Indian child, notwithstanding any subsequent change in the residence or domicile of the Indian child, in any case in which the Indian child—

''(A) resides or is domiciled within the reservation of the Indian tribe and is made a ward of a tribal court of that Indian tribe; or

''(B) after a transfer of jurisdiction is carried out under subsection (b), becomes a ward of a tribal court of that Indian tribe.''.

SEC. 3. INTERVENTION IN STATE COURT PROCEEDINGS.

Section 101(c) (25 U.S.C. 1911(c)) is amended by striking ''In any State court proceeding'' and inserting ''Except as provided in section 103(e), in any State court proceeding''.

SEC. 4. VOLUNTARY TERMINATION OF PARENTAL RIGHTS.

Section 103(a) (25 U.S.C. 1913(a)) is amended—

(1) by inserting ''(1)'' before ''Where'';

(2) by striking ''foster care placement'' and inserting ''foster care or preadoptive or adoptive placement'';

(3) by striking ''judge's certificate that the terms'' and inserting the following: ''judge's certificate that—

''(A) the terms'';

(4) by striking ''or Indian custodian.'' and inserting ''or Indian custodian; and'';

(5) by inserting after subparagraph (A), as designated by paragraph (3) of this subsection, the following new subparagraph:

''(B) any attorney or public or private agency that facilitates the voluntary termination of parental rights or preadoptive or adoptive placement has informed the natural parents of the placement options with respect to the child involved, has informed those parents of the applicable provisions of this Act, and has certified that the natural parents will be notified within 10 days of any change in the adoptive placement.'';

(6) by striking ''The court shall also certify'' and inserting the following:

''(2) The court shall also certify'';

(7) by striking ''Any consent given prior to,'' and inserting the following:

''(3) Any consent given prior to,''; and

(8) by adding at the end the following new paragraph:

''(4) An Indian custodian who has the legal authority to consent to an adoptive placement shall be treated as a parent for the purposes of the notice and consent to adoption provisions of this Act.''.

SEC. 5. WITHDRAWAL OF CONSENT.

Section 103(b) (25 U.S.C. 1913(b)) is amended—

(1) by inserting ''(1)'' before ''Any''; and

(2) by adding at the end the following new paragraphs:

''(2) Except as provided in paragraph (4), a consent to adoption of an Indian child or voluntary termination of parental rights to an Indian child may be revoked, only if—

''(A) no final decree of adoption has been entered; and

''(B)(i) the adoptive placement specified by the parent terminates; or

''(ii) the revocation occurs before the later of the end of—

''(I) the 180-day period beginning on the date on which the Indian child's tribe receives written notice of the adoptive placement provided in accordance with the requirements of subsections (c) and (d); or

''(II) the 30-day period beginning on the date on which the parent who revokes consent receives notice of the commencement of the adoption proceeding that includes an explanation of the revocation period specified in this subclause.

''(3) The Indian child with respect to whom a revocation under paragraph (2) is made shall be returned to the parent who revokes consent immediately upon an effective revocation under that paragraph.

''(4) Subject to paragraph (6), if, by the end of the applicable period determined under subclause (I) or (II) of paragraph (2)(B)(ii), a consent to adoption or voluntary termination of parental rights has not been revoked, beginning after that date, a parent may revoke such a consent only—

''(A) pursuant to applicable State law; or

''(B) if the parent of the Indian child involved petitions a court of competent jurisdiction, and the court finds that the consent to adoption or voluntary termination of parental rights was obtained through fraud or duress.

''(5) Subject to paragraph (6), if a consent to adoption or voluntary termination of parental rights is revoked under paragraph (4)(B), with respect to the Indian child involved—

''(A) in a manner consistent with paragraph (3), the child shall be returned immediately to the parent who revokes consent; and

''(B) if a final decree of adoption has been entered, that final decree shall be vacated.

''(6) Except as otherwise provided under applicable State law, no adoption that has been in effect for a period longer than or equal to 2 years may be invalidated under this subsection.''.

SEC. 6. NOTICE TO INDIAN TRIBES.

Section 103(c) (25 U.S.C. 1913(c)) is amended to read as follows:

''(c)(1) A party that seeks the voluntary placement of an Indian child or the voluntary termination of the parental rights of a parent of an Indian child shall provide written notice of the placement or proceeding to the Indian child's tribe. A notice under this subsection shall be sent by registered mail (return receipt requested) to the Indian child's tribe, not later than the applicable date specified in paragraph (2) or (3).

''(2)(A) Except as provided in paragraph (3), notice shall be provided under paragraph (1) in each of the following cases:

''(i) Not later than 100 days after any foster care placement of an Indian child occurs.

''(ii) Not later than 5 days after any preadoptive or adoptive placement of an Indian child.

''(iii) Not later than 10 days after the commencement of any proceeding for a termination of parental rights to an Indian child.

''(iv) Not later than 10 days after the commencement of any adoption proceeding concerning an Indian child.

''(B) A notice described in subparagraph (A)(ii) may be provided before the birth of an Indian child if a party referred to in paragraph (1) contemplates a specific adoptive or preadoptive placement.

''(3) If, after the expiration of the applicable period specified in paragraph (2), a party referred to in paragraph (1) discovers that the child involved may be an Indian child—

''(A) the party shall provide notice under paragraph (1) not later than 10 days after the discovery; and

''(B) any applicable time limit specified in subsection (e) shall apply to the notice provided under subparagraph (A) only if the party referred to in paragraph (1) has, on or before commencement of the placement, made reasonable inquiry concerning whether the child involved may be an Indian child.''.

SEC. 7. CONTENT OF NOTICE.

Section 103(d) (25 U.S.C. 1913(d)) is amended to read as follows:

''(d) Each written notice provided under subsection (c) shall contain the following:

''(1) The name of the Indian child involved, and the actual or anticipated date and place of birth of the Indian child.

''(2) A list containing the name, address, date of birth, and (if applicable) the maiden name of each Indian parent and grandparent of the Indian child, if—

''(A) known after inquiry of—

''(i) the birth parent placing the child or relinquishing parental rights; and

''(ii) the other birth parent (if available); or

''(B) otherwise ascertainable through other reasonable inquiry.

''(3) A list containing the name and address of each known extended family member (if any), that has priority in placement under section 105.

''(4) A statement of the reasons why the child involved may be an Indian child.

''(5) The names and addresses of the parties involved in any applicable proceeding in a State court.

''(6)(A) The name and address of the State court in which a proceeding referred to in paragraph (5) is pending, or will be filed; and

''(B) the date and time of any related court proceeding that is scheduled as of the date on which the notice is provided under this subsection.

''(7) If any, the tribal affiliation of the prospective adoptive parents.

''(8) The name and address of any public or private social service agency or adoption agency involved.

''(9) An identification of any Indian tribe with respect to which the Indian child or parent may be a member.

''(10) A statement that each Indian tribe identified under paragraph (9) may have the right to intervene in the proceeding referred to in paragraph (5).

''(11) An inquiry concerning whether the Indian tribe that receives notice under subsection (c) intends to intervene under subsection (e) or waive any such right to intervention.

''(12) A statement that, if the Indian tribe that receives notice under subsection (c) fails to respond in accordance with subsection (e) by the applicable date specified in that subsection, the right of that Indian tribe to intervene in the proceeding involved shall be considered to have been waived by that Indian tribe.''.

SEC. 8. INTERVENTION BY INDIAN TRIBE.

Section 103 (25 U.S.C. 1913) is amended by adding at the end the following new subsections:

''(e)(1) The Indian child's tribe shall have the right to intervene at any time in a voluntary child custody proceeding in a State court only if—

''(A) in the case of a voluntary proceeding to terminate parental rights, the Indian tribe filed a notice of intent to intervene or a written objection to the termination, not later than 30 days after receiving notice that was provided in accordance with the requirements of subsections (c) and (d); or

''(B) in the case of a voluntary adoption proceeding, the Indian tribe filed a notice of intent to intervene or a written objection to the adoptive placement, not later than the later of—

''(i) 90 days after receiving notice of the adoptive placement that was provided in accordance with the requirements of subsections (c) and (d); or

''(ii) 30 days after receiving a notice of the voluntary adoption proceeding that was provided in accordance with the requirements of subsections (c) and (d).

''(2)(A) Except as provided in subparagraph (B), the Indian child's tribe shall have the right to intervene at any time in a voluntary child custody proceeding in a State court in any case in which the Indian tribe did not receive written notice provided in accordance with the requirements of subsections (c) and (d).

''(B) An Indian tribe may not intervene in any voluntary child custody proceeding in a State court if the Indian tribe gives written notice to the State court or any party involved of—

''(i) the intent of the Indian tribe not to intervene in the proceeding; or

''(ii) the determination by the Indian tribe that—

''(I) the child involved is not a member of, or is not eligible for membership in, the Indian tribe; or

''(II) neither parent of the child is a member of the Indian tribe.

''(3) If an Indian tribe files a motion for intervention in a State court under this subsection, the Indian tribe shall submit to the court, at the same time as the Indian tribe files that motion, a certification that includes a statement that documents, with respect to the Indian child involved, the membership or eligibility for membership of that Indian child in the Indian tribe under applicable tribal law.

