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Senate

The Senate met at 10 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:

A bracing word from the Lord calls us to prayer. Through Isaiah He says, ''Woe to those who call evil good and good evil; who put darkness for light and light for darkness; who put bitter for sweet and sweet for bitter. Woe to those who are wise in their own eyes and prudent in their own sight.''—Isaiah 5:20–21.

Let us pray.

Almighty God, we reaffirm the absolutes of Your Commandments and the irreducible mandates of the Bible. We commit ourselves to those principles rather than our own prejudices. Make us moral and spiritual leaders of our culture and not chameleon emulators of the equivocations of our time. Help us to discern Your good and reject the clever distortions of evil. May we be people of the light who dispel the darkness of deceit. Keep us from solicitous sweetness or unforgiving bitterness.

Dear God, bless the women and men of this Senate with the divine wisdom to lead and the greatness to inspire our beloved Nation. Through our Saviour and Lord. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator COATS, is recognized.

SCHEDULE

Mr. COATS. Mr. President, this morning the Senate will resume consideration of the Coats amendment No. 1249 to S. 1156, the D.C. appropriations bill. Under the order, there will be 1 hour of debate prior to the cloture vote on the Coats amendment regarding school choice.

Following the 11 a.m. cloture vote, the Senate will continue debating amendments to the D.C. appropriations bill with the hope of finishing action on that bill during today's session. In addition, the Senate will consider the continuing resolution at some point during the session.

As previously ordered, the Senate will recess from 12:30 p.m. to 2:15 p.m. in order for the weekly policy luncheons to meet, and the Senate may also return to consideration of S. 25 regarding the financing of political campaigns or any conference reports that are cleared for Senate action. Therefore, Members can anticipate additional rollcall votes throughout the day.

CONGRATULATIONS TO THE KENNEDY FAMILY

Mr. COATS. Mr. President, I want to take a moment here to congratulate the Senator from Massachusetts for winning a major sailing race this past weekend, and he did not hire a professional crew. He used his sister and son and family and came in first, which is no small feat. The Senator deserves our congratulations for that, and hopefully we can get off to a good debate this morning on vouchers with the Senator feeling so good about winning that race.

Mr. KENNEDY. Mr. President, if the Senator will yield, I thank the Senator very much for his kind comments, once in awhile, it's nice to win something around here.

I thank the Senator for his comments.

Mr. COATS. It was clearly a family affair, Mr. President, and congratulations to the entire Kennedy family for that.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. BENNETT). Under the previous order, the leadership time is reserved.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1998

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

The bill clerk read as follows:

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

The Senate resumed consideration of the bill.

Pending:

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

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

Graham-Mack-Kennedy amendment No. 1252, to provide relief to certain aliens who would otherwise be subject to removal from the United States.

Mack-Graham-Kennedy amendment No. 1253 (to amendment No. 1252), in the nature of a substitute.

AMENDMENT NO. 1249

The PRESIDING OFFICER. The pending question is the Coats amendment No. 1249. Who yields time?

Mr. COATS. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. I am pleased that over the last few days we have had the opportunity to debate what I think is a very vital and very important issue, particularly one that affects low-income children in the District of Columbia. We have had a number of debates on the Senate floor on the question of vouchers for students to have a choice to attend another school because the parents do not feel the school their child is in is providing the education they need to succeed.

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

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We have a particularly acute situation in the District of Columbia whereby a number of children find themselves trapped in schools, in particularly low-income, primarily minority neighborhoods, with virtually no way out. We know that many aspire to be pro athletes, and I join that group that aspires to do that, but unfortunately God only gives a very select few the kind of talent to do that. Education is one of the primary ways for young people to better their circumstances, particularly in situations where children of limited means or practically no means find themselves locked in a situation that gives them no choice. Then their opportunities for meaningful and gainful employment in the workplace or for continued education to give them better opportunities is forfeited.

The D.C. Scholarship Program is something that Senator LIEBERMAN and I have coauthored and have worked to pass. We are moving toward a very important vote at 11 o'clock that will allow us to continue the debate, which I think is not just a debate focused on this bill but a debate that this Senate, Congress, the President, and the entire country should be engaging in: How do we improve our education system? It has been nearly a decade and a half since the report ''A Nation at Risk.'' That report cited the mediocrity of American public education. There have been a number of reforms that have taken place in different parts of the country, but it seems that those who are left behind are those who occupy low-income homes, mostly minority students in failing schools, urban school systems.

Now, our goal is not to replace the public school system in the District of Columbia or anywhere else. Clearly, given the number of students we have, the limited availability of private schools, we need to find ways to strengthen the public school system. We believe that this offers an opportunity to provide that impetus, that spur, to help move along the necessary reforms in the D.C. public school system. We also believe it offers an opportunity to 2,000 children in the District to better their situation, to utilize the voucher to provide an opportunity for a better education. So this bill would provide scholarships for 2,000 young people in grades K through 12 in the District of Columbia that are at or below 185 percent of poverty. It would also provide tutoring help for those who chose to stay within the public schools but needed some assistance in terms of reading and math.

Mr. President, I yield at this particular time. I know we have a limited amount of time. Senator LIEBERMAN and I will be dividing that time up, and I believe we have one or two other speakers on our side.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I yield myself 10 minutes.

Mr. President, I oppose the voucher amendment to the District of Columbia appropriations bill. Students in the District of Columbia deserve good public schools, safe public schools, well-trained teachers and a decent education. Vouchers will undermine all of these essential goals by undermining the public schools, not helping them.

Vouchers will simply subsidize private school tuition for 3 percent of the students in the public schools and leave the other 97 percent of the students even worse off. Public funds should be used for public school reforms that help all students, not to pay for a few public school students to attend private and religious schools. Our goal is to improve public schools, not encourage families to abandon them.

We all want the children of the District of Columbia to get the best possible education. We should be doing more, much more, to support efforts to improve the local schools in the District. We should oppose any plan that would undermine these efforts.

A year ago, as part of an overall effort to deal more effectively with the serious financial and other challenges facing the District of Columbia, Gen. Julius Becton was appointed to improve the D.C. schools. General Becton asked for $87 million to make the critical repairs necessary to ensure that all schools would be ready to open for the 1997–98 school year on time, yet only $50 million was appropriated by Congress to repair the schools. Requests for additional funding were initially denied and were only made available by Congress at the last minute. So Congress bears part of the responsibility for the continuing problems of the D.C. schools, including the festering problems that led to the embarrassing delayed opening of the schools this fall.

This voucher amendment would further undermine General Becton's efforts just as he is making headway in repairing D.C. schools, increasing security and developing effective ways to improve the schools and help all students reach academic standards.

In addition, the voucher system would impose yet another bureaucracy, another federally appointed board on the District of Columbia to use Federal funds to implement the voucher system. The nominations of six of the seven board members would be controlled by Republican leaders of Congress. Only one representative of the District of Columbia would serve on the corporation.

Instead of supporting local efforts to revitalize the schools, the voucher proponents are attempting to make D.C. public schools a guinea pig for an ideological experiment in education that voters in the District of Columbia have soundly rejected and that voters across the country have soundly rejected, too. Our Republican colleagues have clearly been unable to generate any significant support for vouchers in their own States, and it is a travesty of responsible action for them to attempt to foist their discredited idea on the long-suffering people and long-suffering public schools of the District of Columbia. If vouchers are a bad idea for the public schools in 50 States, they are a bad idea for the public schools of the District of Columbia, too.

Many of us in Congress favor D.C. home rule and many of us in Congress believe that the people of the District of Columbia should be entitled to have voting representation in the Senate and the House, like the people in every State. It is an embarrassment to our democracy that the most powerful democracy on Earth denies the most basic right of any democracy—the right to vote—to the citizens of the Nation's Capital.

The District of Columbia is not a test tube for misguided Republican ideological experiments on education. Above all, the District of Columbia is not a slave plantation. Republicans in Congress should start treating the people of the District of Columbia with the respect that they deserve.

General Becton, local leaders, and D.C. parents are working hard to improve all D.C. public schools for all children. Congress should give them its support, not undermine them.

We have here, Mr. President, the examples of some of the activities that are taking place in the Walker Jones Elementary School in Northwest Washington working with the Laboratory for Student Success, using Community for Learning, a research-based reform model, and it is working. The concept is called whole school reform. With increased and more intensive teacher training, in proven methods and materials geared toward better student learning, student test scores have improved. After 6 months in the program, the school raised its ranking in the District on reading scores from 99th in 1996 to 36th in 1997. In math, the school climbed from 81st in the District to 18th. It is working. These kinds of investments are working in this particular school.

The John Tyler Elementary School in Southeast Washington uses the Comer School Development Model Program to restructure school management, curriculum, and teacher training. Teachers focus on reading and math instruction as well as hands-on learning in science and math. All of the students in the Tyler School, of whom 95 percent come from low-income families, are benefiting from the reforms. Academic achievement is going up. It is improving.

Spingarn High School in Northeast Washington has extended the day because they felt that school safety was a first priority. The school is a safe haven for students, and the academic standards are going up.

The District of Columbia has created the so-called Saturday academies for students who read below grade level. The Saturday curriculum reinforces

the weekly instruction and benefits from a reduced student-teacher ratio, and the results show that it is working.

These are examples of what is taking place in the District of Columbia, working for all students. They should be encouraged. They should be expanded. They should be given the resources to be able to implement those programs.

Mr. President, $7 million would provide afterschool programs for every school in the District of Columbia. That would benefit all students, not just a very small group.

Scarce education funds should be targeted to public schools. They do not have the luxury of closing their doors to students who pose challenges, such as children with disabilities, limited English-proficient children, or homeless students. Vouchers will not help children who need the most help.

Voucher proponents argue that vouchers increase choice for parents. But parental choice is a mirage. Private schools apply different rules than public schools. Public schools must accept all children. Private schools can decide whether to accept a child or not. The real choice goes to the schools, not the parents. The better the private school, the more parents and students are turned away.

In fact, many private schools require children to take rigorous achievement tests, at the parents' expense, as a basic for admission to the private schools. Lengthy interviews and complex selection processes are often mandatory. Private schools impose many barriers to admission. Few parents can even get to the schoolhouse door to find out if it is open to their child. For the vast majority of families with children in public schools, the so-called school choice offered by the voucher scheme is a hollow choice.

Public schools must take all children, and build a program to meet each of their needs. Private schools only take children who fit the guidelines of their existing programs. We should not use public tax dollars to support schools that choose some children, and reject others.

There are also serious constitutional objections to the voucher scheme. The vast majority of private schools that charge tuition below $3,200 are religious schools. Providing vouchers to sectarian schools violates the establishment clause of the first amendment of the U.S. Constitution. In many States voucher schemes would violate the State constitution, too. Courts in Wisconsin, Ohio, and Vermont have all reached decisions this year upholding the ruling that the use of public funds to pay for vouchers for religious schools is unconstitutional.

If voucher proponents genuinely wanted to help the children of the District of Columbia obtain a good education, they would use the $7 million in this amendment to support reform efforts to improve the public schools. Money is not the only answer to school reform, but it is a principal part of the answer. Public schools in States across the country are starved for funds, and so are the D.C. public schools.

We saw an example just this morning. The Ballou Senior High School here in the District was forced to close due to a leaky roof caused by the weekend rainstorms. Students were sent to Douglass Junior High School, one of the buildings closed by the District. Again, the students of the D.C. schools suffered because of poor facilities. Seven million dollars would begin the critical repairs to the 80 buildings that did not get new roofs this year, to make sure that this will not happen to other schools.

We know what works in school reform. Steps are available with proven records of success to improve teaching and instruction, reduce crowded classrooms, and bring schools into the world of modern technology—let alone repairing crumbling schools facilities and making classrooms, corridors, and playgrounds safe for children trying their best to learn in conditions that no private schools would tolerate.

Too often, with good reason, children in too many public schools in too many communities across the country feel left out and left behind. Vouchers will only make that problem worse. Three percent of the students would be helped by enabling them to attend private schools, while 97 percent of the students are left even farther behind.

Supporting a few children at the expense of all the others is a serious mistake. We don't have to abandon the public schools in order to help. We should make investments that help all children in the D.C. schools to obtain a safer and better education. I hope my colleagues will reject this amendment.

Again, we should not impose on the District of Columbia what voters in other States don't want. In the last year, voters in Colorado, Washington, and California have rejected the vouchers. In the past 10 years, State legislatures in 16 States have voted this down. Even the Texas legislature rejected even the vouchers this year, and we should as well.

I reserve the remainder of our time.

Mr. COATS. Mr. President, I yield 4 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I note at the outset we should not impose on the children of the District of Columbia what Members of the U.S. Senate are not willing to do. We did a survey of Members of the U.S. Senate to find out how many sent their children to the District of Columbia public schools. Of the 100 Members of the U.S. Senate, we were able to get ahold of 95 offices. We have not found an office yet that sends their children to the District of Columbia public schools.

Should we require students whose families do not have the income to be able to either move to other schools or to go to private schools to stay in this public school system? I submit we should not. It is not fair to the kids.

Listen to the statistics. These are just the facts. No. 1, 78 percent of the fourth grade students are below basic reading achievement levels in the District of Columbia. I chaired this subcommittee. I have held numerous hearings on this. I have gone to the schools. These are the facts.

No. 2, 11 percent of the students in the D.C. public schools have avoided going to school for safety reasons.

Fact No. 3, 11 percent of the students in the D.C. public schools report being threatened or injured with a weapon during the past school year.

Fact No. 4, this amendment provides low-income students and their parents a choice, a choice they currently do not have under the D.C. public school system. Right now, pupils in the District do not have a choice but to risk their lives and their potential for educational achievement by going to the D.C. public schools.

Fact No. 5, General Becton, who heads the reform in the District of Columbia public schools, said, ''Give me to the year 2000. We will fix the schools up by the year 2000.'' And I am behind the General and the work he is trying to do to make these public schools better. But if you are a first grade student that means you are going to be in the first and second and third grade in these schools that have failed the kids. And they have failed the children. Some of them have worked, but overall they have failed the students. They have to learn to read and write and add and subtract during those 3 years. That time is too valuable to condemn those students to that type of situation.

It is not fair to the kids. If they had the wherewithal, if they had the income, a number of them would move out to different schools in Maryland or Virginia or to private schools. They don't have the option to be able to do that. This is not fair to the kids, to condemn them to this system. All we are asking is for students below that certain level of poverty, that they be able to have the possibility of doing what most of the Members—in fact all we have been able to find, of the 95 that we surveyed and got ahold of—all of the Members in the U.S. Senate do, and that is send their children to other schools because this system has failed. This system has failed the children, according to the District of Columbia control board itself. This system has failed the children. Let's not condemn that first grader, that second grader, that third grader, not to be able to read or write by not allowing this choice.

One of my highest priorities as the chairman of the Senate Subcommittee on Oversight of Government Management, Restructing, and the District of Columbia, is to make sure the children in the Nation's capital are receiving the quality education they deserve. The District's public schools, unfortunately, have failed too many students.

I'm pleased to join Senators COATS, LIEBERMAN, and LANDRIEU in offering this amendment to empower students and their parents in the District with a choice in their education.

I, along with the distinguished ranking member of my subcommittee, Senator LIEBERMAN, have held hearings to explore options to improve public education in the District. I know there are public schools which are working and where students are thriving in their learning environment. I had the privilege to visit two schools in the District: Stuart-Hobson Middle School and Options Public Charter School. I was impressed by the success of their educational programs and how the students took pride in their education. The Options Public Charter School was especially interesting as an example for future charter schools in the District to follow. These schools, unfortunately, are exceptions in the District public school system.

The overall facts about the District public schools speak for itself: 78 percent of fourth grade students are below basic reading achievement levels; 11 percent of the D.C. public schools have avoided going to school for safety reasons; and 11 percent of the students report being threatened or injured with a weapon during the past year. We cannot continue to trap these students in an educational system that is failing them.

This amendment provides low income students a choice they currently do not have under the D.C. public school system. Right now, pupils in the District do not have a choice but to risk their lives and their potential for educational achievement by going to the D.C. public schools. Right now, students in the District do not have a choice but to go to a D.C. public school knowing the glaring reality that the longer they remain in the D.C. public schools, the less likely they will succeed. The Coats-Lieberman-Brownback-Landrieu amendment would give low-income students and parents the choice to enroll their children in a safe environment with high quality education at a private school. Under this amendment, the parents and the students are empowered with a choice in their education. It is an immediate solution to an immediate crisis in the District.

Gen. Julius Becton, chief executive officer and superintendent of the District of Columbia Public Schools, and the District of Columbia Emergency Transitional School Board of Trustees have said that they will make significant improvements by the year 2000, and I recognize and respect the work that lies ahead of them. But the year 2000 is 3 school years away. In three school years, a child progresses through grades one through three in which they learn to read, write, add, subtract, and so forth. These 3 school years are too valuable to force these students to continue in the public school system that has not delivered.

The focus of this amendment is on the low-income student in the D.C. public schools. By providing up to $3,200 in individual scholarships to low-income families who will choose the school for their children, this amendment would give these students the chance to make sure the next three school years do not go to waste while General Becton improves the D.C. public schools. Improving the chances for these children to get the education they need is one of the most fundamental elements to restore the Nation's capital into the shining city the United States deserves.

Mr. President, I ask the Members to support the Coats amendment and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield 5 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I say to my friend from Massachusetts, thank you for leading this side.

Mr. President, this amendment—and this is the reason why we are voting against cloture—this amendment would use $7 million of public taxpayer funding to pay tuition at private schools. We are in battle to balance the budget. I am proud to say we are making great progress. But I know that Americans agree that education is a priority and, while we cannot give every child a scholarship, while we cannot do everything we want to do, while we cannot fund, as we would like, Senator CAROL MOSELEY-BRAUN's incredible initiative as we rebuild our crumbling schools—while we cannot do that, here we are diverting $7 million of taxpayer funds and giving them to private schools.

Who are we helping in the District of Columbia? Who, under this idea, do we contend would be helped? Mr. President, 2,000 out of 78,000 children; 3 percent. It is the 3 percent solution when we need a 100 percent solution. You know, you could really debate whether 3 percent of the kids would be helped. Because I have read this proposal, and I have to tell you, if I were for vouchers I would have written it a little differently. Why do I say that? This allows schools to spring up, mom-and-pop-shop schools, untested, if they can show that they can draw 25 children. Untested schools will spring up to grab this new source of funding from Uncle Sam. Because, as we know, the good schools that are touted around here, No. 1, many of them are filled up; No. 2, most of them charge at least twice the tuition that these children will get. So we are, in essence, going to start a whole new cottage industry of people popping up with ''new schools,'' to grab this taxpayer money. To supposedly help 3 percent of the kids. I contend 3 percent of the kids will not be helped by going to some of those operations.

So, I hope my colleagues will read this proposal because, if you read it, you learn a lot of interesting things. For example, a new board of directors is set up. This is a bureaucracy, folks—a new bureaucracy. The board of directors are going to be political appointees, political appointees. So here we have a lot of talk about, ''get government out of our lives,'' and who is going to decide this? Political appointees: The Speaker of the House, NEWT GINGRICH, is going to recommend these appointees to the President. Guess what, buried in that bill, the people who sit on these boards can earn up to $5,000 a year in a stipend. That $5,000 is more than the tuition check for the child. So we are creating a little cushy new bureaucracy here, with political appointees, to help 3 percent of the kids, which I contend would not be helped.

So, I feel Members ought to look at this. My State, California, has rejected vouchers twice. Let me tell you the reason. The reason is they want to help 100 percent of the kids. They are smart. They know the answer lies in better schools. That's why we backed charter schools, that's why we want national standards, to make sure that our children are living up to their potential. So these are the things that we want to do in California.

Mr. President, we could take this $7 million and we could do a lot of repairs on some of these D.C. schools. Some of them need boilers, because it is freezing in those schools. We could set up an after-school program. That is so important. We are doing it in Los Angles and Sacramento, so these kids have something to say ''Yes'' to after school. We could set up many of those after-school programs with this $7 million. By the way, just take the half-million off the top you are going to use for this new bureaucracy, you could fix a lot of schools. You could put after-school programs in. You could mentor a lot of children.

So I want quality schools for every child in America. I think this is a surrender. This is a surrender. And even with it, if it went into place, in my view it would encourage these new little schools to pop up, untested, because somebody would get the idea: Oh, this is great. I can get $3,500 per child. I will just set up my own school. And convince this board of directors that is politically appointed that they ought to be allowed to continue.

I hope we are going to reject this. I do not doubt for one moment that the people who put this forward are very sincere and caring about children. I just think it will have unintended consequences. I hope we will vote this down.

I thank my colleague from Massachusetts and I yield the remainder of my time to him.

Mr. KENNEDY. Will the Senator yield just for a question?

Mrs. BOXER. I believe I yielded my time back to the Senator.

Mr. KENNEDY. I yield the Senator 3 more minutes, if we need to.

Mrs. BOXER. Yes.

Mr. KENNEDY. Seven years ago, 53 percent of the D.C. teachers were not certified. Last year that number had dropped to 33 percent. In 1997, all new teachers are going to be certified and existing teachers who are here must be certified by January, 1998, or risk dismissal. Is that the kind of reform that you are talking about, a comprehensive solution, rather than helping just a few children? Programs that enhance the training and bring teachers up to speed so they have world class standards and world class certification, to be able to work with all children? Is that the kind of thing that the Senator from California is talking about?

Mrs. BOXER. Absolutely. I am talking about quality schools for 100 percent of the children, and I think the chart behind the Senator from Massachusetts explains the situation:

Restructure the whole school; foster world-class instruction; extend the school day; enhance family centered learning.

I talked about after school. Senator CAROL MOSELEY-BRAUN talks about fixing the crumbling schools. This is what we ought to be doing, not surrendering and giving these dollars to private institutions, some of them that are going to be totally untested, I say to my friend.

Mr. KENNEDY. Will the Senator yield further? Under General Becton's new initiatives, students in grade 3 and 8 have to have the basic reading skills before advancing to a higher grade. This requirement reflects the commitment of the District of Columbia to ensure all children master basic reading skills. That has been the new program.

Do I understand that if we had $7 million to try to implement those kinds of programs to work with kids, particularly those that may have more difficulty working through and enhancing their academic achievement, we would see all of the students in that class moving along together in enhancing their reading capabilities, which is key to all learning in the future? Those are the kind of investments that the Senator thinks would make sense for all the students, I imagine?

Mrs. BOXER. Absolutely, and testing. We support, you and I, this voluntary national testing. It is interesting, some of the people who are the strongest supporters of giving back to these private schools are fighting against testing. They don't want to have the children tested. Therefore, we will never know who is being left behind. The Senator is on target. We know what we have to do to make these kids whole. We know what we have to do to help 100 percent of the kids.

Mr. KENNEDY. I thank the Senator. I reserve the remainder of our time.

Mr. COATS. Mr. President, I yield 4 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let's begin by talking about testing. I have here a pie chart that talks about people who attend D.C. public schools. These are the cold realities of the situation: 52.9 percent of them drop out of D.C. public schools before they graduate. So, obviously, they don't have a chance of going to college.

Of the less than half who graduate, 22.1 percent of all people who are in the system never take the SAT test that would allow them an opportunity, if they are successful, to attend a major college or university.

Of those who take the test, half make below 796 on the test. That is below the minimum standard set by most major colleges or universities in this region of the country.

So to begin with, roughly only one out of eight students has any chance in the world of attending a major college or university. That is the quality of the system that we see defended today by people who are willing to let children go to schools that don't teach, that don't deliver, that don't produce quality in order to defend teachers unions and vested interests.

Let me show you the next chart. The next chart basically points out where we are in the District of Columbia as compared to what is required to actually be successful and go on to a college or university.

The average student in the District of Columbia makes 790 on the SAT test. The average for the country as a whole is about 1050. To go to the University of Maryland, you have to average about 1170. To go to Penn State, you have to average about 1190. To go to the University of North Carolina, you have to score about 1230, and to go to the University of Virginia, you have to make about 1300.

Talk about discriminating against children. You force working families in the District of Columbia to send their children and their money to schools that turn out children that make 790 on the SAT test, and you are discriminating against them before they ever have any opportunity to use their God-given talents to advance themselves and their families.

Let me make note of the fact that the NCAA says that if you don't make 840 on the SAT test, you are not a real student and you are being exploited by playing football or basketball at a major college or university. The average SAT score in the District of Columbia is 789. That is clearly a case of failure.

Is it a failure to commit money? The average school system in America spends $5,765 per student. The District of Columbia spends $10,180 per student, roughly twice the national average, and yet look at the final product. But not for children of D.C. teachers. They want a mandatory program for everybody except themselves.

Nationwide, 12.1 percent of public schoolteachers on average send their kids to private schools. But in the District of Columbia, it is 28.2 percent. So despite more money than any other school system in America—twice the national average, more than twice the number of teachers in the District of Columbia send their children to private schools as the national average. Yet the test scores continue to reflect failure, and this is not new.

The failure of the D.C. schools to deliver in terms of hard achievement are well documented, and they have been in existence for a long time. Why not spend $7 million to give people a chance to compete? For God's sakes, this is something we ought to do. We ought to be ashamed of denying these children an opportunity to compete. I yield the floor.

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

Mr. KENNEDY. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. The Senator from Massachusetts has 8 minutes remaining.

Mr. KENNEDY. I yield 6 minutes, or more, if the Senator from Illinois wants it.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Thank you very much, Mr. President. To my colleague and friend from Texas, I raise the point that this is not just a matter of a mandatory system for everybody but themselves, referring to people in the District of Columbia, but, as I understand it, the State of Texas has rejected an attempt to put in vouchers. So this issue is one which is applied to the District but not to the State of the Senator from Texas. I think we ought to consider for a moment if it is not good for Texas, it is not good for anyone else in the country.

I point out this argument about helping poor kids ought to be looked at very seriously. Are we really helping poor children, No. 1, and, No. 2, does it help poor children to hold them out to be guinea pigs in an experiment that has not worked anywhere that it has been tried for which we have no information and in which, quite frankly, it represents a clear capitulation and a clear admission of failure, not just of failure, but of a lack of will to reform and revive the system of public education that we have in the District of Columbia?

The fact of the matter is, the $7 million that is to be diverted from the District schools won't fix a single school, won't fund reform and won't support the children who are there. I think that we should be building up the schools, not tearing them down, not taking money or bleeding money away from a public school system that admittedly is troubled. We want to reform the public schools in the District, but they have started a reform effort and, much as the reform effort in my home State of Illinois, it has shown to have great success where there is energized and committed leadership. We can reform our schools if we will just believe that they can be reformed, if we will just invest in them.

The fact is, again, with the $7 million we could make a real difference in the D.C. public schools. We could fully fund every after school program in the D.C. schools. We could buy 368 new boilers for the schools. We could rewire 65 of the schools that don't have the electrical wiring to accommodate computers and multimedia equipment. We could upgrade the plumbing in 102 schools with substandard facilities. We could buy 460,000 new books for the D.C. school libraries.

Instead of engaging the $7 million to fix what we have, we are going to say, let's bleed this patient to death, let's spin off enough for 2 percent of the schoolchildren and leave the others behind.

Let me point out for a moment, and it has been mentioned in the debate already, that one of the schools in the District just today had to close because of a leaky roof. As you know, I have been speaking about the whole issue of school facilities for a while, and in the District of Columbia, we see, according to reports by the General Accounting Office and others, that 67 percent of the schools have crumbling roofs.

If you know anything at all, you know if you have a leaky roof, you are likely to have walls that collapse and floorboards that curl and electrical wiring that can't be used. So having a leaky roof goes to the very heart of the environment for learning.

Are we going to put the $7 million into fixing some of those crumbling roofs? Apparently not, according to this plan.

Sixty-five percent of the schools in the District of Columbia have faulty plumbing, again, a situation where we have children who go to schools where the plumbing doesn't work. Yet, instead of saying we are going to fix the plumbing we are going to engage to support and build up and improve education for these kids, we are going to spin off some of them into another system, again, that has never been tried and created, and that we don't, frankly, know whether or not it is going to provide any benefit at all even to them.

Forty-one percent of the schools don't have enough power outlets and electrical wiring to accommodate computers and multimedia equipment. Everybody knows in this generation of students, computers are what books were to my generation. The kids have to have computers, and that is one of the reasons people do want to have quality education because they want to make certain their youngsters can get on the information superhighway. You can't plug the computer in if you don't have electrical wiring in the wall.

Yet, instead of putting $7 million into fixing the electrical wiring in the schools, we want to spend that money somewhere else.

Sixty-six percent of the schools have inadequate heating, ventilation, and air conditioning. Again, I don't know if people listening have spent a summer in the District of Columbia, but if you get here toward summertime, being in a room without air conditioning is close to being sentenced to purgatory. The children in the public schools would benefit if we were to make the kind of investment in them, as opposed to, again, bleeding the system as this proposal suggests.

I think, Mr. President, though, that at the heart of this debate is really almost a sad kind of capitulation, a sad kind of a lack of will that says that education is just a matter of whether or not I got mine, get yours, go into the market, buy an education for this chit and if you don't get a chit and can't buy a better education, that is too bad for you. The whole notion of public education is that it creates a public good, that it is something that benefits all of us, and that public education becomes, if you will, the great center of meritocracy that defines what this country is all about.

The ladder of opportunity is crafted in the classroom in America. What we are now saying is that some will get the opportunity and others will not. Assuming for a moment that this proposal were adopted—and I am going to do everything I can in opposition to it—but assuming it were adopted, of the 80,000 children in the District of Columbia, about 2,000 of them would be served. That would leave then 78,000 children left behind, left behind with schools that have crumbling roofs, faulty plumbing, not enough electrical power, and inadequate heating, ventilation, and air conditioning. That is what this proposal really represents.

I had in my office two students who were interns briefly. They were actually high school students from the District of Columbia. The reason they were working in my office as recently as last week was because they couldn't go to school, and they couldn't go to school because the courts had closed their school down for bad facilities. The infrastructure was so bad in their schools that they had no place to go to get an education. So we took them in to give them an opportunity just to do something during the daytime.

In the face of that failure, how we can suggest or how it can be suggested that bleeding that system even further instead of investing in it and giving it the support seems to me to be not only shortsighted but counterproductive. I think we can afford to waste no child. I think we should leave no child behind. To the extent that the combination of money and leadership, because it is not just money alone, it has to take an engaged population, if we engage to preserve, to revive and to reform these public schools, we can save them, and we can provide opportunity for all of our children.

The idea is not to create a two- and three-tier system of education so some can get and others cannot, what we want to do is have quality education for every child, so whether that child is an orphan or that child has parents who don't understand the school system or don't speak the language, that child will not be left behind in that which we have relegated to the back burner, that which is left over after we have siphoned off the resources into a private system.

I say let's not make the children of the District of Columbia guinea pigs in this ill-considered experiment.

I thank the Chair. I yield the floor.

Mr. HELMS. I am grateful to the Senator from Indiana [Mr. COATS] and the Senator from Connecticut [Mr. LIEBERMAN] for their having introduced the pending amendment. They are to be commended for offering this proposal, which will improve the circumstances of many students who live in the District of Columbia, and who want to escape—and no other word really fits—escape the horrific conditions that exist in so many local public schools.

I would say to my friends from Indiana and Connecticut that it takes a lot of courage to stand up against the public education establishment. They're a powerful bunch, the National Education Association crowd, and they're not afraid to use all of their muscle to oppose any effort to help parents find alternatives to failing public school systems.

Those who have examined the appalling state of the D.C. public schools are fully aware that parents need an alternative to the status quo. On February 20 of this year, even the Washington Post reported the following dismaying statistics:

Sixty-five percent of D.C. public school children tested below their grade levels for reading in the Comprehensive Test of Basic Skills.

Seventy-two percent of fourth-graders in the D.C. public schools tested below the ''basic proficiency'' level on the National Assessment of Education Progress test given to students every 2 years—this was the lowest score of any school system in the country.

The dropout rate among D.C. public schools students is an astounding 40 percent.

Meanwhile, even those that graduate are unprepared. More than half of D.C. public school graduates who take the U.S. Armed Forces Qualification Test scored below 50 percent on the test—that's a failing grade, Mr. President. That might be the saddest statistic of all. These young people—who want to better their lives through association with our armed forces—cannot pass the vocational aptitude exam given to aspiring recruits because the D.C. public schools are not properly preparing them.

So, Mr. President, the list goes on and on. The Heritage Foundation reports that 11 percentage of students in the D.C. public school system avoid school because they fear for their own safety. Isn't that sad, Mr. President? Children in our Nation's Capital are afraid to go to school.

Then again, why wouldn't they be afraid? Sixteen percent of the students

in the D.C. public schools have at one time carried a weapon into their school. There are metal detectors at many if not all schools to prevent pistols, switchblade knives and narcotics from being smuggled into the classrooms.

Nor is it just the students who are afraid. Almost one in five D.C. public school teachers report that verbal abuse from their students is a serious problem. With conditions like these, no wonder student performance is so low.

Mr. President, again I congratulate Senator COATS and Senator LIEBERMAN for offering this amendment, which opens up the alternative of private or parochial schools to parents whose family income is below 185 percent of the poverty level. Their plan provides opportunity scholarships of up to $3,200 for parents who are fed up with the education—or, rather, the lack of education—provided by the D.C. public schools.

Mr. President, there is a lot of misinformation swirling about concerning the high cost of private and parochial schools. When the words private school are mentioned, the image of elite and high-priced education often springs to mind. Nothing could be further from the truth.

In fact, there is a vast and accessible network of private schools in the Washington area. My friend, the Senator from Indiana, informs me that there are 60 private schools in this area that cost less than $3,200 a year—the amount that families living below the poverty level can receive under the Coats/Lieberman amendment.

Of these 60 schools, many are the remarkable Catholic schools that operate in the most poverty-stricken parts of Washington, DC. These schools are willing and able to provide true quality education to poor students; in fact the Catholic Archdiocese of Washington reports over 1,000 spaces are available in its 16 Washington schools.

They want to do the job, Mr. President. But first, Congress must stand up to the teachers' unions and the rest of the public school establishment that doesn't want to answer for the poor performance of public schools. The Coats/Lieberman amendment is a day of reckoning for the failure of the D.C. public school system—and an outstanding way for Congress to help school children receive the education they deserve.

Mr. DODD. Mr. President, I rise today in strong opposition to this amendment.

Few issues are as divisive in education as this one—private school vouchers. There are very strong feelings on both sides of this issue. This is as it should be on issues affecting our children—strong feelings should be the norm. But I believe we should be concerned for all children, not just for a few.

Our universal system of public education is one of the very cornerstones of our Nation, our democracy and our culture.

In every community, public schools are where America comes together in its rich diversity. For generations, educating the rich, poor, black, white, first-generation Americans—be they Irish, English, Japanese or Mexican-Americans—and all Americans has been the charge and challenge of our public schools. It is clearly not the easiest task. But it's importance cannot be undervalued.

These efforts are essential to our democracy which relies on an educated citizenry, to our communities which require understanding of diversity to function, and to our economy which thrives on highly educated and trained worker. Education—public education—is also the door to economic opportunity for all citizens individually.

However, voucher proposals, like the one before us today, fundamentally undermine this ideal of public education.

Supporters of these programs never argue they will serve all children. They simply argue it is a way for some children to get out of public schools. The amendment offered today would provide 2,000 children, at most, with vouchers. But the D.C. public schools serve 78,000 children and about 50,000 are low-income.

I do not argue that our public schools do not face challenges—violence, disinvestment and declining revenues plague some of our schools, just as they do many other community institutions.

And our schools are not ignoring these problems—even with limited resources.

Many are digging themselves out of these problems to offer real hope and opportunities to students. James Comer in Connecticut has led a revolution in public schools across the country by supporting parents and improving education through community involvement and reinvestment in the schools. Public magnet and charter schools are flourishing offering students innovative curriculum and new choices within the public school system. School safety programs, violence prevention curriculum and character education initiatives are making real gains in the struggle against violence in our schools and larger communities.

And these reform efforts are beginning to show results. Our schools are getting better. Student achievement is up in math, science and reading. The reach of technology has spread to nearly all of our schools. The drop out rate continues to decline.

We clearly have a ways to go before all our schools are models of excellence, but our goal must be to lend a hand in these critical efforts, not withdraw our support for the schools that educate 89 percent of all students in America—public schools.

And there is no question about it, private school vouchers will divert much needed dollars away from public schools. Our dollars are limited. We must focus them on improving opportunities for all children by improving the system that serves all children—the public schools.

The $7 million this amendment would dedicate to D.C. vouchers are much better invested in the District of Columbia's public schools. Last week, Secretary Riley outlined how he would spend these funds on whole school improvement efforts and after-school programs. In addition, the infrastructure needs in D.C. schools remain quite severe—under the leadership of General Beckton, things are improving and these problems are being addressed. But, he estimates infrastructure needs alone top $2 billion.

Proponents of private school choice argue that vouchers will open up new educational opportunities to low-income families and their children. In fact, vouchers offer private schools, not parents choice. The private schools will pick and choose students, as they do now. Few will choose to serve students with low test scores, with disabilities or with discipline problems. Vouchers, which will be between $2,400 and $3,200, will not come close to covering the cost of tuition at the vast majority of private schools in the District.

In fact, the tuitions they will cover are at religious schools raising serious constitutional questions. No Federal court has ever upheld the use of vouchers for parochial school or religious education. To receive these funds, private religious schools would likely have to change the nature of their educational programs and eliminate any religious content. Many schools would be unwilling to do this; further limiting parent's ability to choose.

There are also important accountability issues. Private institutions can fold in mid-year as nearly half a dozen have done in Milwaukee leaving taxpayers to pick up these pieces—only the pieces are children's lives and educations.

This amendment also establishes a new bureaucracy within the District of Columbia to administer this program. There will be a board of citizens—only one of whom will be appointed by a D.C. official—to set up and oversee this program. For all our criticism of the D.C. government, its layer of bureaucracy, and lack of accountability structures, it is ironic that this amendment would set up yet another governing body. This is a long way from what this city needs.

Mr. President, our public schools are not just about any one child; they are about all children and all of us. I do not have any children, but I pay property taxes and do so happily to support the education of the children I am counting on to be tomorrow's workers, thinkers, leaders, teachers and taxpayers.

Our future is dependent on nurturing and developing the potential of every child to its fullest. Investing in our public schools is the best way to reach this goal.

I urge my colleagues to join me in defeating this amendment.

Mrs. MURRAY. Mr. President, today we debate an amendment to the fiscal year 1998 District of Columbia Appropriations Act that would provide publicly-funded vouchers to low-income students so they can attend private and religious schools in the District and surrounding areas.

The bill would authorize $7 million in the first year and a total of $45 million over 5 years. My colleagues have pointed out that this $7 million would only serve 3 percent of the students in the Washington, DC school district, and that we should instead be looking at investments that will help 100 percent of the students.

How much would $7 million buy for all the students in Washington, DC schools? How much real help—that would improve their ability to learn and succeed?

How many teachers, reading assistants, school counselors, nurses, or volunteer coordinators would $7 million buy? How many computers, video systems, wireless communications systems, computer-assisted drafting systems, technology labs and other tools could $7 million buy? How many different ways could we help the parents—through parent involvement programs or family literacy services—to help their children succeed in school, with $7 million?

My colleagues have in this debate asserted or intimated that defense of the public school is essentially defending the status quo, and being afraid of change. Well, when it comes to using public school funds to pay for students to attend private, sectarian schools, the status quo is actually set in the U.S. and many State constitutions.

Our country has a rich history, since Roger Williams, Thomas Jefferson, and James Madison, that keeps a line of separation between our public tax dollars and the checking account at the local house of worship. These debates are further informed by public votes and public polls. As far as the American public is concerned, this particular ground has been gone over. The argument is moot; the law is clear.

The experiences of the State of Washington also have bearing on this issue. I stand before you as a former school board member from a State where the law allows school boards to change anything not otherwise prohibited by law—to help students learn.

Washington State allows wide flexibility in carrying out existing school law—and the Washington State Legislature has held many open public debates on laws that seem too stifling. In every school in my State, like those in many other States, there are teachers, students, parents, and community members thinking about how to make schools better, and taking actions to make them better.

I want to be very clear about this—fear of change is not the obstacle here. My State also has a public school choice law that allows any student to attend school in any public school they choose. One thing we ve learned from this Washington State law is that the biggest frustration occurs when a school determines, as it is allowed, to say when the school is full, and closes the door to new students—who then must choose another school.

The voters of Washington had a choice last fall, to allow private school vouchers. And they overwhelmingly rejected the idea at the polls. As you have heard, this has happened in other States around the country.

Today, if you are worried about the educational crisis affecting any student in a public school anywhere in this country —you have two choices. You can play ''let's talk about vouchers,'' or you can go help a school. You can work at a think tank, or write a column for a newspaper, or become a Member of Congress.

And you can spend a good portion of your career, countless hours of debate, and millions of dollars breaking your pick in the ground of the school voucher issue. You can impose your will on the only people in the contiguous United States without representative government. You can play games with a community that faces enough challenges already. You can strive to further denigrate the D.C. schools by luring away to private religious schools the 2,000 students who are most likely to want to become leaders in a revitalized public school.

Or, you can do something productive. This $7 million could do some good. Your time devoted to a public school could help make needed changes. Your fund-raising on behalf of a public school foundation could make the difference for many students. Your tutoring or advocacy on behalf of a student or family could be the symbol that drives much more volunteer time and public awareness.

It all comes down to one parent wanting to get the very best for his or her son or daughter, and how we can help that parent. We can dangle the possibility of a religious school voucher, or we can help the student and his or her school. For that one student, this $7 million voucher system could be far less meaningful than the help and attention of one caring adult.

If any nationally-recognized voucher advocate went to that one student's school and offered to mediate a discussion, hold a fund-raiser, or work with a family—that student could find real solutions in a real school. Or, we can continue to talk about vouchers and other things that will not, and in this case, should not happen.

People have been talking about the crisis in schools for many years. The research shows we are doing better in many areas, but are not living up to the expectations of a new century. I fear that these kinds of discussions just create a crisis of a different kind—a crisis that saps our sense of volunteer spirit and voluntary support of public education. The students deserve better.

Mr. BIDEN. Mr. President, since 1992, when the Senate first voted on the issue of providing private school vouchers, I have consistently voted against spending Federal money to pay for tuition at private schools. I did so again today. But, I rise to let my colleagues know that I am reconsidering my position based on the changed circumstances in American education. I want to give everyone fair notice that in the future, I may vote to allow such a limited experiment.

I realize that whenever elected officials change their position on an issue, they are subject to accusations of flip-flopping or being inconsistent or trying to have it both ways. It is for that reason that I want to explain my thinking on this matter today.

Unlike some opponents of vouchers, I have never categorically opposed the idea of public money being used under any circumstances for private school education. Rather—and I think I have been forthright about this from the very beginning—my concerns have been very specific. First, I have questions about whether a private school voucher system, when it involves private religious schools, is constitutional. And, second, I have deep reservations about taking money away from underfunded public schools.

But, Mr. President, I do not believe that simply because I have always voted a particular way on a particular issue that I should be locked in forever to that position. Circumstances change. Thinking changes. And, I have been giving this issue a lot of thought.

I have come to the belief that the constitutional issues involved here are not as clear cut as opponents have argued. While lower courts have ruled that vouchers used in private religious schools violate the first amendment's prohibition on the establishment of religion, the Supreme Court has not yet weighed in on the question.

In fact, the Supreme Court has ruled that State tuition tax credits for private religious school tuition are perfectly constitutional, and the Supreme Court has ruled that Pell grants—vouchers for college students—can be used in private religious colleges without violating the Constitution. Granted, Mr. President, the issues that the Court has adjudicated are not exactly parallel to the issue of private school vouchers for elementary and secondary school students. But, the point is, it is an open question. Even some liberal constitutional scholars have noted that vouchers to parents and children may be constitutional. And, as long as it remains an open question, I do not think I can dismiss the issue of vouchers solely on constitutional grounds.

With regard to my second concern—that private school vouchers may drain funds away from the public schools—I now think that the issue is more complex. The real issue is not whether money is drained from public schools, but what effect vouchers would have on public schools and the quality of education those students receive. And, yes, I do believe there is a difference. Even

if vouchers were to take money away from the public schools—and I should point out that not all voucher proposals do—that does not in and of itself mean that public schools will be harmed.

When you have an area of the country—and most often here we are talking about inner cities—where the public schools are abysmal or dysfunctional or not working and where most of the children have no way out, it is legitimate to ask what would happen to the public schools with increased competition from private schools and what would happen to the quality of education for the children who live there.

Most of the opponents of private school vouchers argue that with more kids attending private schools, the support for public education will be drained. To date, that assertion has largely gone unchallenged. I am not sure it should any more. Is it not possible that giving poor kids a way out will force the public schools to improve and result in more people coming back?

Make no mistake about it. Public education must be our primary focus. And, in considering voting for vouchers in the future, I am not subscribing to the philosophy of many voucher supporters who argue that there should be no Federal role in education or that the Federal Government should not in any way help States fund public education or that we should decrease our commitment to public education. On the contrary, I think we should increase that commitment. But, for those kids who are presently caught in a failed public school, we must start asking—only asking—if public education is still the only answer.

I do not know the answer to that or any of the other questions I have raised today. But, I believe the questions need to be asked. And, it may be that the only way that we will find out the answers is to create a limited private school voucher demonstration project.

I say ''may,'' Mr. President, because I do not know. And, that really is part of the point here. I will continue to ask these questions, listen to both sides of the debate, and ponder the answers. In so doing, however, I want everyone to understand that I may conclude in the end that the only true way to answer the questions is to try vouchers—in a limited fashion for those who need the most help.

Mr. DASCHLE. Mr. President, I appreciate the concerns my colleagues have expressed for the future of the children of Washington, DC. The conditions in many of the schools are truly deplorable, and the performance levels of the children show that there are many problems that need to be addressed. I do not, however, share their faith in vouchers as a solution.

Although the sponsors have worked to address some of the problems with past voucher proposals, I see four serious flaws with this particular approach.

First, this proposal ignores 97 percent of all children in the D.C. schools. There are 78,000 children in the D.C. public schools. Approximately 50,000 of them are from low-income families. Under this proposal, only 2,000 children—less than 3 percent of all children in D.C. schools—would receive vouchers.

If helping children leave the public school system and go to private school really is the only way to get a good education—and I will outline in a moment why I do not believe it is—what message would we be sending to the children who would not get vouchers? Are we telling them that they're not important? Are we telling them that we're giving up on them?

I think we ought to tell them that they're all important, that we cannot afford to leave one of them behind. We need solutions that help all children, not just a few who happen to be lucky enough to win a lottery.

The second flaw I see with this proposal is that there is little proof that vouchers work. I certainly do not believe, as some of the proponents have claimed, that those who are left behind are helped in any way by the divisions that will be created within communities or by the loss of active parents to the public school system. But there is also little evidence that vouchers have helped the children who receive them in Milwaukee and Cleveland. The research is contradictory, but careful examination of the data seems to show that improvements in children's academic achievement has almost everything to do with family background, and almost nothing to do with vouchers.

A third problem with this proposal is that, in the end, it's not parents who choose, it's private schools. My colleagues say they want to give parents more choices, and I am sympathetic to that argument. But, who is really doing the choosing? The answer: private schools will choose. As the article in this morning's Washington Post points out, very few of the secular private schools in this area charge a tuition at or below the level of the vouchers and many of these do not have places for additional students. The better the school, the more likely they are to turn students away.

The proposal does not require private schools to accept children with disabilities or children with limited English proficiency. So, parents of these children are likely to find they have few choices available to them.

Finding schools to accept children has been a problem in cities with voucher programs. In Cleveland, for example, nearly half of the public school students who received vouchers could not find a private school that would accept them. No choice was available for those students or their parents.

Finally, Mr. President, I would point out that the public is opposed to vouchers. All parents want their children to be able to go to the best schools possible. But, when people understand how voucher programs work, they reject them. District voters rejected vouchers by an 8-to-1 margin in 1981. More recent voucher initiatives in California, Oregon and Washington State were rejected by more than 2-to-1.

Who does support vouchers? Among the biggest proponents are people who want to dismantle public schools, especially the radical religious right. In his book, America Can Be Saved, Jerry Falwell writes:

> One day, I hope in the next 10 years, I trust that we will have more Christian day schools than there are public schools. I hope I live to see the day when, as in the early days of our country, we won't have any public schools. The churches will have taken them over again and Christians will be running them. What a happy day that will be!

Mr. President, make no mistake about this. I support religious schools. I am a product of a Catholic school education. My parents had that choice, and I believe every parent should have that choice. But, I do not believe taxpayers should be forced to subsidize that choice. Our forefathers wisely understood that there should be a constitutional separation between church and state.

There are other ways to expand parents' choices without violating the Constitution. We should increase parents' ability to choose which public schools their children attend within a district, among districts and even statewide. We should increase the number of magnet and theme schools within the public school system such as math and science academies that have been developed in some communities. We should establish more charter public schools, where motivated administrators and teachers work with innovative programs in exchange for more flexibility.

Mr. President, it is pessimistic and callous to settle for helping less than 3 children in 100. We can do better. We know what works in education. We know that children need good teachers, high standards and reliable measurements to tell us whether they are achieving those standards, safe classrooms, and the active involvement of parents in the schools.

There are public schools all across the country doing an outstanding job of educating children. They are laboratories of reform and excellence. We ought to support these schools and help other public schools reach their level, not give up on the principle of providing a good public education to all children.

Sharing information about local school reforms that work, incidentally, is one of the functions performed by the Department of Education—which many voucher supporters would abolish.

The American people are not willing to abandon public schools. Polls show that 71 percent of Americans believe we should revitalize public schools, not

abandon them. They believe we should educate all children, not just a few. When Americans have had the chance to vote for vouchers, they have voted against them overwhelmingly.

In summary, this voucher amendment would: ignore the needs of 97 percent of D.C. school children; make D.C. children guinea pigs for unproven theory; give choice to private schools, not parents; and drain needed energy and resources away from efforts to revitalize our public schools.

There are better ways to improve our students' academic performance. I urge my colleagues to oppose the amendment and work with me to enact real and meaningful strategies that help all of our children, not just a few.

The PRESIDING OFFICER. All time allotted to the Senator from Massachusetts has expired.

The Senator from Indiana.

Mr. COATS. I yield myself 6 minutes, and my understanding is that will reserve roughly 10 minutes for the Senator from Connecticut.

The PRESIDING OFFICER. There would be 9½ minutes remaining.

Mr. COATS. Mr. President, it is interesting that in this debate not one person who is opposed to the scholarship program for D.C. students has come down here and addressed the fundamental issue of this debate. The fundamental issue is, will we give poverty-stricken minority children the opportunity to escape a failed educational system so that they, too, can participate in the American dream?

We have talked about plumbing, air conditioning, crumbling schools, and we have heard if you can't give it for 100, you can't give it for any. What kind of argument is that? In other words, if you can't totally reform the system all at once for everyone, you condemn another whole generation in the District of Columbia—and in Chicago and other cities around this country—to failure and the inability to gain skills to become gainfully employed or to have the opportunity to go on to further education.

Now, this argument about bleeding the system—if I could have the attention of the Senator from Illinois and the delegate from the District of Columbia, who is on the floor—bleeding the system. The D.C. school system gets $672 million a year, and you are saying that if you added $7 million, the system would be fixed?

The General Accounting Office said that 25 percent of the maintenance budget never leaves the maintenance facilities office. It doesn't go to fix plumbing. The system is broken. We are taking $7 million, not out of the $672 million, not one penny of this is coming out of the current budget for D.C. schools. The $7 million is coming out of money set aside to reduce the general deficit. That was added on to the President's budget.

Bleeding the system, fixing the ventilating, while kids can't even achieve the test score to go on to higher education, kids can't get out of a school—your own statistics show why parents want to leave. If 67 percent of the schools have crumbling roofs and 65 percent have faulty plumbing and 66 percent have inadequate heating, ventilation, and air-conditioning and more than 50 percent goes to maintenance and administration and less than 50 percent of the $672 million goes to educating students, what is wrong with that system? There is something desperately wrong with the system.

This program is designed to at least give 2,000 kids a chance. We talk about the 100-percent solution. Well, it is like if you can't give 100 percent of the kids an opportunity within a failed system, then let's not give any kids an opportunity, let's condemn all of them.

Now, the District of Columbia system needs help desperately. Even the Washington Post, not a supporter of school vouchers, has said give it a chance. At least try it, to see if maybe it spurs the system on, the D.C. public schools system, to a little bit better performance. If it doesn't work—we have a test built in here—if it doesn't work, we will try something else. But let's do something to help these kids. Let's do a small, little piece.

Now, the Senator from California talks about bureaucracy. ''Bureaucracy'' is another word for the D.C. public school system. More than 50 percent of the money, $672 million, doesn't even go to the classroom. Yet in this bill we have a cap of 7.5 percent on administration. We will match our administration with the D.C. administration any time, anywhere.

Senator KENNEDY said, who wants it? Nobody wants it in the District of Columbia. Here are 2,000 parents that want it that have signed this petition. I have a list of 100 ministers, D.C. ministers, almost all minority ministers, who said, we plead with you, give our kids a chance to get an education. They want it.

There was a recent poll taken in the District of Columbia, and 64 percent of D.C. residents indicated if they had the funds, they would get their kids out of the public school system; 40 percent drop out—the Senator had a chart saying 50; say it's 40 or 50 percent, whatever—they don't even graduate from the system.

The constitutional argument—vouchers are good enough for day care. I think the Senator supported that. Vouchers are good enough for Head Start. I think the Senator supported that. Vouchers are good enough for the GI bill and good enough for kids to go to Loyola in your State. That is a religious school. If they are good enough for people over 17 and they are good enough for kids under 5, why aren't they good enough for kids between 5 and 17?

Does the Senator want to respond?

Ms. MOSELEY-BRAUN. I would be delighted. I am very happy to respond to that.

I think the issue, and the point I have just made, if the Senator is prepared to support an effort to address this as well, to address fixing up the crumbling schools in the District of Columbia so those 98 percent of the children who will be left behind——

Mr. COATS. I will be glad to respond. This Senator would be happy to support any effort to improve public schools, but I don't put plumbing ahead of education. I think the first thing we ought to do—and I don't know why the Senator doesn't support it—we first ought to help kids get educated, and at the same time maybe we can do that.

If we don't fix the schools, we will not fix the education—that is upside down.

One last thing. It was stated on this floor that few parents can get to the schoolhouse door. Well, there are a lot of poor kids who have no opportunities in life that can't get through the schoolhouse door because Members of Congress are standing at the schoolhouse door saying, ''Nope, you are not allowed in the school. You don't have the money, you can't get in.''

I am a product of public schools. My kids are a product of public schools. I support public schools. But I don't support public schools that don't give education. I want to do something to help that public education.

I yield the remaining time existing to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut has 8 minutes 30 seconds remaining.

Mr. LIEBERMAN. I thank my colleague from Indiana.

Let me pick up on what was said by Senator COATS, citing that this amendment is bleeding the system. Good God, the system is bleeding. It is not this amendment that is bleeding it. What is bleeding it is the failure of the system, and the blood that is being lost are the hopes and dreams of thousands of parents and children trapped in the school system who know it is a failure for them, who know it is not working for them.

I appeal to my colleagues, particularly my Democratic colleagues, please look at the facts, cut through the rhetoric. I know there is strong pressure from interest groups representing the establishment, the education status quo. I know that my colleagues on the Democratic side are great believers in the public school system. But remember those words that I think were spoken by John Gardner, that too often debates are between those who are unloving critics and uncritical lovers. We all love the public school system, but open our eyes, look what is happening here.

Senator KENNEDY earlier in charting progress in the school system in the District of Columbia said in the last period of time the number of uncertified teachers went from more than 50 to 33 percent. Is that a sign of progress? Yes, it is progress. That is why Senator BROWNBACK and I are working with Delegate NORTON and others to bring more money to the District and support General Becton.

But think about the reality. How many Members of this Senate would send their children to a school system in which one-third of the teachers were uncertified, unless they were forced to send them there because they didn't have the money to get them out.

The Senator from California earlier said, gee, let's take this money, and my colleague and friend from Illinois added, let's put it on top, give it to all the kids, instead of just benefiting this relatively small group of 2,000.

The Washington Post said a while ago in an editorial that the D.C. school system is a well-financed failure. So choice here is whether you will put $7 million on top of the more than $600 million we put into the system and better finance the failure instead of giving that money and focusing it on 2,000 kids and thereby giving them the opportunity for a better education and a better life.

The D.C. school system already spends $7,655 a year, more than $1,500 greater than the national average spent, per student in schools, more than $1,000 greater than that spent in the school districts in the neighboring counties of Maryland and Virginia.

The debate is not about whether you are for the public schools. Senator BROWNBACK as the chairman and I as the ranking Democrat have worked very hard with General Becton. Progress is being made. This is a system in which buildings are still deteriorating, are deteriorated, kids are afraid to go to schools, teachers are afraid to come and teach. Half the children are dropping out. The longer they stay in the school system, the worse they do compared to national averages on the standardized tests.

We are saying here on this amendment, while we are all working with General Becton to improve this school system, let's recognize that this is a building on fire and let's get some kids out of those parts of the building on fire to give them a chance to better themselves.

This is not a choice between public schools and private, parochial schools. That is a false choice. You can support this amendment and support the public schools in the District. The true choice here is between preserving the status quo at all costs, which is slamming a door in the face of the parents and children who want to do better, and doing what is necessary to put those children first. In other words, asking whether the status quo of the public education orthodoxy, which is letting down so many children, is so important that we are willing to sacrifice the hopes and aspirations of thousands of children for the sake of a process, not for the sake of the children.

What is the interest of government in education? Not to protect a particular form but to educate our children. That is what this amendment is about. It is not a panacea. We have a lot more work to do. There is a recent independent study of the scholarship program similar to this one in Cleveland, and they found it helped produce enormous academic gains in 1 year. The same is true in Milwaukee.

Also, it will have an effect on this school system in the District, as competition does, to get them to improve what they are doing. Support for choice is growing widely. In a poll, the Joint Center for Political and Economic Studies found support for school vouchers is surprisingly strong. They concluded it has substantially increased in the last year. A majority of African-Americans, 57.3 percent, and Hispanics, 65.4 percent, supported school vouchers.

Mr. President, I want to make a direct appeal to my Democratic colleagues: I don't know why there is only a handful of us who are Democratic Members of this Senate supporting this proposal. This party of ours has been at its best when we have been for opportunity, when we have been for helping people up the ladder of American life—not to give a handout, but to give people a little help, to help them better themselves. That is what this is about. This is not about protecting a status quo, protecting education. Let's focus on human opportunity and the waste of human talent.

In my opinion, voting against this measure, I say with respect, is about the equivalent of voting against Pell grants or the GI bill or child care programs or any of the host of other programs that Democrats, majority strong, proudly I say, have supported this year and over history.

I think we have just become either uncritical lovers of the school system, the public school system, forgetting our primary education to the children who are there, or are being convinced by those who have a vested interest in the status quo that this is somehow, though on its face a good idea, the proverbial camel's nose under the tent. This is a lifeline for 2,000 children who are trapped in a school system where none of us would let our kids be. I don't mean all of it, but in many cases in this school system many of the schools we simply would not let our kids attend. We see it in the wealthiest section of this city. Choice supporters see that 65 percent of the families living in ward 3, the wealthiest in this city, send their children to private schools. Those ministers and children who came to see us from the poorest sections of this city asked us: Is it fair given this indictment of the District of Columbia public schools by the wealthier families and the wealthier neighborhoods for the Congress to force the poor and disenfranchised to attend schools that we would not ourselves?

I appeal to my colleagues. Break out, break free, and let the kids—2,000 of them now trapped in this school system—have the freedom that our Constitution provides them, the opportunity that we try to give them, and a future that is their birthright as Americans.

I thank the Chair. I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. All time on the amendment being expired, under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant 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 on the pending Coats amendment numbered 1249 to S. 1156:

Trent Lott, Dan Coats, Richard Shelby, Mitch McConnell, Connie Mack, Lauch Faircloth, James Inhofe, Alfonse D'Amato, Rod Grams, John Warner, Pat Roberts, Chuck Hagel, Ted Stevens, John McCain, Susan Collins, and Sam Brownback.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on amendment No. 1249, as modified, to S. 1156, the District of Columbia appropriations bill, shall be brought to a close?

The yeas and nays are required under the rules. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Vermont [Mr. LEAHY] is absent due to a death in the family.

The PRESIDING OFFICER (Mr. SANTORUM). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 58, nays 41, as follows:

[Rollcall Vote No. 260 Leg.]

YEAS—58

Abraham	Gorton	McConnell
Allard	Gramm	Moynihan
Ashcroft	Grams	Murkowski
Bennett	Grassley	Nickles
Bond	Gregg	Roberts
Breaux	Hagel	Roth
Brownback	Hatch	Santorum
Burns	Helms	Sessions
Campbell	Hutchinson	Shelby
Coats	Hutchison	Smith (NH)
Cochran	Inhofe	Smith (OR)
Collins	Jeffords	Snowe
Coverdell	Kempthorne	Specter
Craig	Kyl	Stevens
D'Amato	Landrieu	Thomas
DeWine	Lieberman	Thompson
Domenici	Lott	Thurmond
Enzi	Lugar	Warner
Faircloth	Mack	
Frist	McCain	

NAYS—41

Akaka	Durbin	Lautenberg
Baucus	Feingold	Levin
Biden	Feinstein	Mikulski
Bingaman	Ford	Moseley-Braun
Boxer	Glenn	Murray
Bryan	Graham	Reed
Bumpers	Harkin	Reid
Byrd	Hollings	Robb
Chafee	Inouye	Rockefeller
Cleland	Johnson	Sarbanes
Conrad	Kennedy	Torricelli
Daschle	Kerrey	Wellstone
Dodd	Kerry	Wyden
Dorgan	Kohl	

NOT VOTING—1

Leahy

The PRESIDING OFFICER. On this vote, the yeas are 58 and the nays are 41.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. MACK. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The amendment of the Senator from Indiana is the pending business.

Mr. MACK. Mr. President, I ask unanimous consent that that amendment be set aside.

Mr. COATS. Objection.

The PRESIDING OFFICER. Objection is heard.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT AGREEMENT—HOUSE JOINT RESOLUTION 94

Mr. LOTT. Mr. President, after consultation with the minority leader, I ask unanimous consent that the vote occur on passage of House Joint Resolution 94, the continuing resolution, at 2:15 today.

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

Mr. LOTT. I observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MACK. 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. MACK. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The pending business is the Coats amendment.

Mr. MACK. I ask unanimous consent the Coats amendment be set aside.

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

AMENDMENT NO. 1253, AS MODIFIED

Mr. MACK. Am I correct that the pending business before the Senate now is amendment 1253?

The PRESIDING OFFICER. The Senator is correct.

Mr. MACK. Mr. President, I have a modification to send to the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

The amendment, as modified, is as follows:

Strike all after the word ''section'' and insert the following:

. IMMIGRATION REFORM TRANSITION ACT OF 1997.

(a) IN GENERAL.—Section 240A, subsection (e), of the Immigration and Nationality act is amended—

(1) in the first sentence, by striking ''this section'' and inserting in lieu thereof ''section 240A(b)(1)'';

(2) by striking '', nor suspend the deportation and adjust the status under section 244(a) (as in effect before the enactment of the Illegal Immigration Reform and Immigration Responsibility Act of 1996),''; and

(3) by striking the last sentence in the subsection and inserting in lieu thereof: ''The previous sentence shall apply only to removal cases commenced on or after April 1, 1997, including cases where the Attorney General exercises authority pursuant to paragraph (2) or (3) of section 309(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104–208, Division C, 110 Stat. 3009).''.

(b) REPEALERS.—Section 309, subsection (c), of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104–208, Division, C, 110 Stat. 3009) is amended by striking paragraph (7).

(c) SPECIAL RULE.—Section 240A of the Immigration and Nationality Act is amended—

(1) In subsection (b), paragraph (3), by striking ''(1) or (2)'' in the first and third sentences of that paragraph and inserting in lieu thereof ''(1), (2), or (3)'', and by striking the second sentence of that paragraph;

(2) In subsection (b), by redesignating paragraph (3) as paragraph (4);

(3) In subsection (d), paragraph (1), by striking ''this section.'' and inserting in lieu thereof ''subsections (a), (b)(1), and (b)(2).'';

(4) in subsection (b), by adding after paragraph (2) the following new paragraph—

''(3) SPECIAL RULE FOR CERTAIN ALIENS COVERED BY THE SETTLEMENT AGREEMENT IN *American Baptist Churches et al.* V. *Thornburgh* (ABC), 760 F. Supp. 796 (N.D. Cal. 1991).—

''(A) The Attorney General may, in his or her discretion, cancel removal and adjust the status from such cancellation in the case of an alien who is removable from the United States if the alien demonstrates that—

''(i) the alien has not been convicted of an offense under section 212(a)(2), 237(a)(2), or 237(a)(3) and—

''(I) was not apprehended after December 19, 1990, at the time of entry, and is either—

''(aa) a Salvadoran national who first entered the United States on or before September 19, 1990, and who registered for benefits pursuant to the ABC settlement agreement on or before October 31, 1991, or applied for Temporary Protected Status on or before October 31, 1991; or

''(bb) a Guatemalan national who first entered the United States on or before October 1, 1990, and who registered for benefits pursuant to the ABC settlement agreement by December 31, 1991; or

''(cc) the spouse or unmarried son or daughter of an alien described in (aa) of this subclause and granted relief under this paragraph, provided that the spouse, son or daughter entered the United States on or before September 19, 1990, or the spouse or unmarried son or daughter of a alien described in (bb) of this subclause and granted relief under this paragraph, provided that the spouse, son or daughter entered the United states on or before October 1, 1990; or

''(II) is an alien who—

(aa) is a Nicaraguan, Guatemalan, or Salvadoran who filed an application for asylum with the Immigration and Naturalization Service before April 1, 1990, and the Immigration and Naturalization Service had not granted, denied, or referred that application as of April 1, 1997; or

(bb) is the spouse or unmarried son or daughter of an alien described in (aa) of this subclause and granted relief under this paragraph, provided that the spouse, son, or daughter entered the United States on or before April 1, 1990; and—

''(ii) the alien is not described in paragraph (4) of section 237(a), paragraph (3) of section 212(a) of the Act, or section 241(b)(3)(i); and—

''(iii) the alien is removable under any law of the United States, has been physically present in the United States for a continuous period of not less than seven years immediately preceding the date of such application, and proves that during all of such period he was and is a person of good moral character, and is a person whose removal would, in the opinion of the Attorney General, result in extreme hardship to the alien or to his spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence.

''(B) Subsection (d) of this section shall not apply to determinations under this paragraph, and an alien shall not be considered to have failed to maintain continuous physical presence in the United States under clause (A)(iii) of this paragraph if the alien demonstrates that the absence from the United States was brief, casual, and innocent, and did not meaningfully interrupt the continuous physical presence.

''(C) The determination by the Attorney General whether an alien meets the requirements of subparagraph (A) or (B) of this paragraph is final and shall not be subject to review by any court. Nothing in the preceding sentence shall be construed as limiting the application of subparagraph (B) of section 242(a)(2) to other eligibility determinations pertaining to discretionary relief under this Act.''.

(d) EFFECTIVE DATE OF SUBTITLE (c).—The amendments made by subtitle (c) shall be effective as if included in Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104–208, Division C, 110 Stat. 3009).

(e) APPEAL PROCESS.—Any alien who has become eligible for suspension of deportation or cancellation of removal as a result of the amendments made by subsections (b) and (c) may, notwithstanding any other limitations on motions to reopen imposed by the Immigration and Nationality Act or by regulation file one motion to reopen to apply for suspension of deportation or cancellation of removal. The Attorney General shall designate a specific time period in which all such motions to reopen must be filed. The period must begin no later than 120 days after the date of enactment of this Act and shall extend for a period of 180 days.

(f) EFFECTIVE DATE OF SECTION.—This section shall take effect one day after enactment of this Act.

Mr. MACK. Mr. President, I ask unanimous consent that Senator REED of Rhode Island be added as a cosponsor of this amendment.

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

Mr. MACK. Mr. President, the amendment I have offered simply clarifies the implementation of last year's immigration legislation in one specific area, the suspension of deportation. Last year's bill imposed stricter standards to obtain suspension of deportation. While this is fine for future applicants, it is unfair to impose new, harsher standards on cases which were already in the pipeline at the time of passage.

This amendment does two specific things: first of all, it clarifies that certain Central American immigrants who

were in the administrative pipeline for suspension of deportation must continue to meet the standards that applied before the immigration reform law took effect. Second, the annual cap on suspensions of deportation would only apply to cases commenced after April 1, 1997.

Without those two changes, we will be changing the rules midstream for a group of people who were attempting to comply with the guidelines for regularizing their immigration status. We encouraged them to come forward and play by the rules and we cannot go back on our word now.

As a way of background, let me lay out some information for the Senate. Starting in the mid-1980's, Nicaraguans, Salvadorans, and Guatemalans fleeing the civil wars in their home countries started coming to the United States. Many of them made asylum claims, many of which were improperly denied as the U.S. Government acknowledged by ordering them readjudicated. In the case of Nicaraguans, this was done through the Nicaraguan review program established by Ronald Reagan. And in the case of Salvadorans and Guatemalans this was done through settlement of the ABC class lawsuit agreed to by the Bush administration.

A huge backlog of asylum claims, however, then prevented their cases from being reheard for many years. Meanwhile, various temporary statuses allowed the members of this group to avoid deportation. In addition, they received authorization to work legally in the United States. During that time many members of that group established strong roots in this country.

Under immigration law, there has long been available a procedure called ''suspension of deportation'' for an individual found to be of good character and who has been here for 7 years to adjust to legal status if deporting that individual would cause ''extreme hardship'' to the person or his or her immediate legal present relative. This requires a case-by-case adjudication that the person being granted this benefit meets the legal standard. Because of the asylum backlog and because conditions in the individual's home country had changed since the filing of their original asylum claims, the Department of Justice under President Clinton encouraged these central Americans to seek suspension of deportation rather than continuing to press their asylum claims or file a new lawsuit.

Again, the point that I am trying to make here in laying out this history is that each step along the way this group of individuals has complied with the rules that existed at the time. In fact, we went to the extent that we encouraged these people to file for suspension of deportation, and it would just be fundamentally unfair at this point if we were to change the rules on these people who in fact have been trying to live by the rules every day that they have been here.

Several other points. The reason why we believe this is important is because we believe that this in essence will deny these people the right to due process under laws with respect to suspension of deportation.

I want to emphasize to my colleagues that this is not amnesty, and there is nothing automatic here. Let us assume for a moment that this amendment were to pass. We are not guaranteeing anybody anything other than the fact that they will have to comply with the rules as they existed at the time they came into the process of suspension of deportation.

Again, I want to emphasize to my colleagues that this is not amnesty. Every person affected by my amendment is merely being given a chance for due process, to have their case heard. They must still meet the criteria to be granted suspension of deportation. In addition, my amendment is focused only upon an identifiable group. There are those who want to create the impression that if this amendment passes literally millions of people, millions of illegal immigrants will use this as a loophole to remain in the country. This is an extremely identifiable group. And, again, working with the INS, we have concluded that there are probably in the neighborhood of 316,000 individuals that would be included in the group, and of that 316,000 it is likely that 150,000 will receive suspension of deportation.

Again, I make the point that we ought to pass this amendment from the perspective of fairness. We should not change the rules midstream for this group of people. It is unfair and, I would make the claim, un-American.

On a personal note, from time to time, I have been asked why I became involved in this issue, and I will tell you that one of the memories that comes back to me is a trip to Nicaragua back in the 1980's where I went to a contra camp, and this was at a particular period of time where the concern was whether the United States was going to continue to provide assistance to those fighting for freedom in Nicaragua. And since they did not have the commitment to those financial resources, thousands of these freedom fighters came back into the camps in northern Nicaragua. I visited them. It was quite a scene—I must say, too, a very emotional scene.

As the helicopter landed, off to the side of the camp two lines were formed, in essence two lines of men in fatigues at attention. As we walked through this group of individuals, where roughly 7,000 to 8,000 freedom fighters were standing at attention, three men, three of the soldiers, with guitars played the Nicaraguan national anthem. It was a tremendously emotional period. In essence I said to them that we will not abandon you, that we will continue to support you in your fight for freedom.

I would make the case that fighting for freedom is not just providing resources to those engaged in battle, or fighting for freedom is not simply standing firm in the U.S. Senate for a strong national defense. But standing firm for the protection of individual rights is, in fact, standing up for freedom. And I encourage my colleagues to support this amendment.

We have encouraged those people over years, not only in their fight for freedom, but afterward, telling them that if they played by the rules they could stay in this country.

Mr. President, again, I encourage my colleagues to support this amendment. It is the right thing to do. It is a fair thing to do. And it would be in the best interests of our country to continue to stand up for freedom for this group of people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I am very proud to support my friend and colleague, Senator MACK, in our efforts to include the Immigration Reform and Transition Act, as modified, in this current legislation. It is important that we take this step today, or as soon thereafter as possible. There are thousands of families who are currently in a legal limbo because of the retroactive changes that were made in the immigration laws that were passed in 1996. Senator MACK, Senator KENNEDY, and others have worked to develop a bipartisan, humane solution to give these families the opportunity to remain together—and I underscore the word ''opportunity''—and to continue the lives that they have built in hundreds of our local communities in the United States.

I can tell you from personal knowledge and experience and relationships, that the people to whom this amendment is primarily directed are, in the overwhelming number, hard-working, tax-paying, law-abiding individuals who have followed every rule and regulation since they have been resident in the United States and are making a contribution to the development of our country. Since the 1996 retroactive immigration bill passed, with the consequences that Senator MACK has just outlined, these families have lived in fear, fear of being uprooted and torn apart, and fear that all of their hard work in the United States will be for naught. We now have the chance to act and ease these fears.

The thousands of people we are seeking justice for have human faces. They are not just statistics, they are not just theories in an Immigration Act. I want to submit for the RECORD, stories that mention the human dimension of this important amendment. Also, I ask unanimous consent to have printed in the RECORD, editorials in support of the actions we are urging today.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Miami Herald, Mar. 4, 1997]

DEPORTATIONS WITHOUT CAUSE

Once again the United States has thrown up a hurdle to stymie immigrants who have legitimate grounds to stay in this country. A recent ruling by the Board of Immigration Appeals could send packing tens of thousands of Nicaraguans, Salvadorans, Mexicans, and others who have lived in this country for years.

The case before the board involved a Nicaraguan woman from Miami who had been served deportation orders. Like any number who fled Nicaragua during the 1980s, she sought legal status under immigration rules that offer relief to those who, among other criteria, have been in the United States for at least seven years. The board rule 7–5 that she was ineligible for relief, however. It interpreted the new Illegal Immigration Reform and Immigrant Responsibility Act to mean that her time in the United States ended when she was served a summons called an ''Order to Show Cause.'' Though physically she had resided and worked in the United States more than the required time, the board said, officially she did not meet the seven-year criteria for suspending her deportation.

Ernesto Varas, the woman's attorney, is one among many who dispute that legal interpretation. He now plans to take the case to the 11th U.S. Circuit Court of Appeals. Meanwhile, there is little comfort for those living under threat of deportation. The INS, which is still mulling the Immigration Board ruling, doesn't offer an estimate of how many may be affected. In South Florida, estimates range from 20,000 to 75,000 possible deportees. The prospect alarmed even Nicaragua's National Assembly, which argued in a letter to the U.S. Congress that its economy is in no shape to absorb such an impact.

Alternatives to deportation *should* be sought. Particularly for Nicaraguans, who sought refuge from the Sandinista regime in the country that financed the war against the Sandinistas. Deportation would mean unjust hardship for folks who have lived here peaceably for years, such as Nicaraguan Juan Sorto of Fort Lauderdale. As reported by Mabell Dieppa in El Nuevo Herald, Mr. Sorto entered the United States from Mexico on Jan. 2, 1987. Served with an Order to Show Cause the same day, he may not qualify for relief from deportation—even though the INS released him on bail and issued him work permits, and even though he has paid taxes and supported his three U.S.-born children for 10 years here.

Attorney General Janet Reno should keep in mind Mr. Sorto and contradictory U.S. policy and review the Immigration Board's recent ruling along with its implementation by the INS.

[From the Miami Herald, May 22, 1997]

DEFENDING THE INDEFENSIBLE

It's bad enough that Congress passed the immoral illegal Immigration Reform and Immigrant Responsibility Act, now in effect. It's worse that the U.S. Immigration and Nationalization Service is incapable of enforcing this law with any measure of commonsense or consistency. It's worse still that the highest immigration court misinterpreted—forcing the INS to misapply—the law so that overnight tens of thousands of Nicaraguans and other longtime immigrants became deportable aliens.

But worse of all, what's happening now in U.S. District Court in Miami is simply reprehensible: The federal government is using its full weight to try to keep those immigrants from having their deserved say in court.

The Nicaraguans are suing the government in a class-action suit representing some 30,000 to 40,000 immigrants who could qualify for legal status if not for the retroactive application of a provision in the new law. Under that provision, immigrants we were served ''show-cause'' papers by immigration authorities before their seventh year in the United States no longer qualify for relief from deportation.

Senior U.S. District Judge James Lawrence King heard testimony for two days last week and temporarily barred the deportation of those immigrants. U.S. attorneys argued that under the new law, federal courts do not have jurisdiction in these immigration cases. The government's argument ''would require the court to rule that there is simply no remedy available for the 30,000 to 40,000 Nicaraguan refugees and others who have sought suspension of deportation. The court declines to do so,'' ruled Judge King. Well done, and well said.

Unbelievably, however, government lawyers are still battling to keep the immigrants from their right to a hearing. Why? Because their testimony would form a factual record on the merit of their claims for an appellate court to review. Congress is empowered to limit courts' jurisdiction, Judge King wrote. But it can't deny courts their power to review constitutional questions.

To his credit, Judge King has called the government lawyers' bluff. He ordered them to produce thousands of pages of documents to the immigrants' lawyers by tomorrow. He ordered INS Commissioner Doris Meissner and other officials to appear in his court on Saturday and Monday for depositions. And he set a hearing on a temporary injunction for next Tuesday.

Now it's the government's move. Could it just make too much sense to stop wasting tax dollars trying to deport productive, taxpaying, longtime immigrants without due process, a hearing to which they're entitled? We'll soon see.

[From the Ft. Lauderdale Sun-Sentinel, June 26, 1997]

RENO SHOULD BACK JUDGE'S RULING, HELP NICARAGUANS TO STAY IN PEACE

It's temporary reprieve, but a welcome and justifiable one, for 40,000 Nicaraguans who were about to be deported from this country. In a lengthy ruling, dripping with anger at the government and packed with compassion for hard-working immigrants, U.S. District Judge James Lawrence King blocked their deportation at least until a trial can be held in January.

Their deportation orders should be revoked permanently. Nicaraguans who fled to this country in the 1980s as refugees from their country's bloody civil war, in which the United States was deeply involved, were at first helped by the Immigration and Naturalization Service to get work permits and find jobs.

As King pointed out, the Nicaraguans then established homes, married, had children and grandchildren, started businesses, paid taxes, obeyed our laws and contributed to their communities. In return, INS changed the rules in midstream and tried to deport them to their native land.

That's unfair and unacceptable. ''Their hopes and expectations of remaining in the United States were raised and then dashed'' by INS' change in policy, King said, and if they're deported they'll be separated from their children and irreparably harmed.

King's ruling in Miami was gutsy and appropriate. It lashes at the INS for misinterpreting a new immigration law and for luring tens of thousands of Nicaraguans to apply for suspension of deportation—and pay a fee—while knowing full well Congress was considering eliminating that right of suspension.

The Nicaraguans, stung and frightened by unfair government treatment in a nation supposedly built on fairness, have gone underground, or pulled their children from school, or decline to come forward for medical treatment. One Nicaraguan child, cited by King in his ruling, died when his parents refused to bring him to a hospital for treatment.

The Nicaraguans thought, not without some validity, that by appearing in public they would be picked up and deported. That's perhaps the saddest story, with the most painful lesson to emerge from this debacle: Come forward voluntarily, and some U.S. government agent could send you packing, leaving your American-born children behind.

The best way to end this deeply embarrassing episode is for Attorney General Janet Reno, one of the defendants, to convince her boss, President Clinton, that the new immigration law has been misintepreted. Then the INS should slink away, and let the Nicaraguans live in peace, in what Judge King referred to as ''a nation renowned throughout the civilized world for justice, fairness and respect for human rights.''

Mr. GRAHAM. Mr. President, I am working today to offer fairness and justice for a woman who lives in Miami. She is 86 years old. She and her family came to America, encouraged by the U.S. Government to do so in 1984. Without this amendment, she faces almost certain deportation back to Nicaragua. With this amendment she has the chance, the opportunity to apply to be considered on her own individual merits, based on her length of residence in the United States and her contributions since she has been in this country, to stay in the United States on a permanent, secure basis.

I also speak on behalf of an 18-year-old student at Coral Park High School in Miami. This student's parents fled Nicaragua when he was 7 years old. His family was allowed to stay under the old law, and now he may be forced back to a country with which he has almost no connection.

These two examples, an elderly lady and a young man, are examples of the people to whom we are attempting to apply fundamental fairness, to give them the opportunity to apply on their own merits, on their own records in this country, for a legal, permanent status. These families have been in our Nation since the early 1980's, since our Government encouraged them to flee Communist oppression and civil unrest in Central America. Speaking specifically to those who have come from Nicaragua, they fled a nation which had been taken over by a Communist regime, which was supported by the then-Soviet Union. In one of the last of those cold war confrontations in a third country, between the Soviet Union and the United States, the United States encouraged those Nicaraguans to leave, to come and to participate in the effort, which was finally successful, to restore democratic government to Nicaragua.

Mr. President, 15 years after they came at our request, they own their

own homes, they have U.S. citizen children, they have opened up small businesses, they have become flourishing entrepreneurs. Now we have changed the rules and threaten to divide families. This massive upheaval would be detrimental, not only to the individuals affected, but also to Central American nations that would be forced to absorb thousands of new residents. This action, taken in 1996, if not modified by this amendment which Senator MACK, Senator KENNEDY, and I are proposing today, would have adverse effects on U.S. interests in this important region. It would have a destabilizing effect today. It would have an even greater impact in the future, when, God forbid, we were ever in another situation as we were in Nicaragua in the early 1980's. How could the United States with any credibility call out to the people of that country to resist the actions of governments which were antithetical to U.S. interests?

I believe the honor of the United States of America is at stake in this amendment that we offer today. I emphasize, as Senator MACK has so effectively done, that this is not an amnesty program. We are not stating that all of these people who meet the standards covered by this amendment will become permanent residents, or have any other legal status in the United States. What we are saying is that under the rules that applied at the time they came into this country, at our invitation, they will have the right to apply. They will have the right to apply to receive permanent residence. It will then be their obligation to meet the standards to justify a permanent status in the United States. That is fundamental American fairness.

By adopting this amendment and by recommitting ourselves to that standard of fairness and justice, we will be sending a strong message, that we will support the foreign policy objectives that led to our call in the first instance. We will be sending a strong message that the United States of America believes in playing by the rules and not changing those rules in midlife.

These families deserve that message of fairness. They deserve it now. They fled persecution and communism to seek a safe haven in our country. They assisted our country in restoring democracy to their country. We must not abandon them now.

Mr. President, I yield back my time to my colleague, Senator MACK, and also to Senator ABRAHAM, for further comments on this issue. Thank you, Mr. President.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Michigan.

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

I rise today to speak in support of the amendment offered by the Senators from Florida. This may be a somewhat unusual occurrence in the Senate, because it is often the case that individuals who chair authorizing committees, in this case the Immigration Subcommittee which I chair, frequently are at odds with Members who seek to use appropriations bills as vehicles for substantive legislation.