''(f) Any act or failure to act of an Indian tribe under subsection (e) shall not—

''(1) affect any placement preference or other right of any individual under this Act;

''(2) preclude the Indian tribe of the Indian child that is the subject of an action taken by the Indian tribe under subsection (e) from intervening in a proceeding concerning that Indian child if a proposed adoptive placement of that Indian child is changed after that action is taken; or

''(3) except as specifically provided in subsection (e), affect the applicability of this Act.

''(g) Notwithstanding any other provision of law, no proceeding for a voluntary termination of parental rights or adoption of an Indian child may be conducted under applicable State law before the date that is 30 days after the Indian child's tribe receives notice of that proceeding that was provided in accordance with the requirements of subsections (c) and (d).

''(h) Notwithstanding any other provision of law (including any State law)—

''(1) a court may approve, if in the best interests of an Indian child, as part of an adoption decree of an Indian child, an agreement that states that a birth parent, an extended family member, or the Indian child's tribe shall have an enforceable right of visitation or continued contact with the Indian child after the entry of a final decree of adoption; and

''(2) the failure to comply with any provision of a court order concerning the continued visitation or contact referred to in paragraph (1) shall not be considered to be grounds for setting aside a final decree of adoption.''.

SEC. 9. FRAUDULENT REPRESENTATION.

Title I of the Indian Child Welfare Act of 1978 is amended by adding at the end the following new section:

''SEC. 114. FRAUDULENT REPRESENTATION.

''(a) IN GENERAL.—With respect to any proceeding subject to this Act involving an Indian child or a child who may be considered to be an Indian child for purposes of this Act, a person, other than a birth parent of the child, shall, upon conviction, be subject to a criminal sanction under subsection (b) if that person knowingly and willfully—

''(1) falsifies, conceals, or covers up by any trick, scheme, or device, a material fact concerning whether, for purposes of this Act—

''(A) a child is an Indian child; or

''(B) a parent is an Indian; or

''(2)(A) makes any false, fictitious, or fraudulent statement, omission, or representation; or

''(B) falsifies a written document knowing that the document contains a false, fictitious, or fraudulent statement or entry relating to a material fact described in paragraph (1).

''(b) CRIMINAL SANCTIONS.—The criminal sanctions for a violation referred to in subsection (a) are as follows:

''(1) For an initial violation, a person shall be fined in accordance with section 3571 of title 18, United States Code, or imprisoned not more than 1 year, or both.

''(2) For any subsequent violation, a person shall be fined in accordance with section 3571 of title 18, United States Code, or imprisoned not more than 5 years, or both.''.

AUTHORIZATION FOR PRODUCTION OF DOCUMENTS BY COMMITTEE ON INDIAN AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 302, submitted earlier today by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 302) to authorize production of records by the Committee on Indian Affairs.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

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

AUTHORIZATION FOR PRODUCTION OF DOCUMENTS BY COMMITTEE ON INDIAN AFFAIRS

Mr. LOTT. Mr. President, the Committee on Indian Affairs has received requests from the U.S. Department of Justice and counsel for the plaintiff-relators and for the defendant in a civil action captioned United States of America ex rel. William I. Koch, et al. versus Koch Industries, Inc., et al., pending in the northern district of Oklahoma, for access to committee records amassed in the course of an investigation in 1988 and 1989 by the committee's Special Committee on Investigations into allegations of theft of natural resources from Indian lands. The lawsuit is a qui tam fraud action, which similarly alleges theft of oil and gas resources from Federal and Indian lands and seeks monetary recovery on behalf of the United States.

In the interest of assisting in the development of a full evidentiary record for the trial of these claims, this resolution would authorize the chairman and ranking minority member of the Indian Affairs Committee to respond to these, and any future, requests for access to these records, except for the committee's internal deliberative or confidential records, for which the committee would maintain its privilege.

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 any statement relating to the resolution appear at the appropriate place in the RECORD.

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

The resolution (S. Res. 302) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 302

Whereas, the United States Department of Justice and counsel for the plaintiff-relators and defendant in the case of United States of America ex rel. William I. Koch, et al. v. Koch Industries, Inc., et al., Case No. 91–CV–763–B, pending in the United States District Court for the Northern District of Oklahoma, have requested that the Committee on Indian Affairs provide them with copies of records of the former Special Committee on Investigations of the Committee on Indian Affairs for use in connection with the pending civil action;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers, and records under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Ranking Minority Member of the Committee on Indian Affairs, acting jointly, are authorized to provide to the United States Department of Justice, counsel for the plaintiff-relators and defendant in United States of America ex rel. William I. Koch, et al. v. Koch Industries, Inc., et al., and other requesting individuals and entitles, copies of records of the Special Committee on Investigations for use in connection with pending legal proceedings, except concerning matters for which a privilege should be asserted.

VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 1996

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 585, S. 1791.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1791) to increase, effective as of December 1, 1996, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans, and other purposes.

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. SIMPSON. Mr. President, it is a pleasure for me, as chairman of the Senate Committee on Veterans' Affairs, to request Senate approval of S. 1791. This legislation, Mr. President, would grant to recipients of compensation, and dependency and indemnity compensation [DIC] benefits, from the Department of Veterans Affairs [VA] a cost of living adjustment [COLA] increase to take effect at the beginning of next year.

This legislation is appropriate and warranted—even as we continue to work diligently to achieve deficit reduction. We can balance the budget, and simultaneously treat our veterans, and their survivors, with fairness and compassion.

This bill is simple and straightforward. It would grant to recipients of certain VA benefits—most notably,

veterans with service-connected disabilities who receive VA compensation, and the surviving spouses and children of veterans who have died as a result of service-connected injuries or illnesses, who receive dependency and indemnity compensation or DIC—the same percentage COLA that Social Security recipients will receive in 1997. So, for example, if Social Security recipients receive a 2.8-percent adjustment at the beginning of next year—the percentage of increase that the Congressional Budget Office now estimates will be forthcoming—then so too would the beneficiaries of VA compensation and DIC.

Last year, the committee's COLA bill put into effect certain modifications, as approved by the Committee on Veterans' Affairs, on how COLA's are computed. For example, our 1996 COLA contained a ''round down'' feature—that is, a provision that required that monthly whole number benefit amounts be ''rounded down'' in all cases when they are recomputed. Under normal practice—and under this bill—benefit checks, which are paid in whole dollar amounts, are ''rounded up'' when the benefit recomputation yields a fractional dollar amount of $0.50 or more and rounded down when the computation yields a fractional dollar amount of $0.49 or less.

It may happen, Mr. President, that the Committee on Veterans' Affairs will again elect to direct that VA ''round down'' as part of a package of measures approved to reach budget reconciliation targets. That action, however, will be taken—if it needs to be taken—as part of a coordinated package of deficit reduction measures. For now, we request Senate approval of a ''clean'' COLA bill to assure enactment with no controversy before our adjournment.

I do take this opportunity to mention ever so briefly my continued strong commitment to moving toward a balanced budget. We can do it. And I hope we will attempt to make real progress to do it during the time still remaining in the 104th Congress.

The ''round down'' provision also serves as an instructive example of the sorts of things that can be done—if we have the vision to act now—to achieve that end without causing any needy or deserving person any real pain. To round down a VA beneficiary's monthly check might cause some beneficiaries to lose one dollar per month of the COLA increase that will be forthcoming. Those COLA increases will range up to $50 per month and more. One dollar lost of the $50 increase is not a life-threatening hardship, I submit, to any person. Yet such a measure would result in savings of $500 million over a 6 year period. Such savings opportunities can be—and must always be—considered. To fail to do so will require much more drastic measures later.

Please notice, Mr. President, I am talking about a measure that reduces ever so slightly a significant increase in benefits that would still be received by a VA beneficiary. I am not talking about cuts in veterans benefits. Despite what some so-called veterans advocates continue to say, I have never—ever—talked of any real cuts. Nor does anyone talk of actual cuts in veterans benefits as a route to a balanced budget—except, that is, one man: the President of the United States. President Clinton has proposed that VA health care spending be actually and truly cut from $16.9 billion to $13.0 billion in the year 2000. And yet he seems to have gotten a free pass on that one from the so-called veterans advocates. Why that is, I have not been able to figure out. But I have a hunch that will be a topic of a different speech.

For now, I just say again to my colleagues as I start to approach the final days of my final Congress: We must face up to the deficit and the national debt. And I say to the young people of this great land: Wake up. See what is happening. You must get involved—before your elders carelessly spend your legacy. If you do not force elected officials to act, in not too many years from now there will be nothing left in the Federal budget for you to spend on yourselves after Social Security, Medicare, Medicaid, Federal retirement, service on the debt and, yes, veterans benefits, are paid. Nothing left. That will be it. And that will be a tragedy. We can avoid it—but the Congress cannot wait. It must act now.

I thank the Chair for the time to address this subject. And I yield the floor.