So I wanted to come down today to speak on behalf of this amendment and to explain it a little bit, both why I am not here in opposition on the basis of the process we are using, and also why I support doing something at this time along the lines outlined in the amendment.

First, Mr. President, let me just indicate that a number of us have been working for some months to try to resolve the issues that are addressed by this amendment. We are working with our House counterparts. We will continue to work, even as we move forward in the Senate today, to try to find an ultimate solution.

At the same time, though, time is of the essence. There is a sense of urgency, I think a growing sense of urgency, among a number of Members, as expressed by both the Senators from Florida, as well as in my case and probably other Members as well, because the impact of the 1996 immigration legislation is slowly but surely coming into effect. The people who may or may not be affected by that legislation, depending on the various decisions to be made by the Department of Justice and the courts, are living on a day-to-day basis under the threat of the prospect of deportation. It seems it is in everyone's interest, but it is also in the interest of fairness for these individuals, for us to try to take legislative action to resolve and address these matters once and for all.

Both Senators have already talked at some length about the chronology of circumstances that brings us here today. I won't go into all the detail, nor do I have the sort of personal, first-hand experience of having served in the Senate or the Congress at the time many of these issues were previously debated. I am a late arrival to the debate, and I am more an observer of the circumstances that took place in Central America than a participant.

Those were significant times, Mr. President. The civil wars of the 1980's in El Salvador, in Guatemala, and Nicaragua were integrally related to the national security policy of our country, as well as our views with regard to America's role in our hemisphere.

Throughout the 1980's and into the early 1990's, El Salvador lived through a brutal civil war which left tens of thousands of people killed, over a quarter of the population driven from their homes and the economy in shambles. Hundreds of thousands of Salvadorans made their way to the United States seeking asylum out of fear of being killed by the military, the leftist guerrillas or the extreme right death squads. In fact, from fiscal year 1981 to fiscal year 1991, approximately 126,000 Salvadorans applied for asylum. That was a quarter of all our asylum applications in that timeframe.

Meanwhile, similar events took place in Guatemala. Approximately 42,000 Guatemalans applied for asylum in the United States.

Meanwhile, the civil war in Nicaragua in the 1980's also prompted actions of a similar nature. As you know, Mr. President, during the 1980s, there was a war between the Communist-influenced Sandinistas, who controlled the government at the time, and groups seeking to overthrow that government. These groups ultimately were supported by the U.S. Government and became known as the Contras. The war drained the Nicaraguan economy, which was battered as well by a United States embargo on trade and a series of natural disasters. Approximately 126,000 Nicaraguans applied for asylum in the United States from 1981 to 1991.

What happened when these various people came to our country was somewhat different than what happened to others who have come here. First of all, many of these people were, in one form or another, either asylees or invitees. Indeed, the actions with regard to the Nicaraguans in particular suggests that the American Government was actively promoting the notion that those Nicaraguans, fearful of the outcome of these uprisings, come to America. The extended voluntary departure program, which was granted by our Attorney General, was a form of temporary protection from deportation granted under the discretionary authority of the Attorney General.

When that program, which began in 1979, expired, it was extended further through a variety of other congressional actions and administrative actions. In 1987, the Reagan administration established the Nicaraguan Review Program. The NRP provided an extra level of review to Nicaraguans denied asylum. The Attorney General, taking into account a new Supreme Court decision bearing on standard of proof for an asylum applicant to show fear of persecution, encouraged Nicaraguans to reapply for asylum under the new standard and instructed the INS to conduct outreach in Nicaraguan communities and to issue work permits to Nicaraguan applicants as soon as they applied for asylum under the new standard.

When that program ended in 1995, the INS published a notice announcing the termination of the program. Instead of facing deportation, however, under a phaseout program, Nicaraguans were encouraged to reopen their deportation cases and apply for suspension of deportation, for which they were told they may be eligible if they had been in the United States continuously for 7 or more years.

The point of my statement with respect to Nicaraguans, and a similar set of circumstances as pertains to the Salvadorans and Guatemalans, is that during this period, Mr. President, in the 1980's, this country actively encouraged people fearing persecution,

fearing death squads, fearing disruptions of their communities to come to America. Then we took extraordinary measures to make it feasible for them to stay here, even those who had been denied asylum through the official asylum-seeking procedures.

All of this transpired, Mr. President, prior to the passage of the 1996 immigration bill. At that point, things changed. Here I think it is very important to understand some of the legal circumstances that changed.

Prior to the passage of the 1996 bill, if someone had been in this country for a period of 7 years or more, they were permitted to seek suspension and adjustment of their status from being in illegal status here or being here under one of the special programs for the Central Americans. Extensions were given to the Central American communities I have mentioned to allow them to stay here long enough to apply for these programs.

Detrimental reliance on their part occurred under the belief that if they continued to follow these programs, they would be given their day in court and given a fair adjudication of their status, and that is what transpired.

At every step of the way, either through an act of Congress or through an act of the executive branch, these individuals were given, I think, a very clear signal that they would be able remain if they played by the rules that were then existent: That if they stayed for 7 years and proved themselves to be of good moral character, they would be given an opportunity to have a full adjudication of whether or not any process to deport them would be suspended and whether or not they would be given a green card and a chance to stay permanently.

However, the 1996 bill changed the rules under which this would be permitted. In my judgment, Mr. President, it was not the intent of Congress to have this 1996 legislation retroactively apply to the people in these circumstances. I believe that Congress tried to avoid changing the standard retroactively.

We specifically provided that, generally speaking, the old rules are supposed to be applied to people in deportation proceedings before April 1, 1997, the effective date of the act. The problem is the INS has interpreted the act as saying that many of the Central Americans were not in deportation proceedings before that time and, hence, it has to apply the tougher new standards to them.

Now, the basis on which this determination was made by the INS, I believe, Mr. President, is extremely subject to question. I think it is an extremely difficult case to make that the group that the INS has argued were not in proceedings as of April 1, 1996, truly were not in proceedings. I believe they acted exactly as they had been told they should act, to qualify for the adjudications I have mentioned. But for whatever reason, the INS has concluded that, as to them, we will retroactively change the rules.

Let me talk about what those rule changes would be. First, as opposed to being required to be in the country for 7 years, the requirement was changed to 10 years, meaning an additional 3 years before one could even seek to have their status cleared. In addition, the standard to be used in such adjudications was made much more difficult. In other words, the standard that people had been promised they would be judged by for all the years they were here was altered and made a much tougher standard retroactively after they had stayed longer, after they had detrimentally relied on the assurances they had been granted with regard to whether or not they would be given a hearing, and after they had been told what they had every reason to expect was the basis on which the relief would be granted.

Furthermore, based on a judicial decision made within the immigration courts, the clock was stopped with respect to the accrual of time toward the 10-year standard, or, for that matter, the old 7-year standard, because it was determined as soon as the individuals had received so-called orders to show cause, the clock would stop.

Mr. President, these are obviously fairly complicated legal terms, and I will try to simplify them here for purposes of this discussion. The rules were changed in the middle of the game to the detrimental reliance of literally thousands of individuals who had been waiting and playing by the rules and, in most cases, had actually made themselves available for this process by coming forward in response to requirements that had been in the earlier legislation that had set the process in motion.

Now they had a choice when the earlier legislation was passed. They could have disappeared into the country, never subjected themselves to the process, and been totally immune from any deportation unless they were somehow discovered. Alternatively, they could make themselves available, accept orders to show cause, subject themselves to the process under a standard they believed would remain in place until they had their trials, and then either be able to stay or be required to leave based on a fair adjudication.

For the people who played by the rules, the second group, the rules are now being changed. They will be disadvantaged as opposed to the people who did not play by the rules. To me, Mr. President, that would be a complete and catastrophic mistake for us to make. It has to be addressed in the interests of fairness.

Now, there is another thing that has changed that I will also mention in the bill that was passed in 1996, a limit, a cap of 4,000 suspensions and adjustments per year was placed and put in force. I believe it was put in force at that level because it was the view of the drafters of the legislation that 4,000 would be adequate to meet the amount of such suspensions and adjustments of status that would be granted by the reviewing boards, the immigration courts. I believe that 4,000 figure was recommended by the Immigration Service because it was never contemplated that it would be applied to those who are in this category of Central Americans we are trying to address today because this category is a much larger group. They will consume more than 4,000 adjustments per year, because at least that many and probably as many as 7,000 or 8,000 more per year will meet the standard and be permitted to stay.

The cap now in place has the perverse effect of literally putting people in a position where if they somehow meet the 7- or 10-year standard, if they somehow meet the adjudicatory standard of whether or not they will be permitted to stay if the 4,000 cap is reached, they will still be deported. Now, I can't imagine that that was the intent of the drafters, and I can't imagine, frankly, Mr. President, it would be sustained in the Federal court system. I believe it is one of a variety of problems that now exists and which will be effectively addressed by Senator MACK's proposal.

To summarize what these problems are, there are the constitutional issues that I think will arise. The due process question is whether the standards could be changed in the middle of the game and applied retroactively. We have the problem of this cap, which potentially creates the absurd circumstance I just described where people who have been adjudged to be able to stay in the country are still deported because the 4,000 limit has been reached. We have the anomaly I have described where those people who were trying to play by the rules, who subjected themselves to the process in response to legislation we passed, would suddenly find themselves in a disadvantaged position as opposed to those who never played by the rules in the first place. And what we have, in effect, is a circumstance that I describe as bait and switch. We encouraged people to come forward, to make themselves available for the adjudicatory process, and once they do, based on this interpretation of the 1996 bill, we have now changed the standard by which they will be subjected and changed whether or not even if they successfully meet a standard, they will be allowed to stay.

For all those reasons, I think we really have to do something in the short run, not wait any longer. I think the bill offered by Senator MACK makes sense, and it is consistent with the long history of America's response to the Central American community and to the struggles of the 1980's. For that reason, as I said at the outset, although it is a little bit unusual for an authorizing committee chairman to come down to the floor to support the inclusion of legislation within their sphere on appropriations, I support this

legislation and look forward to working with other Members—if we are going to pass this—work both with the Senators as well as with our House colleagues to try to ultimately reach a solution that is satisfactory to everyone affected.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MACK. Mr. President, I want to thank Senator ABRAHAM not only for his eloquent statement but also his understanding of the matter of why we have ended up in this situation of having to deal with this issue on an appropriations bill. Again, I appreciate both your effort and your staff's effort over this last week or 10 days to try to keep making the effort to see if there was some way we could come to some agreement that would not have to put the Senate through this debate. So again, your counsel was invaluable, and I appreciate your presence on the floor as the chairman of the Subcommittee on Immigration of the Judiciary Committee. It is very meaningful to have your support, and we thank you very much.

Just a couple of other comments, Mr. President. I wanted to indicate some of those who are supportive of this legislation. I have a letter from Empower America that is signed by Jeane Kirkpatrick, former Ambassador to the United Nations; Jack Kemp, former Member of Congress and former Secretary of HUD; William Bennett, former Secretary of Education; Lamar Alexander, former Secretary of Education; and Steve Forbes. All of them are supporting the legislation, making some of the same points that have been made already in the debate this morning. They urge support of the bill.

''We urge you to join in standing in solidarity with free people and democratic governments of our Central American neighbors and friends.''

The point they stressed in the letter is that the Central American countries, who, in essence, we went to bat for in the 1980's to protect democracy and to move them toward freedom and capitalism, today are still struggling in that battle. To send several hundred thousand individuals back into an environment, for example, in Nicaragua, where the unemployment rate is 60 percent, would destabilize those countries, which would be just the opposite of the effort that we made in the 1980's.

Again, I appreciate their letter and their support of this legislation. To give you a sense of the range of support, my colleague from Florida mentioned several editorials. I don't want to duplicate those editorials, but I ask unanimous consent that letters from Empower America and the National Restaurant Association be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

EMPOWER AMERICA,
Washington, DC, September 29, 1997.

Hon. TRENT LOTT,
U.S. Senate,
Washington, DC.

DEAR SENATOR TRENT LOTT: In the 1980s, we stood in solidarity with the people and governments of Central America who struggled for democracy and peace when threatened by expanding Communist violence and influence. We stand in solidarity with them today, as they work to consolidate democracy and free market economies.

Central America's struggles of the last decade caused thousands of Central Americans to flee to the United States. These Central American refugees have tried to comply with U.S. laws and with the immigration requirements which governed their presence in this country. These rules and understandings have now been changed retroactively and unfairly. Our Central American friends living in the United States now face unexpected and unjust deportations, and their countries of origin will face destabilization. Central America will not be able to simultaneously absorb influxes of large numbers of people being forcibly deported and the deprivation of family remittances that have bolstered these struggling economies.

The ex post facto legislation under which Central Americans in our country are threatened with deportation undermines and violates our principles and one of President Reagan's most cherished legacies—a stable and free Central America.

Senator Connie Mack has introduced the Immigration Reform Transition Act, S. 1076, legislation which will rectify this unfortunate situation. We urge you to support this bill. We urge you to join us in standing in solidarity with the free people and democratic governments of our Central American neighbors and friends.

Sincerely,

JEANE KIRKPATRICK.
JACK KEMP.
WILLIAM BENNETT.
LAMAR ALEXANDER.
STEVE FORBES.

NATIONAL RESTAURANT ASSOCIATION,
Washington, DC, September 23, 1997.

U.S. SENATE,
Washington, DC.

DEAR SENATOR: On behalf of the National Restaurant Association and the 787,000 restaurants nationwide, we urge you to support bipartisan immigration legislation that will provide relief for many hardworking members—employees—of the restaurant industry.

First, we urge you to support permanent extension of Section 245(i) of the Immigration and Nationality Act as part of the Fiscal Year 1998 Commerce, State, Justice Appropriations bill. Section 245(i), which sunsets on September 30, 1997, enables certain restaurant employees who are eligible for permanent resident status to remain in the United States while their application for a ''green card'' is being processed. By definition, these are employees who are outstanding in their field or for whom no U.S. worker is available. Many families and businesses will be disrupted if these employees are forced to return to their home country to wait for paperwork.

Second, we urge you to support bipartisan legislation, H.R. 2302, introduced by Rep. Lincoln Diaz-Balart (R-FL) and S. 1076, introduced by Senators Connie Mack (R-FL) and Edward Kennedy (D-MA). In 1996 Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) which made many important immigration reforms. However, one provision would apply new standards and restrictions retroactively, making it much more difficult for certain immigrants—who are residing in this country legally—to get relief.

Most affected by the provision are thousands of Central Americans from El Salvador, Nicaragua, and Guatemala who have been in this country legally under temporary protection from deportation while civil wars in their countries made it dangerous for them to go home. These refugees, having lived and worked here for at least seven years, are eligible to remain in the U.S. permanently. The 1996 Act changed the rules of this relief. H.R. 2302 and S. 1076 would prevent the new rules of IIRIRA from being applied to cases that were ending when the law went into effect on April 1, 1997.

Thank you for your consideration and support.

Sincerely,

ELAINE Z. GRAHAM,
Senior Vice President,
Government Affairs and Membership.
CHRISTINA M. HOWARD,
Senior Legislative Representative.

Mr. MACK. Mr. President, I ask unanimous consent that editorials from the Miami Herald, New York Times, and Washington Times be printed in the RECORD, also.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Miami Herald, Sept. 3, 1997]

FIX CRUEL IMMIGRATION LAW

Fresh from summer recess, Congress returns this week to tackle substantive issues anew. One that it needs to address is the plight of longtime immigrants who unjustly face deportation because of an unfair, un-American law.

Enacted by the same Congress that brought you anti-immigrant welfare reform, a new 1996 immigration law denies the chance to gain legal status to hundreds of thousands of Central Americans and others who have lived peaceably in the United States for years. Some of the new law is so shameful that Senior U.S. District Judge James Lawrence King, in a class-action suit in Miami, has ruled that it violates the due-process rights of some 40,000 Nicaraguans with more than seven years in this country.

After Judge King forbade the Immigration and Naturalization Service to deport these class members, Attorney General Janet Reno commendably extended the same protections nationwide to cover an estimated 150,000 Savadorans and 80,000 Guatemalans as well. These people also fled U.S. supported civil wars in their homelands during the 1980s. Many have been issued work permits repeatedly and have established families and businesses. They send billions of dollars to loved ones back in their homelands, helping keep struggling economies afloat and dampening illegal immigration to the United States.

Unjust immigration law should be corrected. To their credit, a number of legislators have submitted various proposals with that intent, the best of which was authored by U.S. Rep. Lincoln Diaz-Balart, R-Miami. An administration-backed bill, proposed by Sens. Bob Graham, D-Miami Lakes, Connie Mack, R-Cape Coral, and Edward Kennedy, D-Mass, removes a retroactive ''stop-time'' rule that unfairly prevents many longtime immigrants from gaining resident status. But an onerous provision that denies immigrants judicial review is most offensive and quite possibly unconstitutional.

Under Mr. Diaz-Balart's legislation, immigrants in deportation proceedings before the new law went into effect last April 1 would rightly qualify for relief under previous, more-favorable rules. The same would apply to Nicaraguans, Guatemalans, and Salvadorans who filed asylum claims before April

1990; many of them have been hurt by tremendous INS backlogs. (It would be better if the asylum provision extended to Haitians and others immigrants, too). Folks covered by the bill also would be exempt from a arbitrary cap that limits to 4,000 the deportations that may be canceled annually.

Much as its earlier budget legislation restored significant welfare benefits to legal immigrants, let Congress now reverse a cruel immigration law's punitive provisions.

[From the New York Times, Sept. 29, 1997]

FLAWS IN IMMIGRATION LAWS

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is a morass of technical complexity that has yet to be fully explicated by either the law's drafters or the immigration officers who are supposed to carry it out. But it is already apparent that at least two elements need immediate correction.

One provision unfairly punishes refugees from Nicaragua, El Salvador and Guatemala who fled civil wars in the 1980's and were given temporary protection from deportation. Under prior law, these refugees, totaling abut 300,000 could have become permanent residents by showing that they had lived here for seven years and had good moral character, and that deportation would cause them and their family members extreme hardship. The 1996 act increased the residency requirements to 10 years, eliminated hardship to the refugee himself as a basis to fight deportation and limited the number of immigrants who could seek permanent residency through this avenue to 4,000.

These Central Americans played by an earlier set of rules endorsed by both Republican and Democratic administrations, but are now being unjustly penalized. The White House supports, and Congress should pass, a bill introduced by Senator Connie Mack, a Florida Republican, that would exempt this group from provisions of the new law, allowing the prior legal standards to apply.

A second provision would actually encourage illegals to stay underground rather than risk going abroad, as they might soon have to, to obtain immigrant visas. The new law imposes a three-year bar to re-entry on illegals who leave the country today and a 10-year bar on those who leave after April 1. If a key provision in current immigration law is allowed to expire tomorrow, as scheduled, illegals will have to return to their home countries to obtain permanent visas.

Under the current role, people who qualify for permanent residency can have their applications for immigrant visas, or ''green cards,'' processed here rather than through American consulate in their home countries. This does not give them any preference. But it reduces paperwork at consulate offices abroad, and generates $200 million a year in revenues from applicants who pay $1,000 each to have their papers processed here.

The Senate has voted to make the provision permanent, but the House is expected to vote only on a three-week extension. If Congress does not renew the provision, hundreds of thousands of people will have to go abroad for green cards. Thousands who have met the criteria for permanent residency but are technically illegal in status would be barred from coming back for years.

Fighting illegal immigration is a difficult and important job. But Congress should do it in a way that will deter illegal entry at the border. Deporting Central American war refugees and those who are on the verge of getting green cards will not achieve that goal.

[From the Washington Times, Aug. 22, 1997]

RIGHTING AN IMMIGRATION WRONG

Back in the 1980s when communist regimes and insurgences swept through Central America, it was clear to many here that those nations were badly in need of help. The Reagan administration took up the cause of the Contras in Nicaragua, offered support for the beleaguered government of El Salvador, even invading Grenada to prevent communism from gaining foothold in the hemisphere. Despite the best efforts of Democrats to undermine the effort, it was a remarkably successful policy. Today, democracy dominates the region, and economic reconstruction is taking shape.

But there is one forgotten chapter of the story, which could have a less than happy ending. That's the over 300,000 refugees from El Salvador, Nicaragua and Guatemala, who ended up in the United States, fleeing persecution, danger and poverty in their home countries, victims of forces far beyond their control.

The status of the refugees was not exactly legal, but not exactly illegal either. They were granted various forms of temporary protection from deportation, which in accordance with the law would become permanent if certain conditions were met: seven years of continuous residency, a record of good behavior, and proof of hardships awaiting in their native countries. As a consequence, the refugees settled, had children, many becoming a part of the U.S. workforce that Washington knows very well indeed, the nannies, housekeepers and gardeners that so many have come to rely on.

That was until the 1996 Immigration Act changed everything—and did so retroactively. Aimed not so much at the Central Americans but at deterring new refugees, the law capped the number of grantees at 4,000, changed the conditions, and mandated immediate deportation of those who were rejected. To obtain what is now known as ''cancellation of removal,'' a refugee must now have been in the country for 10 years, show good character and demonstrate ''extreme or exceptional hardship'' to a U.S. citizen or resident, be that a spouse, child or parent—but, oddly, not the refugee himself.

Also, the clock ''stops ticking'' on those 10 years, the moment the INS removal proceedings start. That means that if you applied in good faith after your seven years in the country (as per the 1986 law), and got rejected for having accumulated too little time (in accordance with the 1096 law), you would now be out of luck because you could not accumulate more time. If this sounds Kafkaesque, it's because it surely is.

About 1,000 people were deported before the outcry from the Latin American community and the governments in the region caused the Clinton administration to reverse course. On July 10, Attorney General Janet Reno vacated a Board of Immigration Appeal's decision in a test case, and the deportations were halted, though last week one Nicaraguan was deported, the first since the attorney general's decision. Bills in the House and Senate will be taken up when Congress comes back to fix the unintended consequences of the 1996 Immigration Act and to grant relief from the 4,000 annual cap. All the refugees want is a hearing based on the conditions at the time when they were granted temporary stay—in other words eliminate the element of retroactivity in the law, which indeed only seems fair.

But there is not only the refugees to think of here. If we want the fragile economies of Central America to recover, governments in the region will need breathing space. Nicaragua, for instance, has an unemployment rate of 60 percent and cannot afford to absorb its 250,000 refugees in the United States. Nor indeed can the country afford to do without the remittance sent by Nicaraguans here to their families at home. In other words, giving the Central American refugees the fair shake they deserve will also mean giving their countries a chance to stabilize, which, after all, has been the aim of the U.S. policy deal all around, for them and for us.

Mr. MACK. Again, I mention those particular editorials because I think it gives you a sense of the range of support, both Democrat and Republican, from conservative to those considered liberal, who support our action and support this amendment.

Mr. President, there are several things I need to do.

I ask unanimous consent that Senator SANTORUM be added as an original cosponsor.

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

Mr. MACK. Mr. President, just to close this portion of the debate, there may be some that are saying, why are we doing this now? I ask people to try to put themselves in a position of a group of people who have, in fact, played by the rules, as was so eloquently laid out by Senator ABRAHAM, and now there is the great potential that the rules could be changed on them and they would be denied due process. That is fundamentally wrong.

I want people to think about what it must be like to wake up each morning and wonder whether you are going to be one of those that will be the subject of deportation. Think about the fear that must be going through that family, that mother or father, when that child goes off to school that afternoon or that morning. What is going to happen? Are they going to receive a notice of deportation? I know that our Nation does not want to impose that kind of fear on people. That is counter to everything that we believe.

So again, I ask those who have listened to this debate and will be voting to vote in favor of this amendment.

Mr. KENNEDY. It is a privilege to join Senator MACK and Senator GRAHAM in offering this amendment on behalf of Central American refugees. The amendment we propose today closely parellels S. 1076 the Immigration Reform Transition Act of 1997 proposed by President Clinton, which we introduced on July 28.

Without this legislation, thousands of Central American refugee families who fled death squads and persecution in their native lands and found safe haven in the United States would be forced to return. Republican and Democratic administrations alike promised them repeatedly that they will get their day in court to make their claims to remain in the United States.

Last year's immigration law, however, turned its back on that commitment and treated these families unfairly. This legislation reinstates that promise and guarantees these families the day in court they deserve.

Virtually all of these families fled to the United States in the 1980's from El Salvador, Nicaragua, or Guatemala. Many were targeted by death squads and faced persecution at the hands of rogue militias. They came to America

to seek safety and freedom for themselves and their children.

The Reagan administration, the Bush Administration, and the Clinton administration assured them that they could apply to remain permanently in the United States under our immigration laws. They were promised that if they have lived here for at least 7 years and are of good moral character, and if a return to Central America will be an unusual hardship, they would be allowed to remain. Last year's immigration law violated that commitment.

President Clinton has promised to find a fair and reasonable solution for these families, and the administration will use its authority to help as many of them as possible. But Congress must do its part too, by enacting this corrective legislation.

Some are opposing this legislation as an amnesty for illegal aliens. That charge is false. It is an insult to these hard-working refugees, and their families who have suffered so much pain and hardship and who relied in good faith on the solemn promise they were given.

Virtually all of these families are already known to the Immigration and Naturalization Service. They are not illegal aliens working underground. These families have applied to come to the United States under INS programs, and they are here on a variety of temporary immigration categories. They have acted in accord with what our Government told them to do.

Not all of these families will qualify to remain here under the terms of this amendment. They still must meet certain standards that existed in the law, before last year's immigration law was enacted and applied retroactively. The Immigration Service estimates that less than half of those who qualify to apply to remain in this country will be approved.

These families are law-abiding, taxpaying members of communities in all parts of America. In many many cases, they have children who were born in this country and who are U.S. citizens by birth. They deserve to be treated fairly, and I urge the Senate to support the amendment.

Mr. KYL. Mr. President, I will not raise a point of order against Senator MACK's amendment. Though I continue to have numerous concerns about the proposed measure, it has been improved since the original Clinton administration proposal was offered.

I am supportive of allowing those Central Americans who came to this country during the 1980's in order to flee persecution, and other forms of danger, to have the opportunity to apply for relief from deportation under the suspension of deportation application rules that existed prior to the passage of last year's immigration reform bill.

During the 1980's thousands of our neighbors from El Salvador, Guatemala, and Nicaragua came to this country to escape civil war. These individuals were granted temporary protected status [TPS], and were allowed to stay in the United States and work because of the foreign policy issues at hand.

During such time, these Central Americans should have been afforded a proper opportunity to have asylum applications processed, but some were denied this opportunity. As a result, these individuals, made up of Salvadorans and Guatemalans who are sometimes referred to as the American Baptist Churches [ABC] case group, were given another opportunity to have their asylum cases heard. This group is also comprised of Nicaraguans who participated in the Nicaraguan Review Program.

If such asylum applications were denied, the Central Americans were to be afforded the opportunity to apply for what is known as suspension of deportation. That means that, even if they were denied asylum, but could prove that they were persons of good moral character, had been living in the United States for 7 years, and could prove that deportation would cause extreme hardship to either the immigrant or a U.S. citizen or legal immigrant, the Attorney General could suspend the alien's deportation.

However, in the ensuing years, the U.S. asylum system has become so backed-up that upward of 240,000 Central Americans' asylum cases have not been resolved. As a result, the process for applying for suspension of deportation has been delayed as well.

Many of us argue that these Central Americans should be allowed to go through the suspension of deportation process that existed prior to the passage of the Immigraton Act of 1996 because most have lived here since the 1980's and were led to believe that their claims to asylum, or that their pleas to adjust to legal status, would be processed under pre-1996 rules.

The Mack amendment will afford these Central Americans who fled here amid civil war and chaos in the 1970's and 1980's a fair chance to show that their deportation would cause extreme hardship.

The Mack amendment has been improved substantially in one critical area. Initially, the proposal allowed any individual, not just Central Americans, in deportation proceedings as of April 1, 1997, to apply for suspension of deportation under the old rules—7 years in U.S., good moral character, extreme hardship—instead of the new tougher rules under the Immigration Act of 1996. The revised Mack amendment will allow those Central Americans, who came here to flee civil strife and war in the 1980's, to apply for suspension of deportation under the old rules. Individuals who have simply come here illegally will be required to apply for suspension of deportation under the new Immigration Act of 1996 rules. The new rules require such illegal immigrants to prove, like the old law, that they are of good moral character. But, in addition, they must prove that they have been in the United States continuously for 10 years and demonstrate that removal would cause extreme and unusual hardship to a U.S. citizen or legal immigrant, but not to the illegal immigrant himself.

The fact that this amendment has been revised to include only Central Americans is important—during all of the meetings I have had on this issue, and of all of the correspondence I have received, none have suggested that any individuals other than those Central Americans who fled to the United States in the 1980's should be processed under old Immigration Act suspension standards. I am pleased that the Mack proposal limits the scope in this area.

A provision of the Mack amendment that I continue to be concerned about concerns a numerical cap included in last year's Immigration Act. The Immigration Act of 1996 imposed a cap of 4,000 on the number of suspension of deportation cases that can be adjudicated in a given year. The Mack proposal removes the numerical cap of 4,000.

Even though the necessary adjustments have been made to ensure that only a specific group of individuals will be allowed to have their suspension of deportation cases heard under the old rules, the fact is, according to the Immigration and Naturalization Service, approximately 150,000 Central Americans will actually be adjusting their status to permanent legal resident. These additional permanent resident numbers should be offset in other areas of legal immigration. During the negotiation on this amendment, many of us suggested that we increase the number of individuals who will be adjudicated per year from 4,000 to 14,000, but include these numbers in our annual count of legal immigration and ensure, as a result of the addition, that legal immigration does not increase. The Mack proposal should be modified to reinstate the cap, but at 14,000 annually, with an offset in legal immigration that ensures that legal immigration does not increase.

Another concern I have about the Mack proposal is its silence about whether thousands of individuals who entered the country illegally, with no connection to any of these formerly war-torn countries, should be exempted from one of the new tougher standards against illegal immigration in the Immigration Act of 1996. Specifically, the Mack amendment is silent on the issue of the N–J–B case. The N–J–B case determined that section 309(C)5 of the Immigration Act of 1996 means that ''period of continuous residence'' stopped when an alien was served with an order to show cause before enactment of the Immigration Act of 1996, and that such time stops when an alien is, or was, served a notice to appear after enactment of the Immigration Act of 1996. In other words, the Bureau of Immigration Appeals has interpreted the provision to mean that those aliens applying for suspension of deportation cannot

count as time spent here in the United States that time spent here after having received an order. If congressional intent is not clarifed in this area, it has been made clear that the Clinton administration will seek to administratively overturn the N–J–B decision.

Legislation introduced by Representative LAMAR SMITH would clarify congressional intent. It provides that the period of time that an individual is considered to have been in the United States stops when an order to show cause was issued, except for those Guatemalans, Salvadorans, and Nicaraguans who fled here during the 1970's and 1980's to escape civil strife and persecution. Under the Smith proposal, these Central Americans would be allowed to continue to count the time spent here in the United States after having received an order to show cause.

Mr. President, many people are legitimately concerned about the effects of the removal of these Central Americans from the United States. It is my hope that, as we work toward a D.C. appropriations conference report, a modified version of this amendment can be achieved to the satisfaction of all interested parties.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

RECESS

Mr. MACK. Mr. President, I now ask that the Senate stand in recess.

There being no objection, the Senate, at 12:25 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1998

The PRESIDING OFFICER. The clerk will report House Joint Resolution 94.

The legislative clerk read as follows:

A joint resolution (H. J. Res. 94) making continuing appropriations for the fiscal year 1998, and for other purposes.

LOG EXPORTS

Mr. GORTON. I rise for a brief colloquy with, the manager of the bill. Mr. President, section 104 of the continuing resolution states that no funds available or authority granted shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during fiscal year 1997. As the chairman knows, the fiscal year 1997 interior—or is it Omnibus—appropriations bill included language which prohibited the use of appropriated funds to review or modify sourcing areas previously approved under the Forest Resources Conservation and Shortage Relief Act [FRCSRA] of 1990. The fiscal year 1997 language goes on to further prohibit the use of funds to enforce or implement Forest Service regulations for this act that were issued on September 8, 1995. As the chairman is also aware, I have included language in the fiscal year 1998 Interior appropriations bill that clarifies FRCSRA. Am I correct in my interpretation of the continuing resolution, that the provisions related to FRCSRA in fiscal year 1997 are extended for the duration of this CR?

Mr. STEVENS. The Senator is correct in his assessment of the continuing resolution. If funding and authority were restricted in fiscal year 1997, then that same funding and authority remains restricted under this resolution. In this particular case, the language to which the Senator from Washington refers in fiscal year would be extended for the duration of the CR.

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

The joint resolution (H. J. Res. 94) was ordered to a third reading, and was read for a third time.

The PRESIDING OFFICER. The joint resolution having been read for a third time, the question is, Shall the joint resolution pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Vermont [Mr. LEAHY] is absent due to a death in the family.

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 261 Leg.]

YEAS—99

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

NOT VOTING—1

Leahy

The joint resolution (H.J. Res. 94) was passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

CAMPAIGN FINANCE REFORM

Mr. DASCHLE. Mr. President, I would like to use just a few minutes of my leader time, if I can. I know we are on the D.C. appropriations bill, and there is a Mack amendment pending. But until we get back to it, I would like to just take a couple of minutes.

I do not know whether we will have the opportunity again today to talk about campaign finance reform. I certainly hope so. But on the possibility that we will not have that opportunity, I wanted to reiterate an offer that I have made publicly and I would like to do it for the RECORD, if I can.

Obviously, we are in a situation now where the tree has been filled, and there are no opportunities to offer amendments. I am disappointed we are in that set of circumstances because, clearly, with campaign finance reform, as important as it is, with Senators waiting to have the opportunity to offer amendments, we are being denied that right. I hope that at some point we could clear the tree and allow Senators the opportunity to offer amendments. That is what a good debate is all about. It is not how long you spend on any given issue as much as it is, during whatever time you spend on the issue, whether or not you have had a good chance for debate.

I must say I think the debate has been very good with regard to Senators coming to the floor to express themselves on an array of positions, and I respect Senators on both sides of the aisle who made the effort to come to the floor and express themselves as clearly as they can.

My hope is that we can get back to this issue and have the opportunity, therefore, to offer amendments. The offer I made—and I will personally make this same offer to the majority leader—is that we take the Lott amendment and separate it. Democrats would be prepared, just as soon as we finish campaign finance reform, to allow this bill to be debated without filibuster, to allow the bill to be voted upon up or down. Obviously, we have amendments because in our view, whatever treatment we accord labor, we ought to accord corporations and other organizations that may have membership requirements. We do that,

and we can have a good debate about that.

To add an extraneous amendment onto this bill, and therefore not only preclude Senators from offering the amendments that they had hoped they could but to preclude us from even getting a vote on campaign finance reform makes it a poison pill and nothing more. If we are interested in debating the issue about whether or not organizations ought to refund part of their membership fees, that is one question. We should have a good debate about it. We should have an opportunity to discuss it. And we are prepared to allow a final vote on that issue if we can get agreement on this proposal.

If, on the other hand, we are simply using this as a guise, as a way in which to prevent Senators, perhaps the vast majority of Senators, from having a vote on campaign finance reform, from offering amendments, then it is nothing more than that.

So I hope we can work through this. I hope we can find a way to resolve this impasse. But certainly that would be one way to do it.

Let us take the Lott amendment. Let us set it aside. Let us have a good debate. Let us schedule a time when amendments could be offered. Senators will not filibuster the motion to proceed, nor the bill itself. I am hopeful we can work through that and at some point, as I have indicated, I will discuss this matter at greater length with the majority leader.

With that, I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. I ask unanimous consent to be able to speak as if in morning business.

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

REFORMING THE IRS

Mr. KERREY. Mr. President, I come to the floor today to speak about bipartisan efforts to reform the Internal Revenue Service because these efforts are being publicly challenged and criticized, I regret to say, inaccurately by the administration. It is perplexing to me personally why this administration would send a message to the American taxpayer that despite what they have been hearing the Internal Revenue Service does not need comprehensive reform.

During 3 days of hearings of the Senate Finance Committee last week, taxpayers and employees of the Internal Revenue Service testified under oath that the legal power to collect taxes has been and continues to be abused. Combined with 12 days of public hearings held by the congressionally mandated Commission on Restructuring the IRS, which conducted thousands of hours of interviews with IRS investigators, professional preparers, private sector experts, and taxpayers, a clear and convincing conclusion has been reached. The law which creates and governs the actions of the IRS needs to be changed.

Mr. President, if lawmakers in the Senate and the House consider that hundreds of new collection notices will be sent to taxpayers every working day and that 800,000 monthly contacts in its notices of audit or taxes owed will be made, then there is an urgency for us to act quickly.

If we can prevent any of the suffering disclosed in these hearings with a change in the law, why would we hesitate to act?

Of equal importance is the need to increase confidence in this unique Federal agency. More Americans pay taxes than vote. Remember, America's tax system depends upon our voluntary declaration of taxes owed and a patriotic willingness to pay our fair share. If citizens believe there is a chance that voluntary compliance will result in their privacy being violated, their return unfairly audited, or their lives made miserable, all of which we now know is a possibility, then the percentage of citizen participation could fall even further. It is safe to say that the faith of the American people in our ability to govern is linked to the ability of the IRS to function properly.

The House leadership has declared its intent to pass a new law and to pass a law this year—a law which was created in a bipartisan and bicameral atmosphere—which would solve many of the problems highlighted by the Senate Finance Committee hearings last week. The House intends to enact comprehensive reform, similar to that recommended by the congressionally mandated National Commission on Restructuring the IRS. And the Senate, in my judgment, Mr. President, should do the same.

As cochair of the commission, along with Congressman ROB PORTMAN of Ohio, I would like to share with my colleagues the problems that were uncovered by our deliberation. To be clear, at no time during these deliberations did Congressman PORTMAN and I resort to bashing the IRS. Indeed, a former Commissioner of the IRS, Peggy Richardson, was an ex officio member of our commission. We gained unprecedented access and a window into the operations of the IRS. We visited service centers, we worked and talked with employees. It is significant to note that our legislation has the endorsement of the National Treasury Employees Union.

We found that the IRS has a law enforcement mentality, but that the vast majority of its employees perform functions including tracking finances, sending out notices, and assisting taxpayers.

We find as well the IRS has a general attitude that taxpayers are guilty, even though close to 90 percent of taxpayers are compliant.

We found that taxpayers have a low opinion of service levels provided by the IRS and do not believe the IRS is trying to help make paying taxes easier. Indeed, in today's USA Today, a poll shows that 70 percent of Americans think that the IRS abuses their power.

We found that training is not a priority, and employees do not have the skills of their private sector counterparts.

We found that the IRS uses employee evaluation measures that do not encourage employees to provide quality service to taxpayers.

We found IRS management and governance structure makes strategic planning impossible and has caused a massive failure of the IRS's $3.4 billion computer modernization program. Mr. President, this conclusion has been supported by a GAO report that was issued in 1996.

We found the IRS computer systems were developed during the 1960's and 1970's and lacked the capability to provide taxpayers with quality service.

We found wasteful inefficiencies and high error rates existing in the processing of paper forms.

We found that the Treasury Department has done little to correct IRS management problems, and lacks the expertise and continuity to do so effectively. In fact, Treasury officials were noticeably absent at last week's Finance Committee hearings.

We found as well the congressional oversight of the IRS is scattered and can send confusing signals to the IRS that can be manipulated by the IRS to avoid accountability. Indeed, witness after witness came before our committee, knowledgeable witnesses who assist taxpayers in preparing their returns, and laid equal blame upon the executive and the legislative branches.

We found as well that complexity and constant changing of the Tax Code is a major obstacle that intensifies all of these problems.

The administration continues to criticize the legislation introduced by Senator GRASSLEY and I on this floor on the 23d of July, and Congressman PORTMAN and Congressman CARDIN in the House in the same week. They continue to criticize our legislation unfairly and, most important, inaccurately. In order to perhaps clear up some of the differences between what we are proposing and what the administration would like to see happen, I would like to review the complaints made against the IRS in last week's hearings and show how the law as proposed by Senator GRASSLEY and I, the IRS Restructuring Reform Act of 1997, would change things.

Criticism No. 1. Citizens have no power in a dispute with the IRS. Our law would create in law new protections for the taxpayer and new rights if a taxpayer dispute arises. At a minimum, the law should, one, expand authority of the taxpayer advocate to issue taxpayer assistance orders; two, to expand the authority of the taxpayer to recover costs and fees by permitting awards relating back to the 30-

day notice letter, allowing awards for pro bono services, increasing net worth limitations, and allowing recovery for IRS negligence up to $100,000; third, require the IRS to provide more information to taxpayers, such as making public their general audit selection criteria and explaining certain rights to taxpayers before audits such as joint and several liability and extensions of statutes of limitations.

The question of fairness of audits can be solved by requiring the IRS to provide general audit selection criteria. Remarkably, the only information we currently have about how the IRS audits comes from a researcher who used the Freedom of Information Act to force the IRS to surrender some data. There simply is no good reason for us not to write a law requiring an annual disclosure.

Fourth, force the IRS to resolve its dispute with the National Archives in which allegations have been made that historical records have been mishandled or destroyed.

Fifth, help taxpayers pay their fair share of taxes by establishing national and local allowances for offers-in-compromise; eliminating the interest differential; dropping tolling penalties during installment agreements; and providing safe harbors to qualify for installment agreements.

Sixth, open low-income taxpayer clinics with matching grants up to $100,000 a year for up to 3 years to help low-income taxpayers and especially small business.

No. 7, expand the jurisdiction of the tax court to allow more taxpayers to take advantage of the simplified small case procedures.

And, eighth, require a study of the administration of penalties, especially penalties that will fall heavier on married filers and the burden of proof needed before penalties are determined valid.

These are eight suggested changes in the law that would give taxpayers more power, more authority. They are not made as a consequence of receiving a number of complaints. They are made as a consequence of thoughtful deliberation between Republicans and Democrats, trying to figure out what the payers themselves say need to be done. We examined it in a bipartisan and bicameral fashion with the full cooperation and participation of former Commissioner Richardson who says today that she would support these provisions. These changes in the law, all by themselves, would solve many of the problems that we heard before the Senate Finance Committee last week. And all by themselves, would go a long ways toward increasing citizen confidence that they are going to be able to get a fair deal from the IRS.

The administration's bill, which they introduced—had Members introduce for them—has no taxpayer protections or rights provisions. I want to underline that. One of the things the administration has been saying is we like the Portman-Kerrey bill but we don't like the board. We like everything in it. If they like everything in it, the question is why don't they have taxpayer protections or rights provisions? I believe the reason is they introduced their bill, had their bill introduced, just so they could say we want to change the IRS as well.

A second criticism we heard was that the IRS is isolated from the taxpayer. Anybody who does not think the IRS is isolated has not examined the structure. It is buried in Treasury. The Secretary of Treasury is in charge of oversight, not just of the IRS, the 115,000-person organization, but the Secretary of the Treasury obviously has lots of other things on his mind—whoever the Secretary is. It does not have to be Secretary Rubin—any Secretary faced this. They also have to manage Secret Service, Customs, the Bureau of Alcohol, Tobacco and Firearms. Keeping the operational side inside Treasury buried as it is, makes it difficult to achieve accountability.

This, in my judgment, may be the most common thread that ran through the decisions, the criticisms that we heard, not only last week but for the entire last year.

Tax Code complexity, outdated technology, a primitive management structure contributed to the problem, but these factors alone did not explain a bureaucratic culture that produced allegations of taxpayers being hounded based on their vulnerability; confidential returns being snooped; or records being altered to reflect the IRS's point of view. Those flaws are the symptom of an agency isolated from the customers it is supposed to be serving. The IRS is languishing under a suffocating bureaucracy from which it is getting inadequate oversight and far too little input from the taxpayer.

Our new law would do a number of things. First, it would create a Presidentially appointed citizens oversight board that would oversee the operation of the IRS. The members of this board, for example, could have expertise in the operation of large service organizations or in other areas. What we tried to do was give the President maximum flexibility, so he could make selection of individuals who had expertise—the Secretary of Treasury is on the board, the head of the National Treasury Employees Union is on the board—because we believe that there are going to be significant personnel decisions that have to be made. We believe it is important to have a representative on the board, making those decisions and getting support as a consequence.

The board would be responsible for oversight, approval of strategic plans and review of operational plans. The President would appoint board members for 5-year terms and would have the authority to remove any of these members at will.

The board would approve an advisory budget of IRS, prepared in conjunction with the commissioner. It would have no access to taxpayer return information and it would not participate in law enforcement. This is what has drawn the most heat from the administration, and leads me to suspect that their principal concern is relinquishing any authority to a board that would have any authority over the decisions that are being made.

They have misrepresented and said that the board is going to be composed of chief executive officers—not mentioned in the law. They have suggested of these board members, as recently as yesterday, there were going to be significant conflicts of interest. If that be the case, how could the Secretary of Treasury sit on the board? How could anybody from the private sector sit on any advisory board that we have in all of Government? We understand conflicts of interest and we deal with them. It is not accurate to say that we cannot protect ourselves, especially when this statute says that this board will have no access to taxpayer return information and it will not participate in law enforcement.

Equally important, and oftentimes lost in the debate over this board, is that our law would create a requirement for two annual joint hearings of tax writing, appropriating, and oversight committees. It would also expand the duties and reporting requirements of the joint committee on taxation.

The Finance Committee hearings last week were the first oversight hearings in 21 years. It is the inconsistent oversight that we are trying to deal with, with this provision. But, in addition, we heard from individual after individual, the restructuring commission did, that one of the most important things you have to do before you make a technology decision or other allocation decision, you have to get a shared agreement on what the mission is going to be. Having a new oversight board for the IRS, working with a new oversight committee on the congressional side, would give us the possibility of achieving this common and shared mission.

In our deliberations, we found that congressional oversight of the IRS had no coordination. This provision will allow the IRS Citizens Oversight Board and Congress to reach agreement on regulations, goals, and objectives. It will enable the authorization of new initiatives after IRS satisfies rigorous contingencies to assure financial accountability, subject, of course, as always to the approval of the appropriating committees.

For example, decisions about the design and purchase of computer systems will be made after the legislative and executive branches have agreed on a plan. The strategy is to collect taxes owed from those Americans unwilling to pay their fair share, must also be jointly approved in order to survive congressional funding cycles.

Finally, we must provide funding for the century date change. As all of us have looked at that particular problem know, if you think the IRS computer

system is a mess now, it could get a heck of a lot worse if the date change problem is not fixed and not fixed at 100 percent.

The administration proposal would codify the status quo. Treasury proposes the creation of an IRS management board made up of 20 Government officials, mainly political appointees from departments including OMB, OPM, and the Vice President's office. I urge colleagues who are concerned about this board that Senator GRASSLEY, Congressman PORTMAN and Congressman CARDIN and I are proposing, who are critical of that, compare it to what the administration is proposing. To repeat, the administration wants a 20-person board composed entirely of Government officials, political appointees, including people from OMB, OPM, and the Vice President's office.

They also propose an advisory board of citizens. For decades there has been a commissioner's advisory group to the IRS, and we were told that it was ineffectual and the bureaucracy ignored their advice.

The reason they ignored their advice, Mr. President, is an advisory board has no authority, no power, and no one, to my knowledge, pays a lot of attention to advisory boards that lack either authority or power.

Fourteen expert witnesses testified before the Ways and Means Committee on September 16. All but two or three testified in favor of the bill that Congressmen PORTMAN and CARDIN introduced, and all testified against the administration's proposal.

I would like to read the names of some of the experts who testified: Eugene Steuerle, senior fellow of the Urban Institute, against; Donald F. Kettl, director, Brookings Institution, against; Robert B. Stobaugh, Harvard Business School, against; Phillip Mann, section of taxation, American Bar Association, against. And on and on, Mr. President.

The administration's proposal has been opposed by all the people that they cite, or some of the people they cite at least as reasons not to support the newly constructed oversight board that Senator GRASSLEY and I have proposed. Again, I have regrettably reached the conclusion that this really is not about what is going to work as it is about making certain that no power and authority is relinquished by the Secretary of the Treasury over the 115,000 people who work for the IRS.

The third criticism that we heard not only last week, but all year long, was that the IRS management structure does not allow for the removal of bad apples. Our law, Mr. President, would create a 5-year term for the IRS Commissioner. In current form, our legislation says that the board appoints the Commissioner. I would be willing to consider having the President appoint the Commissioner with formal input from the board and continuing to allow the board to evaluate and recommend removal for cause.

This law would give this Commissioner increased legal authority to manage the IRS. Consistent with merit system principles, veterans preferences and established labor/management rules, the Commission would be given a new rating system to hire qualified applicants and flexibility to hire a senior team of managers.

Remarkably, the IRS Commissioner has very little flexibility in managing this agency, and one of the difficulties that he or she is going to have, regardless of who they have, in managing with zero tolerance is the sort of things we saw last week: the absence of the power and authority to be able to manage as I think most of us in Congress and most of the American taxpaying citizens would like to see done.

The administration's proposal would create a 5-year term for the Commissioner. That is true; that is the same as ours. But it stops there. It would not have board members with 5-year terms to provide the needed continuity and support to the Commissioner. All the political appointees could come and go in the same year.

One of the biggest problems we have with the IRS is lack of continuity, particularly continuity of management oversight. One of the defects of a board being all political appointees inside the Government is that they tend to turn over more. It is this turnover that makes it difficult for us to get the kind of continuity this agency demands.

The fourth criticism we have heard is it is difficult to file a tax return and there is a breathtaking gap between the service taxpayers get from the IRS and the service they get in the private sector.

Our new law would create goals and due dates for electronic filing. At the heart of comprehensive reform must be a vision of an IRS that operates in the new paradigm of electronic commerce. One of the most telling comparisons made by taxpayers who appeared before us was the comparison given between an ATM card that is provided by their commercial banks and the lack of similar conveniences from the IRS. Potential savings to the taxpayers are large: The error rate for electronic filers was less than 1 percent, compared with 20 percent for a paper file. While we will never have a paperless IRS, Congress must change the law to provide incentives and assistance to a new IRS which gives its customers services comparable to the private sector.

The administration proposal would allow the IRS to spend more money on marketing electronic filing, but would not include any specific goals or requirements for the IRS to take immediate action to increase electronic filing.

The fifth criticism we heard is that Congress has created a monster of a Tax Code that is too complex to administer. Under our new law, Mr. President, we would create a process for evaluating the cost to the taxpayer of tax law complexity by giving the Commissioner, for the first time, an advisory role when new tax laws are being considered; requiring, as well, a tax complexity analysis during legislative deliberations; increasing Federal-State cooperation; and requiring the Joint Committee on Taxation to study feasibility of estimating taxpayers' compliance burdens.

We just made the Social Security Administration independent. The President's nominee was confirmed by the Senate. When the President's nominee came before the Senate Finance Committee, we were able to ask the question: If you reach a conclusion that the President doesn't like or that we don't like up here, are you going to be able to express that conclusion publicly? And the answer is yes. That is what comes with independence.

We need an IRS Commissioner that is able to, while we are debating taxes, say, ''Great idea, Mr. President, I saw everybody gave you a standing ovation.'' ''Great speech, Senator Blowhard, I see you got a standing ovation as well, but guess what it is going to cost the taxpayer to comply with your idea? They may give you a standing ovation, but if it becomes law, this is what it is going to create as far as the taxpayer is concerned.''

Under the current law, the IRS Commissioner will never come before the American people and make that kind of statement. Under our law, they would be required to do so. The complexity of the Code may require comprehensive reform of our tax law, but in the meantime, why not give the Commissioner authority to advise Congress of the potential problems of our ideas, and why not require a tax complexity analysis? At least we could then evaluate these potential new costs before proceeding. The administration's proposal would not do anything to encourage simplification of the tax law, although it would allow the IRS to enter into cooperative agreements with State tax administrators.

Mr. President, let me add a closing note about the administration's handling of this bill. Honest people can have honest disagreements. For that reason, I tried to be restrained in my criticism of the administration's proposal. But the ongoing public relations battle they are waging requires me to respond.

First, my broad critique is that the administration's proposal is both timid and hollow. We started our proposal with the belief that the law needed to be changed. Laws, Mr. President, have teeth. They must be enforced. They make a difference. The administration's proposal is more a set of suggestions than a set of laws—false substitutes. They become dentures rather than teeth.

Second, the administration has leveled its strongest complaints against our proposal for an oversight board comprised of taxpayers. We made this proposal because we thought the IRS was culturally isolated from the taxpayer, because we believe the IRS

lacked the independence from the bureaucracy it needs to fix the problems, and because we believe the agency needs input from outside its own headquarters.

I assume the administration agrees with this observation, because it, too, has proposed an oversight board. The problem with the administration's board is that its members would come from the same bureaucracies that created the problem we heard about last week. Taxpayers would have no input except through an advisory panel, and the board they propose would have little real power. In fact, all 14 expert witnesses, as I said earlier, testifying before the Ways and Means Committee said they do not support the administration's IRS governance proposals.

The administration contends our oversight board would consist of self-interested CEO's. This is quite simply, and quite directly, false, and the administration knows it. They have read our bill. They know what is in it. And they continue to describe it inaccurately in order to get people to presume they should oppose it.

Our proposal is for a nine-member board, two of whom will be the Secretary of the Treasury and a representative of Treasury employees. The other seven could be anyone who the President appoints and the Senate confirms—anyone. A small business owner in Lincoln, NE, can be on this board, as a taxpayer advocate from anywhere in America. ''CEO'' does not appear in our bill. I do not know where the administration has concocted this ruse, unless they fear that CEO's are who this administration will appoint.

The administration also claims a board run by taxpayers is a recipe for conflicts of interest. At root, this is an argument that the vast majority of taxpayers who do not work for the Government lack the necessary moral rectitude to participate in reforming the Government that belongs to them, and I strongly disagree. Americans who work and pay taxes in the private sector contribute to Government all the time. In fact, one of them is the Secretary of the Treasury today. He ran one of Wall Street's most elite firms. I presume that whatever mechanism has been sufficient to protect him against conflicts of interest would also be sufficient to guard against conflicts of interest by members of this board.

Finally, it seems to me the administration is intent, perhaps determined, on preserving the basic structure of the status quo. They wish to strand the IRS in the labyrinth that is the Treasury Department's bureaucracy and is the same bureaucracy that has failed to run the IRS in a manner that gives citizens confidence.

The problems at the IRS are not this administration's fault alone, but I cannot help but observe that if the Treasury Department had done a great job running the IRS the last 5 years, I might be more convinced that they ought to keep running it. But the simple truth is, they haven't. Perhaps the best summary of the administration's proposal is this: If you like the service you get from the IRS now, you'll love the administration's IRS protection bill.

Having responded in kind, Mr. President, I still hope the administration will start participating in this debate constructively. I still believe we can work out our differences, which are not great, as long as they begin to tell the truth about Senator GRASSLEY's and my plan.

Regardless, Congress needs to proceed as quickly as possible to enact changes in the law which will result in the best practices being applied to the operations of the IRS. Americans want an IRS that can quickly answer the question, How much do I owe; an IRS that is customer oriented to those payers willing to voluntarily comply as is a commercial bank to its customers; an IRS that knows it had better be right when it comes after a taxpayer for collection, otherwise it will pay for wrongly accusing a taxpayer of being delinquent.

In the interest of those Americans who voluntarily comply but who struggle with a complicated code, a confusing service policy, incompatible information systems, and the fear that they could be the next in line for harassment, the time has come for Congress to act.

Mr. President, it is time the IRS starts working for the American taxpayer. To further delay is to ask millions to suffer unnecessarily. I yield the floor.

The PRESIDING OFFICER (Mr. ROBERTS). Who seeks time?

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1998

The Senate continued with the consideration of the bill.

Mr. FAIRCLOTH. Thank you, Mr. President.

The managers are here to accept amendments to the District of Columbia appropriations bill, and I remind all Senators that we intend to complete action on the bill today. I encourage any Member to come to the floor immediately if you have any amendments or to advise the staff if you intend to offer an amendment.

Mrs. BOXER. Will the Senator yield?

Mr. FAIRCLOTH. I will yield to the ranking member on this bill.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Thank you very much, Mr. President. I just want to reiterate to our side that if there are amendments, we are here, and we are very hopeful to move this bill through. The chairman and I work well together. We are just waiting for colleagues from both sides. We think this is an important bill. We think there are a lot of good things, and we want to move them forward. We are hoping people will come down at this time.

I ask unanimous consent to speak as in morning business for up to 12 minutes.

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

Mrs. BOXER. Thank you very much, Mr. President. If I do see colleagues who are here to offer amendments to this bill, I hope they will let me know, and I will make my remarks brief.

CAMPAIGN FINANCE REFORM IS A PRESSING MATTER

Mrs. BOXER. Mr. President, I was listening to the news this morning, and the reporter said, ''The Senate has agreed to set aside campaign finance reform and go to more pressing matters.''

I thought to myself, campaign finance reform is a pressing matter. It seems to me there can be no more pressing matter. We ought to deal with this issue of campaign finance reform and let the chips fall.

We have a lot of parliamentary games being played. One of my colleagues, Senator DORGAN, said earlier that if the American public was listening this morning and heard somebody say, ''There is a poison pill on a tree that has been filled,'' the public would not really understand what we were talking about. When we talk about a poison pill, we are talking about an objectionable amendment that is extraneous to what we are trying to do being offered in an attempt to kill the underlying bill. Filling the tree means using a parliamentary tactic to prevent opponents of an amendment from offering any changes to that amendment. So I apologize to the American public if they tuned in and heard somebody talking about a tree being filled with poison pills because it does get confusing.

But the matter is not that confusing. The matter is, how do we finance our campaigns, and can we improve that system? I think all of America is crying out, ''Yes, we can improve it.'' Only a few say, ''Don't touch it, it is great, and money is speech.''

Now, it is true that a divided Supreme Court did equate spending as much money as you have with the right of free speech. But that was a close call. It seems to me our Founders would be turning in their graves if they believed at the time they stood up for free speech that it really meant ''only if you are rich,'' because, folks, that is what it is about.

I am proud of my colleagues, RUSS FEINGOLD and JOHN MCCAIN, for pressing this matter across party lines, and standing up for campaign finance reform. I am proud of both of them because it is not easy. The status quo around here is what people like the best.

I have to tell you, when I think about speech, I think about both sides of it. If

you have an independently wealthy billionaire running against you in a State like California, and he writes checks every day and bashes you on television every day and bashes the other opponents that he is running against every day, I believe we should ask, what about the free speech rights of the opponents? What about the speech of the other people that are drowned out because of money? If you equate money and speech, it seems to me you are saying someone who is wealthy has more speech rights than someone who is not.

This is not the American way. We are all created equal. That is the basis of who we are as a nation. I really hope that we can get past this notion that money is speech and that we will move forward with a comprehensive bill.

My one disappointment with the substitute pending before the Senate, is that it is not as comprehensive as the first version of the McCain-Feingold bill. However, I respect the judgement of the Senators that it would be best at this time to zero in on two horrible abuses of the system.

One abuse is the soft money abuse, which means unregulated dollars of any amount that flow into political parties. We have seen the hearings that are going on by this U.S. Senate and over in the House. If anything, we come away with this: Let's put an end to soft money. We could point fingers all day—this politician, that politician, where the calls were made, who made them—but I guarantee that gets us nowhere. The issue is the system. There will be enough examples around from both parties. This is not the problem.

So if we get exercised about these hearings—and I have seen colleagues here who are very exercised about them—they should go over to JOHN MCCAIN and RUSS FEINGOLD and tell them they are on their side. There ought to be some controls on the soft money contribution, and those controls are now pending before the Senate. The second area of abuse tackled by the McCain-Feingold bill is the so-called issues advocacy advertisements. This is where you take an organization with endless sums of money to put into an attack ad against the candidate they don't like.

Under current law, individuals can only give $1,000 in the primary and $1,000 in the general to the candidate, but issues advocacy has grown into huge loophole. These so-called issues ads are not regulated at all and mention candidates by name. They directly attack candidates without any accountability. It is brutal. I have seen them. I have seen them from both sides.

I can tell you, it is totally unfair and totally unregulated and vicious. It is vicious. We have an opportunity in the McCain-Feingold bill to stop that and basically say, if you want to talk about an issue, that is fine, but you can't mention a candidate. If this is truly issue advocacy, you can't mention a candidate a few weeks before the election.

If you want to talk about an issue day and night, talk about the issue, whether it is choice, the environment, health care, gun control—talk about it. But once you attack a candidate, that is not an issue ad. This is what the Feingold-McCain will go after.

I think we owe a great big thank you to those two colleagues for pushing this and moving this. I have to say that I am very disappointed at some of the debate, because one of our colleagues who is leading the charge against this says, ''We are going to kill this bill and we're going to be proud to kill this bill.''

I don't know why someone would feel proud to kill a reform bill that the American people want to see us do. I don't think it is a proud moment. I don't think it will be a proud moment if we can't move this forward.

I am both hopeful and fearful at this point. Hopeful because, as long as we are here in this body and this measure is pending and the people are listening, there will be an outcry for reform; but I am fearful because of some of the statements I have heard.

Let me close by saying what it is like to run in a State like California. I am told by the people with the calculators that if you figure out how much a candidate from California needs to raise in 6 years to run for the U.S. Senate, you would have to raise $10,000 every day, 7 days a week, in order to meet your budget. That is not right. That is not the way I think the American people want us to spend our time. I also don't think the American people want to make this an exclusive club for multimillionaires.

If we get to that stage where everyone here is independently wealthy and they really don't understand what life is all about, I think we will lose a very special aspect of what a representative democracy is.

I am hopeful we will rise to the occasion. We have done it before in this body. We have a chance to do it again. I see the Senator from Minnesota is on his feet, and I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. While we are waiting for amendments, I ask if I could have up to 15 minutes to speak as in morning business.

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

Mr. WELLSTONE. Mr. President, I want to pick up on some comments made by the Senator from California. First of all, I express my disappointment that we are really not debating this campaign finance reform bill. There are a lot of games that are being played right now.

What we have—my colleague from California was saying there is no reason to talk about filling up the tree and poison pill provisions—but what we have going on here is an amendment introduced by the majority leader that has an Orwellian title called the Paycheck Protection Act. It is really kind of a union label working people gag act. In any case, it is a killer amendment and has no business being on this bill.

Senator DASCHLE, the minority leader, has said if the majority leader wants to have a debate on this division provision, we will deal with it separately. We will agree to a debate on it. We will have amendments and we will deal with it.

But what is going on right now is that this amendment and this effort to fill up the tree means that there is no way in which other Senators can introduce amendments. For that matter, I don't see us having much of a debate. I am hopeful we will get back to this debate.

I want to be clear with people in the country that the fact that you have a campaign finance reform bill hanging out there on the Senate calendar, I guess starting at the end of last week and yesterday, Monday, doesn't necessarily mean we have really a high-quality debate. I am not even going to speak that long because I want to wait for colleagues to come out here on the other side and have a full-scale debate on this piece of legislation.

Mr. President, we are very close to passing a reform bill. In many ways I am pessimistic because I think this amendment that the majority leader has introduced is an amendment which may very well destroy our chances for passing reform legislation if it passes. On the other hand, I think people in the country are pretty smart about this. I think they see it for what it is. My hope is that there will be a few more Republicans that will join Senator MCCAIN and Senator COLLINS and Senator THOMPSON and Senator SPECTER and we will have the ability to defeat this amendment and then go on to the McCain-Feingold bill.

I am willing to admit people have different views about how to solve this problem. I am convinced this is the core problem. I don't think there is a more important issue. I think people in the country know it. The problem is that people hate this system and they know it, and I think they believe that Government too often responds to the interests of the wealthy and powerful and not them. I think they are probably right. Even though I think individuals here in the Senate and the House have a highly developed sense of public service, people can agree to disagree, but systematically you have a huge imbalance of power because this whole political process has become too dependent on the heavy hitters and the investors and the givers and the people who have a whole lot of money. That tilts the system in a very dangerous direction toward the very top of the population, and it leaves the vast majority of people out.

It also means we have a very, if you will, distorted debate on issues. I don't think it is any accident that ultimately when it came down to how we did deficit reduction, a good part of

many of the areas we made reductions in affected vulnerable people, low- and moderate-income people who are not the big givers. I don't think it is any accident we left most of the tax loopholes and tax deductions alone, because then we would have had to take on the big givers. I don't think it is any accident that there are a whole lot of questions that deal with concentration of power. I will take the telecommunications industry, since I think we made a big mistake when we passed that piece of legislation. I think the flow of information in a democracy is the most precious thing we have, but in a way this whole issue of concentration of power gets taken off the table.

I don't think it is any accident when we were debating universal health care coverage very fine Senators would say to me, ''There is no way we can take on the insurance industry given the power of the insurance industry.''

This is very corrupting in a very systematic way—not in an individual way, but in a very systematic way. I just say I think if we don't get the job done or if we don't at least get half the job done or if we at least don't get a quarter of the job done, I think people will be disillusioned and they will have a right to be. We will have given them every justification, every reason for being disillusioned with us.

Now, Senator MCCAIN and Senator FEINGOLD are both close colleagues and good friends. Senator FEINGOLD is my colleague from the State of Wisconsin. We have all worked together on these reform issues. I was proud to be one of the original cosponsors of the bill with Senator THOMPSON. What we had was an original—it's a little like hot sauce; we have the McCain-Feingold original formula, and we have the McCain-Feingold extra mild, which is the new formulation. The extra mild is meant to get us past the filibuster and any diversion from the majority side, and I hope it does. But I have to say that I don't even think the extra mild has enough zing in it. I know this is a good-faith effort to move us forward.

Let me talk in very concrete terms about what all this means for people in the country. I will get back to this in a more extensive way when we have the debate. What has already been dropped out, I think, is a shame. I think Senators FEINGOLD and MCCAIN are disappointed, but they are trying to move forward on some reform. What has been dropped out of this is the agreed-upon spending limits, reducing the amount of money that is spent in exchange for discount broadcast advertising time and direct mailing expenses.

In other words, the very part of the legislation that actually would have reduced the amount of money spent in our races, Senate and House races, has been taken out. Actually, the one provision of this bill that I think would have led to a more level playing field has been taken out already. I think that is a shame. The reason that I got so involved in this whole debate about reform from the word go was because I just think an obscene amount of money is spent. The reason I got involved was, back in 1989 and part of 1990, it was so disillusioning to me to have just about everybody I talked to tell me I didn't have a chance to win because I didn't have access to the money. That is all people would talk about.

Actually, the provision of this legislation that directly deals with our raising money and our spending money in our campaigns and the connection to how we vote—even though I think all of us hope there is no connection, it certainly looks that way to people—has already been taken out. What is in this piece of legislation that I think is important—there is one provision I disagree with. In the aggregate we have now raised the amount of money individuals can contribute from $25,000 to $30,000 a year. I would not raise individual contributions at all. I think that just intensifies the problem of those people who have the big bucks being able to contribute more. Most people in North Carolina or Kansas or Minnesota cannot afford to contribute $100 a year much less collectively $30,000 a year.

But we are now down to, as I said, an extra mild version. It doesn't have enough zing in it, from my point of view. But I understand it would represent a step forward if we keep it intact. Part of that deals with the unregulated money, the soft money, that goes to parties. I think it is terribly important to prohibit that because obscene amounts of money have been spent. We really saw that in the Presidential election. It essentially has become such a loophole that it has made people utterly disgusted with the system. A lot of what people have read about and heard about on TV has to do with soft money.

There's a second part which my colleague was talking about, independent expenditures. It's the issue advocacy ads, which are terribly important to talk about because this is a huge loophole. If this gets stripped out of this piece of legislation, we will be making a huge mistake. I don't need to tell the people in Minnesota who followed the last election because there was about a million dollars spent on issue ads. They essentially run these ads on television and they bash you if you are a Democrat or a Republican—it depends who is doing it. They just don't say vote against you. There is no spending limits at all. So a huge problem, again, is with the unregulated money, which can be the soft money, which means that people can be contributing huge amounts of money to this, obscene amounts, which is used to buy elections.

What this piece of legislation says is you can't do those ads. It becomes express advocacy if you do it in a 60-day period prior to the election and you use the name of the candidate. This is the bright-line test, which makes a whole lot of sense. You can't have perfection here. But if you drop that provision—and I know a lot of colleagues want to drop that provision—then what you will do is stop the soft money to the parties; it is just like Jello, you push in and it will all shift over to these issue advocacy ads. You will have all sorts of groups and organizations, and some you might like and some the Chair might like, some the Senator from North Carolina might like, some I would not like, but that is beside the point. You are going to have the same unregulated, obscene amount of money, no accountability, being spent in these elections, adding to the disillusionment of the people and used, by the way, for these attack ads, where they have been raising millions of dollars figuring out how to rip their opponent to shreds or how to prevent themselves from being ripped up into shreds. Hundreds of millions of dollars are spent like this, and it does not add one bit of information for one citizen in the United States. No wonder people hate this system. We ought to really try to build a little bit more accountability into this.

Well, Mr. President, these are important provisions that we are talking about here. I think that this represents a huge step forward. Mr. President, what I would worry about—and I will sort of finish up this way—is these three scenarios, and when we get into the debate, I can go into all of them in more specifics. One scenario is that we have the majority leader's amendment. It really is, as my colleague said, extraneous to this legislation. We can have a separate debate on it later on. It is really essentially a union gag, worker gag amendment. It is harsh. It should not be on this bill. If it passes—and I think we can have the votes to defeat it—then we reach a huge impasse. I suppose that people can think we have a clever strategy here. But most people in the country know this is nothing more than an effort to waylay the whole reform effort. It won't work. We are only a vote or two away from defeating it. I think we can have Republicans and Democrats join together to do that.

The second scenario I worry about as well, which is an already stripped-down version of McCain-Feingold, you will have the 60-day accountability on the issue ads taken out. You will raise campaign contributions and you will wind up with a piece of legislation that will have a fine-sounding acronym, that made-for-Congress look, but as a matter of fact, it will just shift the amount of money, spent in a different way. It will be an obscene amount of money. It will still undercut democracy. You will still have all of this money spent, and when people in the country find out that not much really has changed, they will be furious, discouraged, disengaged, and none of us benefit. I hope that doesn't happen.

The third thing that could happen is that the McCain-Feingold, what I called extra mild, the new formulation,

will pass. Again, there is not enough zing in it, from my point of view, but I think it would represent a step forward. I mean, the provisions in the McCain-Feingold extra mild would be a step forward. It would be a reform effort. It would build some more accountability into the system. It would lessen some of the money that was spent, and I think it would give people some confidence that we are serious in this Congress about trying to change this system, this mix of money and politics, which so severely undercuts democracy.

Now, a final point, if I have 2 minutes left. There is a whole lot of energy around the country at the State level. I mean, Vermont just passed a clean money election option. Maine passed it. I know that Massachusetts is going to deal with this question. This is an effort that I love. I have introduced a bill with Senators KERRY, BIDEN, and GLENN which basically says we are going to get all of the private money out, the big dollars out, and I think ultimately this is the direction we have to go in. I will tell you something. People around the country at the State level are saying yes to that.

So, colleagues, people are serious about reform. This is one of those moments in time. As the Senator from Minnesota, I am very discouraged that we are not out here debating this. Let's finish this appropriations bill that my colleagues from North Carolina and California are managing, the D.C. appropriations bill, and let's have the debate on campaign finance reform. Let's not have amendments out here that are nothing less than an effort to destroy this reform effort. Let's debate the stripped-down McCain-Feingold measure and get on and pass the reform bill.

I yield the floor.

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

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1998

The Senate continued with the consideration of the bill.

Mr. FAIRCLOTH. Mr. President, I yield to the Senator from Vermont 40 minutes.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 40 minutes.

Mr. JEFFORDS. Mr. President, I don't anticipate taking very long. I want to raise a very important issue relative to the District of Columbia. First of all, I want to commend the subcommittee chairman. I served just ahead of him in that capacity. I know of the tremendous responsibility he has, and I have admired the way he has been handling his job. I have also admired the way they have put the bill together this year to help the city of Washington.

But there are problems that are really beyond the possibility of the subcommittee to correct. These are what I want to discuss today. First of all, let us remember what the important issues facing this Nation are and reflect and look at the District of Columbia with respect to those. The District of Columbia, as we all know, is the Nation's Capital. But I think sometimes we Members have a tendency to forget that we are responsible now for the city of Washington. We, in 1974, turned the city over to home rule. As that experience turned out to be rife with difficulty for the residents of D.C., Congress made efforts to become more vigorously involved with the city's governance. By getting more directly involved, particularly with regard to the education system, we therefore made ourselves, the Members of this body and the House, directly responsible to the people of the District of Columbia. And furthermore, we became more directly responsible to the people of the Nation overall that we would have to do what is necessary to make this Capital a capital we can all be proud of.

Can you be proud of the United States Capital when the top issue in this Nation right now is education and here in Washington we continue to have some of the lowest educational scores and standards in the country? We are doing our jobs as leaders in a major metropolitan area; how can we turn this city into a model for the Nation to show how we can take the cities and help them become educational enterprises that are functioning well and that are delivering our young people into society with the skills they need to be able to make this Nation strong?

This is a national problem of the highest priority. But let us take a look at the District of Columbia and where we stand as far as what we are doing for it and the distance that we have to go. As I said, I had the job that the Senator from North Carolina has, the chairmanship of the subcommittee, and I took that responsibility very, very seriously. Working with Congressman GUNDERSON on the other side, we developed an educational program for the city. We worked long and hard at it. We got it approved, and it is in law. It sets out the goals and methodology and the means for us to take this city and turn it from the worst—and I will explain that later—in educational results of any city in this country.

Second—and I will talk about that even more quickly—we also have about the worst infrastructure of any school system in this country—the worst. So if we are going to make real progress in turning this education system around we have a long way to go.

We set the framework a couple years ago when we took over the city. We created, first, the Control Board, which now has more of the mayoral responsibilities, or is more analogous to a board of aldermen. They then created a school board to take a look and see what they could do to take this city and to change it into a city that we could be proud of.

We have all recently noted that the schools didn't open on time. Children were ready to come in, but the roofs were leaking, books had not been delivered. What happened? We had an amount of money for emergency repairs that had been appropriated—but that money, about $86 million came from the remainder of existing funds, and other one-time piece meal funding, not through a dedicated, sustainable revenue stream. It will just not be the right way to go to meet the needs we have, particularly with regard to infrastructure.

Take a look at this chart. You can see that if this situation is not the worst in the Nation, it is pretty close.

Look at these statistics from a General Services Administration study, which I will make a part of the RECORD, which goes through these infrastructure categories item-by-item to show where this city is.

Exterior walls: The national average for having problems is 27 percent. We have 72 percent of our exterior walls and windows which are bad and not meeting codes.

Next one: Roofs. This probably has improved a little since we spent $70 million fixing roofs this fall. But a year ago, only 27 percent of the schools in this country had poor roofs—but in the District we had 60-some percent of the roofs that were not meeting code. This does not mean they are beautiful; they just do not meet the code and safety violations.

Heating and ventilation, and air conditioning: The national average, 36 percent below code; Washington D.C., 66 percent.

Plumbing: Sixty-five percent of the plumbing doesn't meet code in D.C.'s schools—65 percent.

Electrical and lighting: Fifty-three percent of the District's school's are in code violations in this category

Life safety codes: Fifty-one percent of our schools are in violation of life safety codes. Would you trust your own children to that? I think not.

Power for technology: This is where we are doing the best, fortunately. But, still, 41 percent of the schools don't have power to utilize technology.

I am talking here about the Nation's Capital, the city that we would like to point to to show as an example of how a school system should be run.

Keep that in mind.

Let's take a look at this next chart to see what is going to happen.

For 3 years in a row we have had the schools not opened on time because of violations. Well, this is according to the GSA. The amount of repairs, cost of repairs to meet code, plus some other essential repair: $2 billion—that is with a ''b''—2 billion dollars' worth of repairs that are necessary in order to get our schools in compliance with the safety codes and other codes.

We managed to get $86 million available this year. That was the high point. We put $50 million the year before. Divide $86 million into $2 billion, and you will see that somewhere between 20, 30, or 40 years from now depending on

what you spend each year, those schools are going to be in code—our Nation's Capital.

That is inexcusable. You tell me how we are going to get $2 billion to be able to fix those schools. Is this subcommittee going to appropriate $2 billion? Of course not.

I went from the Appropriations Committee to the Finance Committee, because I knew that was where the action was going to be. There is a lot of money out of there—$35 billion for education.

So to the Finance Committee, I said, ''Hey. We ought to fix these schools.'' So I had an amendment to get $1 billion—only one $1 billion—to get half the job done. I came within one vote of passing that in the Finance Committee. That was one of those meetings in the middle of the night where nobody was quite present. But, anyway, I came within one vote of getting it. I finally got $50 million. That would have paid part of this year.

We went to conference. And they said, ''No. We would much rather create more jobs in the city. We would much rather give things like tax credits for buying new houses, and all of these kinds of things.'' So I went after the $50 million. But I did get a commitment from the head of OMB. I will get into that in the later part of the discussion here. But he agreed with me that we ought to do something, and that he would go with me and travel and talk with the Governors of Maryland and Virginia. I intend to do that, and see whether we can work something out. That will get to the solution which I will get to a little later.

Now let's take a look at where we are as far as the achievement of our young people and take a look at this, if you want to get depressed.

This chart shows where the District of Columbia is in red. We put the District of Columbia in red each time where it belongs. And this shows the Northeast average; the national average levels. These are fourth grade students scored at or above basic reading achievement levels. And it was down 6 percent from 1992. We took these from 1994. Twenty-eight percent of the children in the District of Columbia were passing the assessment for reading. In 1993, it went down 6 percent to 22 percent.

If we are going to make the District of Columbia the model for the Nation to follow, we are kind of headed in the wrong direction.

So what are we going to do about that? I will also get to that in a little bit. Right now I think it would be appropriate to go to the next phase where I am going to offer the amendment.

AMENDMENT NO. 1266

(Purpose: To provide for a regional education and work force training system in the metropolitan Washington area, to improve the school facilities of the District of Columbia, and to fund such activities in part by an income tax on nonresident workers in the District of Columbia)

Mr. JEFFORDS. Mr. President, I have an amendment at the desk. I would especially want to alert my Virginia and Maryland Senators that they don't need to jump out of their chairs and run over to the floor right now because I intend to withdraw it when I am finished. I offer the amendment.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment? Without objection, it is so ordered.

Mr. JEFFORDS. I ask unanimous consent to set aside temporarily the pending amendment and I will withdraw it so it will be back pending at the time.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS] proposes an amendment numbered 1266.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the purpose be read. It is relatively short. The amendment is unfortunately quite long.

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

The clerk will report.

The legislative clerk read as follows:

(Purpose: To provide for a regional education and work force training system in the metropolitan Washington area, to improve the school facilities of the District of Columbia, and to fund such activities in part by an income tax on nonresident workers in the District of Columbia)

Mr. JEFFORDS. I ask unanimous consent that reading of the amendment be dispensed with.

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

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

Mr. JEFFORDS. Mr. President, I thought that last sentence might stir up some anxiety. So I wanted to make sure that I reassured Senators that I would withdraw it.

But I did want to reemphasize that I intend to meet with the OMB director and with the Governors of Maryland and Virginia, and lay out this plan which will help the District. But it will also help the two surrounding States. So hopefully we can get an agreement to go forward with this, if we could, one, raise the $2 billion to take care of the infrastructure problem; and, two, share 50–50 the ability to create the kind of skilled training that is necessary in this metropolitan area in order to provide skilled workers for the 50,000 jobs that are available in this region which are not being filled at this time.

Before I go on, I want to say that the things which I am saying here and recommending are not things that JIM JEFFORDS decided when he was losing his mind or something, as somebody would think about standing up here and trying to help the District of Columbia. But this book everyone ought to be required to read in the Congress, which is ''The Orphaned Capital,'' and it is by Carol O'Clanahan, at the Brookings Institution.

This was done on behalf of the city to explain the mess we are in, and possible solutions as to how to get out of the mess.

So, again I want to emphasize that what I am trying to do today is to challenge the delegations from Maryland and Virginia, or anybody else, to say show me if you have a better way to come up with $2 billion so that we are not embarrassed by having our schools shut down. Let me tell you why they will end up shutting down again if we don't come up with something.

There is a group called Parents United. And they are upset with the fact that their kids are going to schools that are unsafe. So each year they go to a judge who is very friendly to them and who likes to make us look stupid. So that judge shuts the schools down each year. And they have about 20 to 40 years to go, depending on how much we put up each year with these code violations.

So they will pick on a number of code violations. The boilers are about to blow in several of the schools. So maybe this winter the Christmas holidays may get extended, if they decide to go and get the boilers fixed, although I hope they will be able to fix the boilers without that.

But anyway, they will each time go, and they will get the court to order the schools to be repaired. But as you say, with $2 billion to go in doing it with $50 million to $80 million a year, it will take a while. I don't want to have to spend the rest of my time here being embarrassed every year about why these schools are not being opened.

So let's take a look at what the positive side of the events are. Let me tell you what we have here, just to give you some credence on what I am saying. Look at this Washington Post editorial the shortage of workers in this regional area for the information technology jobs available.

But, as I mentioned earlier, there is a serious labor market shortage in this area. We have a burgeoning development of technology-based jobs—not only in the information industry but in every sector of our economy. These jobs are available in a location that's nice and convenient to the Capitol. There are 50,000 jobs out there right now that cannot be filled. And these are $20- $30- and $40-an-hour jobs that cannot be filled because the schools, the high schools in this area, even though we have some good ones out in the suburbs, are not graduating people from high school with the capacity they should have to take these jobs. I want to mention this to give you an idea of the dimension of the problem.

If we could fill these jobs, it would increase the revenues in the area available by $3.5 billion annually. We are talking about an enormous amount. Keep that figure in mind. That is the potential that we could do. Keep also in mind the fact that in this city now two-thirds of the workers are living in the suburbs. That is up by one-half

from several years ago when everybody flooded out of the city.

I will remind you. Why did they flood out? Two reasons: One, crime; and, back and forth between number one and two, the schools. The schools are lousy. I am not going to bring my kids up here. I am taking them to the suburbs.

So now two-thirds of the workers go out. Do you know what they take with them? They take with them $20 billion a year—$20 billion a year that goes out to be taxed by Virginia and Maryland. Do you want to know why Virginia and Maryland are going to get upset? Because if I try to take some of that, wow. That is going to be revenue out of their pockets.

That is why I want to emphasize that if we increase the revenues by $3.5 billion, it will help reduce the impact of removing it. And we are not going to take all of it anyway. How much comes back in from people working out? One percent of that. One percent comes from workers working out of the District—outside the District, coming back into the District. It is a huge disparity.

Another fact that I want to mention—this one is very, very important to remember. Washington, DC, is the only city in America which is in an interstate area where its workers cannot—cannot—be taxed on their wages before they go home. It is the only city in America that is in that situation. All of the cities that are in an interstate situation have taxes on the nonresidents. So part of the work revenue stays. The highest I think is 4 percent. The average is around 2 or 3 percent. Just keep that figure in mind because you have a huge amount of money that flows out of the District into Maryland and Virginia, which grab hold of it and throw into their treasury. Everybody would like to be able to do that.

So that is the situation we are in.

Now the question is, How can we make an equitable system, granted that this city is restrained? How are we restrained? Let me tell you how that happened. Back in 1974, when the District of Columbia went to home rule, a very astute Member of the House said, ''Hey. Every other city in this country grabs money from the workers.'' And that Representative was from Virginia, naturally, and offered an amendment which passed that said the District of Columbia is prohibited from taxing workers, nonresident workers. And that is still in the law. So right now, unlike any other city in America in a similar situation, the District of Columbia cannot tax the nonresident income.