Mr. ROCKEFELLER. Mr. President, as the ranking minority member of the Committee on Veterans' Affairs, I urge the Senate to pass the pending legislation, S. 1791, the proposed Veterans' Compensation Cost-of-Living Adjustment Act of 1996.

Mr. President, effective December 1, 1996, this bill would increase the rates of compensation paid to veterans with service-connected disabilities and the rates of dependency and indemnity compensation [DIC] paid to the survivors of certain service-disabled veterans. The rates would increase by the same percentage as the increase in Social Security and VA pension benefits for fiscal year 1997. The Congressional Budget Office currently estimates that rate of increase will be 2.8 percent.

Mr. President, in my State of West Virginia, there are over 23,400 service-disabled veterans and almost 7,500 survivors who depend on these compensation programs. Nationwide, the numbers are 2.2 million service-disabled veterans and 300,000 survivors. For many of the more seriously disabled individuals, this compensation is their primary source of income; this is certainly the case in my home State. Even small changes in the daily cost of living can produce hardship as they struggle to make ends meet, to put food on the table and to clothe and house their families.

That is why the cost-of-living adjustment in the rates of VA compensation that we are now considering is so important. This adjustment is not a luxury—it is a necessity to protect the income of service-disabled veterans and their families from the continual erosion of inflation, thereby ensuring a standard of living that is decent and fair.

Mr. President, these families have already sacrificed several fold for our country. First, they disrupted their lives, leaving behind the comforts and security of home, the companionship of family, friends, and loved ones, to go to strange places, live in cramped and difficult circumstances, and place themselves in harm's way. Then, they returned with disabilities that changed the course of their lives forever, and the lives of the family members who live with them.

Truly we can never fully repay these veterans and their families for the sacrifices they have made. But we have a fundamental obligation to try to meet the financial needs of those who became disabled as the result of military service, as well as the needs of their families. And once we have put in place a compensation program, we have an equal obligation to periodically review that program to make sure that it remains adequate to meet those needs. This bill fulfills that obligation.

Since 1976, Congress has consistently acted to safeguard the real value of these benefits by providing an annual COLA for compensation and DIC benefits. Most recently, on November 22, 1995, Congress enacted Public Law 104–57, which provided for a 2.6-percent increase in these benefits, effective December 1, 1995. The bill we currently consider carries on that proud and fitting tradition.

Mr. President, I urge all of my colleagues to support this vitally important measure.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be deemed read a third time and the Veterans' Committee be immediately discharged from consideration of H.R. 3458; further, all after the enacting clause be stricken and the text of S. 1791 be inserted in lieu thereof, the bill be read a third time and passed, the title amendment be agreed to, the motion to reconsider be laid upon the table, and any statement relating to the bill be printed at the appropriate place in the RECORD, and that S. 1791 be placed back on the calendar.

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

The bill (H.R. 3458), as amended, was deemed read the third time and passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 3458) entitled ''An Act to increase, effective as of December 1, 1996, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.'', do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Veterans' Compensation Cost-of-Living Adjustment Act of 1996''.

SEC. 2. INCREASE IN COMPENSATION RATES AND LIMITATIONS.

(a) IN GENERAL.—(1) The Secretary of Veterans Affairs shall, as provided in paragraph (2), increase, effective December 1, 1996, the rates of and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensation.

(2) The Secretary shall increase each of the rates and limitations in sections 1114, 1115(1), 1162, 1311, 1313, and 1314 of title 38, United States Code, that were increased by the amendments made by the Veterans' Compensation Cost-of-Living Adjustment Act of 1995 (Public Law No. 104–57; 109 Stat. 555). This increase shall be made in such rates and limitations as in effect on November 30, 1996, and shall be by the same percentage that benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1996, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(b) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a)(2), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(c) PUBLICATION REQUIREMENT.—At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 1996, the Secretary shall publish in the Federal Register the rates and limitations referred to in subsection (a)(2) as increased under this section.

The title was amended so as to read:

To increase, effective as of December 1, 1996, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes.

WILDLIFE SUPPRESSION AIRCRAFT TRANSFER ACT OF 1996

Mr. LOTT. Mr. President, I ask unanimous consent that the Armed Services Committee be discharged from S. 2078 and, further, that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2078) to authorize the sale of excess Department of Defense aircraft to facilitate the suppression of wildfire.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

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

AMENDMENT NO. 5406

(Purpose: To authorize the sale of excess Department of Defense aircraft to facilitate the suppression of wildfire)

Mr. LOTT. Senator KEMPTHORNE has an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] for Mr. KEMPTHORNE, for himself, Mr. BINGAMAN, Mr. CRAIG and Mr. KYL proposes an amendment numbered 5406.

Mr. LOTT. Mr. President, I ask unanimous consent that further 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 enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This act may be cited as the ''Wildfire Suppression Aircraft Transfer Act of 1996''.

SEC. 2. AUTHORITY TO SELL AIRCRAFT AND PARTS FOR WILDFIRE SUPPRESSION PURPOSES.

(a) AUTHORITY.—(1) Notwithstanding section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) and subject to subsections (b) and (c), the Secretary of Defense may, during the period beginning on October 1, 1996, and ending on September 30, 2000, sell the aircraft and aircraft parts referred to in paragraph (2) to persons or entities that contract with the Federal Government for the delivery of fire retardant by air in order to suppress wildfire.

(2) Paragraph (1) applies to aircraft and aircraft parts of the Department of Defense that are determined by the Secretary to be—

(A) excess to the needs of the Department; and

(B) acceptable for commercial sale.

(b) CONDITIONS OF SALE.—Aircraft and aircraft parts sold under subsection (a)—

(1) may be used only for the provision of airtanker services for wildfire suppression purposes; and

(2) may not be flown or otherwise removed from the United States unless dispatched by the National Interagency Fire Center in support of an international agreement to assist in wildfire suppression efforts or for other purposes jointly approved by the Secretary of Defense and the Secretary of Agriculture in writing in advance.

(c) CERTIFICATION OF PERSONS AND ENTITIES.—The Secretary of Defense may sell aircraft and aircraft parts to a person or entity under subsection (a) only if the Secretary of Agriculture certifies to the Secretary of Defense, in writing, before the sale that the person or entity is capable of meeting the terms and conditions of a contract to deliver fire retardant by air.

(d) REGULATIONS.—(1) As soon as practicable after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of Agriculture and the Administrator of General Services, prescribe regulations relating to the sale of aircraft and aircraft parts under this section.

(2) The regulations shall—

(A) ensure that the sale of the aircraft and aircraft parts is made at fair market value (as determined by the Secretary of Defense) and, to the extent practicable, on a competitive basis;

(B) require a certification by the purchaser that the aircraft and aircraft parts will be used only in accordance with the conditions set forth in subsection (b);

(C) establish appropriate means of verifying and enforcing the use of the aircraft and aircraft parts by the purchaser and other end users in accordance with the conditions set forth in subsections (b) and (e); and

(D) ensure, to the maximum extent practicable, that the Secretary consults with the Administrator of General Services and with the heads of appropriate departments and agencies of the Federal Government regarding alternative requirements for such aircraft and aircraft parts before the sale of such aircraft and aircraft parts under this section.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of Defense may require such other terms and conditions in connection with each sale of aircraft and aircraft parts under this section as the Secretary considers appropriate for such sale. Such terms and conditions shall meet the requirements of the regulations prescribed under subsection (d).

(f) REPORT.—Not later than March 31, 2000, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the Secretary's exercise of authority under this section. The report shall set forth—

(1) the number and type of aircraft sold under the authority, and the terms and conditions under which the aircraft were sold;

(2) the persons or entities to which the aircraft were sold; and

(3) an accounting of the current use of the aircraft sold.

(g) CONSTRUCTION.—Nothing in this section may be construed as affecting the authority of the Administrator of the Federal Aviation Administration under any other provision of law.

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

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

The amendment (No. 5406) was agreed to.

The bill (S. 2078), as amended, was deemed read the third time and passed.

SETTLEMENT OF THE NAVAJO-HOPI LAND DISPUTE

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 582, S. 1973.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 1973) to provide for the settlement of the Navajo-Hopi land dispute, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Indian Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Navajo-Hopi Land Dispute Settlement Act of 1996''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) it is in the public interest for the Tribe, Navajos residing on the Hopi Partitioned Lands, and the United States to reach a peaceful resolution of the longstanding disagreements between the parties under the Act commonly known as the ''Navajo-Hopi Land Settlement Act of 1974'' (Public Law 93–531; 25 U.S.C. 640d et seq.);

(2) it is in the best interest of the Tribe and the United States that there be a fair and final settlement of certain issues remaining in connection with the Navajo-Hopi Land Settlement Act of 1974, including the full and final settlement of the multiple claims that the Tribe has against the United States;

(3) this Act, together with the Settlement Agreement executed on December 14, 1995, and the Accommodation Agreement (as incorporated by the Settlement Agreement), provide the authority for the Tribe to enter agreements with eligible Navajo families in order for those families to remain residents of the Hopi Partitioned Lands for a period of 75 years, subject to the terms and conditions of the Accommodation Agreement;

(4) the United States acknowledges and respects—

(A) the sincerity of the traditional beliefs of the members of the Tribe and the Navajo families residing on the Hopi Partitioned Lands; and

(B) the importance that the respective traditional beliefs of the members of the Tribe and Navajo families have with respect to the culture and way of life of those members and families;

(5) this Act, the Settlement Agreement, and the Accommodation Agreement provide for the mutual respect and protection of the traditional religious beliefs and practices of the Tribe and the Navajo families residing on the Hopi Partitioned Lands; and

(6) the Tribe is encouraged to work with the Navajo families residing on the Hopi Partitioned Lands to address their concerns regarding the establishment of family or individual burial plots for deceased family members who have resided on the Hopi Partitioned Lands.

SEC. 3. DEFINITIONS.

Except as otherwise provided in this Act, for purposes of this Act, the following definitions shall apply:

(1) ACCOMMODATION.—The term ''Accommodation'' has the meaning provided that term under the Settlement Agreement.

(2) HOPI PARTITIONED LANDS.—The term ''Hopi Partitioned Lands'' means lands located in the Hopi Partitioned Area, as defined in section 168.1(g) of title 25, Code of Federal Regulations (as in effect on the date of enactment of this Act).

(3) NAVAJO PARTITIONED LANDS.—The term ''Navajo Partitioned Lands'' has the meaning provided that term in the proposed regulations issued on November 1, 1995, at 60 Fed. Reg. 55506.

(4) NEW LANDS.—The term ''New Lands'' has the meaning provided that term in section 700.701(b) of title 25, Code of Federal Regulations.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(6) SETTLEMENT AGREEMENT.—The term ''Settlement Agreement'' means the agreement between the United States and the Hopi Tribe executed on December 14, 1995.

(7) TRIBE.—The term ''Tribe'' means the Hopi Tribe.

SEC. 4. RATIFICATION OF SETTLEMENT AGREEMENT.

The United States approves, ratifies, and confirms the Settlement Agreement.

SEC. 5. CONDITIONS FOR LANDS TAKEN INTO TRUST.

The Secretary shall take such action as may be necessary to ensure that the following conditions are met prior to taking lands into trust for the benefit of the Tribe pursuant to the Settlement Agreement:

(1) SELECTION OF LANDS TAKEN INTO TRUST.—

(A) PRIMARY AREA.—In accordance with section 7(a) of the Settlement Agreement, the primary area within which lands acquired by the Tribe may be taken into trust by the Secretary for the benefit of the Tribe under the Settlement Agreement shall be located in northern Arizona.

(B) REQUIREMENTS FOR LANDS TAKEN INTO TRUST IN THE PRIMARY AREA.—Lands taken into trust in the primary area referred to in subparagraph (A) shall be—

(i) land that is used substantially for ranching, agriculture, or another similar use; and

(ii) to the extent feasible, in contiguous parcels.

(2) ACQUISITION OF LANDS.—Before taking any land into trust for the benefit of the Tribe under this section, the Secretary shall ensure that—

(A) at least 85 percent of the eligible Navajo heads of household (as determined under the Settlement Agreement) have entered into an accommodation or have chosen to relocate and are eligible for relocation assistance (as determined under the Settlement Agreement); and

(B) the Tribe has consulted with the State of Arizona concerning the lands proposed to be placed in trust, including consulting with the State concerning the impact of placing those lands into trust on the State and political subdivisions thereof resulting from the removal of land from the tax rolls in a manner consistent with the provisions of part 151 of title 25, Code of Federal Regulations.

(3) PROHIBITION.—The Secretary may not, pursuant to the provisions of this Act and the Settlement Agreement, place lands, any portion of which are located within or contiguous to a 5-mile radius of an incorporated town (as that term is defined by the Secretary) in northern Arizona, into trust for benefit of the Tribe without specific statutory authority.

SEC. 6. ACQUISITION THROUGH CONDEMNATION OF CERTAIN INTERSPERSED LANDS.

(a) IN GENERAL.—

(1) ACTION BY THE SECRETARY.—

(A) IN GENERAL.—The Secretary shall take action as specified in subparagraph (B), to the extent that the Tribe, in accordance with section 7(b) of the Settlement Agreement—

(i) acquires private lands; and

(ii) requests the Secretary to acquire through condemnation interspersed lands that are owned by the State of Arizona and are located within the exterior boundaries of those private lands in order to have both the private lands and the State lands taken into trust by the Secretary for the benefit of the Tribe.

(B) ACQUISITION THROUGH CONDEMNATION.—With respect to a request for an acquisition of lands through condemnation made under subparagraph (A), the Secretary shall, upon the recommendation of the Tribe, take such action as may be necessary to acquire the lands through condemnation and, with funds provided by the Tribe, pay the State of Arizona fair market value for those lands in accordance with applicable Federal law, if the conditions described in paragraph (2) are met.

(2) CONDITIONS FOR ACQUISITION THROUGH CONDEMNATION.—The Secretary may acquire lands through condemnation under this subsection if—

(A) that acquisition is consistent with the purpose of obtaining not more than 500,000 acres of land to be taken into trust for the Tribe;

(B) the State of Arizona concurs with the United States that the acquisition is consistent with the interests of the State; and

(C) the Tribe pays for the land acquired through condemnation under this subsection.

(b) DISPOSITION OF LANDS.—If the Secretary acquires lands through condemnation under subsection (a), the Secretary shall take those lands into trust for the Tribe in accordance with this Act and the Settlement Agreement.

(c) PRIVATE LANDS.—The Secretary may not acquire private lands through condemnation for the purpose specified in subsection (a)(2)(A).

SEC. 7. ACTION TO QUIET POSSESSION.

If the United States fails to discharge the obligations specified in section 9(c) of the Settlement Agreement with respect to voluntary relocation of Navajos residing on Hopi Partitioned Lands, or section 9(d) of the Settlement Agreement, relating to the implementation of sections 700.137 through 700.139 of title 25, Code of Federal Regulations, on the New Lands, including failure for reason of insufficient funds made available by appropriations or otherwise, the Tribe may bring an action to quiet possession that relates to the use of the Hopi Partitioned Lands after February 1, 2000, by a Navajo family that is eligible for an accommodation, but fails to enter into an accommodation.

SEC. 8. PAYMENT TO STATE OF ARIZONA.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subject to subsection (b), there are authorized to be appropriated to the Department of the Interior $250,000 for fiscal year 1998, to be used by the Secretary of the Interior for making a payment to the State of Arizona.

(b) PAYMENT.—The Secretary shall make a payment in the amount specified in subsection (a) to the State of Arizona after an initial acquisition of land from the State has been made by the Secretary pursuant to section 6.

SEC. 9. 75-YEAR LEASING AUTHORITY.

The first section of the Act of August 9, 1955 (69 Stat. 539, chapter 615; 25 U.S.C. 415) is amended by adding at the end the following new subsections:

''(c) LEASES INVOLVING THE HOPI TRIBE AND THE HOPI PARTITIONED LANDS ACCOMMODATION AGREEMENT.—Notwithstanding subsection (a), a lease of land by the Hopi Tribe to Navajo Indians on the Hopi Partitioned Lands may be for a term of 75 years, and may be extended at the conclusion of the term of the lease.

''(d) DEFINITIONS.—For purposes of this section—

''(1) the term 'Hopi Partitioned Lands' means lands located in the Hopi Partitioned Area, as defined in section 168.1(g) of title 25, Code of Federal Regulations (as in effect on the date of enactment of this subsection); and

''(2) the term 'Navajo Indians' means members of the Navajo Tribe.''.

SEC. 10. REAUTHORIZATION OF THE NAVAJO-HOPI RELOCATION HOUSING PROGRAM.

Section 25(a)(8) of Public Law 93–531 (25 U.S.C. 640d–24(a)(8)) is amended by striking ''1996, and 1997'' and inserting ''1996, 1997, 1998, 1999, and 2000''.

Mr. KYL. Mr. President, at this point, I ask the distinguished Chairman of the Committee on Indian Affairs, the senior Senator from Arizona, Senator MCCAIN, to engage in a colloquy.

Mr. MCCAIN. Mr. President, I would be glad to engage Senator KYL for purposes of a colloquy.

Mr. KYL. As you know, the general authority of the Secretary to take land in trust was struck down as unconstitutional by the U.S. Court of Appeals for the Eighth Circuit in the case of United States Department of the Interior, et al. versus State of South Dakota and City of Oacoma. Does the authority for the Secretary to take newly acquired lands in trust pursuant to the settlement agreement and this act rely on that general authority?

Mr. MCCAIN. No. The authority for the Secretary of the Interior to take newly acquired lands in trust for the Hopi Tribe pursuant to the settlement agreement is granted solely pursuant to this act.

Mr. KYL. What is the Chairman's understanding of the process that the Secretary will use to consider requests to take newly acquired lands in trust for the Hopi Tribe pursuant to the settlement agreement and this act?