Well, it seemed to me that under that circumstance it would be appropriate to take a look to see if we could not just nick it and take some money back to float the bond for the $2 billion needed for the infrastructure code repairs.

That is what this amendment does. But in addition to that, to be more wise and also make it more appealing, my amendment will take money from the nonresident workers, the tax money that goes to Annapolis and Richmond, and bring it back into counties of Maryland and Virginia that border the District of Columbia.

So in the final analysis we start out and ease it in, phase it in so that it would have a slow differential in the impact it has on those States starting off with money to repair the schools. That will take about 1 percent. We could phase that in in a couple years. One percent would take care of the bonds to raise $2 billion. Then, if we can go to 3 percent, split that so that it equals half the money going to the suburbs and half to the District of Columbia—that is including the infrastructure repairs—we can then create what needs to be done, a system to be able to coordinate the schools in these areas to find out where best to have skill training. For instance, I would recommend we take UDC, the University of the District of Columbia, and make it into a skill training center. Give it a new purpose. It could be used for those purposes. And these grants would be given out in cooperation with the Department of Education and the Department of Labor. I did not want to give it to the Federal Government, but that does make it necessary for interstate compacts. So then we could create the system.

Let's take a look back at the Washington Post. What it is talking about is where the jobless could be given jobs. I want to give validity to what I am saying. They are aware of this. The business community is also aware of what I am trying to do and very supportive, and the educators are, of course, too.

I have spoken with the leaders of the exploding high-technology industry from Virginia and Maryland, and they note that the boom has been so dramatic that they're worried about finding enough people to work for them. Then note the plight of the District, where businesses evaporate and unemployment is the highest in the region. The obvious but so far elusive solution: match the District of Columbia jobless with Northern Virginia jobs.

So this is known as an area of need. So what I am recommending with this amendment is that we ought to work together as a region. And this can be done nationally. I would say the Senator from North Carolina, when we discussed this some time ago, pointed out in North Carolina they have developed these things, and the South has been very astute. We in the Northeast and the rest of the country ought to be aware of what they are doing. They are working together in a region. They are inviting businesses to come in. They are creating skill training in order to make sure that they can get the jobs and get the businesses to locate in their States to provide them with what is necessary.

Now, I am hopeful that when the other States look at this they will realize, if we come in and just take a little bit of the money, which any other city in this country could do that is in this interstate situation, we must make sure we turn this city around and move it in the right direction, first, by fixing up the schools.

Now, certainly I am embarrassed, and I hope all of my colleagues are embarrassed, by the fact that this city has the worst school infrastructure in the country and that such a huge number of our schools are unfit. With $2 billion, I hope they would take notice and join me in trying to do something about it.

But I also point out that it does not make any difference to me how we do it. I would challenge the Senators from Virginia and Maryland, if they do not like the fact that some of the money may be taken from their State capitals and moved down into their counties near here or some into the District of Columbia, then suggest another alternative. I urge any of my colleagues to figure out how we can raise $2 billion over the next couple years so that we can get these schools fixed so we do not have to go through the difficult period of time each year of being embarrassed by the District of Columbia school system.

In winding up, I urge that we will get your attention because I think it is easy for us, as so many Members do when I talk to them, to say, ''Oh, that's Mayor Marion Barry's problem. He made a mess out of it.'' That may be true. But that is not the solution. We are responsible. We are the ones who have to come up with a solution, and if we do not do it, then I am sad for the kids in these schools. I am sad for the city, and I am sad for all of us who will be embarrassed, instead of having the Nation's Capital pointed to, as it could be, as a model to follow, and ridiculed and we feel so sorry for those kids.

Now, let me talk a little bit also about other things that can be done to help the city and that are being done. I have lived here now close to 25 years. I have lived right in the District. I have not gone out to the suburbs so I know what's going on here and I have seen it improved; I have seen it getting better; but I feel very responsible for it. And so I hope that we will see as we move forward that we can change this city around. I am hopeful that we will have that responsibility, recognize it and do something about it.

In addition to what I have already told you about, I would also like to mention what the private sector has been doing to assist. We ought to keep our eye on the private sector because they are showing us their ability through volunteering.

Let me talk about two programs that I have been working with the private sector. One looks at one of the most difficult problems the Nation has, and that is reading. You saw the record, the horrible record of the District of Columbia in reading. We have started a program called ''Everybody Wins!'' This is a lunchtime volunteer reading program that pairs caring adults with

elementary school children in Title 1 schools to help them learn to read and learn the value of reading and education. Senate volunteers go every Tuesday to the Brent School to read over here on the Hill and the House volunteers go down to the John Tyler school. All in all we now have around 300 House and Senate staff who read in the program. We began ''Everybody Wins!'' up here on the Hill to generate awareness with the private sector and others of how fantastic a program it is and how easy and effective it is to get involved and this year we will have about 1,200 volunteers all across the city who are reading to kids in first through sixth grades to make sure at the end of the third grade they know how to read—a great program. It is a non-profit educational foundation funded by the private sector, with the whole effort led by the PGA Tour and the Tour Wives Association. The PGA Tour is under the leadership of Commissioner Tim Finchem, who is really making children and education a priority, and I commend him for all his help. We have been able to raise some money each year at a fundraiser called ''Links to Literacy.'' The entire House and Senate leadership from both sides of the aisle joined me and Senator KENNEDY in spearheading this event. We will have another fundraiser this spring where ''everybody wins'' so that we can make progress toward our goal of having every elementary school child in the D.C. public schools read with an adult volunteer once a week at lunchtime.

Secondly, the area of greatest difficulty—and here is another area where the District of Columbia leads the Nation, I think—is school dropouts. Forty percent of the kids in the District of Columbia system who start do not finish, and that I tell you is very much related to the serious crime problem because 80 percent of the people that are in jails are school dropouts.

I traveled out to San Diego and visited a program there which was set up by the private sector called ''Operation FitKids.'' This program was founded by a man named Ken Germano who works in the fitness industry and who is passionately dedicated to underprivileged kids. He figured out a way for the fitness industry to donate used equipment to schools to create safe, educational fitness centers in the middle and high schools. Now you have to have the biggest and best equipment in order to attract people. I know I watch television. Every couple weeks there is a new way to tread the mill and those kinds of things. My colleague Senator KOHL has joined with me to bring this great program to the District of Columbia. This summer we were able to have half a million dollars worth of equipment that has been donated to four of the middle schools and high schools in our city's worst areas to help young people with a place to go to exercise and to communicate with each other and to learn life-long healthy habits. To make this work we had to form a partnership with a local university and American University stepped right up to the plate and we now will have a big launch event this Fall to get the word out about how more people can get involved.

Another area. Representative CASS BALLENGER has been working with the private sector and contractors, saying, will you help? Will you help do things with a little money? In other words, try to get donated whatever is needed to help fix these schools. And they say yes. Ballenger said, well, the problem is we can't do much about it because of the Davis-Bacon Act. And hopefully at the same time we do this we could get an agreement to lift the Davis-Bacon Act, or at least the size of contracts which are needed to be met so that we could take that money and do it with much less by being able to get around the Davis-Bacon Act.

So the private sector is ready to help. I am certainly ready to help. A number of my colleagues are. But it is up to the rest of the Senate and the House to really say we are going to make this capital the best in the country, not the worst. And right now we are embarrassed, and I am embarrassed, but I am hopeful a year from now we will be on the road to progress and I am going to do everything I can to make sure that we are on that road.

Mr. President, I am pleased to yield back the remainder of my time. I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 1266) was withdrawn.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT—H.R. 2203.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that at 5 o'clock today, the Senate proceed to the consideration of the conference report to accompany H.R. 2203, the Energy and Water appropriations bill. I further ask that the reading be waived and the conference report be limited to the following debate time: the two managers, 10 minutes each; Senator MCCAIN up to 10 minutes. I further ask unanimous consent that immediately following the expiration of the time, the Senate proceed to a vote on the adoption of the conference report with no intervening action or debate.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The PRESIDING OFFICER. The Senator from West Virginia.

AMENDMENT NOS. 1267, 1268, 1269, EN BLOC

Mr. BYRD. Mr. President, I send three amendments to the desk. I ask unanimous consent they be considered en bloc. I have discussed this with the manager of the bill. He understands that I am going to make this request, and he has no objection.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes amendments 1267, 1268, 1269, en bloc.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 1267

(Purpose: To prohibit alcoholic beverage advertisements on billboards, signs, posters, and other forms of advertising in certain publicly visible locations in the District of Columbia where children are likely to walk to school or play)

At the appropriate place, insert the following:

SEC. . (a) Chapter 29 of title 12A of the District of Columbia Municipal Regulations (D.C. Building Code Supplement of 1992; 39 DCR 8833) is amended by adding the following 2 new sections 2915 and 2916 to read as follows:

''2915.0 Alcoholic Beverage Advertisements.

''2915.1 Notwithstanding any other law or regulation, no person may place any sign, poster, placard, device, graphic display, or any other form of alcoholic beverage advertisements in publicly visible locations. For the purposes of this section 'publicly visible location' includes outdoor billboards, sides of buildings, and freestanding signboards.

''2915.2 This section shall not apply to the placement of signs, including advertisements, inside any licensed premises used by a holder of a licensed premises, on commercial vehicles used for transporting alcoholic beverages, or in conjunction with a one-day alcoholic beverage license or a temporary license.

''2915.3 This section shall not apply to any sign that contains the name or slogan of the licensed premises that has been placed for the purpose of identifying the licensed premises.

''2915.4 This section shall not apply to any sign that contains a generic description of beer, wine, liquor, or spirits, or any other generic description of alcoholic beverages.

''2915.5 This section shall not apply to any neon or electrically charged sign on a licensed premises that is provided as part of a promotion of a particular brand of alcoholic beverages.

''2915.6 This section shall not apply to any sign on a WMATA public transit vehicle or a taxicab.

''2915.7 This section shall not apply to any sign on property owned, leased, or operated by the Armory board.

''2915.8 This section shall not apply to any sign on property adjacent to an interstate highway.

''2915.9 This section shall not apply to any sign located in a commercial or industrial zone.

''2915.10 Any person who violates any provision of this section shall be fined $500. Every person shall be deemed guilty of a separate offense for every day that violation continues.''.

(b) The amendment made by subsection (a) shall take effect 180 days after the date of enactment of this Act.

AMENDMENT NO. 1268

(Purpose: To increase the number of ABC inspectors in the District of Columbia and focus enforcement on sales to minors)

On page 49, between lines 13 and 14, insert the following:

SEC. 148. There are appropriated from applicable funds of the District of Columbia such sums as may be necessary to hire 12 additional inspectors for the Alcoholic Beverage Control Board. Of the additional inspectors, 6 shall focus their responsibilities on the enforcement of laws relating to the sale of alcohol to minors.

AMENDMENT NO. 1269

(Purpose: To require the General Accounting Office to study the effects of the low rate of taxation on alcohol in the District of Columbia)

At the appropriate place, insert the following:

SEC. . (a) Not later than 6 months after the date of enactment of this Act, the General Accounting Office shall conduct and submit to Congress a study of—

(1) the District of Columbia's alcoholic beverage tax structure and its relation to surrounding jurisdictions;

(2) the effects of the District of Columbia's lower excise taxes on alcoholic beverages on consumption of alcoholic beverages in the District of Columbia;

(3) ways in which the District of Columbia's tax structure can be revised to bring it into conformity with the higher levels in surrounding jurisdictions; and

(4) ways in which those increased revenues can be used to lower consumption and promote abstention from alcohol among young people.

(b) The study should consider whether—

(1) alcohol is being sold in proximity to schools and other areas where children are likely to be; and

(2) creation of alcohol free zones in areas frequented by children would be useful in deterring underage alcohol consumption.

Mr. BYRD. Mr. President, I rise today to address an issue that concerns me and, in my opinion, does not receive enough attention, enough attention or enough action by the Congress. This is the issue of youth alcohol use. It is a serious problem in the District of Columbia, as it is throughout the Nation.

Alcohol is the drug that is used most by teens. If we are concerned about drug use by teens, this is the drug that is used most by teens. Information compiled by the National Center on Addiction and Substance Abuse indicates that, among children between the ages of 16 and 17, 69.3 percent have at one point in their lifetime experimented with alcohol.

Let me say that again. Among children between the ages of 16 and 17, 69.3 percent have at one point in their lifetime experimented with alcohol. That is not a very good reflection on their parents, I would say. In the last month, approximately 8 percent of the Nation's eighth graders—now, get that—in the last month, approximately 8 percent of the Nation's eighth graders have been drunk. What are we coming to? Eighth graders—8 percent of the Nation's eighth graders have been drunk. What does that say about the parents? What does it say about this Nation of ours? Eighth graders are generally 13-year-olds. Every State has a law prohibiting the sale of alcohol to individuals under the age of 21. Unfortunately, though, two out of every three teenagers who drink report that they can buy their own alcoholic beverages.

Alarmingly, junior and senior high school students drink 35 percent of all wine coolers and consume 1.1 billion cans of beer a year. Yet, again, every State and the District of Columbia have laws prohibiting the sale of alcohol to individuals under the age of 21. Alcohol is a factor in the three leading causes of death for 15- to 24-year-olds: accidents, homicides, and suicides. In approximately 50 to 60 percent of youth suicides, alcohol is a factor. Alcohol is involved. In 1995, there were 1,666 alcohol-related fatalities of children between the ages of 15 and 19. Drinking and driving kills. Links have also been shown between alcohol use and teen pregnancies. And links have been shown between alcohol use and sexually transmitted diseases.

According to a Washington Post article from July 17, 1997, entitled, ''The Corner Store,'' the District outranks every State with regard to deaths and diseases related to alcohol. In addition, according to Joye M. Carter, chief D.C. medical examiner, in 1993, 50 percent of the homicide victims had consumed alcohol.

In order to begin to address the distressing cost of alcohol to this city, and its children, I am offering three commonsense amendments to this bill, the District of Columbia Appropriations Act for fiscal year 1998. The amendments I have sent already to the desk.

The first one would prohibit alcoholic beverage advertisements on billboards, signs, and posters and other forms of advertising in certain publicly visible locations in the District of Columbia where children are likely to walk to school or to play. I believe this is an important, commonsense measure to help to shelter innocent children of the District of Columbia from the daily bombardment of messages tempting them to partake of alcoholic beverages. There is a lot of fuss made about advertisements concerning smoking. Nothing is said about advertisements concerning alcohol. That, apparently, is taboo.

Competitive Media Reporting estimates that the alcoholic beverage industry spent more than $1 billion on alcohol advertising in 1995. That is an enormous amount of money, and this advertising is often crafted to particularly appeal to impressionable children. Our children are bombarded with slick and ingenious messages that drinking alcohol will lead to popularity; you will be popular; it leads even to good looks, and leads to a magnetic personality. Nothing could be further from the truth, of course. Drinking alcohol more often leads to wrecked automobiles, unwanted sex, coarse and stupid behavior, and more often than we like to contemplate, a space in the cemetery with a tombstone resting above—especially in the case of young drinkers. Ads filled with singles playing exciting outdoor sports, or sophisticated adults combining alcohol with an elegant evening out, mask the darker view of children cringing and hiding when Daddy weaves drunkenly through the door from a bleary-eyed evening spent in the company of a bottle, or several bottles.

Similar bans have been enacted in Baltimore and Chicago to protect children in those cities. Why not here? Given the large number of liquor stores in the District and the number of signs enticing children to try a substance that they are barred from using by law, it is important that we take action now. Let us not delay and miss this opportunity to make a positive difference for the District's children.

It is my understanding that similar legislation is currently pending before the D.C. Council. It is not clear whether the council will act expeditiously on this important matter. Thus, it is incumbent upon the Congress to provide this important protection to the District of Columbia's children as they walk to school and as they play in their neighborhoods. In my opinion, the amendment, although I believe it is crafted to survive legal challenges, does not go as far as I would like in protecting the District's children. I urge the council to explore additional ways to expand this protection.

I am sure that some will challenge this amendment, arguing that commercial speech is protected from such bans under the First Amendment. As a matter of fact, the beer industry challenged the Baltimore ordinance banning outdoor, stationary alcoholic beverage advertising which is almost identical to my amendment. The circuit court has upheld the Baltimore ordinance as constitutional.

Children cannot readily interpret media messages. Their ability to analyze information is not yet fully developed, and, thus, they are more vulnerable to being swayed by advertisements. This fact is of particular concern when the substances being advertised are illegal for consumption by minors. According to the U.S. Court of Appeals, Fourth Circuit, in Anheuser-Busch, Incorporated versus Schmoke:

> This decision thus conforms to the Supreme Court's repeated recognition that children deserve special solicitude in the First Amendment balance because they lack the ability to assess and to analyze fully the information presented through commercial media.

The Fourth Circuit decision goes on:

> After our own independent assessment, we recognized the reasonableness of Baltimore City's legislative finding that there is a ''definite correlation between alcoholic beverage advertising and underage drinking.'' We also concluded that the regulation of commercial speech is not more extensive than necessary to serve the governmental interest. . .

Mr. President, in addition to its decision, the Court determined that Baltimore's ordinance was not more restrictive than necessary to accomplish the stated goal of protecting children from alcoholic beverage advertising.

The Court of Appeals specifically cited the ordinance's inclusion of an exemption, which is also included in my amendment, for commercial and industrial areas. According to the decision, ''* * * Baltimore's efforts to tailor the ordinance by exempting commercial and industrial zones from its effort renders it not more extensive than is necessary to serve the governmental interest under consideration.''

The exceptions to the ban included in my amendment are numerous and result in a narrowly tailored approach to achieving the goal of protecting children in areas they frequent while staying within the confines of permissible restrictions on commercial speech under the Constitution. Banning billboard advertisements for alcoholic beverages where children play and go to school are reasonable safeguards that communities can take to address youth alcohol use. So, I urge my colleagues to join me in this worthwhile and narrowly tailored effort to protect the children of our Nation's Capital.

My second amendment, Mr. President, would increase the number of Alcohol Beverage Control Board inspectors in the District and focus enforcement on the sale of alcoholic beverages to minors. The D.C. Alcohol Beverage Control Board has just three inspectors in the field in addition to their chief, who also performs inspections of alcohol outlets. These four inspectors are responsible for monitoring over 1,600 alcoholic beverage outlets. This is a sad state of affairs for a city that has more alcohol-influenced crime than any other city of comparable size. In contrast, Baltimore employs 18 regular inspectors in addition to a number of part-time inspectors.

It is illegal for persons under the age of 21 to purchase, possess, or consume alcoholic beverages in the District. In addition, the sale of alcoholic beverages to minors is prohibited. However, these laws are not being adequately enforced.

In May of this year, the Center for Science in the Public Interest [CSPI] conducted a sting operation at small grocery and convenience stores in which alcoholic beverages are sold. The sting operation used youthful looking twenty-one-year-olds to purchase beer. In 63 percent of the cases, the young looking subjects were able to buy beer without presenting age identification—63 percent of the cases. Clearly this is not good news. It is not legal to sell alcoholic beverages to minors. The low probability of enforcement of this law results in lax age identification checks. My amendment strengthens the District's ABC enforcement efforts by bringing the number of inspectors up to a level comparable to other cities of this size. It is my hope that my colleagues will join me in this important effort to address the serious issue of alcoholic beverage sales to minors.

My third amendment calls for the General Accounting Office [GAO] to conduct a study on the District's alcoholic beverage excise taxes. It is my understanding that the level of taxation in the District is amongst the lowest in the Nation. According to local activists concerned about the effects of alcohol consumption on the District, raising the excise tax on alcohol could be the single most effective means of reducing alcohol consumption in the District. This amendment would require the General Accounting Office to study: (1) the District of Columbia's alcoholic beverage tax structure and its relation to surrounding jurisdictions; (2) the effect of D.C.'s lower excise taxes on alcoholic beverages on consumption of alcoholic beverages in D.C.; (3) ways in which the District of Columbia's tax structure can be revised to bring it into conformity with the higher levels in surrounding jurisdictions; and (4) ways in which those increased revenues can be used to lower consumption and promote abstention from alcohol amongst young people.

The study would also explore whether alcohol is being sold in proximity to schools and other areas where children are likely to be. In addition, would the creation of alcohol free zones in areas frequented by children be useful in deterring under-age alcohol consumption?

These are important issues. They are important issues that ought to be explored. The information obtained in the study will be useful in determining the need for possible future adjustments of the excise taxes in the District on alcohol that might reduce the high costs that alcohol abuse imposes on the District of Columbia.

The District of Columbia is our Nation's Capital, a centerpiece for our Nation's Government, as well as a hometown for 600,000 people. It should be a shining star in the constellation of American cities, but it is not. Sadly, that star is tarnished by neglect, abuse, and by the complex forces that hold sway over and within it. The corrosive effects of alcohol abuse further erode its beauty and grandeur. I believe that these three amendments make a positive step toward repairing the District so that it might claim its rightful place at the pinnacle of American metropolitan areas.

Mr. President, I ask for the yeas and nays on the amendments en bloc.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the amendments, en bloc, be set aside temporarily to a time when the leadership would find it most convenient for Members to have the vote.

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

Mr. FAIRCLOTH. Mr. President, the three amendments offered by Senator BYRD will be voted on en bloc, and we want to set them aside until the leadership arranges a vote.

The PRESIDING OFFICER. The amendments have been set aside.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that the votes occur on the amendments offered and considered en bloc by Senator BYRD immediately following the vote on the energy and water appropriations conference report and that one vote count as three votes.

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

Mr. FAIRCLOTH. Mr. President, again, 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. FAIRCLOTH. Mr. President, I ask unanimous consent that the order for the quorum be rescinded.

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

Mr. FAIRCLOTH. Mr. President, I modify my consent request with respect to the Byrd votes, that one vote count as only one vote.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HOLLINGS. 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. HOLLINGS. Mr. President, I ask unanimous consent to proceed for 5 minutes as in morning business and my remarks not interrupt the pending amendment.

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

THE DEFICIT

Mr. HOLLINGS. In his book ''Breaking the News,'' Jim Fallows writes: ''If the public is confused, alienated, pessimistic or hostile to government, that is only partly the public's fault. . . .'' And he goes on to say, ''Journalism should lead the public by pointing out realities.''

So I briefly point out a reality, Mr. President, to the Congress here this

afternoon. In ''The Economic and Budget Outlook'' of the Congressional Budget Office—the authority with respect to budgetary figures such as the balanced budget, deficits and surpluses—we find on page 34, Mr. President, the reality that while, yes, a unified deficit is listed as $34 billion, the actual deficit for the year 1997 that ends at midnight tonight is $177 billion. That is the deficit. The media should report this, the reality, and not the fraudulent unified deficit. We are spending $177 billion more than we are taking in.

The unified deficit is $34 billion because they count the surpluses from the airports, the highway trust funds, Social Security, and the military and civil service pension funds—billions of dollars moved over. But that does not obscure the fact, nor it should not obscure the fact, that as of this fiscal year, when we are all talking about wonderful reductions in deficits, we are running a real deficit of $177 billion.

Now, Mr. President, 5 years out when we all say, ''Oh, we have a balanced budget for the first time since Lyndon Johnson,'' and everyone is running around shouting ''balance!'' there will be no balance, according to the Congressional Budget Office. In the year 2002, the deficit, rather than being in balance, will be $161 billion. And that assumes optimistically that 95 percent of the domestic cuts occur in the last 2 years.

I can assure the distinguished Senator from North Carolina that the deficit will be bigger 5 years out than it is today, at the end of this fiscal year. Looking at the figures across the board for the next 5 years, I see that the CBO forecasts next year's deficit to be $210 billion; the year following that, 1999, the deficit will be $226 billion. Go across the board and you will find out the so-called balanced budget actually increases the national debt by $1 trillion.

Now why is that dangerous? That is dangerous because you cannot avoid the interest costs on the national debt. The national debt is now in excess of $5.3 trillion, and going up to over $7 trillion in the next 10 years.

Mr. President, the Congressional Budget Office estimates that even with low-interest rates we will spend $358 billion in the next year just servicing the national debt. This amounts to almost $1 billion a day. This is $1 billion a day we cannot spend on new roads or schools. The first thing the Government does every day is borrow another $1 billion to pay interest on the national debt. Now, if you managed your family finances or your business this way, you would not last long; but we are doing it.

All this reminds me of Denny McLain. He was convicted earlier this year of using his company's pension fund to pay off his company's debt. You see, we passed the Pension Reform Act of 1994, and when Denny violated that act, he was sentenced to 8 years in prison. If you can find what prison he is in, tell Denny he made a mistake. He should have run for the Senate: instead of getting a prison sentence, he would have gotten the Good Government award. That is what we are doing around here—stealing from the American people's pension funds. And we are patting each other on the back. This is a sweetheart deal. Both parties are agreeing to lie to the American people so that we can proclaim the budget is balanced.

The truth of the matter is, we have a deficit now, and we will still have one in 2002. This year's much-ballyhooed budget deal increases spending $52 billion and cuts revenues $95 billion. Now, how can you balance anything by increasing your spending and cutting your revenues? You can't. But that is what we are claiming. It is Rome all over again, and we are trying to make the people happy with bread and circuses. Only today, the Congress' circuses are spending increases and tax cuts and shouts of ''balance, balance, balance.''

I yield the floor, Mr. President. I thank the distinguished Presiding Officer and my colleague from North Carolina.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded and that the time be equally divided.

The PRESIDING OFFICER (Ms. SNOWE). Without objection, it is so ordered.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1998—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now turn to the conference a report on (H.R. 2203) making appropriations for energy and water development for the fiscal year ending September 30, 1998.

The report will be stated.

The bill clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the (Senate or House) to the (H.R. 2203) having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 26, 1997.)

Mr. DOMENICI. Madam President, on July 16, the Senate passed its version of the Energy and Water Development Act for fiscal year 1998 by a vote of 99 to 0. Since that time, the House has passed its version, which in some cases was quite different than the Senate version, and conferees have resolved the differences between the two bills.

At times, those negotiations were difficult. However, the final result is a well balanced bill I believe should be supported by all my colleagues—it certainly was well received by the House which passed it a few hours ago by a vote of 404 to 17.

In summary, the bill provides $21,209,623,000, a reduction of $1,895,701,000 from the amount of the request and $57,421,000 below the level recommended by the Senate, for programs with the jurisdiction of the subcommittee. Details are provided in the report which was filed last Friday and has been available to Members since Saturday when it was printed in the RECORD.

There are a few matters that need clarification.

The conferees included language in the conference report commending the Department on the tremendous advances made in pulsed-power technology in the past year. Because of uncertainties, which I will discuss in a moment, in the level of funding needed for the pulsed power program in the coming fiscal year, a level was not specified. However, the conferees have indicated that the Department should support continued Z-physics and diagnostics in the coming year.

A robust pulsed power program in the coming year might include $13,000,000 for continued Z-machine physics, $5,000,000 for backlighting, and an additional $7,000,000 for the conceptual design of the next generation pulsed power machine; X–1. However, there may be less expensive ways to achieve backlighting, and the schedule for a next generation machine would be better determined following additional experiments on the existing machine. For those reasons, it is impossible to specify a level of funding for the coming year. However, the Department should continue Z-physics experiments with those objectives in mind.

The conferees agreed to a provision that would prohibit the Department of Energy from awarding, amending, or modifying any contract in a manner that deviates from the Federal acquisition regulation, unless the Secretary grants, on a case-by-case basis, a waiver to allow for such deviation. In the statement of managers, the conferees direct the Department to be cognizant of and utilized provisions of the Federal acquisition regulation that permit exceptions to the Federal acquisition regulation and provisions intended to address the special circumstances entailed by management and operating contracts. I want to clarify that, if the Department utilizes those provisions of the Federal acquisition regulation that permit exceptions to the Federal acquisition regulation or that address the special circumstances of management and operating contracts, it will not be necessary for the Secretary to obtain a waiver for those cases; the use of such provisions will not be considered a deviation from the Federal acquisition regulation.

Due to a production error, report language agreed to by conferees from the House and Senate was inadvertently excluded from the joint statement of the managers. The text of that language is as follows:

With respect to funds appropriated in fiscal year 1993 and made available to the Center for Energy and Environmental Resources, Louisiana State University, Baton Rouge, Louisiana, the conferee strongly recommend that the Department disperse these funds only in accordance with the original intent to place the facility on property owned by the Research Park Corporation in Baton Rouge, Louisiana or contiguous property thereto owned by Louisiana State University, Baton Rouge.

We fully expect that the Department of Energy and interested stakeholders will regard this language as though included in full in the joint explanatory statement of the committee of conference.

The conference report contains a provision requiring the Bureau of Reclamation [BOR] ''to undertake a study of the feasibility of using the Mount Taylor mine as a possible source of water supply for the City of Gallup.'' While the background material for this study clearly indicates that this study will include the impacts of such water use on other users, such as the Laguna and Acoma Indian Pueblos, I would like to clarify today that it has been my intention, as verified in the detailed project description, to include these Indian Pueblos as possible beneficiaries of available water supplies from the Mount Taylor mine or its environs.

Like other water users in the Mount Taylor area where water is scarce, any new and potable water resource would be most welcome. The Laguana and Acoma Pueblos are east of Mount Taylor, Gallup is to the west, and the private mine that is the focus of the study is on the western slope of Mount Taylor. The Canoncito Band of Navajo Indians are also to the east of Mount Taylor, new Laguna Pueblo. The feasibility of providing Mount Taylor water to these Indian Tribes is included in the details of the planned BOR study.

As stated in the project study description, ''Some potential exists for the Mt. Taylor pipeline project to be integrated into a regional water supply network along the Interstate 40 corridor.'' Depending on the findings of this study ''to verify the quantity, quality, and expected life of the water source,'' there are many potential beneficiaries. It is my intention, as stated in the project narratives, to do our best to include as many potential water users along this corridor as possible. I thank the Chair for this opportunity to clarify an important section of this bill for these potential water users from the Mt. Taylor source.

Madam President, I would like to thank my friend and colleague from Nevada for his help on this legislation. This is Senator REID's first year as ranking member of the subcommittee and it has been a most productive year. I greatly appreciate his cooperation and look forward to many years of working together.

Madam President, I am merely going to remind the Senate that when we are in conference with the House, sometimes we get our way, sometimes they get their way. As a matter of fact, most of the items that the distinguished Senator from Arizona is concerned about were House matters, as I listened to them and as my staff tells me about them.

Frankly, everybody in this body that has been here for any period of time knows that when you go to conference with the House, they have to get some things that are theirs and we have to get some things that are ours, and we have to compromise on others. I want the Senate to know that, in terms of overall expenditures, this bill is $1.8 billion in budget authority under the request of the President. That means we have done things differently than the President. In some areas, we have gone up and in some areas we have gone way down from where he wanted us to be. When you add them altogether, water projects, which are more than the President wanted and, obviously, the House wanted far more water projects than we did—and there again it is a question of working with both bodies—add up the water, nondefense, energy, research and the defense part, and it is about $1.8 billion below what the President of the United States requested.

Madam President, again, let me give a little recap on the bill and then yield to my friend Senator REID. Madam President, on July 17, the Senate passed its version of the Energy and Water Development Act by 99 to 0. Since that time, the House passed its own version of the bill, and last week, as implicit in my remarks, conferees for the two bodies met to work out differences, and there were many that dealt with many millions of dollars.

The bill started off quite differently. The Senate bill had $810 million over the House bill on defense matters. On the nondefense side, though, the allocations were very similar. The House had proposed spending approximately $300 million less on the Department of Energy nondefense programs and about $300 million more on water projects. It is obvious that those are extremely large differences. The full committee of appropriations decided that the allocation that the House received on the entire bill was too low. Some adjustments were made, both on the defense and nondefense side, which permitted us to get together and bridge some remaining gaps that were indeed very serious.

This bill provides what we need for stockpile stewardship to maintain the trustworthiness of our nuclear weapons, to participate adequately in the builddown, which is extremely technical and highly scientific, without building any new weapons, and without any underground testing—to make sure that our weapons are safe and reliable—which is a new concept called science-phased stockpile stewardship.

That represents a little over $4 billion in this bill. And I imagine for a long period of time we will be spending something like that, or more, because apparently we are not going to do any underground testing. That means that scientists have to use new methods built around large computers, and testing in other ways; and scientific instruments that will measure the validity of our nuclear weapons without having them tested.

In addition, there is some very excellent research that everybody thinks ought to take place. Much of it is not necessarily in direct energy research but has to do with basic physics wherein some of the best physics research in the world takes place under the auspices of this bill.

We are busy trying to do our very best to maintain the stewardship of the weapons; to see what the reality of the future lies therein; to take care of the basic research for this, which is one of the three or four major areas for research in science-based physics, and the like, found in this bill; and, at the same time to satisfy many requests for Members about water projects.

It has been a very exceptional year of many floods with many of the levies being torn down, and much work having to be done, especially in the southern part of America regarding flood damage. Much of that is in this bill—and an orderly manner of authorizing the Corps of Engineers to get on with some of it. They will be rather busy. They have received authority to start a number of new projects.

But I am hopeful that in the final analysis the President will sign this bill, and that the U.S. Senate will overwhelmingly support it.

I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. It is my understanding that, under the unanimous-consent agreement, I have 10 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. MCCAIN. Madam President, the Senate will shortly vote to adopt the conference agreement on the fiscal year 1998 energy/water appropriations bill. And unfortunately, this bill is laden with pork-barrel spending, much of which was considered by neither the House nor the Senate as part of the normal appropriations process.

I count seven projects for which funds are earmarked in the bill language that were not included in the bill that passed either the Senate or the House. Let me list these seven projects for the benefit of my colleagues who are not members of the Appropriations Committee.

First, there are three projects earmarked in the legislative language agreed to by the conferees for reimbursements to non-Federal sponsors of work in Texas:

There is $150,000 for the White Oak Bayou watershed in Texas. The House added a line item for this unrequested project in its report; the Senate never considered it. Yet it is now included in the conferees' legislative language.

There is $500,000 for the Hunting Bayou element and another $2 million for the Brays Bayou portion of the flood control project in Buffalo Bayou, TX. In its report, the House cut the $1.8 million requested for this project, while the Senate included the line item in its report at the requested amount of $1.8 million. Neither body included an earmark in legislative language, but the conferees approved an earmark of $2.5 million which is almost $700,000 more than the amount requested.

Another legislative earmark approved by the conferees is $4 million for the Army Corps of Engineers to dredge Sardis Lake, MS, so that the city of Sardis may proceed with development of the lake. The conferees directed the corps to conduct or pay for environmental assessments and impact studies required under the Sardis lake recreation and tourism master plan, phase II. This provision was in neither bill.

The conferees included bill language to earmark $6 million for the Corps of Engineers to extend navigation channels on the Allegheny River to provide passenger boat access to the Kittanning, PA, Riverfront Park. This project was mentioned in the House report, but was not included in either bill.

Another earmark that migrated from the House report to the conference bill language is $2.5 million of corps' operations funds to intercept and dispose of solid waste upstream of Lake Cumberland, KY.

Another earmark that moved from Senate report language to the conference bill language is $6.9 million from Tennessee Valley Authority funds for operation, maintenance, surveillance, and improvement of Land Between the Lakes.

These seven provisions, earmarking over $32 million for these specific projects, were added to the bill language in conference. I don't know why the conferees chose to add emphasis to these provisions by including them as earmarks in the bill language, instead of including them, as is the normal process, in the report language if they were approved by the conferees. Only the conferees could explain that decision.

However, Madam President, in at least one instance, it is clear that the conferees chose to add a wholly new provision to this bill. And they did this behind closed doors, without benefit of public or full congressional review.

Madam President, the Congress has a process for considering legislation. That process relies on full and open consideration of the President's budget and policy requests, as well as fair and open consideration of Members' requests for added funding or new policies. That process, when followed, makes it possible for all Members of the Congress, not just those who serve on the Appropriations Committees, to have an opportunity to review the legislation on which we must vote.

This bill, at least in part, bypassed that normal process. Unfortunately, the decision of the conferees to bypass the normal authorization and appropriations process is one of the reasons the American people do not trust the Congress to do what the people desire.

Madam President, I do not mean to give the impression that this bill does not provide necessary and appropriate funding for important projects that will benefit our Nation. Funding is included for flood control and water projects, nuclear energy and weapons activities, environmental restoration of contaminated properties, and other important projects that are necessary and valid. The majority of the funding recommendations in this bill are ones that I fully support.

But I am saddened by the blatant examples of pork-barrel spending in this bill. And because this bill is not amendable in its present form, there is, unfortunately, nothing that I or any other Member of this body can do to eliminate these spending items.

Madam President, I ask unanimous consent that a list of objectional provision in this conference agreement be printed in the RECORD.

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

OBJECTIONABLE PROVISIONS IN H.R. 2203, CONFERENCE AGREEMENT

BILL LANGUAGE

Earmarks funds for 15 specific projects, including feasibility studies, from general investigations account of Army Corps of Engineers, including 2 projects not in either bill [$500,000 to reimburse the non-Federal sponsor of the Hunting Bayou element of the flood control project in Buffalo Bayou, Texas; and $150,000 to reimburse the non-Federal sponsor of the flood control project in the White Oak Bayou watershed in Texas]

Earmarks funds for 40 specific projects from Army Corps of Engineers construction account, including 1 project not in either bill [$2 million to reimburse the non-Federal sponsor of the flood control project in the Brays Bayou portion of the Buffalo Bayou, Texas]

Earmarks funds from Army Corps of Engineers flood control funding for 3 specific projects, including 1 project not in either bill [up to $4 million to dredge Sardis Lake, Mississippi, so that the City of Sardis may proceed with development of the lake, including direction to pay for environmental assessments and impact studies required under the Sardis Lake Recreation and Tourism Master Plan, Phase II]

Earmarks funds for 9 projects from Army Corps of Engineers operation and maintenance account, including 2 projects not in either bill [$6 million for navigation channels on the Allegheny River to provide passenger boat access to the Kittanning, Pennsylvania, Riverfront Park; and $2.5 million to intercept and dispose of solid waste upstream of Lake Cumberland, Kentucky]

Section 101—Earmarks $5 million for the Army Corps of Engineers to provide planning, design, and construction assistance to non-Federal interests in carrying out water related environmental infrastructure and environmental resources development projects in Alaska [Senate had provided $10 million in nationwide authority; conferees cut funding half but limited application of section to Alaska]

Appropriates additional $10 million above the budget request for Appalachian Regional Commission (for a total of $170 million)

Earmarks $6.9 million, not in either bill, from Tennessee Valley Authority funds for operation, maintenance, surveillance, and improvement of Land Between the Lakes

Section 507—Increases the appropriations ceiling for construction of the Chandler Pumping Plant in Arizona from $4 million to $13 million.

Section 508—Revises a 1977 recreation cost-sharing agreement between the State of West Virginia and the U.S. to: allow West Virginia to receive credit toward its required contribution for the cost of recreation facilities at Stonewall Jackson Lake in West Virginia, which are constructed by a joint venture of the State of West Virginia and a private entity; remove the requirement that these facilities be owned by the Government when completed; and prohibit any reduction in Government funding for the project.

REPORT LANGUAGE

[NOTE: States that language in either House or Senate report that is not specifically addressed in the conference report remains the intent of the conferees. Following list identifies only those earmarks specifically included in the conferees' statement of managers.]

Army Corps of Engineers

Extensive report language clarifies detailed instructions of conferees for expenditure of Army Corps of Engineers projects added in the tables on pages 40–68 of the report. For example:

$200,000 earmarked ''to accelerate work on the feasibility study for the development of a comprehensive basin management plan for navigation, including recreational navigation, environmental restoration, and water quality for the Dog River, Alabama, watershed''

$200,000 earmarked ''to modify the Lower West Branch Susquehanna River Basin Environmental Restoration, Pennsylvania, reconnaissance study to address the wide range of complex water resources problems in the large study area which includes Clinton, Northumberland, Lycoming, Sullivan, Tioga, and Union Counties, Pennsylvania''

''$2,000,000 for the development of strategies for the control of zebra mussels''

Includes directive and support language which falls short of earmarking funds, such as:

''[T]he conferees expect the Corps of Engineers to give priority to projects that protect the environmental, historic, and cultural resources of SMITH Island, Maryland and Virginia.''

''The attention of the Corps of Engineers is directed to the following projects in need of maintenance of review: Alabama-Coosa River navigation system; Brunswick Harbor, Georgia; and Little and Murrells Inlet in South Carolina.''

''Not later than 30 days after the date of enactment of this Act, the Secretary of the Army . . . is urged to make a final decision with respect to permits . . . for the replacement of the existing 350-foot wood dock with a 400-foot concrete extension of the existing Terminal 5 dock (including associated

dredging and filling) in the West Waterway of the Duwamish River in Seattle, Washington. The Secretary shall not reject that application on the basis of any claim of Indian treaty rights, but shall leave any question with respect to such rights to be determined in the course of judicial review of his action. . . .''

Bureau of Reclamation

Extensive report language clarifies detailed instructions of conferees for expenditure of Bureau of Reclamation funds added in the tables on pages 74–79 of the report. For example:

$1 million to complete the in-situ copper mining project, and $300,000 for Bureau oversight and technology transfer associated with the project

$1.5 million for completion of design and initiation of construction of the fish screen at the Contra Costa Canal intake at Rock Slough in California; $5 million for a fish screen project in Reclamation District 108; $2.625 million for a fish screen project at Reclamation District 1004; and $2.5 million for fish screen projects in Princeton-Glenn–Codora and Provident Irrigation Districts

$300,000 for Bureau of Reclamation to work with local interests to identify the most effective voluntary water conservation practices applicable to the Walker River Basin in Nevada, and to quantify the contribution that voluntary conservation can make to solving the water resources problems in Walker Lake and the basin as a whole

$1.45 million under fish and wildlife management and development for the Bureau of Reclamation to undertake Central Arizona Project fish and wildlife activities

Department of Energy

Extensive report language clarifies detailed instructions of conferees for expenditure of Department of Energy funds. For example:

$1.5 million of the funding for photovoltaic energy systems is ''directed to university research to increase university participation in this program and to fun the acquisition of photovoltaic test equipment at the participating institutions''

Directed allocation of biomass/biofuels funding, including: $150,000 for gridley rice straw project, ''27 million for ethanol production, including $4 million for the biomass ethanol plant in Jennings, Louisiana; and $2.5 million for the Consortium for Plant Biotechnology Research

$1 million for a research and development partnership to manufacture electric transmission lines using aluminum matrix composite materials

Direction to ''include appropriate laboratories, industry groups, and universities'' in the $7 million university reactor fuel assistance and support program; the conferees state, ''None of the funds are to be provided to industry and no less than $5 million is to be made available to universities participating in this program.''