Mr. MCCAIN. The settlement agreement provides that the Secretary will

consider the Tribe's request for trust status for any lands it acquires, subject to all existing applicable laws and regulations, including the National Environmental Policy Act and 25 Code of Federal Regulations 151, and provided that any environmental problems identified as a result of compliance with the National Environmental Policy Act are mitigated to the satisfaction of the Secretary.

Mr. KYL. Does this act establish a Federal reserved right to the use of groundwater on the newly acquired trust lands?

Mr. MCCAIN. No. Language in the act is explicit that nothing in the act establishes a Federal reserved right to groundwater. The act sets forth the attributes of the Hopi water rights on the newly acquired lands and provides how conflicts that may arise shall be resolved.

Mr. KYL. Does the Senator agree that the water rights granted by this act to the Hopi Tribe on newly acquired trust lands are not Federal reserved water rights, but instead are Federal statutory rights granted solely by this legislation as part of a unique settlement tailored to the unique circumstances surrounding the Navajo-Hopi land dispute?

Mr. MCCAIN. I agree with the Senator. The legislation makes clear that water rights on newly acquired trust land that are specifically granted by this act are Federal water rights granted by Congress. They are Federal statutory water rights, not Federal reserved water rights.

Mr. KYL. Does the Senator agree that, as a matter of longstanding Congressional policy, Congress recognizes the principle that State water law governs the allocation and use of water within a State, subject to the Federal Government's power to reserve and establish water rights for the purposes associated with Federal lands and Indian reservations?

Mr. MCCAIN. I agree.

Mr. KYL. Does the Senator agree that the fact that Congress sees fit to grant these water rights in this act reflects the circumstances unique to the Navajo-Hopi dispute, and does not reflect any intention by the Congress to depart from its general policy with respect to the primacy of State water law?

Mr. MCCAIN. I agree with the Senator.

Mr. KYL. Mr. President, the Navajo-Hopi Land Dispute Settlement Act, S. 1973, represents the culmination of several years' worth of very difficult negotiations involving the Navajo and Hopi Tribes, Navajo families residing on Hopi Partitioned Lands, the U.S. Departments of Interior and Justice, the State of Arizona, and representatives of the tribes' non-Indian neighbors in Arizona.

The bill, and the settlement agreement that it ratifies, are the result of good faith efforts by all parties. Taken together, they may well represent the last, best chance to resolve this land dispute with a minimum of pain and disruption to members of the Indian tribes.

Still, this is not a perfect agreement, and I must say for the record that I am not entirely convinced that it will fully resolve the land dispute. The very basis of the settlement is the 75-year leases that the Hopi Tribe will offer to Navajo families who still reside on the HPL and who wish to remain there. By its own design, the settlement carries with it the prospect that the dispute will arise again in 75 years when those leases expire.

The question is, what will happen if the Hopi Tribe does not extend the leases in 75 years, and our successors find that the problem not only remains, but that the number of Navajos in the area has increased significantly? Will the United States be asked to commit hundreds of millions more taxpayer dollars to another painful relocation program? Even though the Hopi indicate now that, if the United States fulfills its obligations under the settlement, it will have fulfilled all of its obligations to the tribe in this matter, what will the obligations of the United States really be 75 years from now—when individuals yet unborn have assumed leadership of the tribes, the Congress, the administration, and the State and local governments?

I caution anyone to be under no illusion that we are permanently settling the land dispute. I suspect that Congress will be asked to find some other way to resolve it—maybe even sooner than 75 years from now. Nevertheless, I am willing to allow this agreement to go forward, in large part because the Hopi Chairman, Ferrell Secakuku, has given me his word that the agreement is in the best interest of the Hopi people and that the tribe will do its best to accommodate Navajo families who wish to remain on the HPL.

I am also willing to allow it to go forward because changes made during the course of the Senate's consideration have made it at least somewhat more likely that the settlement will succeed. For example, we have made parts of the agreement contingent upon 85 percent of the Navajo families signing the lease agreements or accepting relocation benefits. That will ensure some degree of finality before the benefits of resolution—namely, the granting of trust status to lands acquired by the Hopi—are awarded. It will also ensure that a significant majority of the Navajo families are willing participants in the arrangement—something that will improve the prospects of long-term success.

We have also included language to minimize the effect on the tribe's non-Indian neighbors. For example, we say that the taking in trust of any lands, any portion of which falls within a 5-mile radius of an incorporated city or town, will require the specific approval of Congress. We authorize the capitalization of a fund to compensate local governments for any loss of tax revenues resulting from the taking of lands in trust. We codify the understandings in the agreement about the location and character of lands that can be taken in trust, and codify the rights of the State of Arizona with regard to State lands that the Hopi may acquire.

Mr. President, the bill includes important language regarding rights to water on any newly acquired trust lands, and of course, water is the most critical issue for others in Arizona who may be affected by the settlement. In fact, it was the issue of water rights that has proven to be one of the most difficult to resolve.

Initially, the agreement and the bill were silent on the issue, suggesting that Congress might have been creating a new unquantified Federal reserved water right in this legislation. It is my view that such a right is not implicit in the taking of land in trust; any water rights that exist, exist only as Congress specifically provides in statute.

With that in mind, language in the bill clearly spells out what water rights will exist on the newly acquired trust lands. Although the language is not as I would have written it, it is largely acceptable to water users in Arizona who are most likely be affected by the implementation of the settlement, with the exception of the city of Flagstaff.

In that regard, Chairman Ferrell Secakuku of the Hopi Tribe sent a letter dated September 23, 1996, to Mayor Bavasi of Flagstaff, pledging that it is not the intent of the Hopi Tribe, as part of the settlement of the land dispute, to affect adversely the city's water use.

I ask unanimous consent that the chairman's letter and a copy of a letter clarifying the city's understanding of the tribe's position be printed in the RECORD.

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

THE HOPI TRIBE,
September 23, 1996.

Hon. CHRISTOPHER BAVASI,
City of Flagstaff,
Flagstaff, AZ.

DEAR CHRIS: I am writing in response to conversations Lee Storey has had with Scott Canty and Tim Atkeson regarding the City of Flagstaff and the Lake Mary water drainage. It is my understanding that the City of Flagstaff has an interest in the unappropriated surface water in the Lake Mary water drainage and is concerned that the Hopi Tribe may assert a federal claim to that water. It is not the intent of the Hopi Tribe, as part of the settlement of the land dispute, to affect adversely the City's interest in that water. Accordingly, I would invite you and the City Council to meet with me and the Hopi Tribe over the next few weeks to develop a mechanism whereby the City's interests can be accommodated. Please let me know your schedule so that we can resolve this issue satisfactorily.

Sincerely,

FERRELL SECAKUKU,
Chairman of the Hopi Tribe.

CITY OF FLAGSTAFF,
September 24, 1996.

Hon. JON KYL,
Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR KYL AND SENATOR MCCAIN: The Flagstaff City Council met at 12:30 p.m. today to consider its position on Senate Bill 1973, taking into consideration the letter received by Major Chris Bavasi from Hopi Chairman Ferrell Secakuku. Based on assurance made by Chairman Secakuku's letter, the City Council instructed me to convey its support for SB 1973. It is important to note that a message received from Tim Atkeson, Legal Counsel for the Hopi Tribe, through Lee Storey, was vital to the Council's decision. Mr. Atkeson confirmed by phone with Lee Storey that Chairman Secakuku's letter is intended to cover all of Flagstaff's water use, and not be limited to the Lake Mary watershed.

The Council also relied heavily on your intention to comment during Senate consideration that passage is supported with the understanding that the Hopi Tribe will work with the City of Flagstaff to formalize a legal and binding instrument to implement their commitment not to adversely affect the City's water rights/water supply.

The Council also understands that you will commit to join with the City of Flagstaff and the Hopi Tribe to secure the appropriate legal instrument between the two.

Thank you very much for your consideration.

Sincerely,

DAVID W. WILCOX,
City manager.

Mr. KYL. The chairman pledged in his letter to meet with Mayor Bavasi within the next few weeks to develop a mechanism whereby the city's interests can be accommodated, and I take the chairman at his word that the tribe will not adversely affect the city's interest. It is based on the chairman's assurances that I am not seeking additional language in the bill at this time.

I am sending letters to both the chairman and the mayor encouraging them to meet expeditiously on the matter and come to resolution, and I will look forward to early progress reports from them.

Mr. President, let me address for a moment specific language in the bill. Subsection 12(a)(1)(A) permits the reasonable use of groundwater pumped on newly acquired trust lands; provisions in section 12(h) of the bill make it clear, however, that this should not be construed as establishing a Federal reserved right to ground water.

Another provision allows the Hopi to maintain all rights to the use of surface water on such lands that exist under State law on the date of acquisition, and it allows the tribe to make any further beneficial use, on newly acquired trust lands, of surface water which is unappropriated on the date that each parcel of newly acquired trust lands is taken into trust.

These rights are constrained. With respect to ground water, the bill requires the tribe to recognize as valid all uses of ground water which may be made from wells, or their subsequent replacements, in existence on the date each parcel of newly acquired trust land is acquired. The tribe shall not object to such ground water uses on the basis of water rights associated with the newly acquired trust lands. The tribe agrees to limit any objection only to the impact on newly acquired trust lands of ground water uses which are initiated after the date the lands affected are taken in trust, and only on grounds allowed by State law as it exists when the objection is made.