Direction to ''assess the cost of decommissioning the Southwest Experimental Fast Oxide Reactor site in Arkansas'' and provide a report to Congress

Earmark of $3 million for a ''rigorous, peer-reviewed research program that will apply the molecular level knowledge gained from the Department's human genome and structural biology research to ascertain the effects on levels ranging from cells to whole organisms that arise from low-dose-rate exposures to energy and defense-related insults (such as radiation and chemicals)'', and directs the Department to ''develop a multi-year program plan, including budgets, for the subsequent ten years''

$4 million to upgrade a nuclear radiation center to accommodate boron neutron capture therapy at University of California-Davis

$7.5 million for design, planning, and construction of an expansion of the Medical University of South Carolina's cancer research center, to provide areas for utilization of positron emission tomography, using metabolic bio-markers, a ribozyme-based gene therapy

$2 million for Englewood Hospital in New Jersey for breast cancer treatment using condensed diagnostic process

$10 million for the Northeast Regional Cancer Institute for innovative research supporting the Department's exploration of microbial genetics

$2.5 million for design, planning and construction of a science and engineering center at Highlands University in Las Vegas, New Mexico

$30 million add-on for infrastructure and equipment needs at the national laboratories and Nevada test site

$10 million for the American Textile Partnership (AMTEX)

$10 million for the Swan Lake-Lake TyeeIntertie project of the Alaska Power Administration

Includes directive and support language which falls short of earmarking funds, such as:

Conferees ''support the peer-reviewed nuclear medicine research program in biological imaging at the University of California Los Angeles and strongly encourage the Department to fully fund that research in fiscal year 1998''

Conferees ''recognize the capability and availability of resources at the University of Nevada-Las Vegas to store data and scientific studies related to Yucca Mountain and encourage the Department to maximize utilization of this resource''

Tennessee Valley Authority:

Directs TVA to relocate power lines in the area of the lake development proposed by Union County, Mississippi, and assist in preparation of environmental impact statements, where necessary

Mr. McCAIN. Of course, this conference agreement contains other objectionable provisions in the bill, as well as the usual earmarks in the report language.

Madam President, I plan to write to the President recommending that he veto the line items in this bill that are unnecessary and wasteful, particularly those that were added without benefit of public or congressional review.

Madam President, I want to tell the distinguished managers of the bill again of my deep disappointment that they would add seven projects in conference that totals $32 million and which were in neither bill, along with the usual unnecessary and wasteful projects. I think it is an abrogation of my ability as a U.S. Senator to vote for these projects, and I deeply resent it.

I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, my good friend from Arizona, the neighbor to the State of Nevada, pointed out seven projects which he objected to. These are all in the House budget.

But I would say to the Senate, and anyone who is in the sound of my voice, that these are seven projects out of hundreds and hundreds of projects. He complains that this bill is a $21 billion bill. And we should waste no Government money—not a single penny. But I have to say that in picking seven relatively small projects out of a $21 billion bill I think the Senator from New Mexico and I in managing this bill did a pretty good job. This bill provides many different things.

I would also say before leaving that subject that the Senator from Arizona, my good friend, also talks about things being done without authorization. The House is very, very tough on making sure that things are authorized. Congressman MCDADE, chairman of the subcommittee on the House side, has been very strict on that. However, I want to make sure that everyone understands that this bill provides a number of dollars for many different projects.

Let's take, for example—I will not take any of the things in Nevada for obvious reasons. But let's take the sister State of California: $6 million to dredge and deepen Long Beach Harbor. This deepening will significantly improve sea trade up and down the west coast, and in the Asia-Pacific basin. It will even reduce the transportation costs of oil that is being brought down from Alaska. That is one example for $6 million.

The bill also provides $10 million to restore the sensitive Everglades ecosystem which has been damaged for decades by agricultural production.

Those are only two examples. There are numerous flood control projects throughout the country that will prevent significant personal and economic loss.

This is of particular importance in light of El Nino which may bring unusually heavy rains, as it already has to the western part of the United States.

These floods projects are important. It is a relatively small part of the bill. But they are important projects.

Madam President, the Corps of Engineers is one of the last great bastions of infrastructure development in this country. You can just take the bill itself and look at some of the flood control projects. You can look at them in Arkansas at a place called American River Watershed; in Colorado, at a place called Alamosa; you can look at Florida and many different places, including the Everglades that we have already talked about; Hawaii, at a place called Wailupe Stream; in Illinois, Reno Lake; Indiana, the Fort Wayne metropolitan area; you can talk about Kansas, Kentucky, Louisiana. All through this country there are flood control projects that are going to save lives and property. That is one of the main parts of this bill.

I am somewhat concerned that someone would indicate that this bill is fluffed. It is far from that, Madam President.

I would like at this time to make sure that the RECORD is spread with the fact that this is a bill that has reached the Senate floor as a result of bipartisanship. The chairman of the subcommittee, the senior Senator from New Mexico, and I worked hand in glove this past 10 months to arrive at the point where we are now asking the Senate to approve this conference report.

So I want to extend my appreciation to the Senator from New Mexico, and also extend my appreciation to my clerk, Greg Daines, and Liz Blevins on the minority side for the work that they have done day after day, week after week, month after month, arriving at this point.

I also say publicly that Alex Flint, David Gwaltney, and Lashawnda Leftwich on the majority side, have set an example of how congressional staffs should work together to arrive at a goal that is good for this country.

Madam President, this bill has, as the Senator from New Mexico pointed out, many different items dealing with the sciences. For example, one of the things that I am extremely happy about is that we have provided money for desalinization. Personally I don't think it is nearly enough because I think in the years to come desalinization is going to be the watchword for not only water in this country but all over the world. We need to do much more than what we have done.

Senator Paul Simon, the Senator, just retired, from Illinois, is writing a book on water. I had the good fortune to read the book before it went to the publisher. It is a wonderful book. He points out how important desalinization is. And I acknowledge that and agree with him. There is desalinization in this bill that I think is very important.

We have done things with hydrogen fuel development. We have done things with the other renewable programs—solar; and programs that are going to take the place someday of fossil fuel. It is not enough certainly in this bill, but I am proud of the fact that it is in this legislation.

I would like to also point out another California project called the California Bay-Delta ecosystem restoration project.

I say this because this is one of the first times in the history of this country that parties with dissimilar and often opposing interests have sat down and are working together for an equitable resolution to a significant problem in the State of California dealing with water.

I think this very big project—for which there is a lot of money in this bill to get this started—is going to set the pattern all over the country. Now parties with dissimilar interests have to sit down and work toward a common goal as they have done.

I am very proud of this bill. I think we have done a good job. We have done a good job in making sure that we have not only done the projects that the Senator from New Mexico and I have talked about but also, Madam President, we have done a good job in making sure that our nuclear deterrent is safe and reliable.

When I was in the House of Representatives, I supported a nuclear freeze. I support the Comprehensive Test Ban Treaty. And I do it with so much more anticipation now because of what we have in this bill because we have enough money to provide for stockpile stewardship so that the people who we are going to call upon to certify that our stockpile is safe and reliable can do it.

So, in short, this is a good bill. And I hope that it passes the Senate as it did on the initial go-around unanimously.

Mr. BOND. Madam President, St. Louis, MO, is the location of this country's first nuclear weapons site. Unfortunately, the wastes are in the midst of the St. Louis metropolitan area and are for the most part uncontrolled. The radioactive waste at these sites was generated from the production of nuclear weapons as part of the Federal Government's Manhattan Project and Atomic Energy Commission between 1942 and 1957. Much to my dismay, St. Louis has the distinction of having the largest volume of radioactive waste in the country with over 900,000 cubic yards.

For 15 years we have worked with the Department of Energy to clean up this site. Finally, in just the past 2 weeks, after much frustration and delay, we have come to the point were DOE has begun preliminary cleanup efforts. Given this recent progress, the news of the FUSRAP program's transfer out of DOE has, quite understandably, caused a great deal of distress in the community. While I am by no means questioning the Corps' ability to handle the FUSRAP project, I am concerned that potential delays caused by the transfer will undo much of the recent progress.

With site recommendations already made, feasibility studies concluded, and contracts let, it is important that the Corps honor the preliminary groundwork laid by DOE in order to avoid any further delays. Will the Corps be willing to respect these studies, site plans, and contracts?

Mr. DOMENICI. The committee fully intends that the feasibility studies and the site recommendations prepared by DOE will be accepted and carried out by the Corps of Engineers as appropriate. Furthermore, the Energy and Water Development Conference for fiscal year 1998 contains language requiring the Corps to honor all existing contracts.

Mr. BOND. The local community has been very involved in designing a plan to clean up the site. They are concerned that the administration of the cleanup will be moved away from the St. Louis area to Omaha or Kansas City, reducing their input and influence on the cleanup process. When the Army Corps of Engineers takes over the FUSRAP program, will the St. Louis cleanup be managed out of the St. Louis Corps office?

Mr. DOMENICI. It is the understanding and intent of the committee that the cleanup and restoration of contaminated sites falling within the purview of FUSRAP shall be managed and executed by the nearest Civil Works District of the Corps of Engineers with appropriate assistance from an approved design center for hazardous, toxic, and radioactive waste. Local communities throughout the country have been very involved in designing cleanup plans at FUSRAP sites and this strategy effectively maintains community input on the process.

Mr. BOND. I thank the chairman for his assistance and assurances.

Mr. THOMPSON. Madam President, I intend to support final passage of H.R. 2203, the fiscal year 1998 energy and water development appropriations conference report, because it includes funding for a number of projects important to Tennessee, including the National Spallation Neutron Source in Oak Ridge.

However, I want to express my deep concern about the section of the conference report dealing with the Tennessee Valley Authority [TVA]. The conference report includes $70 million for TVA's nonpower programs in fiscal year 1998, which is $36 million less than TVA received to perform these functions last year. However, the House version of the bill had zeroed out funding for TVA, so I am grateful that the conferees provided most of the Senate-passed level of $86 million for next year.

Unfortunately, the conferees also stipulated that this will be the last year that they will provide funding for TVA to carry out its nonpower activities. They warned that, beginning next year, these nonpower responsibilities will either have to be transferred to some other Federal agency or paid for with revenues from TVA's self-financing power program.

Mr. President, I want to be sure everyone understands what we are talking about when we discuss TVA's nonpower programs. We are talking about flood control and navigation on the Tennessee River, our Nation's fifth-largest river system. We are talking about the operation and maintenance of 14 navigational locks and 54 dams—to which the TVA power system contributes its proportionate share of funding. And we are talking about the management of 480,000 acres of recreational lakes, nearly 11,000 miles of shoreline, and 435,000 acres of public land—including such unique national resources as the Land Between the Lakes National Recreation Area in Tennessee and Kentucky.

During the debate on this legislation, some have claimed that the residents of the seven-State TVA region are receiving an unfair Federal subsidy that no one else in the country receives. Madam President, that is simply not true. In every other region of the country, these types of natural resource and infrastructure management activities are performed by some Federal agency, whether it is the Army Corps of Engineers, the National Park Service, the National Forest Service, or the Bureau of Reclamation. In the southeast region, they have traditionally been carried out by the TVA. But if the TVA does not perform them next year, someone else will have to. There is no question that these are Federal responsibilities.

Perhaps the most disturbing suggestion that has been made in recent weeks is that the TVA power program should pick up the cost of these Federal land and water stewardship responsibilities. That is nothing less than an unfair tax on TVA ratepayers. As I said before, these are Federal responsibilities that are paid for by the Federal Government in every other region of the country. Nowhere else are utility ratepayers expected to assume the costs of these types of Federal responsibilities by paying more for their electricity.

So while I appreciate the fact that the conferees agreed to provide funding for TVA to meet its Federal obligations this year, I am very concerned about what they have proposed for the future. And I want to be clear about one thing: it is not acceptable for Congress to walk away from its Federal responsibilities in one region of the country while continuing to provide for them everywhere else. Over the course of the coming year, I plan to work very hard with my colleagues to come up with a solution that is fair and equitable for the people of the Tennessee Valley.

Mr. DOMENICI. Madam President, we yield back any time we have remaining on the bill.

Mr. REID. I yield back any time the minority has.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. DOMENICI. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. DOMENICI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Vermont [Mr. LEAHY] is absent due to a death in the family.

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 262 Leg.]

YEAS—99

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

NOT VOTING—1

Leahy

The conference report was agreed to.

Mr. DOMENICI. Madam President, I move to reconsider the vote.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1998

The Senate continued with the consideration of the bill.

VOTE ON AMENDMENTS NOS. 1267, 1268, 1269, EN BLOC

The PRESIDING OFFICER. Under the previous order, the Senate will now vote en bloc on amendments Nos. 1267, 1268, 1269, offered by the Senator from West Virginia [Mr. BYRD].

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCAIN (when his name was called). Present.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN] and the Senator from Louisiana [Ms. LANDRIEU] are necessarily absent.

I also announce that the Senator from Vermont [Mr. LEAHY] is absent due to a death in the family.

The result was announced, yeas 69, nays 27, as follows:

The result was announced—yeas 69, nays 27, as follows:

{Rollcall Vote No. 263 Leg.}

YEAS—69

Abraham	Ford	McConnell
Akaka	Frist	Mikulski
Baucus	Glenn	Moseley-Braun
Bennett	Graham	Moynihan
Bingaman	Grams	Murkowski
Bond	Gregg	Murray
Breaux	Hagel	Nickles
Brownback	Harkin	Reed
Bumpers	Hatch	Roberts
Byrd	Helms	Rockefeller
Cleland	Hollings	Roth
Coats	Hutchinson	Sarbanes
Conrad	Hutchison	Shelby
Coverdell	Inouye	Smith (OR)
D'Amato	Jeffords	Snowe
Daschle	Johnson	Specter
DeWine	Kennedy	Stevens
Dodd	Kerrey	Thompson
Dorgan	Kerry	Thurmond
Durbin	Lautenberg	Torricelli
Enzi	Lieberman	Warner
Faircloth	Lott	Wellstone
Feinstein	Lugar	Wyden

NAYS—27

Allard	Craig	Kyl
Ashcroft	Domenici	Levin
Boxer	Feingold	Mack
Bryan	Gorton	Reid
Burns	Gramm	Robb
Campbell	Grassley	Santorum
Chafee	Inhofe	Sessions
Cochran	Kempthorne	Smith (NH)
Collins	Kohl	Thomas

ANSWERED ''PRESENT''—1

McCain

NOT VOTING—3

Biden	Landrieu	Leahy

The amendments (Nos. 1267, 1268, 1269), en bloc, were agreed to.

Mr. STEVENS. Madam President, I move to reconsider the vote by which the amendments were agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1250

Mr. LOTT. Madam President, I believe the Senator from Oregon would

like to now move to the consideration of his amendment. We have an agreement there will be up to 20 minutes of debate on that amendment and we will engage in a colloquy.

I am glad to yield the floor so the Senator from Oregon can carry this out.

Mr. WYDEN. Madam President, the Wyden-Grassley amendment is before the Senate at this time?

The PRESIDING OFFICER. That is correct.

Mr. WYDEN. Madam President, I will be very brief. I also want to thank the majority leader for his courtesy.

This amendment involves one of the most awesome powers that a Member of the U.S. Senate has. That is the power to effectively block the consideration of a bill or nomination in secret.

Now, it is a power that I think many Americans are concerned about. I have made it very clear that I am not seeking to abolish the right of a Senator to put a hold on a measure or matter. But I do think that if an important health or environmental matter comes before the Senate, as the Kennedy–Kassebaum measure did in the last Congress, involving health care for millions of Americans, that there ought to be public disclosure, that there ought to be sunshine.

The majority leader, in my view, has made a number of constructive proposals in the past with respect to this procedure. I am particularly pleased that he sought in the beginning of this year, January 27, to limit Members from putting holds on blocks of legislation, in effect, blocking a whole package of legislation, from coming before the Senate. But we still have not been able to change the Senate rules to bring some sunshine in, to make sure that the American people can hold each one of us accountable.

There have been reports that when the Senate passes the Wyden-Grassley legislation to have public disclosure of holds in the U.S. Senate, this is just going to die in conference and it will just vanish in the vapor in secret. It is especially ironic that an effort to eliminate secrecy in the exercise of awesome powers of the U.S. Senate, that would somehow take place again in secret, but I am concerned that may happen. In fact, there is a report today in Roll Call, a Capitol Hill publication, that raises concern in my mind.

I briefly would like to engage the majority leader in a colloquy on this point. He and I have been talking about it for about a year and a half now, I think. As I said, I believe the majority leader has made a number of constructive changes already with respect to the hold procedure. I would like to have his thoughts at this time with respect to his views on public disclosure of holds, and specifically whether it will be possible on a bipartisan basis to work out this change and ensure that there is real accountability with the American people for important actions taken by Senators.

I yield to the majority leader.

Mr. LOTT. Madam President, first and foremost, I want to apologize to the Senator from Oregon for not being able to respond last week to his request that we engage in a colloquy regarding his amendment which is pending to the D.C. appropriations bill. He was generous enough to be understanding that we had a number of other issues we were dealing with late last week, including the campaign finance reform issue, as well as a number of other issues that are very pressing at the end of the fiscal year with the appropriations bills. So I am glad he was willing to allow us to do the colloquy now instead of last week. I appreciate his attitude on that.

I think also I should note that he has been talking with me over the past year and 4 months that I have been majority leader about his concerns in this area. I appreciate the fact that you noted, Senator, I have tried to be more open and more communicative with Senators about the procedures around here, trying to open up, trying to make them clearer and more understandable. As a matter of fact, I sent out a long letter clarifying to Members what is the process and what is the proper way to exercise a hold. I did feel that it had sort of evolved into a situation that was not fair and was not intended.

I continue and want to continue working to have a fair system around here and one that everybody understands. I am sure the Senator also has learned to appreciate, as a Senator, the importance and the significance of the hold. It is a unique creature in the Senate and it is one that is used, I think reasonably and responsibly most all of the time, and can serve very positive purposes.

For instance, I believe you noted in your comments that you used it earlier, or last month, with regard to the confirmation of the Chairman of the Joint Chiefs of Staff to get an issue addressed that was important to you. You didn't do it secretly. You were pretty open about your hold. It led to some accommodations that I believe will be helpful to the families there in Oregon and satisfied the Senator.

We want to be careful how we change things around here. When you come over from the House to the Senate you really have a lot of questions about how this place operates: What are the rules? This seems like an archaic way to do things. Then you begin to understand it better, then you begin to think to yourself, no, I don't want the Senate to be the House. You begin to appreciate the traditions and the rules and the procedures around here. You have an opportunity to talk to Senator BYRD, as the Senator from Oregon has, or in my case, to Senator STEVENS or Senator HELMS. If you go to them and say, why is this important? Why has it been done that way? Then you begin to have a whole different view about the institution and the tradition and how things are done.

So, I will continue to move in the direction, I think, that the Senator is seeking. I want a clearer understanding and I like doing things in the daylight, not in the dark of night. I don't like secrecy generally on anything, as a matter of fact. I like sunshine.

But it is a problem for the majority leader and for the Senate to make this kind of change on the D.C. appropriations bill. I think to change the standing orders of the Senate in this way is something that is troublesome to some Senators.

For instance, I have not had an opportunity yet to sit down and talk with the minority leader about this. I had thought that the better place to do this would be at the beginning of a session when we meet, between the two leaders of the two parties, and we have knowledge and input from both sides of the aisle and that you do it at the beginning of a Congress when you have the organization of the Senate. I think that path would have been much preferable or is preferable to this approach.

I assume that the minority leader has some reservations of the use of any Senator to effect the so-called standing orders with an amendment on an appropriations bill.

So I say to my colleague, then, that I understand what he is trying to do and I am not unsympathetic to that, but I do have problems with doing it in this way on an appropriations bill.

I will continue to listen to all Senators. I will sit down. This has caused me to find a time—and I am not complaining—to sit down and make sure that senior Senators understand what we might be thinking of doing. Are there problems with it? I don't know that there will be. I really think that any Senator who feels strongly enough about an issue to put a hold on it ought to be prepared to come to the floor and explain it. I have indicated to Senators on both sides of the aisle, sometimes when holds have been placed and have not been removed in a reasonable period of time that they better be prepared to come to the floor and object and debate because I was prepared to call up the issue.

However, I also feel a real appreciation for the way the Senate is considerate of every single Senator—if she or he has a problem, I like to give them time to work through it, whether they are Republican or Democrat, regardless of philosophy, religion, or anything else. Sometimes there may be a good reason why they would not want, in a specified period of time, 2 days, for instance, to explain all of what is going on.

I guess that is a long explanation to the Senator's comments and questions, but I understand what he is trying to do. I hope we can find a way to continue to work on it and come to a conclusion that would benefit the Senate as a whole.

Mr. WYDEN. If the majority leader can spend another minute—these are thoughtful points that you raise, and I

appreciate the courtesy—the reason for acting now is this is the season when senior Members say that the abuses are greatest. At the end of a session when there is a rush to complete the business is when this practice which, as the majority leader points out, is a long tradition, that is when this practice is abused. I think the majority leader makes a very good point with respect to the need for courtesy and respect for traditions.

I see our friend, Senator GRASSLEY, is here. This is a bipartisan amendment. We share the majority leader's view with respect to this tradition. We are not seeking to eliminate the hold, seeking to eliminate the filibuster, seeking the right of Senators to work matters out. What we are concerned about is secrecy. At a time when the American people are so skeptical about our Government, when they go to hearings and day after day look at practices that they question, when they look at the U.S. Senate and see these procedures that are secret, it smacks of a backroom deal.

I think the majority leader is right, the Senate is a good institution. It is not going to suffer if a bit of sunlight comes in. This is an institution strong enough to have a bit of sunlight and to have Members held accountable. I don't want to disrupt the tradition of the Senate, but if an important health or environmental measure or other important issue is held up for months on end because a Senator genuinely objects, then it is not just a matter of courtesy, it is a matter of being accountable to the American people.

I will interpret the majority leader's response to this colloquy as willing to work with the Wyden-Grassley effort, and I appreciate the fact that it is going to pass today. I know the majority leader has other matters that he has to attend to. I want to thank him for his colloquy and look forward to working with him.

I yield the time now to the Senator from Iowa, Senator GRASSLEY.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, what we are proposing in the Wyden-Grassley amendment is not going to hurt anybody. Senator WYDEN and I experimented with this so the other 98 Members of the Senate would not have to be hurt if it didn't work. Well over a year ago, we voluntarily, on our own, without any instigation from the rules or anything or anybody else, we publicly stated that we were going to follow the practice of our amendment, even though we didn't have to, and when we put a hold on a bill or a nomination, we would put it in the CONGRESSIONAL RECORD. We did that. I can speak for myself and say that there are no bruises, there is no harm, there is no retaliation. Nothing happened as a result of the whole world knowing why Senator GRASSLEY or Senator WYDEN were holding up a particular action.

I think that ought to tell everybody else that they can likewise do whatever they need to do in the Senate to adequately represent the interests of their constituents through the use of a hold and freely tell everybody, and the end result can still be accomplished without anybody being hurt as a result of it. I hope that we will now institutionalize what I have found to be a very effective way of doing the job of U.S. Senator and, yet, at the same time, being open and aboveboard about it.

This amendment requires simply disclosure by Senators of the holds that they place on legislation. As we all know, the current Senate practice allows Senators to block consideration of any measure without disclosing their actions just by notifying Senate leaders of their objection. Our amendment does not stop this practice. Rather, we seek to put an end to the secrecy surrounding the practice. If any Senator objects to legislation, that Senator should have the courage and conviction to express openly the reasons for opposition. It is critical to preserve the right of every Senator to represent the views of his constituents, but we cannot fully earn the trust of our constituents if we do not shed the brightest possible light on what we do here in the people's assembly.

It is important for the Senators to remember that their right to place holds on initiatives about which they have objection, then, is very much preserved in the tradition of the Senate, but everything is out in the open. The only thing untraditional about it is, if you want to hold up legislation, you should state your reason in the RECORD and let people know. All we are requiring is that Senators make their objections known in one of two ways—either stating their objections on the floor, or publishing their objections in the CONGRESSIONAL RECORD within 48 hours of placing such a hold.

It is a simple amendment that sends a very powerful message that the U.S. Senate is willing to operate in an open manner, according to the principles of representative democracy. I believe this amendment can only increase our constituents' belief that we are willing to be open and honest about the legislative process and what our legislative agenda is. It should help reduce some of the cynicism toward the processes of representative Government here at the Federal level.

I thank Senator WYDEN for his work on this amendment and the majority leader for accommodating this issue. It will go to conference. I would expect comity between the House and Senate because this is just a Senate issue, and that there will not be any objection on the part of the House because of comity. In the case of the Senate, since this is being adopted by the Senate, I would expect that our Senate conferees would uphold the amendment and it would become a part of the traditional process.

I urge my colleagues to continue to work toward reform that makes Congress more open and straightforward in how we do the people's business. I thank you for your consideration.

Mr. WYDEN. Mr. President, I ask unanimous consent to speak for an additional 10 minutes.

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

Mr. WYDEN. Thank you. Mr. President, I want to especially thank my colleague, Senator GRASSLEY, for a fine statement and for all his help. He has long been recognized as one of the most honest, up-front Members of the U.S. Senate. I want to tell him that it is a special pleasure to be able to work with him.

Mr. President, certainly, if you walk down the main streets of this country and ask our citizens what a hold is in the U.S. Senate, you are certainly not going to find many Americans who are familiar with this practice. But the fact of the matter is, this is an awesome, awesome power exercised by a Member of the U.S. Senate. The power to put a hold on a bill or a nomination is the power to singlehandedly, effectively block the consideration of a bill or nomination from coming to the floor of the U.S. Senate.

All Senator GRASSLEY and I are asking tonight is that when a Member of the U.S. Senate exercises this extraordinary power, that it be publicly disclosed. All we are asking is for an end to the secrecy.

My constituents look at the U.S. Senate sometimes and raise questions about how business is done here and, frankly, have some suspicions about the way the Senate conducts business. Sometimes I think they suspect that the procedures around here are a little bit like an elegant game of three-card monte. Now, my own hope is that with the passage of this amendment tonight in the U.S. Senate, and by making public the exercise of this extraordinary power by a U.S. Senator, our citizens will feel a bit more confidence and a bit more likely to see the Senate as an institution that is open and accountable.

The majority leader, Senator LOTT, is absolutely right about the traditions of the Senate and, particularly, making accommodations to work out issues wherever possible. All we are saying is that when a Member of the U.S. Senate digs in with all his or her strength to block a bill or a nomination, the American people deserve to know the name of that Senator. This effort does not eliminate holds, it doesn't eliminate the filibuster; it eliminates none of the traditions that the majority leader referred to. All it does is say that a Senator is going to be straight with the American people when they exercise their enormous power to effectively block the consideration of a bill or a nomination on the use of the hold procedure.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the amendment is agreed to.

The amendment (No. 1250) was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each.

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

SURFACE TRANSPORTATION REAUTHORIZATION

Mr. FAITHCLOTH. Mr. President, I want to say a few words about the surface transportation reauthorization debate. North Carolina is the number one donor State. We received just 82 cents on the dollar for our gas tax contributions to the Highway Trust Fund under the 1991 ISTEA. In fact, over the 40 year life of the federal highway aid program, we have received just 87 cents for every dollar that we sent to Washington. There is no State that received a lesser rate of return on its gas taxes than North Carolina.

Mr. President, like other Donor State Senators, I will not support a reauthorization bill that fails to offer the Donor States some basic fairness. The Donor States accepted this role—and accepted it graciously—for forty years. The Chafee-Warner-Baucus bill is a step in the right direction. However, there is much work to be done. I served on the North Carolina Highway Commission and chaired it for four years. We understood the national importance of the interstate system. We were not happy about our Donor State status, Mr. President, but we accepted it. We understood that the interstate system was a national priority. However, the interstate system is now almost complete, and the rationale for Donor and Donee States is gone.

The Donor States are not asking for extra dollars. We're not asking to be made whole for past subsidies to the Donee States. We just want an equitable rate of return on our gas taxes. Just a fair return after forty years of our subsidies to other States. I believe that there is a real role for the federal government in transportation. But it must be a fair one. Make no mistake about it, now that the rationale for Donor and Donee States is gone, their argument is just plain old-fashioned politics.

Let me illustrate the absurd results of this long-term imbalance. One of the last additions to the 1991 ISTEA was a 3 billion dollar pot of money to reimburse States for the costs of roads built before the start of the Interstate system in 1956. This so-called ''equity category'' benefitted, for the most part, northeastern Donee States. These are the same States that enjoyed a huge windfall from the federal highway aid program during the Interstate construction era. Mr. President, these roads are more than 40 years old, and the construction bonds were paid off long ago. The toll booths are still up, though, collecting millions of dollars. These States received 3 billion dollars in ISTEA—for 40-year-old roads—but, apparently, that wasn't enough for them.

The Clinton Administration proposed in its NEXTEA that the American taxpayers continue to funnel their hard-earned tax dollars to these States. In the NEXTEA proposal—its plan for the first post-Interstate highway bill—the White House proposes not only to retain this program, but to increase it to 6 billion dollars.

These must have been pretty expensive roads. After all, Mr. President, they have been paid for several times. First, the drivers paid tolls to pay off the construction bonds, and these roads were all paid off more than a decade ago. After the bonds were paid off, though, the States kept collecting tolls. Then the federal government sent 3 billion dollars to pay for the roads again. And the States kept collecting the tolls.

Now they want 6 billion dollars to pay for the roads another time. And they will still keep collecting the tolls. North Carolina drivers lose 20 cents off every gas tax dollar to the Donee States. The Southern States are growing fast and have major transportation needs. But, not only can't North Carolina drivers get a dollar for dollar return, we are supposed to pay again and again for these 40-year-old roads. It seems just absurd to squander money like this. It is especially absurd since there is such a limited pool of transportation funds.

In fact, Mr. President, the transportation budget is so squeezed that we hear all this talk about new ''user fees'' for transportation. These are just new taxes, of course, just a euphemism for new ways to take money from the taxpayers. The American people are already overtaxed. These proposals to raise taxes just defy common sense. I find it interesting, however, that I don't hear much discussion about one of the most obvious ways to increase the value of our transportation dollars. It will not cost the taxpayers a dime and will boost the value of some transportation dollars by 15 percent.

The taxpayers' friends know that I am talking about repeal of the Davis-Bacon Act. I am talking about a Congress that favors the taxpayers over the union bosses. These Davis-Bacon requirements, especially the ''union work practices'' provision, drive up construction costs because they promote inefficiency in many forms. Davis-Bacon is a needless surcharge, just a contribution to union bosses, on these construction projects. The Davis-Bacon Act drives up construction costs by an average of 15 percent. The Congressional Budget Office confirms that repeal of Davis-Bacon will save the taxpayers billions of dollars.

Incredibly, the White House proposed to expand Davis-Bacon in its transportation bill. It is no secret, though, that Davis-Bacon repeal is essential if we are serious about squeezing every penny out of the federal highway program. It is far better for the taxpayers to root out these inefficiencies than to raise the taxes of the American people. I know that some people find it hard to imagine that there are alternatives to new taxes in order to increase the transportation budget. This Senate voted this year for billions of dollars for a mission in Bosnia, which was supposed to be over last year, and for hundreds of millions of dollars in new welfare spending.

It is time to cut the waste—not raise taxes—to fund our transportation priorities. This is the first authorization bill in the post-Interstate era. It is also the first authorization bill subject to the constraints of a balanced budget plan. This bill brings new challenges. And, Mr. President, new obligations. This bill must be fair to the States that subsidized the Interstate system for 40 years. We need to get the most for each and every dollar in the transportation budget. We certainly cannot afford to squander taxpayer dollars on outdated rules in order to prop up the power of the labor unions.

It's time to tell the union bosses that the good times are over! This is not their transportation bill! North Carolina needs a transportation bill that builds highways, not government bureaucracies. A transportation bill that works for the taxpayers, not the labor bosses. Mr. President, if this bill is not fair to North Carolina taxpayers, I will be forced to filibuster it.

VISIT OF DAVID TRIMBLE OF THE NORTHERN IRELAND ULSTER UNIONIST PARTY

Mr. KENNEDY. Mr. President, next week David Trimble, leader of the Ulster Unionist Party in Northern Ireland, will begin a visit to the United States where he will meet with many of us on both sides of the aisle in Congress who are deeply committed to helping achieve a lasting peace in Northern Ireland. There is perhaps no one better placed to make that happen than Mr. Trimble, who leads Northern Ireland's largest party.

Mr. Trimble is to be commended for bringing his party into the current talks, which now include Sinn Fein as a result of the restoration of the IRA cease-fire in July. Those talks are ably

chaired by our former Senate colleague, George Mitchell.

Mr. Trimble and his party faced many difficulties in deciding to participate in talks which include Sinn Fein. There is a long history of distrust by both sides in Northern Ireland, and the fears and concerns of unionists cannot be dismissed. Mr. Trimble spent the month of August consulting with many people and concluded that his constituents want his party to participate in the talks as the best hope for achieving a peaceful settlement.

Huge challenges lie ahead. Negotiating a solution which can obtain the support of both communities is a formidable task. But at long last, the principal parties are at the negotiating table and real dialogue is beginning. David Trimble deserves a significant share of the credit for this long-sought progess. I look forward to his visit to this country, and I ask unanimous consent that an excellent article in the September 29 issue of Time Magazine be printed in the RECORD.

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

[From Time, Sept. 29, 1997]

FACE TO FACE

(By Barry Hillenbrand)

It was no surprise last week when, just as historic talks began to try to dissolve the annealed hate that divides Northern Ireland, a 400-lb. bomb exploded in a largely Protestant town near Belfast. The hard men for whom terrorism has become a way of life were again trying to blow away the chance for peace. Nor was it a surprise that the Protestant politicians, who fear any change in their domination of the province, denounced the bombing as a Roman Catholic republican plot that made the talks impossible.

But it was a surprise when, one day after the explosion, the talks began anyway, bringing together for the first time the leaders of Sinn Fein, the political wing of the Irish Republican Army, which has waged war to drive the British off the island of Ireland, and the main leaders of their bitter Protestant Unionist opponents. That the talks began at all was a triumph of patience, persistence and cleverness by the governments of Ireland, Britain and the U.S., which are shepherding the broader peace process.

It was also a measure of how much has changed in Northern Ireland over the past half dozen years. Most important, the 1.6 million people of the province, Protestant and Catholic alike, have come to hate the war of hate and are demanding peace. Second, the terrorists have come to believe they can win more from talking than from killing. And finally, the huge parliamentary majority rolled up by Tony Blair and the Labour Party has stripped the recalcitrant Unionists of their veto over the efforts of the British government to change the status of its troubled province.

In the past the Unionists have been able simply to stonewall the peace process. But last week, there at the head of the Unionist delegation was David Trimble, a hot-tempered, frequently red-faced law lecturer who heads Northern Ireland's largest and most important Protestant party, the Ulster Unionist Party (U.U.P.).

For years Trimble, like many other Unionists, refused to sit down in the same room with Sinn Fein repesentatives. Once Trimble stormed out of a TV interview in the midst of a live broadcast because he was about to be electronically linked with a Sinn Fein member in another studio. But in August the British government declared that a new I.R.A. cease-fire was genuine and that Sinn Fein was thus qualified to join the political talks jointly sponsored by London and Dublin under the chairmanship of former U.S. Senator George Mitchell. Suddenly, Sept. 15, the date set for the start of a new round of talks, became the moment of truth for Trimble, Sinn Fein would join the talks, but would Trimble take his party in?

If Trimble's temperament and political background were any guide, the answer would clearly have been no. As a young lecturer in law at Queen's University in Belfast in the late '60s, Trimble joined a fringe political group Vanguard, that condemned the U.U.P., the party Trimble was later to head, for being insufficiently hard line. He flirted with other extremist groups before finally coming to terms with the U.U.P. and being elected to Parliament as one of its candidates in 1990. His rise to the top of the party was swift. He won the leadership slot in 1995, largely on the strength of the militant image he had acquired by marching at the head of a triumphalist Protestant parade that bullied its way through a besieged Catholic neighborhood. ''We were in despair when he was elected,'' says a moderate in Trimble's party. ''We thought all hope for peace and accommodation was gone.''

But Trimble has changed. Once he became leader of the party, there was a concerted effort by Britain and the U.S. to erode his narrow provincialism by getting him to travel outside Ulster, a process that had worked well with Gerry Adams, the leader of Sinn Fein. For a man who once bragged he had never set foot outside the U.K., it was a heady experience. Trimble visited the U.S., long shunned by Unionists as the bastion of fervent I.R.A. support. He had coffee with President Bill Clinton and chatted with the sort of Congressmen he once considered the enemies of Unionism. Now Trimble's office hands out copies of the *Congressional Record* featuring a speech paying tribute to the Irish Protestant tradition in America. Its author: *Ted Kennedy*, the Irish republican's greatest champion in Congress. Trimble also traveled to South Africa with delegations of other parties from Northern Ireland for a conference on Conflict resolution.

Trimble is still a staunch Unionist and profoundly leery of Sinn Fein. Before walking into the talks last week, he defiantly said he had come not to ''negotiate with Sinn Fein but to confront them and to expose their facist character.'' ''Yet,'' says David Ervine, a senior official of the Progressive Unionist Party, who marched into talks with Trimble last week, ''Trimble has come further than any Unionist leader in history.'' He has broken out of the siege mentality, which for years had Unionist leaders hiding behind banners proclaiming no surrender and refusing to consider any accommodation with the Catholic minority or with the Irish Republic to the south. ''We are certainly going to address the views of those who consider themselves Irish and don't want to be part of the United Kingdom,'' says Trimble. ''We have to respect their cultural identity and protect their civil rights. We are comfortable with that.'' But, of course, Trimble holds fast to the basic principle of Unionism: that Northern Ireland should remain part of the U.K.

Despite his firm belief that the I.R.A. cease-fire is a sham, Trimble recognized that the moral burden of continuing the peace process has fallen on him. ''We could have stayed back and waited for the talks to collapse without us,'' says Trimble. But then we would have been accused of blocking peace.''

Trimble also knew that the popular political mood in Northern Ireland was running strongly in favor of all-inclusive peace talks. The failure of the I.R.A. cease-fire which collapsed in February 1996, had profoundly depressed people. This summer sectarian tension once again ran high, and Northern Ireland teetered on the edge of what one of the senior members of Mitchell's team warned could have been ''full-scale civil war.'' The I.R.A. cease-fire announced in July and the promise of peace talks in September again raised hopes. Says Christopher McGimpsey, a U.U.P. city councilor from Belfast: ''We were hearing from the grass roots that we should enter talks.''

Trimble also received a powerful shove through the negotiating gates from Blair. First, Blair warned Sinn Fein that if it wanted to have a say in the future of Northern Ireland, it would have to secure a cease-fire from the I.R.A. and agree to respect democratic principles. When it did just that, Blair turned his attention to Trimble's Unionists. ''Some Unionists failed to understand that if we do not join the talks, London and Dublin could impose a political solution on us,'' says John Taylor, the deputy leader of Trimble's party. With that possibility staring him in the face, Trimble could hardly have said no to the talks.

Even after last week's bombing, Trimble arrived for the talks. ''Two years ago,'' said Marjorie (''Mo'') Mowlam, the tough-talking, no-nonsense British Secretary of State for Northern Ireland, ''it would not have been possible for Trimble to move forward after a bomb like that. Now Unionism wants its leaders to be talking.'' And in the North, that is surprising progress.

HONORING THE WOODALLS ON THEIR 50TH 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 Elsa and James Woodall IV of Springfield, MO, who on October 18, 1997, will celebrate their 50th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. The Woodalls' commitment to the principles and values of their marriage deserves to be saluted and recognized.

TRIBUTE TO DONALD J. BABB

Mr. ASHCROFT. Mr. President, I rise today to acknowledge and honor the achievement of Mr. Donald J. Babb of my home State of Missouri. Mr. Babb recently received the Shirley Anne Munroe Leadership Development Award from the American Hospital Association and the Hospital Research and Education Trust. Mr. Babb is the chief executive officer of the Citizens

Memorial Hospital and the executive director of Citizens Memorial Health Care Foundation in Bolivar, MO. The national award recognizes leaders in executive management positions in small or rural hospitals who have improved health care delivery to rural areas through innovative and progressive steps.

Donald has been an instrumental part of the Citizens Memorial Hospital since before its opening in 1982. Under his leadership, the hospital was recognized as one of the ''Top Ten Small Rural Hospitals'' in the Nation, as determined by the American Hospital Association, and has become a fully integrated health care delivery system. Mr. Babb stated that, ''Meeting the needs of the communities we serve has been my No. 1 priority. We have expanded services so that patients have access to quality care for every stage of their lives.'' His dedication to the good health of the people in rural southwest Missouri is obvious through his efforts directed toward improving the quality of health care available in this area.

For the past 17 years, Mr. Babb has dedicated his life to the betterment of his community and the people he serves. His work embodies the spirit of the American dream. Mr. President, I ask that Members of the Senate join me in recognizing and honoring the work and lifetime achievements of Mr. Donald J. Babb.

SOUTHSIDE SAVANNAH RAIDERS

Mr. COVERDELL. Mr. President, the Southside Savannah Raiders baseball team of Savannah, GA deserves recognition for its extraordinary talent and teamwork for its winning the State championship of the 1996 Division A Georgia Recreation and Parks' Twelve and Under Youth Division. The Raiders achieved an impressive record of 53 wins and 3 losses for the year, and secured the League, City, District 2, and Georgia Games titles, as well as second place in the AAU State Tourney, on their way to the championship.

The All Stars included Joey Boaen, Christopher Burnsed, Brian Crider, Bryan Donahue, Matthew Dotson, Kevin Finnegan, Kevin Edge, Mark Hamilton, Garett Harvey, Bobby Keal, Adam Kitchen, and Daniel Willard. Linn Burnsed, Danny Boaen, and Dana Edge ably coached these young players and instilled in them a winning attitude and a sense of sportsmanship. The team's success can be attributed to the dedication of all of the team members, as well as the parents and countless friends who lent their support.

Mr. President, I appreciate the chance to acknowledge the Southside Savannah Raiders' successes, and commend the ability and dedication of these champions.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, September 29, 1997, the federal debt stood at $5,388,315,809,652.79. (Five trillion, three hundred eighty-eight billion, three hundred fifteen million, eight hundred nine thousand, six hundred fifty-two dollars and seventy-nine cents)

Five years ago, September 29, 1992, the federal debt stood at $4,045,289,000,000. (Four trillion, forty-five billion, two hundred eighty-nine million)

Ten years ago, September 29, 1987, the federal debt stood at $2,340,446,000,000. (Two trillion, three hundred forty billion, four hundred forty-six million)

Fifteen years ago, September 29, 1982, the federal debt stood at $1,118,989,000,000. (One trillion, one hundred eighteen billion, nine hundred eighty-nine million)

Twenty-five years ago, September 29, 1972, the federal debt stood at $433,946,000,000 (Four hundred thirty-three billion, nine hundred forty-six million) which reflects a debt increase of nearly $5 trillion—$4,954,369,809,652.79 (Four trillion, nine hundred fifty-four billion, three hundred sixty-nine million, eight hundred nine thousand, six hundred fifty-two dollars and seventy-nine cents) during the past 25 years.

REPORT OF THE NOTICE OF THE CONTINUATION OF THE IRAN EMERGENCY—MESSAGE FROM THE PRESIDENT—PM 70

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Iran emergency declared in 1979 is to continue in effect beyond November 14, 1997, to the *Federal Register* for publication. Similar notices have been sent annually to the Congress and the *Federal Register* since November 12, 1980. The most recent notice appeared in the *Federal Register* on October 31, 1996. This emergency is separate from that declared with respect to Iran on March 15, 1995, in Executive Order 12957.

The crisis between the United States and Iran that began in 1979 has not been fully resolved. The international tribunal established to adjudicate claims of the United States and U.S. nationals against Iran and of the Iranian government and Iranian nationals against the United States continues to function, and normalization of commercial and diplomatic relations between the United States and Iran has not been achieved. In these circumstances, I have determined that it is necessary to maintain in force the broad authorities that are in place by virtue of the November 14, 1979, declaration of emergency and that are needed in the process of implementing the January 1981 agreements with Iran.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 30, 1997.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 10:03 a.m., a message from the House of Representatives, delivered by one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 871. An act to establish the Oklahoma City National Memorial as a unit of the National Park System; to designate the Oklahoma City Memorial Trust, and for other purposes.

H.R. 1420. An act to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purpose.

The enrolled bills were signed subsequently by the President pro tempore [Mr. THURMOND].

At 11:10 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2472. An act to extend certain programs under the Energy Policy and Conservation Act.

The message also announced that the House has passed the following bill, without amendment:

S. 1211. An act to provide permanent authority for the administration of au pair programs.

At 2:22 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 report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2203) making appropriations for energy and water development for the fiscal year ending September 30, 1998, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1116. An act to provide for the conveyance of the reversionary interest of the United States in certain lands to the Clint Independent School District and the Fabens Independent School District.

H.R. 2487. An act to improve the effectiveness and efficiency of the child support enforcement program and thereby increase the financial stability of single parent families including those attempting to leave welfare.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

At 4:58 p.m., a message from the House of Representatives, delivered by Mr. Hays, one

of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

S. 1211. An act to provide permanent authority for the administration of au pair programs.

H.J. Res. 94. Joint resolution making continuing appropriations for the fiscal year 1998, and for other purposes.

The enrolled bill and joint resolution were signed subsequently by the President pro tempore [Mr. THURMOND].

At 5:50 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 Senate to the bill (H.R. 2378) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1998, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 1116. An act to provide for the conveyance of the reversionary interest of the United States in certain lands to the Clinton Independent School District and the Fabens Independent School District; to the Committee on Foreign Relations.

H.R. 2487. An act to improve the effectiveness and efficiency of the child support enforcement program and thereby increase the financial stability of single parent families including those attempting to leave welfare; to the Committee on Finance.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on September 30, 1997 he had presented to the President of the United States, the following enrolled bills:

S. 871. An act to establish in the Oklahoma City National Memorial as a unit of the National Park System; to designate the Oklahoma City Memorial Trust, and for other purposes.

S. 1211. An act to provide permanent authority for the administration of au pair programs.

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–3060. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, a rule received on August 25, 1997; to the Committee on Environment and Public Works.

EC–3061. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, three rules received on August 26, 1997; to the Committee on Environment and Public Works.

EC–3062. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, seven rules received on August 27, 1997; to the Committee on Environment and Public Works.

EC–3063. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, two rules received on September 15, 1997; to the Committee on Environment and Public Works.

EC–3064. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, three rules received on September 16, 1997; to the Committee on Environment and Public Works.

EC–3065. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, five rules received on September 5, 1997; to the Committee on Environment and Public Works.

EC–3066. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, six rules received on September 10, 1997; to the Committee on Environment and Public Works.

EC–3067. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, a rule received on September 15, 1997; to the Committee on Environment and Public Works.

EC–3068. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, four rules received on September 17, 1997; to the Committee on Environment and Public Works.

EC–3069. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, five rules received on September 18, 1997; to the Committee on Environment and Public Works.

EC–3070. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, two rules received on September 22, 1997; to the Committee on Environment and Public Works.

EC–3071. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, three rules received on September 23, 1997; to the Committee on Environment and Public Works.

EC–3072. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, two rules received on September 26, 1997; to the Committee on Environment and Public Works.

EC–3073. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, a rule received on September 26, 1997; to the Committee on Environment and Public Works.

EC–3074. A communication from the Acting Assistant Secretary of the Interior for Fish and Wildlife and Parks, transmitting, pursuant to law, a rule entitled ''Migratory Bird Hunting'' (RIN1018-AE14) received on September 29, 1997; to the Committee on Environment and Public Works.

EC–3075. A communication from the Acting Assistant Secretary of the Interior for Fish and Wildlife and Parks, transmitting, pursuant to law, a rule entitled ''Migratory Bird Hunting'' (RIN1018-AE14) received on August 25, 1997; to the Committee on Environment and Public Works.

EC–3076. A communication from the Director of the Office of Congressional Affairs, transmitting, pursuant to law, a rule received on August 21, 1997; to the Committee on Environment and Public Works.

EC–3077. A communication from the Director of the Office of Congressional Affairs, transmitting, pursuant to law, a rule received on August 22, 1997; to the Committee on Environment and Public Works.

EC–3078. A communication from the Director of the Office of Congressional Affairs, transmitting, pursuant to law, a rule received on August 29, 1997; to the Committee on Environment and Public Works.

EC–3079. A communication from the Director of the Office of Congressional Affairs, transmitting, pursuant to law, a rule received on September 5, 1997; to the Committee on Environment and Public Works.

EC–3080. A communication from the Director of the Office of Congressional Affairs, transmitting, pursuant to law, a rule received on September 12, 1997; to the Committee on Environment and Public Works.

EC–3081. A communication from the Director of the Office of Congressional Affairs, transmitting, pursuant to law, a rule received on September 29, 1997; to the Committee on Environment and Public Works.

EC–3082. A communication from the Acting Chief Financial Officer of the U.S. Environmental Protection Agency, transmitting, pursuant to law, the report of the Agency's Strategic Plan; to the Committee on Environment and Public Works.

EC–3083. A communication from the Acting Assistant Secretary of the Interior for Fish and Wildlife and Parks, transmitting, pursuant to law, a rule entitled ''1997-98 Refuge-Specific Hunting and Sport Fishing Regulations'' (RIN1018-AE18) received on September 4, 1997; to the Committee on Environment and Public Works.

EC–3084. A communication from the Director of the State and Site Identification Center, U.S. Environmental Protection Agency, transmitting, pursuant to law, a rule received on September 25, 1997; to the Committee on Environment and Public Works.

EC–3085. A communication from the Chairman of the U.S. Nuclear Regulatory Commission, transmitting, a draft of proposed legislation entitled ''The Atomic Energy Act Amendments of 1997''; to the Committee on Environment and Public Works.

EC–3086. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, a rule received on August 28, 1997; to the Committee on Environment and Public Works.

EC–3087. A communication from the Deputy Administrator of the General Services Administration, transmitting, pursuant to law, informational copies of a Building Project Survey for the Baltimore, Maryland, metropolitan area; to the Committee on Environment and Public Works.

EC–3088. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to the Columbia River Treaty Fishing Access Sites; to the Committee on Environment and Public Works.

EC–3089. A communication from the Executive Secretary of the Inland Waterways

Users Board, transmitting, pursuant to law, the annual report for fiscal year 1998; to the Committee on Environment and Public Works.

EC–3090. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to the St. Paul Island Harbor, Alaska; to the Committee on Environment and Public Works.

EC–3091. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to a deep-draft navigation project at Chignik Harbor, Alaska; to the Committee on Environment and Public Works.

EC–3092. A communication from the Acting Under Secretary of Defense (Comptroller), transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 96-03; to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Appropriations:

Special Report entitled ''Further Revised Allocation To Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1998'' (Rept. No. 105–91).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 750. A bill to consolidate certain mineral interests in the National Grasslands in Billings County, North Dakota, through the exchange of Federal and private mineral interests to enhance land management capabilities and environmental and wildlife protection, and for other purposes (Rept. No. 105–92).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1158. A bill to amend the Alaska Native Claims Settlement Act, regarding the Huna Totem Corporation public interest land exchange, and for other purposes (Rept. No. 105–93).

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute and an amended preamble:

H. Con. Res. 8. A concurrent resolution expressing the sense of Congress with respect to the significance of maintaining the health and stability of coral reef ecosystems (Rept. No. 105–94).

By Mr. WARNER, from the Committee on Rules and Administration, without amendment:

S. Res. 126. An original resolution authorizing supplemental expenditures by the Committee on Veterans' Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ENZI (for himself, Mr. GREGG, Mr. FRIST, Mr. JEFFORDS, Mr. COATS, Mr. DEWINE, Mr. HUTCHINSON, Mr. BURNS, Mr. HAGEL, Ms. COLLINS, Mr. MCCONNELL, Mr. WARNER, Mr. ALLARD, Mr. CRAIG, Mr. ROBERTS, Mr. SESSIONS, Mr. THOMAS, Mr. SMITH of Oregon, Mr. BROWNBACK, and Mr. NICKLES):

S. 1237. A bill to amend the Occupational Safety and Health Act of 1970 to further improve the safety and health of working environments, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SMITH of Oregon:

S. 1238. A bill to amend section 1926 of the Public Health Service Act to encourage States to strengthen their efforts to prevent the sale and distribution of tobacco products to individuals under the age of 18 and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ABRAHAM:

S. 1239. A bill to suspend temporarily the duty on ethofumesate; to the Committee on Finance.

S. 1240. A bill to suspend temporarily the duty on phenmedipham; to the Committee on Finance.

S. 1241. A bill to suspend temporarily the duty on desmedipham; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ENZI (for himself, Mr. GREGG, Mr. FRIST, Mr. JEFFORDS, Mr. COATS, Mr. DEWINE, Mr. HUTCHINSON, Mr. BURNS, Mr. HAGEL, Ms. COLLINS, Mr. MCCONNELL, Mr. WARNER, Mr. ALLARD, Mr. CRAIG, Mr. ROBERTS, Mr. SESSIONS, Mr. THOMAS, Mr. SMITH of Oregon, Mr. BROWNBACK, and Mr. NICKLES):

S. 1237. A bill to amend the Occupational Safety and Health Act of 1970 to further improve the safety and health of working environments, and for other purposes; to the Committee on Labor and Human Resources.

THE SAFETY ADVANCEMENT FOR EMPLOYEES ACT

Mr. ENZI. Mr. President, I rise today to introduce the Safety Advancement for Employees Act of 1997. I send the bill to the desk.

Mr. President, I ask that further reading of the bill be dispensed with.

Mr. President, during this first Session of the 105th Congress, my esteemed colleague from New Hampshire, Senator GREGG, and I, each introduced a bill related to workplace safety and health. On July 10, a comprehensive OSHA oversight hearing was held by Chairman FRIST in the Subcommittee on Public Health and Safety. This hearing specifically focused on OSHA modernization legislation pending before the committee. The results of this hearing further confirmed the commitment Senator GREGG and I share concerning the safety and health of our Nation's workforce.

It is with great pleasure that Senator GREGG and I, introduce this consensus legislation. The SAFE Act has the support of Subcommittee Chairman FRIST, as well as Labor Committee Chairman JEFFORDS. Both are proud to be original cosponsors and I am sincerely grateful to them for all their hard work. They have clearly helped pave the way for this important measure. In addition, my House colleague and chairman of the Small Business Committee, JIM TALENT, will introduce similar legislation in the House today. This legislation has received strong bipartisan support—an essential ingredient in the recipe for success.

It is important to understand that both the Senate and House versions do not attempt to reinvent OSHA's wheel, just change its tires. Treading water for 27 years, OSHA has never seriously attempted to encourage employers and employees in their efforts to create safe and healthful workplaces. Instead, OSHA chose to operate according to a command and control mentality. This approach has lead to burdensome and often incomprehensible regulations which may not relate to worker safety and health and are, quite often, only sporadically enforced. Even the AFL-CIO has acknowledged that with only 2,451 State and Federal inspectors regulating 6.2 million American worksites, an employer can expect to see an inspector once every 167 years.

While changing OSHA's bald tires, it is important to point out that the SAFE Act does not dismantle OSHA's enforcement capabilities. That approach has been tried time and time again. But, enforcement alone cannot ensure the safety of our Nation's workplaces and the health of our working population. America would be better served by an OSHA that places a greater emphasis on promoting employers and employees working together and this bill would strike that balance.

The SAFE Act is geared to provide employers who seek a safe and healthful workplace for their employees with the ability to obtain compliance evaluations from qualified, third party consultants. In addition, the SAFE Act includes additional voluntary and technical compliance initiatives to assist employers in deeming their worksites safe for their employees. Businesses and employees need clarification on a whole host of issues. They need progress, now. We need good commonsense legislation that advances safety and health of the American workplace, now.

Senator GREGG and I are not interested in making another political statement. It is time for us to tuck the political statements into our coat pockets and pass good common sense legislation that advances the safety and health of the American workplace. Advancing safety and health in the American workplace is a matter of great importance and it must be considered in a serious and rational manner by Congress, by the Occupational Safety and Health Administration, by employers, and yes, by employees too.

Mr. President, I firmly believe that the SAFE Act represents a clean start to addressing the problems that affect OSHA and its dealings with employers and employees. Senator GREGG and I, are quite eager to continue working with my Senate and House colleagues on this important matter. By working together in a bipartisan fashion, we can ensure our Nation's work force that Congress does care about their

personal safety and health. I welcome your support in doing just that.

I ask unanimous consent that the text of the bill be included in the RECORD.

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

S. 1237

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the ''Safety Advancement for Employees Act of 1997'' or the ''SAFE Act''.

(b) REFERENCE.—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 Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

SEC. 2. PURPOSE.

Section 2(b) (29 U.S.C. 651(b)) is amended—

(1) in paragraph (13), by striking the period and inserting ''; and''; and

(2) by adding at the end the following:

''(14) by increasing the joint cooperation of employers, employees, and the Secretary of Labor in the effort to ensure safe and healthful working conditions for employees.''.

SEC. 3. EMPLOYEE AND EMPLOYER PARTICIPATION PROGRAMS.

Section 4 (29 U.S.C. 653) is amended by adding at the end the following:

''(c)(1) In order to further carry out the purpose of this Act to encourage employers and employees in their efforts to reduce occupational safety and health hazards, employers may establish employer and employee participation programs which exist for the sole purpose of addressing safe and healthful working conditions.

''(2) An entity created under a program described in paragraph (1) shall not constitute a labor organization for purposes of section 8(a)(2) of the National Labor Relations Act (29 U.S.C. 158(a)(2)) or a representative for purposes of sections 1 and 2 of the Railway Labor Act (45 U.S.C. 151 and 151a).

''(3) Nothing in this subsection shall be construed to affect employer obligations under section 8(a)(5) of the National Labor Relations Act (29 U.S.C. 158(a)(5)) to deal with a certified or recognized employee representative with respect to health and safety matters to the extent otherwise required by law.''.

SEC. 4. ESTABLISHMENT OF SPECIAL ADVISORY COMMITTEE.

Section 7 (29 U.S.C. 656) is amended by adding at the end the following:

''(d)(1) Not later than 6 months after the date of enactment of this subsection, the Secretary shall establish an advisory committee (pursuant to the Federal Advisory Committee Act (5 U.S.C. App)) to carry out the duties described in paragraph (3).

''(2) The advisory committee shall be composed of—

''(A) 3 members who are employees;

''(B) 3 members who are employers;

''(C) 2 members who are members of the general public; and

''(D) 1 member who is a State official from a State plan State.

Each member of the advisory committee shall have expertise in workplace safety and health as demonstrated by the educational background of the member.

''(3) The advisory committee shall advise and make recommendations to the Secretary with respect to the establishment and implementation of a consultation services program under section 8A.''.

SEC. 5. THIRD PARTY CONSULTATION SERVICES PROGRAM.

(a) PROGRAM.—The Act (29 U.S.C. 651 et seq.) is amended by inserting after section 8 the following:

''SEC. 8A. THIRD PARTY CONSULTATION SERVICES PROGRAM.

''(a) ESTABLISHMENT OF PROGRAM.—

''(1) IN GENERAL.—Not later than 12 months after the date of enactment of this section, the Secretary shall establish and implement, by regulation, a program that qualifies individuals to provide consultation services to employers to assist employers in the identification and correction of safety and health hazards in the workplaces of employers.

''(2) ELIGIBILITY.—Each of the following individuals shall be eligible to be qualified under the program:

''(A) An individual licensed by a State authority as a physician, industrial hygienist, professional engineer, safety engineer, safety professional, or occupational nurse.

''(B) An individual who has been employed as an inspector for a State plan State or as a Federal occupational safety and health inspector for not less than a 5-year period.

''(C) An individual qualified in an occupational health or safety field by an organization whose program has been accredited by a nationally recognized private accreditation organization or by the Secretary.

''(D) Other individuals determined to be qualified by the Secretary.

''(3) GEOGRAPHICAL SCOPE OF CONSULTATION SERVICES.—An individual qualified under the program may provide consultation services in any State.

''(b) SAFETY AND HEALTH REGISTRY.—The Secretary shall develop and maintain a registry that includes all individuals that are qualified under the program to provide the consultation services described in subsection (a) and shall publish and make such registry readily available to the general public.

''(c) DISCIPLINARY ACTIONS.—

''(1) IN GENERAL.—The Secretary may revoke the status of an individual qualified under subsection (a) if the Secretary determines that the individual—

''(A) has failed to meet the requirements of the program; or

''(B) has committed malfeasance, gross negligence, or fraud in connection with any consultation services provided by the qualified individual.

''(d) CONSULTATION SERVICES.—

''(1) SCOPE OF CONSULTATION SERVICES.—

''(A) IN GENERAL.—The consultation services described in subsection (a), and provided by an individual qualified under the program, shall include an evaluation of the workplace of an employer to determine if the employer is in compliance with the requirements of this Act, including any regulations promulgated pursuant to this Act.

''(B) NON-FIXED WORK SITES.—With respect to the employees of an employer who do not work at a fixed site, the consultation services described in subsection (a), and provided by an individual qualified under the program, shall include an evaluation of the safety and health program of the employer to determine if the employer is in compliance with the requirements of this Act, including any regulations promulgated under this Act.

''(2) CONSULTATION REPORT.—Not later than 10 business days after an individual qualified under the program provides the consultation services described in subsection (a) to an employer, the individual shall prepare and submit a written report to the employer that includes an identification of any violations of this Act and requirements with respect to corrective measures the employer needs to carry out in order for the workplace of the employer to be in compliance with the requirements of this Act.

''(3) REINSPECTION.—Not later than 30 days after an individual qualified under the program submits a report to an employer under paragraph (2), or on a date agreed on by the individual and the employer, the individual shall reinspect the workplace of the employer to verify that any occupational safety or health violations identified in the report have been corrected and the workplace of the employer is in compliance with this Act. If, after such reinspection, the individual determines that the workplace is in compliance with the requirements of this Act, the individual shall provide the employer a declaration of compliance.

''(4) GUIDELINES.—The Secretary, in consultation with an advisory committee established in section 7(d), shall develop model guidelines for use in evaluating a workplace under paragraph (1).

''(e) ACCESS TO RECORDS.—Any records relating to consultation services (as described in subsection (a)) provided by an individual qualified under the program, or records, reports, or other information prepared in connection with safety and health inspections, audits, or reviews conducted by or for an employer and not required under this Act, shall not be admissible in a court of law or administrative proceeding against the employer except that such records may be used as evidence for purposes of a disciplinary action under subsection (c).

''(f) EXEMPTION.—

''(1) IN GENERAL.—If an employer enters into a contract with an individual qualified under the program, to provide consultation services described in subsection (a), and receives a declaration of compliance under subsection (d)(3), the employer shall be exempt from the assessment of any civil penalty under section 17 for a period of 2 years after the date the employer receives the declaration.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply—

''(A) if the employer involved has not made a good faith effort to remain in compliance as required under the declaration of compliance; or

''(B) to the extent that there has been a fundamental change in the hazards of the workplace.

''(g) DEFINITION.—In this section, the term 'program' means the program established by the Secretary under subsection (a).''.

SEC. 6. INDEPENDENT SCIENTIFIC PEER REVIEW.

Section 6(b) (29 U.S.C. 655(b)(1)) is amended—

(1) by striking: ''(4) Within'' and inserting: ''(4)(A) Within''; and

(2) by adding at the end the following:

''(B)(i) Prior to issuing a final standard under this paragraph, the Secretary shall submit the draft final standard and a copy of the administrative record to the National Academy of Sciences for review in accordance with clause (ii).

''(ii)(I) The National Academy of Sciences shall appoint an independent Scientific Review Committee.

''(II) The Scientific Review Committee shall conduct an independent review of the draft final standard and the scientific literature and make written recommendations with respect to the draft final standard to the Secretary, including recommendations relating to the appropriateness and adequacy of the scientific data, scientific methodology, and scientific conclusions, adopted by the Secretary.

''(III) If the Secretary decides to modify the draft final standard in response to the recommendations provided by the Scientific Review Committee, the Scientific Review Committee shall be given an opportunity to review and comment on the modifications before the final standard is issued.

''(IV) The recommendations of the Scientific Review Committee shall be published with the final standard in the Federal Register.''.

SEC. 7. CONTINUING EDUCATION AND PROFESSIONAL CERTIFICATION FOR CERTAIN OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION PERSONNEL.

Section 8 (29 U.S.C. 657) is amended by adding at the end the following:

''(h) Any Federal employee responsible for enforcing this Act shall (not later than 2 years after the date of enactment of this subsection or 2 years after the initial employment of the employee) meet the eligibility requirements prescribed under subsection (a)(2) of section 8A.

''(i) The Secretary shall ensure that any Federal employee responsible for enforcing this Act who carries out inspections or investigations under this section, receive professional education and training at least every 5 years as prescribed by the Secretary.''.

SEC. 8. INSPECTION PROCEDURES AND QUOTAS.

(a) IN GENERAL.—Section 8(f) (29 U.S.C. 657(f)) is amended—

(1) in paragraph (1)—

(A) in the second sentence, by inserting before ''and a copy'' the following: ''and shall state whether the alleged violation has been brought to the attention of the employer and if so, whether the employer has refused to take any action to correct the alleged violation,'';

(B) by inserting after the third sentence the following: ''The inspection shall be conducted for the limited purpose of determining whether the violation exists. During such an inspection, the Secretary may take appropriate actions with respect to health and safety violations that are not within the scope of the inspection and that are observed by the Secretary or an authorized representative of the Secretary during the inspection.''; and

(C) by inserting before the last period the following: '', and, upon request by the employee or employee representative, shall provide a written statement of the reasons for the determination of the Secretary''; and

(2) by adding at the end thereof the following:

''(3) The Secretary or an authorized representative of the Secretary may, as a method of investigating an alleged violation or danger under this subsection, attempt, if feasible, to contact an employer by telephone, facsimile, or other appropriate methods to determine whether—

''(A) the employer has taken corrective actions with respect to the alleged violation or danger; or

''(B) there are reasonable grounds to believe that a hazard exists.

''(4) The Secretary is not required to conduct an inspection under this subsection if the Secretary determines that a request for an inspection was made for reasons other than the safety and health of the employees of an employer or that the employees of an employer are not at risk.''.

(b) QUOTAS.—Section 9 (29 U.S.C. 658) is amended by adding at the end the following:

''(d) The Secretary shall not establish for any employee within the Occupational Safety and Health Administration (including any regional director, area director, supervisor, or inspector) a quota with respect to the number of inspections conducted, the number of citations issued, or the amount of penalties collected, in accordance with this Act.

''(e) Not later than 12 months after the date of enactment of this subsection and annually thereafter, the Secretary shall report on the number of employers that are inspected under this Act and determined to be in compliance with the requirements prescribed under this Act.''.

SEC. 9. PERSONAL RESPONSIBILITIES.

(a) THE USE OF ALTERNATIVE METHODS AS AN AFFIRMATIVE DEFENSE.—Section 9 (29 U.S.C. 658), as amended by section 8, is further amended by adding at the end the following:

''(f)(1) No citation may be issued under subsection (a) to an employer unless the employer knew, or with the exercise of reasonable diligence, would have known, of the presence of an alleged violation.

''(2) No citation shall be issued under subsection (a) to an employer for an alleged violation of section 5, any standard, rule, or order promulgated pursuant to section 6, any other regulation promulgated under this Act, or any other occupational safety and health standard, if the employer demonstrates that—

''(A) the employees of the employer have been provided with the proper training and equipment to prevent such a violation;

''(B) work rules designed to prevent such a violation have been established and adequately communicated to the employees by the employer and the employer has taken reasonable measures to discipline employees when violations of the work rules have been discovered;

''(C) the failure of employees to observe work rules led to the violation; and

''(D) reasonable measures have been taken by the employer to discover any such violation.

''(g) A citation issued under subsection (a) to an employer who violates section 5, any standard, rule, or order promulgated pursuant to section 6, or any other regulation promulgated under this Act shall be vacated if such employer demonstrates that the employees of such employer were protected by alternative methods that are equally or more protective of the safety and health of the employees than the methods required by such standard, rule, order, or regulation in the factual circumstances underlying the citation.

''(h) Subsections (f) and (g) shall not be construed to eliminate or modify other defenses that may exist to any citation.''.

(b) EMPLOYEE RESPONSIBILITY.—The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) is amended by inserting after section 10 the following:

''SEC. 10A. EMPLOYEE RESPONSIBILITY.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act, an employee who, with respect to personal protective equipment, willfully violates any requirement of section 5 or any standard, rule, or order promulgated pursuant to section 6, or any regulation prescribed pursuant to this Act, may be assessed a civil penalty, as determined by the Secretary, for each violation.

''(b) CITATIONS.—If, upon inspection and investigation, the Secretary or the authorized representative of the Secretary believes that an employee of an employer has, with respect to personal protective equipment, violated any requirement of section 5 or any standard, rule, or order promulgated pursuant to section 6, or any regulation prescribed pursuant to this Act, the Secretary shall within 60 days issue a citation to the employee. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of this Act, standard, rule, regulation, or order alleged to have been violated. No citation may be issued under this section after the expiration of 6 months following the occurrence of any violation.

''(c) NOTIFICATION.—The Secretary shall notify the employee by certified mail of the citation and proposed penalty and that the employee has 15 working days within which to notify the Secretary that the employee wishes to contest the citation or penalty. If no notice is filed by the employee within 15 working days, the citation and the penalty, as proposed, shall be deemed a final order of the Commission and not subject to review by any court or agency.

''(d) CONTESTING OF CITATION.—If the employee notifies the Secretary that the employee intends to contest the citation or proposed penalty, the Secretary shall immediately advise the Commission of such notification, and the Commission shall afford an opportunity for a hearing (in accordance section 554 of title 5, United States Code). The Commission shall after the hearing issue an order, based on findings of fact, affirming, modifying, or vacating the Secretary's citation or proposed penalty, or directing other appropriate relief. Such order shall become final 30 days after issuance of the order.''.

SEC. 10. REDUCED PENALTIES FOR PAPERWORK VIOLATIONS.

Section 17 (29 U.S.C. 666) is amended by striking subsection (i) and inserting the following:

''(i) Any employer who violates any of the posting or paperwork requirements, other than fraudulent reporting requirement deficiencies, prescribed under this Act shall not be assessed a civil penalty for such a violation unless the Secretary determines that the employer has violated subsection (a) or (d) with respect to the posting or paperwork requirements.''.

SEC. 11. REVIEW BY THE COMMISSION.

Section 17 (29 U.S.C. 666) is amended by striking subsection (j) and inserting the following:

''(j) The Commission shall have authority to assess all civil penalties under this section. In assessing a penalty under this section for a violation, the Commission shall give due consideration to the appropriateness of the penalty with respect to—

''(1) the size of an employer;

''(2) the number of employees exposed to the violation;

''(3) the likely severity of any injuries directly resulting from the violation;

''(4) the probability that the violation could result in injury or illness;

''(5) the good faith of an employer in correcting the violation after the violation has been identified;

''(6) the history of previous violations by an employer; and

''(7) whether the violation is the sole result of the failure of an employer to meet a requirement under this Act, or prescribed by regulation, with respect to the posting of notices, the preparation or maintenance of occupational safety and health records, or the preparation, maintenance, or submission of any written information.''.

SEC. 12. TECHNICAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 21(c) (29 U.S.C. 670(c)) is amended—

(1) by striking ''(c) The'' and inserting ''(c)(1) The'';

(2) by striking ''(1) provide'' and inserting ''(A) provide'';

(3) by striking ''(2) consult'' and inserting ''(B) consult''; and

(4) by adding at the end the following:

''(2)(A) The Secretary shall, through the authority granted under section 7(c) and paragraph (1), enter into cooperative agreements with States for the provision of consultation services by such States to employers concerning the provision of safe and healthful working conditions.

''(B)(i) Except as provided in clause (ii), the Secretary shall reimburse a State that enters into a cooperative agreement under

subparagraph (A) in an amount that equals 90 percent of the costs incurred by the State for the provision of consultation services under such agreement.

''(ii) A State shall be reimbursed by the Secretary for 90 percent of the costs incurred by the State for the provision of—

''(I) training approved by the Secretary for State personnel operating under a cooperative agreement; and

''(II) specified out-of-State travel expenses incurred by such personnel.

''(iii) A reimbursement paid to a State under this subparagraph shall be limited to costs incurred by such State for the provision of consultation services under this paragraph and the costs described in clause (ii).

''(C) Notwithstanding any other provisions of law, not less than 15 percent of the total amount of funds appropriated for the Occupational Safety and Health Administration for a fiscal year shall be used for education, consultation, and outreach efforts.''.

(b) PILOT PROGRAM.—Section 21 (29 U.S.C. 670) is amended by adding at the end the following:

''(d)(1) Not later than 90 days after the date of enactment of this subsection, the Secretary shall establish and carry out a pilot program in 3 States to provide expedited consultation services, with respect to the provision of safe and healthful working conditions, to employers that are small businesses (as the term is defined by the Administrator of the Small Business Administration). The Secretary shall carry out the program for a period not to exceed 2 years.

''(2) The Secretary shall provide consultation services under paragraph (1) not later than 4 weeks after the date on which the Secretary receives a request from an employer.

''(3) The Secretary may impose a nominal fee to an employer requesting consultation services under paragraph (1). The fee shall be in an amount determined by the Secretary. Employers paying a fee shall receive priority consultation services by the Secretary.

''(4) In lieu of issuing a citation under section 9 to an employer for a violation found by the Secretary during a consultation under paragraph (1), the Secretary shall permit the employer to carry out corrective measures to correct the conditions causing the violation. The Secretary shall conduct not more than 2 visits to the workplace of the employer to determine if the employer has carried out the corrective measures. The Secretary shall issue a citation as prescribed under section 5 if, after such visits, the employer has failed to carry out the corrective measures.

''(5) Not later than 90 days after the termination of the program under paragraph (1), the Secretary shall prepare and submit a report to the appropriate committees of Congress that contains an evaluation of the implementation of the pilot program.''.

SEC. 13. VOLUNTARY PROTECTION PROGRAMS.

(a) COOPERATIVE AGREEMENTS.—The Secretary of Labor shall establish cooperative agreements with employers to encourage the establishment of comprehensive safety and health management systems that include—

(1) requirements for systematic assessment of hazards;

(2) comprehensive hazard prevention, mitigation, and control programs;

(3) active and meaningful management and employee participation in the voluntary program described in subsection (b); and

(4) employee safety and health training.

(b) VOLUNTARY PROTECTION PROGRAM.—

(1) IN GENERAL.—The Secretary of Labor shall establish and carry out a voluntary protection program (consistent with subsection (a)) to encourage and recognize the achievement of excellence in both the technical and managerial protection of employees from occupational hazards. The Secretary of Labor shall encourage small businesses (as the term is defined by the Administrator of the Small Business Administration) to participate in the voluntary protection program by carrying out outreach and assistance initiatives and developing program requirements that address the needs of small businesses.

(2) PROGRAM REQUIREMENT.—The voluntary protection program shall include the following:

(A) APPLICATION.—Employers who volunteer under the program shall be required to submit an application to the Secretary of Labor demonstrating that the worksite with respect to which the application is made meets such requirements as the Secretary of Labor may require for participation in the program.

(B) ONSITE EVALUATIONS.—There shall be onsite evaluations by representatives of the Secretary of Labor to ensure a high level of protection of employees. The onsite visits shall not result in enforcement of citations under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(C) INFORMATION.—Employers who are approved by the Secretary of Labor for participation in the program shall assure the Secretary of Labor that information about the safety and health program of the employers shall be made readily available to the Secretary of Labor to share with employees.

(D) REEVALUATIONS.—Periodic reevaluations by the Secretary of Labor of the employers shall be required for continued participation in the program.

(3) EXEMPTIONS.—A site with respect to which a program has been approved shall, during participation in the program be exempt from inspections or investigations and certain paperwork requirements to be determined by the Secretary of Labor, except that this paragraph shall not apply to inspections or investigations arising from employee complaints, fatalities, catastrophes, or significant toxic releases.

SEC. 14. PREVENTION OF ALCOHOL AND SUBSTANCE ABUSE.

The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) is amended—

(1) by striking sections 29, 30, and 31;

(2) by redesignating sections 32, 33, and 34 as sections 30, 31, and 32, respectively; and

(3) by inserting after section 28 (29 U.S.C. 676) the following:

''SEC. 29. ALCOHOL AND SUBSTANCE ABUSE TESTING.

''(a) PROGRAM PURPOSE.—In order to secure a safe workplace, employers may establish and carry out an alcohol and substance abuse testing program in accordance with subsection (b).

''(b) FEDERAL GUIDELINES.—An alcohol and substance abuse testing program described in subsection (a) shall meet the following requirements:

''(1) SUBSTANCE ABUSE.—A substance abuse testing program shall permit the use of an onsite or offsite urine screening or other recognized screening methods, so long as the confirmation tests are performed in accordance with the mandatory guidelines for Federal workplace testing programs published by the Secretary of Health and Human Services on April 11, 1988, at section 11979 of title 53, Code of Federal Regulations (including any amendments to such guidelines), in a lab that is subject to the requirements of subpart B of such mandatory guidelines.

''(2) ALCOHOL.—The alcohol testing component of the program shall take the form of alcohol breath analysis and shall conform to any guidelines developed by the Secretary of Transportation for alcohol testing of mass transit employees under the Department of Transportation and Related Agencies Appropriations Act, 1992.

''(c) TEST REQUIREMENTS.—This section shall not be construed to prohibit an employer from requiring—

''(1) an applicant for employment to submit to and pass an alcohol or substance abuse test before employment by the employer; or

''(2) an employee, including managerial personnel, to submit to and pass an alcohol or substance abuse test—

''(A) on a for-cause basis or where the employer has reasonable suspicion to believe that such employee is using or is under the influence of alcohol or a controlled substance;

''(B) where such test is administered as part of a scheduled medical examination;

''(C) in the case of an accident or incident, involving the actual or potential loss of human life, bodily injury, or property damage;

''(D) during the participation of an employee in an alcohol or substance abuse treatment program, and for a reasonable period of time (not to exceed 5 years) after the conclusion of such program; or

''(E) on a random selection basis in work units, locations, or facilities.

''(d) CONSTRUCTION.—Nothing in this section shall be construed to require an employer to establish an alcohol and substance abuse testing program for applicants or employees or make employment decisions based on such test results.

''(e) PREEMPTION.—The provisions of this section shall preempt any provision of State law to the extent that such State law is inconsistent with this section.

''(f) INVESTIGATIONS.—The Secretary is authorized to conduct testing of employees (including managerial personnel) of an employer for use of alcohol or controlled substances during any investigations of a work-related fatality or serious injury.''.

SEC. 15. CONSULTATION ALTERNATIVES.

Subsection (a) of section 9 (29 U.S.C. 658(a)) is amended to read as follows:

''(a)(1) Nothing in this Act shall be construed as prohibiting the Secretary or the authorized representative of the Secretary from providing technical or compliance assistance to an employer in correcting a violation discovered during an inspection or investigation under this Act without issuing a citation.

''(2) Except as provided in paragraph (3), if, upon an inspection or investigation, the Secretary or an authorized representative of the Secretary believes that an employer has violated a requirement of section 5, of any regulation, rule, or order promulgated pursuant to section 6, or of any regulations prescribed pursuant to this Act, the Secretary may with reasonable promptness issue a citation to the employer. Each citation shall be in writing and shall describe with particularity the nature of a violation, including a reference to the provision of the Act, regulation, rule, or order alleged to have been violated. The citation shall fix a reasonable time for the abatement of the violation.

''(3) The Secretary or the authorized representative of the Secretary—

''(A) may issue a warning in lieu of a citation with respect to a violation that has no significant relationship to employee safety or health; and

''(B) may issue a warning in lieu of a citation in cases in which an employer in good faith acts promptly to abate a violation if the violation is not a willful or repeated violation.''.

By Mr. SMITH of Oregon:

S. 1238. A bill to amend section 1926 of the Public Health Service Act to encourage States to strengthen their efforts to prevent the sale and distribution of tobacco products to individuals under the age of 18 and for other purposes; to the Committee on Labor and Human Resources.

THE TOBACCO USE BY MINORS DETERRENCE ACT OF 1997

Mr. SMITH of Oregon. Mr. President, today in America, too many teenagers have access to too much tobacco at too many stores and retail outlets. The result? Each day 3,000 more young people start smoking and get addicted to lethal tobacco products.

As Congress considers legislation to reduce teenage smoking and to address the growing public health concerns associated with the use of tobacco, I want to propose a concept that goes to the heart of the problem—keeping tobacco products out of the hands of kids. While there are numerous well-intentioned suggestions as to how to best achieve this goal, I believe that the proposal I am introducing today goes to the heart of the problem—holding both those who sell tobacco accountable and those who illegally purchase tobacco responsible. It demands the participation by store owners, clerks, parents, kids, and local law enforcement.

The proposal is a simple, direct approach: require those who sell tobacco to be licensed and trained, and hold children who illegally purchase tobacco responsible for their actions—by notifying their parents, imposing fines and community service, and restricting access to driving privileges.

With this legislation, we have an opportunity to take some incremental and immediate action today, to empower our communities in the fight against teenage tobacco use. The Tobacco Use by Minors Deterrence Act elicits cooperation among families, communities, the retailers, and law enforcement officials in the fight against tobacco use by children. Importantly, this legislation gives retailers a new leadership role and places greater responsibility on parents and minors.

First, this bill establishes a self-funding State license program for retailers to sell tobacco products, similar to liquor licenses. Second, it imposes strict penalties on store owners and employees for selling tobacco products to minors. Third, it requires employee training on all tobacco laws. Fourth, it subjects minors who are caught purchasing or using tobacco products to punishments that are meaningful to them, including the option of fines, parental notification, community service, and possible loss of driving privileges.

In my State of Oregon, restrictions on the distribution and sale of tobacco products are some of the strongest in the nation. This legislation echoes Oregon's commitment by making it more difficult for retailers across the Nation to make a profit from the illegal sale of tobacco products to children.

Just how important is it that we take immediate action? Each day that we wait for the pending FDA lawsuits, and each day that we spend talking about doing something to reduce tobacco use by our Nation's children, 3,000 more young people begin smoking. I want you to think about that for a moment. Each day, 3,000 children start smoking—-that's more than 1 million children each year. To put this into perspective, the Centers for Disease Control [CDC] estimates that 16.6 million of our children today will become regular smokers, and almost one-third, approximately 5 million children, will die from tobacco-related illness. In my State of Oregon, 191,688 children under 18 are projected to become smokers; 61,340 of those youth will die. It is time to recognize teen tobacco use for what it is—a public health epidemic.

In addition to the loss of life associated with tobacco use, there is a significant cost to our public health system. Currently, health care costs caused directly by smoking total more than $50 billion each year. We cannot afford to wait any longer. Because the longer we postpone empowering communities, families, and law enforcement officials, we do so by sacrificing the health and life of our children.