Let me say that again—objection can be made only on grounds allowed by State law when the objection is made.

The tribe further agrees not to object to ground water uses that affect the tribe's right to surface water established under subsection 12(a)(1)(C) when those ground water uses are initiated before the tribe initiates its beneficial use of surface water pursuant to that subsection.

The tribe further agrees to recognize as valid all uses of surface water in existence on or prior to the date each parcel of newly acquired trust land is acquired, and shall not object to such surface-water uses on the basis of water rights associated with the newly acquired trust lands. The tribe may enforce the priority of its rights to surface water against junior surface water rights, but only to the extent that the exercise of those junior rights interferes with the actual use of the tribe's senior surface water rights.

Mr. President, the creation of the limited right to the beneficial use of unappropriated surface water that is created here—and I emphasize the language included in section 12(h) that says explicitly that such a right is not a Federal reserved water right—can interfere with the rights of others who lawfully put water to beneficial use in the State after the passage of this bill, and that is the problem.

The tribe could, for example, assert a senior right to such unappropriated surface water many years from now, having never put the water to beneficial use, while others, including cities and towns in northern Arizona, and private parties, have floated bonds, made investments, and made other economic development plans based on water that is available in the interim and lawfully put to beneficial use.

Moreover, the creation of even a limited right to water for new lands acquired by the Hopi could undermine the entire Little Colorado River adjudication should the tribe assert the right many years in the future, after the adjudication process has been completed.

The fact is, there is no need to create any additional water right, even the limited right that is included here. The settlement allows the Hopi to choose any land the tribe wishes, including land with very secure and senior water rights. Those rights may well be senior to the bill's limited right, with its priority date that the lands are taken in trust.

The tribe can choose to buy land with very good State-law water rights, or none at all. It should not, however, be allowed to secure existing State-law rights and even a limited right to some additional amount of water.

Nevertheless, I am willing to allow the legislation to go forward first, because, according to the Arizona Department of Water Resources, the amount of unappropriated water in this instance is negligible; second, because the Hopi Tribe has agreed to try to accommodate the city of Flagstaff's further concerns; third, because the right is carefully defined and limited by section 12(b); and fourth, because language in section 12(h) makes it explicit that nothing in this legislation shall imply that a Federal reserved water right is created or that State law shall not apply.

AMENDMENT NOS. 5407, 5408, 5409, 5410, AND 5411

Mr. LOTT. Mr. President, I understand that Senator MCCAIN has five amendments at the desk as follows: Amendment No. 5407, regarding trust lands; amendment No. 5408, a technical change; amendment No. 5409, an additional finding; amendment No. 5410 relating to expeditious action; amendment No. 5411, statutory interpretation and water rights.

The amendments (Nos. 5407, 5408, 5409, 5410, and 5411) are as follows:

AMENDMENT NO. 5407

(Purpose: To provide a definition of newly acquired trust lands)

On page 13, between lines 20 and 21, insert the following:

(8) NEWLY ACQUIRED TRUST LANDS.—The term ''newly acquired trust lands'' means lands taken into trust for the Tribe within the State of Arizona pursuant to this Act or the Settlement Agreement.

AMENDMENT NO. 5408

(Purpose: To provide a technical change)

On page 15, line 18, strike ''town (as that term is'' and insert ''town or city (as those terms are''.

AMENDMENT NO. 5409

(Purpose: To provide an additional finding)

On page 12, line 12, strike ''and''.

On page 12, line 18, strike the period and insert ''; and''.

On page 12, between lines 18 and 19, insert the following:

(7) neither the Navajo Nation nor the Navajo families residing upon Hopi Partitioned Lands were parties to or signers of the Settlement Agreement between the United States and the Hopi Tribe.

AMENDMENT NO. 5410

(Purpose: To direct the Secretary to take lands into trust in an expeditious manner)

On page 15, between lines 20 and 21, insert the following:

(4) EXPEDITIOUS ACTION BY THE SECRETARY.—Consistent with all other provisions of this Act, the Secretary is directed to take lands into trust under this Act expeditiously and without undue delay.

AMENDMENT NO. 5411

(Purpose: To provide for statutory interpretation and water rights)

On page 19, after line 15, add the following:

SEC. 11. EFFECT OF THIS ACT ON CASES INVOLVING THE NAVAJO NATION AND THE HOPI TRIBE.

Nothing in this Act or the amendments made by this Act shall be interpreted or

deemed to preclude, limit, or endorse, in any manner, actions by the Navajo Nation that seek, in court, an offset from judgments for payments received by the Hopi Tribe under the Settlement Agreement.

SEC. 12. WATER RIGHTS.

(a) IN GENERAL.—

(1) WATER RIGHTS.—Subject to the other provisions of this section, newly acquired trust lands shall have only the following water rights:

(A) The right to the reasonable use of groundwater pumped from such lands.

(B) All rights to the use of surface water on such lands existing under State law on the date of acquisition, with the priority date of such right under State law.

(C) The right to make any further beneficial use on such lands which is unappropriated on the date each parcel of newly acquired trust lands is taken into trust. The priority date for the right shall be the date the lands are taken into trust.

(2) RIGHTS NOT SUBJECT TO FORFEITURE OR ABANDONMENT.—The Tribe's water rights for newly acquired trust lands shall not be subject to forfeiture or abandonment arising from events occurring after the date the lands are taken into trust.

(b) RECOGNITION AS VALID USES.—

(1) GROUNDWATER.—With respect to water rights associated with newly acquired trust lands, the Tribe, and the United States on the Tribe's behalf, shall recognize as valid all uses of groundwater which may be made from wells (or their subsequent replacements) in existence on the date each parcel of newly acquired trust land is acquired and shall not object to such groundwater uses on the basis of water rights associated with the newly acquired trust lands. The Tribe, and the United States on the Tribe's behalf, may object only to the impact of groundwater uses on newly acquired trust lands which are initiated after the date the lands affected are taken into trust and only on grounds allowed by the State law as it exists when the objection is made. The Tribe, and the United States on the Tribe's behalf, shall not object to the impact of groundwater uses on the Tribe's right to surface water established pursuant to subsection (a)(3) when those groundwater uses are initiated before the Tribe initiates its beneficial use of surface water pursuant to subsection (a)(3).

(2) SURFACE WATER.—With respect to water rights associated with newly acquired trust lands, the Tribe, and the United States on the Tribe's behalf, shall recognize as valid all uses of surface water in existence on or prior to the date each parcel of newly acquired trust land is acquired and shall not object to such surface water uses on the basis of water rights associated with the newly acquired trust lands, but shall have the right to enforce the priority of its rights against all junior water rights the exercise of which interfere with the actual use of the Tribe's senior surface water rights.

(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1) or (2) shall preclude the Tribe, or the United States on the Tribe's behalf, from asserting objections to water rights and uses on the basis of the Tribe's water rights on its currently existing trust lands.

(c) APPLICABILITY OF STATE LAW ON LANDS OTHER THAN NEWLY ACQUIRED LANDS.—The Tribe, and the United States on the Tribe's behalf, further recognize that State law applies to water uses on lands, including subsurface estates, that exist within the exterior boundaries of newly acquired trust lands and that are owned by any party other than the Tribe.

(d) ADJUDICATION OF WATER RIGHTS ON NEWLY ACQUIRED TRUST LANDS.—The Tribe's water rights on newly acquired trust lands shall be adjudicated with the rights of all other competing users in the court now presiding over the Little Colorado River Adjudication, or if that court no longer has jurisdiction, in the appropriate State or Federal court. Any controversies between or among users arising under Federal or State law involving the Tribe's water rights on newly acquired trust lands shall be resolved in the court now presiding over the Little Colorado River Adjudication, or, if that court no longer has jurisdiction, in the appropriate State or Federal court. Nothing in this subsection shall be construed to affect any court's jurisdiction; provided, that the Tribe shall administer all water rights established in subsection (a).

(e) PROHIBITION.—Water rights for newly acquired trust lands shall not be used, leased, sold, or transported for use off of such lands or the Tribe's other trust lands, provided that the Tribe may agree with other persons having junior water rights to subordinate the Tribe's senior water rights. Water rights for newly acquired trust lands can only be used on those lands or other trust lands of the Tribe located within the same river basin tributary to the main stream of the Colorado River.

(f) SUBSURFACE INTERESTS.—On any newly acquired trust lands where the subsurface interest is owned by any party other than the Tribe, the trust status of the surface ownership shall not impair any existing right of the subsurface owner to develop the subsurface interest and to have access to the surface for the purpose of such development.

(g) STATUTORY CONSTRUCTION WITH RESPECT TO WATER RIGHTS OF OTHER FEDERALLY RECOGNIZED INDIAN TRIBES.—Nothing in this section shall affect the water rights of any other federally recognized Indian tribe with a priority date earlier than the date the newly acquired trust lands are taken into trust.

(h) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to determine the law applicable to water use on lands owned by the United States, other than on the newly acquired trust lands. The granting of the right to make beneficial use of unappropriated surface water on the newly acquired trust lands with a priority date such lands are taken into trust shall not be construed to imply that such right is a Federal reserved water right. Nothing in this section or any other provision of this Act shall be construed to establish any Federal reserved right to groundwater. Authority for the Secretary to take land into trust for the Tribe pursuant to the Settlement Agreement and this Act shall be construed as having been provided solely by the provisions of this Act.

Mr. LOTT. Mr. President, I ask unanimous consent that the amendments be agreed to, en bloc, and the committee amendment, as amended, be agreed to, the bill be deemed read a third time and passed, as amended, the motion to reconsider be laid on the table, and that any statements relating to the bill be printed at the appropriate place in the RECORD.

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

The amendments (Nos. 5407, 5408, 5409, 5410, and 5411) were agreed to.

The committee amendment, as amended, was agreed to.

The bill (S. 1973), as amended, was agreed to, as follows:

S. 1973

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 ''Navajo-Hopi Land Dispute Settlement Act of 1996''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) it is in the public interest for the Tribe, Navajos residing on the Hopi Partitioned Lands, and the United States to reach a peaceful resolution of the longstanding disagreements between the parties under the Act commonly known as the ''Navajo-Hopi Land Settlement Act of 1974'' (Public Law 93–531; 25 U.S.C. 640d et seq.);

(2) it is in the best interest of the Tribe and the United States that there be a fair and final settlement of certain issues remaining in connection with the Navajo-Hopi Land Settlement Act of 1974, including the full and final settlement of the multiple claims that the Tribe has against the United States;

(3) this Act, together with the Settlement Agreement executed on December 14, 1995, and the Accommodation Agreement (as incorporated by the Settlement Agreement), provide the authority for the Tribe to enter agreements with eligible Navajo families in order for those families to remain residents of the Hopi Partitioned Lands for a period of 75 years, subject to the terms and conditions of the Accommodation Agreement;

(4) the United States acknowledges and respects—

(A) the sincerity of the traditional beliefs of the members of the Tribe and the Navajo families residing on the Hopi Partitioned Lands; and

(B) the importance that the respective traditional beliefs of the members of the Tribe and Navajo families have with respect to the culture and way of life of those members and families;

(5) this Act, the Settlement Agreement, and the Accommodation Agreement provide for the mutual respect and protection of the traditional religious beliefs and practices of the Tribe and the Navajo families residing on the Hopi Partitioned Lands;

(6) the Tribe is encouraged to work with the Navajo families residing on the Hopi Partitioned Lands to address their concerns regarding the establishment of family or individual burial plots for deceased family members who have resided on the Hopi Partitioned Lands; and

(7) neither the Navajo Nation nor the Navajo families residing upon Hopi Partitioned Lands were parties to or signers of the Settlement Agreement between the United States and the Hopi Tribe.

SEC. 3. DEFINITIONS.

Except as otherwise provided in this Act, for purposes of this Act, the following definitions shall apply:

(1) ACCOMMODATION.—The term ''Accommodation'' has the meaning provided that term under the Settlement Agreement.

(2) HOPI PARTITIONED LANDS.—The term ''Hopi Partitioned Lands'' means lands located in the Hopi Partitioned Area, as defined in section 168.1(g) of title 25, Code of Federal Regulations (as in effect on the date of enactment of this Act).

(3) NAVAJO PARTITIONED LANDS.—The term ''Navajo Partitioned Lands'' has the meaning provided that term in the proposed regulations issued on November 1, 1995, at 60 Fed. Reg. 55506.

(4) NEW LANDS.—The term ''New Lands'' has the meaning provided that term in section 700.701(b) of title 25, Code of Federal Regulations.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(6) SETTLEMENT AGREEMENT.—The term ''Settlement Agreement'' means the agreement between the United States and the Hopi Tribe executed on December 14, 1995.

(7) TRIBE.—The term ''Tribe'' means the Hopi Tribe.

(8) NEWLY ACQUIRED TRUST LANDS.—The term ''newly acquired trust lands'' means lands taken into trust for the Tribe within the State of Arizona pursuant to this Act or the Settlement Agreement.

SEC. 4. RATIFICATION OF SETTLEMENT AGREEMENT.

The United States approves, ratifies, and confirms the Settlement Agreement.

SEC. 5. CONDITIONS FOR LANDS TAKEN INTO TRUST.

The Secretary shall take such action as may be necessary to ensure that the following conditions are met prior to taking lands into trust for the benefit of the Tribe pursuant to the Settlement Agreement:

(1) SELECTION OF LANDS TAKEN INTO TRUST.—

(A) PRIMARY AREA.—In accordance with section 7(a) of the Settlement Agreement, the primary area within which lands acquired by the Tribe may be taken into trust by the Secretary for the benefit of the Tribe under the Settlement Agreement shall be located in northern Arizona.

(B) REQUIREMENTS FOR LANDS TAKEN INTO TRUST IN THE PRIMARY AREA.—Lands taken into trust in the primary area referred to in subparagraph (A) shall be—

(i) land that is used substantially for ranching, agriculture, or another similar use; and

(ii) to the extent feasible, in contiguous parcels.

(2) ACQUISITION OF LANDS.—Before taking any land into trust for the benefit of the Tribe under this section, the Secretary shall ensure that—

(A) at least 85 percent of the eligible Navajo heads of household (as determined under the Settlement Agreement) have entered into an accommodation or have chosen to relocate and are eligible for relocation assistance (as determined under the Settlement Agreement); and

(B) the Tribe has consulted with the State of Arizona concerning the lands proposed to be placed in trust, including consulting with the State concerning the impact of placing those lands into trust on the State and political subdivisions thereof resulting from the removal of land from the tax rolls in a manner consistent with the provisions of part 151 of title 25, Code of Federal Regulations.

(3) PROHIBITION.—The Secretary may not, pursuant to the provisions of this Act and the Settlement Agreement, place lands, any portion of which are located within or contiguous to a 5-mile radius of an incorporated town or city (as those terms are defined by the Secretary) in northern Arizona, into trust for benefit of the Tribe without specific statutory authority.

(4) EXPEDITIOUS ACTION BY THE SECRETARY.—Consistent with all other provisions of this Act, the Secretary is directed to take lands into trust under this Act expeditiously and without undue delay.

SEC. 6. ACQUISITION THROUGH CONDEMNATION OF CERTAIN INTERSPERSED LANDS.

(a) IN GENERAL.—

(1) ACTION BY THE SECRETARY.—

(A) IN GENERAL.—The Secretary shall take action as specified in subparagraph (B), to the extent that the Tribe, in accordance with section 7(b) of the Settlement Agreement—

(i) acquires private lands; and

(ii) requests the Secretary to acquire through condemnation interspersed lands that are owned by the State of Arizona and are located within the exterior boundaries of those private lands in order to have both the private lands and the State lands taken into trust by the Secretary for the benefit of the Tribe.

(B) ACQUISITION THROUGH CONDEMNATION.—With respect to a request for an acquisition of lands through condemnation made under subparagraph (A), the Secretary shall, upon the recommendation of the Tribe, take such action as may be necessary to acquire the lands through condemnation and, with funds provided by the Tribe, pay the State of Arizona fair market value for those lands in accordance with applicable Federal law, if the conditions described in paragraph (2) are met.

(2) CONDITIONS FOR ACQUISITION THROUGH CONDEMNATION.—The Secretary may acquire lands through condemnation under this subsection if—

(A) that acquisition is consistent with the purpose of obtaining not more than 500,000 acres of land to be taken into trust for the Tribe;

(B) the State of Arizona concurs with the United States that the acquisition is consistent with the interests of the State; and

(C) the Tribe pays for the land acquired through condemnation under this subsection.

(b) DISPOSITION OF LANDS.—If the Secretary acquires lands through condemnation under subsection (a), the Secretary shall take those lands into trust for the Tribe in accordance with this Act and the Settlement Agreement.

(c) PRIVATE LANDS.—The Secretary may not acquire private lands through condemnation for the purpose specified in subsection (a)(2)(A).

SEC. 7. ACTION TO QUIET POSSESSION.

If the United States fails to discharge the obligations specified in section 9(c) of the Settlement Agreement with respect to voluntary relocation of Navajos residing on Hopi Partitioned Lands, or section 9(d) of the Settlement Agreement, relating to the implementation of sections 700.137 through 700.139 of title 25, Code of Federal Regulations, on the New Lands, including failure for reason of insufficient funds made available by appropriations or otherwise, the Tribe may bring an action to quiet possession that relates to the use of the Hopi Partitioned Lands after February 1, 2000, by a Navajo family that is eligible for an accommodation, but fails to enter into an accommodation.

SEC. 8. PAYMENT TO STATE OF ARIZONA.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subject to subsection (b), there are authorized to be appropriated to the Department of the Interior $250,000 for fiscal year 1998, to be used by the Secretary of the Interior for making a payment to the State of Arizona.

(b) PAYMENT.—The Secretary shall make a payment in the amount specified in subsection (a) to the State of Arizona after an initial acquisition of land from the State has been made by the Secretary pursuant to section 6.

SEC. 9. 75-YEAR LEASING AUTHORITY.

The first section of the Act of August 9, 1955 (69 Stat. 539, chapter 615; 25 U.S.C. 415) is amended by adding at the end the following new subsections:

''(c) LEASES INVOLVING THE HOPI TRIBE AND THE HOPI PARTITIONED LANDS ACCOMMODATION AGREEMENT.—Notwithstanding subsection (a), a lease of land by the Hopi Tribe to Navajo Indians on the Hopi Partitioned Lands may be for a term of 75 years, and may be extended at the conclusion of the term of the lease.

''(d) DEFINITIONS.—For purposes of this section—

''(1) the term 'Hopi Partitioned Lands' means lands located in the Hopi Partitioned Area, as defined in section 168.1(g) of title 25, Code of Federal Regulations (as in effect on the date of enactment of this subsection); and

''(2) the term 'Navajo Indians' means members of the Navajo Tribe.''.

SEC. 10. REAUTHORIZATION OF THE NAVAJO-HOPI RELOCATION HOUSING PROGRAM.

Section 25(a)(8) of Public Law 93–531 (25 U.S.C. 640d–24(a)(8)) is amended by striking ''1996, and 1997'' and inserting ''1996, 1997, 1998, 1999, and 2000''.

SEC. 11. EFFECT OF THIS ACT ON CASES INVOLVING THE NAVAJO NATION AND THE HOPI TRIBE.

Nothing in this Act or the amendments made by this Act shall be interpreted or deemed to preclude, limit, or endorse, in any manner, actions by the Navajo Nation that seek, in court, an offset from judgments for payments received by the Hopi Tribe under the Settlement Agreement.

SEC. 12. WATER RIGHTS.

(a) IN GENERAL.—

(1) WATER RIGHTS.—Subject to the other provisions of this section, newly acquired trust lands shall have only the following water rights:

(A) The right to the reasonable use of groundwater pumped from such lands.

(B) All rights to the use of surface water on such lands existing under State law on the date of acquisition, with the priority date of such right under State law.

(C) The right to make any further beneficial use on such lands which is unappropriated on the date each parcel of newly acquired trust lands is taken into trust. The priority date for the right shall be the date the lands are taken into trust.

(2) RIGHTS NOT SUBJECT TO FORFEITURE OR ABANDONMENT.—The Tribe's water rights for newly acquired trust lands shall not be subject to forfeiture or abandonment arising from events occurring after the date the lands are taken into trust.

(b) RECOGNITION AS VALID USES.—

(1) GROUNDWATER.—With respect to water rights associated with newly acquired trust lands, the Tribe, and the United States on the Tribe's behalf, shall recognize as valid all uses of groundwater which may be made from wells (or their subsequent replacements) in existence on the date each parcel of newly acquired trust land is acquired and shall not object to such groundwater uses on the basis of water rights associated with the newly acquired trust lands. The Tribe, and the United States on the Tribe's behalf, may object only to the impact of groundwater uses on newly acquired trust lands which are initiated after the date the lands affected are taken into trust and only on grounds allowed by the State law as it exits when the objection is made. The Tribe, and the United States on the Tribe's behalf, shall not object to the impact of groundwater uses on the Tribe's right to surface water established pursuant to subsection (a)(3) when those groundwater uses are initiated before the Tribe initiates its beneficial use of surface water pursuant to subsection (a)(3).

(2) SURFACE WATER.—With respect to water rights associated with newly acquired trust lands, the Tribe, and the United States on the Tribe's behalf, shall recognize as valid all uses of surface water in existence on or prior to the date each parcel of newly acquired trust land is acquired and shall not object to such surface water uses on the basis of water rights associated with the newly acquired trust lands, but shall have the right to enforce the priority of its rights against all junior water rights the exercise of which interfere with the actual use of the Tribe's senior surface water rights.

(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1) or (2) shall preclude the Tribe, or the United States on the Tribe's behalf, from asserting objections to water rights and

uses on the basis of the Tribe's water rights on its currently existing trust lands.

(c) APPLICABILITY OF STATE LAW ON LANDS OTHER THAN NEWLY ACQUIRED LANDS.—The Tribe, and the United States on the Tribe's behalf, further recognize that State law applies to water uses on lands, including subsurface estates, that exist within the exterior boundaries of newly acquired trust lands and that are owned by any party other than the Tribe.

(d) ADJUDICATION OF WATER RIGHTS ON NEWLY ACQUIRED TRUST LANDS.—The Tribe's water rights on newly acquired trust lands shall be adjudicated with the rights of all other competing users in the court now presiding over the Little Colorado River Adjudication, or if that court no longer has jurisdiction, in the appropriate State or Federal court. Any controversies between or among users arising under Federal or State law involving the Tribe's water rights on newly acquired trust lands shall be resolved in the court now presiding over the Little Colorado River Adjudication, or, if that court no longer has jurisdiction, in the appropriate State or Federal court. Nothing in this subsection shall be construed to affect any court's jurisdiction; provided, that the Tribe shall administer all water rights established in subsection (a).

(e) PROHIBITION.—Water rights for newly acquired trust lands shall not be used, leased, sold, or transported for use off of such lands or the Tribe's other trust lands, provided that the Tribe may agree with other persons having junior water rights to subordinate the Tribe's senior water rights. Water rights for newly acquired trust lands can only be used on those lands or other trust lands of the Tribe located within the same river basin tributary to the main stream of the Colorado River.

(f) SUBSURFACE INTERESTS.—On any newly acquired trust lands where the subsurface interest is owned by any party other than the Tribe, the trust status of the surface ownership shall not impair any existing right of the subsurface owner to develop the subsurface interest and to have access to the surface for the purpose of such development.

(g) STATUTORY CONSTRUCTION WITH RESPECT TO WATER RIGHTS OF OTHER FEDERALLY RECOGNIZED INDIAN TRIBES.—Nothing in this section shall affect the water rights of any other federally recognized Indian tribe with a priority date earlier than the date the newly acquired trust lands are taken into trust.

(h) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to determine the law applicable to water use on lands owned by the United States, other than on the newly acquired trust lands. The granting of the right to make beneficial use of unappropriated surface water on the newly acquired trust lands with a priority date such lands are taken into trust shall not be construed to imply that such right is a Federal reserved water right. Nothing in this section or any other provision of this Act shall be construed to establish any Federal reserved right to groundwater. Authority for the Secretary to take land into trust for the Tribe pursuant to the Settlement Agreement and this Act shall be construed as having been provided solely by the provisions of this Act.

ORDERS FOR FRIDAY, SEPTEMBER 27, 1996

Mr. LOTT. Mr. President, I now ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour over 9:30 a.m., Friday, September 27, further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, and the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and that there then be a period for the transaction of morning business not to exceed beyond the hour of 12 noon with Senators permitted to speak for up to 5 minutes each, with the exception of the following Senators for the times designated: Senator MCCAIN for 20 minutes, Senator COHEN for 45 minutes, Senator D'AMATO for 10 minutes, Senator NUNN for 30 minutes, and Senator BIDEN for 20 minutes.

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

PROGRAM

Mr. LOTT. Mr. President, following morning business, the Senate may be asked to turn to consideration of any of the following: the Presidio parks bill conference report, the FAA conference report—I am very pleased we do have these conferences completed now, and, of course, they will be available in the morning—the FAA conference report, the Coast Guard conference report, or possibly begin consideration of the omnibus appropriations bill making continuing appropriations for fiscal year 1997. Therefore, rollcall votes can be expected throughout the day and possibly late into the night tomorrow night, because it is possible that we may be able to come to an agreement on these matters, perhaps even an agreement on the continuing resolution. Work will go forward tonight, maybe throughout the night between Senators and Congressmen, particularly on the Appropriations Committee, senior staff and the administration, to continue to make progress.

I announce to my colleagues that I believe good progress is being made. We are not there yet, but it is a very voluminous bill, and I am convinced all parties are working in good faith. It is possible we could reach agreement tomorrow on all of these matters. I hope that happens. But if not, we will continue to move conference reports and to move forward on cloture motions if they are necessary.

There is a possibility for a weekend session in light of the fact that funding for various parts of the Government are not yet in place for the new fiscal year that starts next Tuesday. We will either have to be in session this weekend, getting our agreement completed, or have some sort of an agreement entered into as to exactly how we will get it going before Monday night at midnight.

ORDER FOR ADJOURNMENT

Mr. LOTT. If there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order following the remarks of the Senator from Illinois, Senator MOSELEY-BRAUN.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. Mr. President, I thank the Chair.

(The remarks of Ms. MOSELEY-BRAUN pertaining to the introduction of S. 2132 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

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

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

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate now stands adjourned until 9:30, Friday morning, September 27, 1996.

Thereupon, at 7:34 p.m., the Senate adjourned until Friday, September 27, 1996, at 9:30 a.m.