ADDITIONAL COSPONSORS

S. 28

At the request of Mr. THURMOND, the names of the Senator from South Carolina [Mr. HOLLINGS] and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 28, a bill to amend title 17, United States Code, with respect to certain exemptions from copyright, and for other purposes.

S. 61

At the request of Mr. LOTT, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 61, a bill to amend title 46, United States Code, to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 766

At the request of Ms. SNOWE, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 766, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 773

At the request of Mr. DURBIN, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 773, a bill to designate certain Federal lands in the State of Utah as wilderness, and for other purposes.

S. 852

At the request of Mr. LOTT, the name of the Senator from Tennessee [Mr. THOMPSON] was added as a cosponsor of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 943

At the request of Mr. SPECTER, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 943, a bill to amend title 49, United States Code, to clarify the application of the Act popularly known as the ''Death on the High Seas Act'' to aviation accidents.

S. 1096

At the request of Mr. KERREY, the name of the Senator from Nebraska [Mr. HAGEL] was added as a cosponsor of S. 1096, a bill to restructure the Internal Revenue Service, and for other purposes.

S. 1133

At the request of Mr. COVERDELL, the names of the Senator from New York [Mr. D'AMATO] and the Senator from Pennsylvania [Mr. SANTORUM] were added as cosponsors of S. 1133, a bill to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses and to increase the maximum annual amount of contributions to such accounts.

S. 1141

At the request of Mr. JOHNSON, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 1141, a bill to amend the Energy Policy Act of 1992 to take into account newly developed renewable energy-based fuels and to equalize alternative fuel vehicle acquisition incentives to increase the flexibility of controlled fleet owners and operators, and for other purposes.

S. 1180

At the request of Mr. KEMPTHORNE, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 1180, a bill to reauthorize the Endangered Species Act.

S. 1205

At the request of Mrs. MURRAY, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 1205, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to clarify that records of arrival or departure are not required to be collected for purposes of the automated entry-exit control system developed under section 110 of such Act for Canadians who are not otherwise required to possess a visa, passport, or border crossing identification card.

SENATE CONCURRENT RESOLUTION 42

At the request of Mr. D'AMATO, the names of the Senator from Kansas [Mr. BROWNBACK], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of Senate Concurrent Resolution 42, a concurrent resolution to authorize the use of the rotunda of the Capitol for a congressional ceremony honoring Ecumenical Patriarch Bartholomew.

SENATE CONCURRENT RESOLUTION 50

At the request of Mr. HUTCHINSON, the name of the Senator from Maine [Ms. COLLINS] was added as a cosponsor of Senate Concurrent Resolution 50, a concurrent resolution condemning in the strongest possible terms the bombing in Jerusalem on September 4, 1997.

SENATE RESOLUTION 116

At the request of Mr. LEVIN, the names of the Senator from Minnesota [Mr. GRAMS] and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of Senate Resolution 116, a resolution designating November 15, 1997, and November 15, 1998, as ''America Recycles Day.''

SENATE RESOLUTION 124

At the request of Mr. ROTH, the names of the Senator from Ohio [Mr. DEWINE] and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of Senate Resolution 124, a resolution to state the sense of the Senate that members of the Khmer Rouge who participated in the Cambodian genocide should be brought to justice before an international tribunal for crimes against humanity.

AMENDMENT NO. 1253

At the request of Mr. MACK the names of the Senator from Rhode Island [Mr. REED] and the Senator from Pennsylvania [Mr. SANTORUM] were added as cosponsors of amendment No. 1253 proposed to S. 1156, an original bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes.

AMENDMENTS SUBMITTED

THE DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1998

JEFFORDS AMENDMENT NO. 1226

Mr. JEFFORDS proposed an amendment to the bill (S. 1156) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes; as follows:

At the end of the bill, add the following:

DIVISION 2—METROPOLITAN WASHINGTON EDUCATION AND WORKFORCE TRAINING IMPROVEMENT ACT OF 1997

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the ''Metropolitan Washington Education and Workforce Training Improvement Act of 1997''.

(b) TABLE OF CONTENTS.—The table of contents of this division is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Findings and purpose.
TITLE I—METROPOLITAN WASHINGTON EDUCATION AND WORKFORCE TRAINING GRANTS
Sec. 101. Definitions.
Sec. 102. Grants.
Sec. 103. Metropolitan Partnership.
Sec. 104. Metropolitan Board.
TITLE II—METROPOLITAN WASHINGTON EDUCATION AND WORKFORCE TRAINING TAX
Sec. 201. Tax on income of nonresidents.
Sec. 202. Repeal of unincorporated business tax.
Sec. 203. Withholding and returns.
Sec. 204. Credit for State income tax payments.
Sec. 205. Technical amendment.
Sec. 206. Reciprocal tax collection.
Sec. 207. Metropolitan Washington Education and Workforce Training Trust Fund.
Sec. 208. Effective date.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the Greater Washington Metropolitan Area has an expanding regional economy but suffers from a serious regional labor market shortage that threatens economic growth;

(2) the region's education and training systems, particularly in the District of Columbia, fail to provide many youths and adults with the skills necessary to be competitive in the regional labor market;

(3) the need for a better skilled area workforce makes it imperative that the region's businesses, educational institutions, and governments work together to provide youth and adults with the education and training necessary to meet the needs of the 21st century;

(4) the condition of school facilities is a major impediment to improving the quality of education in the District of Columbia and their repair and modernization is a necessary step in making the District's public schools a full partner in preparing students for the regional labor market;

(5) the University of the District of Columbia, as well as other area institutions of post-secondary education, have an important role to play in providing skills training to meet the needs of the regional labor market;

(6) although the present revenues for the District of Columbia public school system provide sufficient operating funds, as with other public school systems in the metropolitan region, there are insufficient revenues for programs to prepare students to compete in the global economy and or to provide students with the skills demanded by the local market: and

(7) the Greater Washington Metropolitan Area has an opportunity to set a national example of regional cooperation in engaging in education reform and workforce training.

(b) PURPOSE.—

(1) IN GENERAL.—It is the purpose of this division to foster the development of a regional workforce investment system that will bring about improvements in education and workforce preparation by—

(A) creating a metropolitan partnership through which area businesses, school systems, postsecondary institutions, and governments can cooperate in charting a course for reforms and investments in education and workforce training; and

(B) providing the Greater Washington Metropolitan Area with the resources necessary to lead the Nation in improving its capacity to provide for a highly educated and skilled workforce.

(2) NONRESIDENT TAX.—The purpose of imposing the tax established by title II is to—

(A) fund the repair and modernization of District of Columbia public schools; and

(B) provide resources to carry out the activities of a Washington metropolitan partnership as described in title I.

TITLE I—METROPOLITAN WASHINGTON EDUCATION AND WORKFORCE TRAINING GRANTS

SEC. 101. DEFINITIONS.

In this title:

(1) ELEMENTARY SCHOOL; LOCAL EDUCATIONAL AGENCY; SECONDARY SCHOOL.—The terms ''elementary school'', ''local educational agency'', and ''secondary school'' have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) METROPOLITAN REGION.—The term ''metropolitan region'' means the Washington, D.C. metropolitan area, as defined by the Secretaries.

(3) POSTSECONDARY INSTITUTION.—The term ''postsecondary institution'' has the meaning given the term ''institution of higher education'' in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088).

(4) PRINCIPAL.—The term ''principal'' means an elementary school or secondary school principal.

(5) SECRETARIES.—The term ''Secretaries'' means the Secretary of Education and the Secretary of Labor, acting jointly.

(6) TEACHER.—The term ''teacher'' means an elementary school or secondary school teacher.

SEC. 102. GRANTS.

(a) IN GENERAL.—Using funds made available from the Metropolitan Washington Education and Workforce Training Trust Fund, established in section 208, the Secretaries shall make grants to agencies and organizations to assist the agencies and organizations in carrying out the education and workforce training activities described in subsection (c) in the metropolitan region.

(b) ELIGIBILITY.—

(1) IN GENERAL.—To be eligible to receive a grant under this section, an entity shall be a local educational agency, or a public or private organization with demonstrated ability and experience in carrying out the education and workforce training activities.

(2) WORKFORCE TRAINING.—To be eligible to receive a grant under this section to provide services described in subsection (c)(5), an entity shall—

(A) be an postsecondary institution, business, or another provider of workforce training, such as literacy services, in the metropolitan region; and

(B) have demonstrated ability and experience in providing workforce training.

(c) USE OF FUNDS.—An agency or organization that receives a grant under subsection (a) shall use funds made available through the grant to carry out activities in the metropolitan region that consist of—

(1) providing professional development activities, including access to model professional development programs, for teachers and principals;

(2) developing apprenticeships and other programs that provide business experience to teachers who are participating in vocational training or technology training;

(3) constructing, renovating, repairing, or improving elementary schools, secondary schools, or other educational facilities for workforce training programs;

(4) developing partnerships between businesses, and vocational education or vocational training providers, to carry out student internship programs;

(5) providing youth and adult workforce training with remedial help such as literacy services;

(6) establishing model benchmarks to be used in the development of rigorous education and workforce training curricula;

(7) providing for both annual and long-term evaluation and assessment of other education and workforce training activities described in this subsection, including evaluation and assessment of—

(A) the degree to which expenditures of funds made available through the grant result in improvements in the activities;

(B) the extent to which the activities succeed in preparing participants for entry into postsecondary education, further learning, or high-skill, high-wage careers;

(C) the effect of benchmarks, performance measures, and other measures of accountability on the delivery of the activities; and

(D) the extent to which vocational training enhances the employment and earning potential of participants, reduces income support costs, and increases the level of employment in the metropolitan region;

(8) assisting in the development of individual mentoring and parental involvement programs and career path records for elementary and secondary school students;

(9) establishing—

(A) voluntary skill standards for participants in workforce training; and

(B) a methodology to assess the participants and certify attainment of the standards;

(10) assessing the need for, and utilization of, educational technology in the metropolitan region, including assessment of the potential for linkages among—

(A) elementary schools or secondary schools;

(B) workforce training providers; and

(C) businesses;

(11) improving educational technology in elementary schools or secondary schools; or

(12) providing resources to extend a school year or school day for any elementary school or secondary school that elects to make such an extension.

(d) APPLICATION.—To be eligible to receive a grant under this section, an agency or organization shall submit an application to the Secretaries at such time, in such manner, and containing such information as the Secretaries may require.

(e) DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—In making grants under subsection (a), the Secretaries shall, to the extent practicable, ensure that the funds made available through the grants are equitably distributed among the jurisdictions in the metropolitan region.

(2) SPECIAL RULE FOR THE DISTRICT OF COLUMBIA.—Any grants awarded to District of Columbia public schools under this section shall be expended in a manner consistent with section 2101(b)(1) of Public Law 104–134.

(f) MAINTENANCE OF EFFORT.—

(1) DEFINITION.—As used in this subsection, the term ''covered activities'' means education and workforce training activities described in subsection (c) and carried out in the District of Columbia.

(2) IN GENERAL.—Except as provided in paragraphs (3) and (4), no payments shall be made under this title for any fiscal year to an agency or organization for covered activities, unless the Secretaries determine that the fiscal effort per participant or the aggregate expenditures of the agency or organization for the activities for the fiscal year preceding the fiscal year for which the determination is made, equaled or exceeded the effort or expenditures for the activities for the second fiscal year preceding the fiscal year for which the determination is made.

(3) COMPUTATION.—In computing the fiscal effort or aggregate expenditures pursuant to paragraph (2), the Secretaries shall exclude capital expenditures, special one-time project costs, similar windfalls, and the cost of pilot programs.

(4) DECREASE IN FEDERAL SUPPORT.—If the amount made available for covered activities under this title for a fiscal year is less than the amount made available for the activities under this title the preceding fiscal year, then the fiscal effort per participant or the aggregate expenditures of the agency or organization required by paragraph (2) for the preceding fiscal year shall be decreased by the same percentage as the percentage decrease in the amount so made available.

(g) TECHNICAL ASSISTANCE FOR SKILL STANDARDS AND METHODOLOGY.—If the Secretaries make a grant to an agency or organization under this section to establish the standards and methodology described in subsection (c)(7), the National Skill Standards Board established under section 503 of the National Skill Standards Act of 1994 (29 U.S.C. 5933) shall provide technical assistance to the agency or organization.

SEC. 103. METROPOLITAN PARTNERSHIP.

(a) ESTABLISHMENT.—There is established in the Department of Labor and the Department of Education a Metropolitan Washington Education and Workforce Training Partnership (referred to in this title as the ''Metropolitan Partnership''), under the joint control of the Secretary of Labor and the Secretary of Education.

(b) ADMINISTRATION.—Notwithstanding the Department of Education Organization Act (20 U.S.C. 3401 et seq.), the General Education Provisions Act (20 U.S.C. 1221 et seq.), the Act entitled ''An Act To Create a Department of Labor'', approved March 4, 1913 (29 U.S.C. 551 et seq.), and section 169 of the Job Training Partnership Act (29 U.S.C. 1579), the Secretaries shall provide for, and exercise final authority over, the effective and efficient administration of this title and the officers and employees of the Metropolitan Partnership.

(c) RESPONSIBILITIES OF SECRETARIES.—The Secretaries, working through the Metropolitan Partnership, shall approve the applications, and make the grants, described in section 102.

SEC. 104. METROPOLITAN BOARD.

(a) METROPOLITAN BOARD.—

(1) COMPOSITION.—There is established, in the Metropolitan Partnership, a Metropolitan Washington Education and Workforce Training Board (referred to in this title as the ''Metropolitan Board'') that shall be composed of 13 individuals, including—

(A) 7 individuals who are representative of business and industry in the metropolitan region, appointed by the President;

(B) 3 individuals who are representative of providers of secondary education, postsecondary education, and workforce training in the metropolitan region, appointed by the President; and

(C) 3 individuals who are representative of local government officers and employees in the metropolitan region, including at least 1 representative of a local government in Maryland, 1 representative of a local government in Virginia, and 1 representative of the local government of the District of Columbia, appointed by the President.

(2) TERMS.—Each member of the Metropolitan Board shall serve for a term of 3 years, except that, as designated by the President—

(A) 5 of the members first appointed to the Metropolitan Board shall serve for a term of 2 years;

(B) 4 of the members first appointed to the Metropolitan Board shall serve for a term of 3 years; and

(C) 4 of the members first appointed to the Metropolitan Board shall serve for a term of 4 years.

(3) VACANCIES.—Any vacancy in the Metropolitan Board shall not affect the powers of the Metropolitan Board, but shall be filled in the same manner as the original appointment. Any member appointed to fill such a vacancy shall serve for the remainder of the term for which the predecessor of such member was appointed.

(4) DUTIES AND POWERS OF THE METROPOLITAN BOARD.—The Metropolitan Board shall—

(A) provide advice to the Secretary of Labor and the Secretary of Education regarding reviewing and approving applications, and making grants, described in section 102; and

(B) prepare and submit to the appropriate committees of Congress an annual report on the activities of the Metropolitan Partnership.

(5) CHAIRPERSON.—The position of Chairperson of the Metropolitan Board shall rotate annually among the appointed members described in paragraph (1)(A).

(6) MEETINGS.—The Metropolitan Board shall meet at the call of the Chairperson but not less often than 4 times during each calendar year. Seven members of the Metropolitan Board shall constitute a quorum. All decisions of the Metropolitan Board with respect to the exercise of the duties and powers of the Metropolitan Board shall be made by a majority vote of the members of the Metropolitan Board.

(7) COMPENSATION AND TRAVEL EXPENSES.—

(A) COMPENSATION.—Members of the Metropolitan Board shall serve without compensation. Notwithstanding section 1342 of title 31, United States Code, the Secretaries may accept the voluntary and uncompensated services of members of the Metropolitan Board.

(B) EXPENSES.—The members of the Metropolitan Board 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 Metropolitan Board.

(8) DATE OF APPOINTMENT.—The Metropolitan Board shall be appointed not later than 120 days after the date of enactment of this Act.

(9) NONTERMINATION OF BOARD.—Section 14 of the Federal Advisory Committee Act shall not apply to the Metropolitan Board.

(b) DIRECTOR.—

(1) IN GENERAL.—There shall be in the Metropolitan Partnership a Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) COMPENSATION.—The Director shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(3) DUTIES.—The Director shall carry out the administrative duties of the Metropolitan Partnership.

(4) DATE OF APPOINTMENT.—The Director shall be appointed not later than 120 days after the date of enactment of this Act.

(c) PERSONNEL.—

(1) APPOINTMENTS.—The Director may appoint and fix the compensation of 2 employees to carry out the functions of the Metropolitan Partnership. Except as otherwise provided by law, such employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code.

(2) EXPERTS AND CONSULTANTS.—The Director may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate such experts and consultants for each day (including travel time) at rates not in excess of the rate of pay for level IV of the Executive Schedule under section 5315 of such title. The Director may pay experts and consultants who are serving away from their homes or regular places of business travel

expenses and per diem in lieu of subsistence at rates authorized by sections 5702 and 5703 of such title for persons in Government service employed intermittently.

(3) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Metropolitan Partnership without reimbursement, and such detail shall be without interruption or loss of civil service or privilege.

(4) USE OF VOLUNTARY AND UNCOMPENSATED SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary of Labor and the Secretary of Education are authorized to accept voluntary and uncompensated services in furtherance of the objectives of this title.

(5) MONETARY CONTRIBUTIONS.—Notwithstanding any other provision of law, the Metropolitan Partnership may accept monetary contributions to defray expenses.

TITLE II—METROPOLITAN WASHINGTON EDUCATION AND WORKFORCE TRAINING TAX

SEC. 201. TAX ON INCOME OF NONRESIDENTS.

(a) DEFINITION.—

(1) IN GENERAL.—Title III of the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Code, secs. 47–1803.1—47–1803.2) is amended by adding at the end thereof the following new section:

''SEC. 4. GROSS INCOME AND EXCLUSION THEREFROM IN THE CASE OF NONRESIDENTS.—(a) In the case of nonresidents, the words 'gross income' shall include—

''(1) gains, profits, and income derived from salaries, wages, or compensation for personal services performed within the District of whatever kind and in whatever form paid, including salaries, wages, and compensation paid by the United States to its officers and employees, or income derived from any trade or business carried on within the District within the meaning of title X of this article or sales or dealings in property located within the District, whether real or personal, including capital assets as defined in this article, growing out of the ownership, or sale of, or interest in, such property; and

''(2) income derived from rent, on such property located within the District, or transactions of any trade or business carried on within the District within the meaning of title X of this article for gain or profit, or gains or profits.

''(b) In the case of nonresidents, the words 'gross income' shall not include any of the income described in subsection (b) of section 2 of this title.''.

(2) CONFORMING AMENDMENT.—Section 2 of such title III (D.C. Code, sec. 47–1803.2) is amended by striking out ''.—(a) The'' and inserting in lieu thereof ''IN THE CASE OF RESIDENTS.—(a) In the case of residents, the''.

(b) INCOME TAX ON NONRESIDENTS.—

(1) IN GENERAL.—The District of Columbia Income and Franchise Tax Act of 1947 (D.C. Code, secs. 47–1801.1—47–1816.3) is amended by adding at the end thereof the following new title:

''TITLE XVII—INCOME TAX ON NONRESIDENTS

''SEC. 1. INCOME TAX ON NONRESIDENTS.—(a) For each taxable year, there is imposed on the taxable income of each nonresident an income tax determined at a rate equal to one-third of the rate applicable in the case of a resident under title VI of this article.

''(b) In computing the net income of a nonresident for purposes of this title, such nonresident shall be allowed a deduction equal to that portion of the deductions which would be allowed under any paragraph of section 3(a) of title III of this article to the nonresident if such nonresident were a resident which bears the same ratio to the sum of such deductions as the income of such nonresident subject to tax under this title bears to the gross income of such nonresident from all sources.

''(c) In computing taxable income for purposes of this title, there shall be allowed to nonresidents as credits against net income the personal exemptions allowed to residents under section 2 of title VI.

''SEC. 2. LIMITATION ON AUTHORITY OF THE COUNCIL TO REVISE TAX ON NONRESIDENTS.—The Council of the District of Columbia may not—

''(1) amend or otherwise revise this title so as to impose any additional or greater tax on the whole or any portion of the personal income of any nonresident unless at the same time it also amends or revises title VI of this article so as to impose the same proportion of additional or greater tax on the whole or portion of the personal income of any resident as was imposed on the whole or portion of the personal income of a nonresident; or

''(2) provide any deductions or personal exemptions to residents which are not also available, in accordance with section 1 of this title, in the case of nonresidents.

''SEC. 3. DISPOSITION OF REVENUES.—The District of Columbia shall allocate the revenues received under this title as follows:

''(1) One-third of the revenues shall be transferred to the District of Columbia Financial Responsibility and Management Assistance Authority for the purpose of funding the repair and modernization of public schools in the District of Columbia.

''(2) Two-thirds of the revenues shall be transferred to the Metropolitan Washington Education and Workforce Training Trust Fund established by section 208 of the Metropolitan Washington Education and Workforce Training Improvement Act of 1997.''.

(2) PHASE-IN OF TAX.—The income tax imposed by title XVII of the District of Columbia Income and Franchise Tax Act of 1947 (as added by paragraph (1) of this subsection) shall be phased in as follows:

(A) In the calendar year beginning after the date of enactment of this Act, the rate shall be ½ of the rate imposed and revenues received shall be expended as provided in section 3(1) of title XVII.

(B) In the calendar year beginning after the calendar year referred to in subparagraph (A), the rate shall be the full rate imposed and revenues received shall be expended ⅓ as provided in section 3(1) and ⅔ as provided in section 3(2) of title XVII.

(3) EXISTING TAX ON NONRESIDENTS.—Title VI of such Act is amended—

(A) in the title heading, by striking out ''AND NONRESIDENTS''; and

(B) in section 1 (D.C. Code, sec. 47–1806.1)—

(i) by striking out ''every resident'' and inserting in lieu thereof ''an individual'', and

(ii) by inserting ''in the case of residents and by section 1(c) of title XVII in the case of nonresidents'' immediately after ''this title''.

SEC. 202. REPEAL OF UNINCORPORATED BUSINESS TAX.

(a) IN GENERAL.—Title VIII of the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Code, secs. 47–1808.1—47–1808.7) is amended—

(1) in the title heading, by striking out ''TAX ON'' and inserting in lieu thereof ''NET INCOME OF''; and

(2) by repealing sections 2 through 6 and inserting in lieu thereof the following:

''SEC. 2. NET INCOME OF UNINCORPORATED BUSINESSES.—(a) An unincorporated business as such shall not be subject to tax under this article. Individuals carrying on a trade or business as an unincorporated business shall be liable in their individual capacity, under title VI of this article in the case of residents and under title XVII of this article in the case of nonresidents, for tax with respect to their distributive share, whether distributed or not, of the net income of such unincorporated business derived from sources within the District within the meaning of title X of this article. If an individual entitled to a distributive share of such net income of an unincorporated business computes his income tax under this article upon the basis of a period different from that upon the basis of which the net income of the unincorporated business is computed, then his distributive share of the net income of the unincorporated business for any accounting period of the unincorporated business ending within the taxable year upon the basis of which such individual's income tax is computed shall be included in computing such tax.

''(b) If the deductions which are allowed or allowable to an unincorporated business under section 3(a) of title III of this article exceed the gross income of such unincorporated business derived from sources within the District within the meaning of title X of this article, the distributive shares of such excess deductions shall be allowed as deductions to the individuals entitled thereto in determining their individual tax liability under title VI of this article in the case of residents and under title XVII of this article in the case of nonresidents, except that in the case of a nonresident such excess deductions shall be allowed to the nonresident only to the extent provided in section 1(b) of such title XVII. If an individual entitled to a distributive share of the excess deductions of an unincorporated business computes his income tax under this article upon the basis of a period different from that upon the basis of which the net income of the unincorporated business is computed, then his distributive share of the excess deductions of the unincorporated business for any accounting period of the unincorporated business ending within the taxable year upon the basis of which such individual's income tax is computed shall be included in computing such tax.

''(c) In computing the net income or the excess deductions of an unincorporated business for purposes of this title, the full amount of the deductions described in section 3(a) of title III of this article shall be allowed to such unincorporated business notwithstanding that a nonresident may be entitled to a distributive share of such net income or excess deductions.''.

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 1 of title III of such Act (D.C. Code, sec. 47–1803.1) is amended by inserting ''or unincorporated business, as the case may be,'' immediately after ''taxpayer''.

(B) Paragraph (11) of section 3(a) of such title (D.C. Code, sec. 47–1803.3(a)(11)) is amended to read as follows:

''(11) REASONABLE ALLOWANCE FOR SALARY.—A reasonable allowance for salaries or other compensation for personal services actually rendered. Nothing in this paragraph shall be construed to exempt any salary or other compensation for personal services from taxation as part of the taxable income of the person receiving such salary or other compensation.''.

(C) Such section 3(a) (D.C. Code, sec. 47–1803.3(a)) is further amended by adding at the end thereof the following new paragraph:

''(15) EXCESS DEDUCTIONS OF AN UNINCORPORATED BUSINESS.—In the case of an individual, the distributive share of any excess deductions for an unincorporated business to which the individual is entitled under section 2(b) of title VIII of this article.''.

(D) Paragraph (5) of section 3(b) of such title (D.C. Code, sec. 47–1803.3(b)(5)) is repealed.

(2)(A) Paragraph (f) of such section (D.C. Code, sec. 47–1805.2(6)) is amended—

(i) in the first sentence, by striking out ''having a gross income of more than $12,000, regardless of whether or not it has a net income''; and

(ii) in the second sentence, by striking out ''the taxpayer or taxpayers liable for payment of the tax'' and inserting in lieu thereof ''the individual or individuals who would be entitled to share in the net income of the unincorporated business, if distributed, and shall include the name and address of each such individual and the amount of the distributive share of each such individual in the net income of the unincorporated business or, if the allowable deductions of the unincorporated business exceed its gross income, the allocation among such individuals of such excess allowable deductions''.

(B) Paragraph (g) of such section (D.C. Code, sec. 47–1805.2(7)) is amended by striking out ''other than partnerships subject to the taxes imposed by title VIII of this article on unincorporated businesses, engaged in any trade or business, or'' and inserting in lieu thereof ''not required to file a return under paragraph (f), which is''.

(3) Section 1 of title VI of such Act (D.C. Code, sec. 47–1806.1) is amended by striking out ''and that portion of the entire net income of every nonresident which is subject to tax under title VIII of this article''.

(4) Section 1 of title X of such Act (D.C. Code, sec. 47–1810.1) is amended by striking ''and (2) a franchise tax upon every corporation and unincorporated business'' and inserting ''(2) an income tax on certain income of nonresidents which is derived from sources within the District, and (3) a franchise tax upon every corporation''.

(5)(A) Section 8(a) of title XII of such Act (D.C. Code, sec. 47–1812.8(a)) is amended by striking out ''or unincorporated business'' each place it appears.

(B) Section 14 of such title (D.C. Code, sec. 47–1812.14–1) is amended—

(i) in the section caption, by striking out ''AND UNINCORPORATED BUSINESSES'';

(ii) in the first sentence of subsection (a), by striking out ''and unincorporated business''; and

(iii) in subsection (b)—

(I) in the subsection caption, by striking out ''OR UNINCORPORATED BUSINESS'', and

(II) in paragraph (1), by striking out ''or an unincorporated business''.

(6) The first sentence of section 1(a) of title XIV of such Act (D.C. Code, sec. 47–1814.1(a)) is amended by striking out ''which is excluded from the imposition of the District of Columbia tax on unincorporated businesses under the definition set forth in section 1 of title VIII of this article''.

SEC. 203. WITHHOLDING AND RETURNS.

(a) WITHHOLDING.—

(1) Section 8(b)(1) of title XII of the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Code, sec. 47–1812.8(b)(1)) is amended by inserting before the first sentence the following: ''Every employer making payment of wages to a nonresident shall deduct and withhold a tax upon such wages in accordance with regulations which the Council of the District of Columbia shall promulgate.''.

(2) Section 8(i)(1) of such title (D.C. Code, sec. 47–1812.8(i)(1)) is amended to read as follows:

''(1)(A) Every person residing or domiciled in the District at the times prescribed in paragraph (4) of this subsection shall, at such times, make a declaration of his estimated tax for the taxable year if—

''(i) the gross income for the taxable year can reasonably be expected to consist of wages and of not more than $1,000 from sources other than such wages, and can reasonably be expected to exceed the total amount of the personal exemptions to which he is entitled under this article plus $5,000; or

''(ii) the gross income can reasonably be expected to include more than $1,000 which is not subject to the withholding provisions of this article, and can reasonably be expected to exceed the personal exemptions to which he is entitled under this article, plus $500.

''(B) Every person not residing or domiciled in the District at the times prescribed in paragraph (4) of this subsection shall, at such times, make a declaration of his estimated tax for the taxable year if such person can reasonably be expected to have more than $4,500 in taxable income, as determined under section 1 of title XVII of this article, for the taxable year which is not subject to withholding under the regulations promulgated by the Council of the District of Columbia pursuant to the first sentence of subsection (b).

''(C) Under this article, a declaration of estimated tax shall be considered a return of income.''.

(b) FEDERAL WITHHOLDING.—Section 5516(a) of title 5, United States Code, is amended to read as follows:

''(a)(1) The Secretary of the Treasury, under regulations prescribed by the President, shall enter into an agreement with the District of Columbia Financial Responsibility and Management Assistance Authority, which agreement shall provide that the head of each agency of the United States shall comply with the requirements of the District of Columbia Income and Franchise Tax Act of 1947 in the case of employees of the agency who are subject to income taxes imposed by such Act and whose regular place of employment is within the District of Columbia. The agreement may not apply to pay for service as a member of the Armed Forces.

''(2) For purposes of this section—

''(A) the term 'agency' means—

''(i) any executive agency, including any independent establishment or wholly owned instrumentality of the Federal Government;

''(ii) the Administrative Office of the United States Courts;

''(iii) the General Accounting Office;

''(iv) the Library of Congress;

''(v) the Botanic Garden;

''(vi) the Government Printing Office; and

''(vii) the Office of the Architect of the Capitol; and

''(B) the term 'employee' means any employee and any officer of the United States and includes the President and Vice President and any justice or judge of the United States.''.

SEC. 204. CREDIT FOR STATE INCOME TAX PAYMENTS.

Section 5(a) of title VI of the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Code, sec. 47–1806.4(a)), as amended by section 3(b)(3)(B) of this Act, is further amended—

(1) by inserting ''(1)'' immediately before ''The'' in the first sentence; and

(2) by adding at the end thereof the following new paragraph:

''(2) If any income of a resident which is subject to taxation under this title is also subject to an income tax under the laws of another State, the income tax payable on such income to such other State shall be allowed as a credit to the resident against the tax imposed by this title, except that (A) the credit allowed under this paragraph may not exceed the amount of tax which would be payable under this title on such income, and (B) no credit shall be allowed under this paragraph if the other State allows a credit against the income tax imposed by such State for the tax paid under this title. Proof of payment of income tax to another State shall be required before credit for such tax is allowed under this paragraph.''.

SEC. 205. TECHNICAL AMENDMENT.

The table of contents for the District of Columbia Revenue Act of 1947 (article I of which constitutes the District of Columbia Income and Franchise Tax Act of 1947) is amended as follows:

(1)(A) In the item relating to section 2 of title III of article I, insert ''in the case of residents'' immediately before the period.

(B) Immediately after the item relating to section 3(b) of such title, insert the following:

''Sec. 4. Gross income and exclusion therefrom in the case of nonresidents.''.

(2) In the item relating to the title heading for title VI of article I, striking out ''AND NONRESIDENTS''.

(3)(A) In the item relating to the title heading for title VIII of article I, strike out ''TAX ON'' and insert in lieu thereof ''NET INCOME OF''.

(B) Strike out the items relating to sections 2 through 6 of such title VIII and insert in lieu thereof the following:

''Sec. 2. Net income of unincorporated businesses.''.

(4)(A) In the item relating to subsection 14 of title XII of article I, strike out ''and unincorporated businesses''.

(B) In the item relating to subsection (b) of such section, strike out ''or unincorporated business''.

(5) Immediately after the item relating to title XVI of article I, insert the following new item:

''TITLE XVII—INCOME TAX ON NONRESIDENTS

''Sec. 1. Income tax on nonresidents.

''Sec. 2. Limitation on authority of the Council to revise tax on nonresidents.''.

SEC. 206. RECIPROCAL TAX COLLECTION.

(a) IN GENERAL.—Any State, territory, or possession, by and through its lawfully authorized officials, shall have the right to sue in the Superior Court of the District of Columbia to recover any tax lawfully due and owing to it when the reciprocal right is accorded to the District by such State, territory, or possession, whether such right is granted by statutory authority or as a matter of comity.

(b) PROOF.—The certificate of the Secretary of State or other authorized official of any State, territory, or possession, or subdivision thereof, to the effect that the official instituting the suit for collection of taxes in the Superior Court of the District of Columbia has the authority to institute such suit and collect such taxes shall be conclusive proof of that authority.

(c) DEFINITION.—For the purposes of this section, the term ''taxes'' includes—

(1) any and all tax assessments lawfully made, whether they be based upon a return or other disclosure of the taxpayer, or upon the information and belief of the taxing authority, or otherwise;

(2) any and all penalties lawfully imposed pursuant to a taxing statute, ordinance, or regulation; and

(3) interest charges lawfully added to the tax liability which constitutes the subject of the suit.

(d) AUTHORIZATION OF SUIT.—The Corporation Council or any of his assistants is authorized to bring suit in the name of the District of Columbia in the courts of States, territories, and possessions, and subdivisions thereof, to collect taxes lawfully due the District. The District of Columbia Financial Responsibility and Management Assistance Authority is authorized to procure professional and other services, at such rates as may be usual and customary for such services in the

jurisdiction concerned, when he deems it necessary for the prosecution of any suit authorized by this section.

SEC. 207. METROPOLITAN WASHINGTON EDUCATION AND WORKFORCE TRAINING TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund, to be known as the Metropolitan Washington Education and Workforce Training Trust Fund (hereafter in this section referred to as the ''Trust Fund''), consisting of such amounts as are transferred to the Trust Fund under subsection (b)(1) of this section and any interest earned on investment of amounts in the Trust Fund under subsection (c)(2) of this section.

(b) TRANSFER OF AMOUNTS EQUIVALENT TO CERTAIN TARIFFS.—

(1) IN GENERAL.—The District of Columbia Financial Responsibility and Management Assistance Authority shall transfer to the Trust Fund an amount equal to ⅔ of the revenues received by the District of Columbia from the tax imposed by title XVII of the District of Columbia Income and Franchise Tax Act of 1947 (as added by section 201 of this division).

(2) EFFECTIVE DATE.—The transfers required by paragraph (1) shall begin at the end of the first quarter of the calendar year beginning after the calendar year referred to in section 201(b)(2)(A).

(3) TRANSFERS BASED ON ESTIMATES.—The amounts required to be transferred to the Trust Fund under paragraph (1) shall be transferred at least quarterly from the District of Columbia to the Trust Fund on the basis of estimates made by the District of Columbia Financial Responsibility and Management Assistance Authority. Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) INVESTMENT OF TRUST FUND.—

(1) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired—

(A) on original issue at the issue price, or

(B) by purchase of outstanding obligations at the market price.

The purposes for which obligations of the United States may be issued under chapter 31 of title 31, of the United States Code, are hereby extended to authorize the issuance at par of special obligations exclusively to the Trust Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the Public Debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

(2) SALE OF OBLIGATION.—Any obligation acquired by the Trust Fund (except special obligations issued exclusively to the Trust Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(3) CREDITS TO TRUST FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(d) OBLIGATIONS FROM TRUST FUND.—The Secretary of Labor and the Secretary of Education are authorized to obligate such sums as are available in the Trust Fund (including any amounts not obligated in previous fiscal years) for grants as provided in section 101 of this division.

(e) REPORT TO CONGRESS.—It shall be the duty of the Secretary of the Treasury to hold the Trust Fund, and (after consultation with the Secretary of Labor or the regional authority, as appropriate) to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as both a House and Senate document of the session of the Congress to which the report is made.

SEC. 208. EFFECTIVE DATE.

The amendments made by this title and this title shall take effect at the beginning of the calendar year beginning after the date of enactment of this Act, and shall apply with respect to taxable years beginning on or after such date.

BYRD AMENDMENTS NOS. 1267–1269

Mr. BYRD proposed three amendments to the bill, S. 1156, supra; as follows:

AMENDMENT NO. 1267

At the appropriate place, insert the following:

SEC. . (a) Chapter 29 of title 12A of the District of Columbia Municipal Regulations (D.C. Building Code Supplement of 1992; 39 DCR 8833) is amended by adding the following 2 new sections 2915 and 2916 to read as follows:

''Section 2915.0 Alcoholic Beverage Advertisements.

''2915.1 Notwithstanding any other law or regulation, no person may place any sign, poster, placard, device, graphic display, or any other form of alcoholic beverage advertisements in publicly visible locations. For the purposes of this section 'publicly visible location' includes outdoor billboards, sides of buildings, and freestanding signboards.

''2915.2 This section shall not apply to the placement of signs, including advertisements, inside any licensed premises used by a holder of a licensed premises, on commercial vehicles used for transporting alcoholic beverages, or in conjunction with a one-day alcoholic beverage license or a temporary license.

''2915.3 This section shall not apply to any sign that contains the name or slogan of the licensed premises that has been placed for the purpose of identifying the licensed premises.

''2915.4 This section shall not apply to any sign that contains a generic description of beer, wine, liquor, or spirits, or any other generic description of alcoholic beverages.

''2915.5 This section shall not apply to any neon or electrically charged sign on a licensed premises that is provided as part of a promotion of a particular brand of alcoholic beverages.

''2915.6 This section shall not apply to any sign on a WMATA public transit vehicle or a taxicab.

''2915.7 This section shall not apply to any sign on property owned, leased, or operated by the Armory Board.

''2915.8 This section shall not apply to any sign on property adjacent to an interstate highway.

''2915.9 This section shall not apply to any sign located in a commercial or industrial zone.

''2915.10 Any person who violates any provision of this section shall be fined $500. Every person shall be deemed guilty of a separate offense for every day that violation continues.''.

(b) The amendment made by subsection (a) shall take effect 180 days after the date of enactment of this Act.

AMENDMENT NO. 1268

On page 49, between lines 13 and 14, insert the following:

SEC. 148. There are appropriated from applicable funds of the District of Columbia such sums as may be necessary to hire 12 additional inspectors for the Alcoholic Beverage Control Board. Of the additional inspectors, 6 shall focus their responsibilities on the enforcement of laws relating to the sale of alcohol to minors.

AMENDMENT NO. 1269

At the appropriate place, insert the following:

SEC. . (a) Not later than 6 months after the date of enactment of this Act, the General Accounting Office shall conduct and submit to Congress a study of—

(1) the District of Columbia's alcoholic beverage tax structure and its relation to surrounding jurisdictions;

(2) the effects of the District of Columbia's lower excise taxes on alcoholic beverages on consumption of alcoholic beverages in the District of Columbia;

(3) ways in which the District of Columbia's tax structure can be revised to bring it into conformity with the higher levels in surrounding jurisdictions; and

(4) ways in which those increased revenues can be used to lower consumption and promote abstention from alcohol among young people.

(b) The study should consider whether—

(1) alcohol is being sold in proximity to schools and other areas where children are likely to be; and

(2) creation of alcohol free zones in areas frequented by children would be useful in deterring underage alcohol consumption.

THE ENERGY POLICY AND CONSERVATION ACT EXTENSION ACT OF 1997

MURKOWSKI AMENDMENT NO. 1270

Mr. LOTT (for Mr. MURKOWSKI) proposed an amendment to the bill (H.R. 2472) to extend certain programs under the Energy Policy and Conservation Act; as follows:

Strike all after the enacting clause and insert in lieu thereof:

''SECTION 1. ENERGY POLICY AND CONSERVATION ACT AMENDMENTS.

''The Energy Policy and Conservation Act is amended—

''(1) in section 166 (42 U.S.C. 6246) by striking ''for fiscal year'' and inserting in lieu thereof ''through October 31,'';

''(2) in section 181 (42 U.S.C. 6251) by striking ''September 30'' both places it appears and inserting in lieu thereof ''October 31''; and

''(3) in section 281 (42 U.S.C. 6285) by striking ''September 30'' both places it appears and inserting in lieu thereof ''October 31''.''.

NOTICE OF HEARING

SUBCOMMITTEE ON WATER AND POWER

Mr. KYL. Mr. President. I previously announced for the benefit of Members and the public that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources scheduled a hearing to receive testimony on the following measures:

S. 725—To direct the Secretary of the Interior to convey the Collbran Reclamation Project to the Ute Water Conservancy District and the Collbran Conservancy District;

S. 777—To authorize the construction of the Lewis and Clark Rural Water System and to authorize assistance to the Lewis and Clark Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water supply system, and for other purposes;

H.R. 848—To extend the deadline under the Federal Power Act applicable to the construction of the AuSable Hydroelectric Project in New York, and for other purposes;

H.R. 1184—To extend the deadline under the Federal Power Act for the construction of the Bear Creek Hydroelectric Project in the State of Washington, and for other purposes; and

H.R. 1217—To extend the deadline under the Federal Power Act for the construction of a hydroelectric project in the State of Washington, and for other purposes.

In addition to these bills the subcommittee will also consider S. 1230, a bill to amend the Small Reclamation Projects Act of 1956 to provide for Federal cooperation in non-Federal reclamation projects and for participation by non-Federal agencies in Federal projects; and S. 841, to authorize construction of the Fort Peck Reservation Rural Water System in the State of Montana, and for other purposes.

The hearing will take place on Tuesday, October 7, 1997, at 2 p.m. in room SD–366 of the Dirksen Senate Office Building.

Those wishing to testify or submit written statements for the record should contact Betty Nevitt, Staff Assistant, at (202) 224–0765 or write to the Subcommittee on Water and Power, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MACK. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, September 30, 1997, to conduct a hearing of the following nominees: Laura S. Unger, of New York, to be a commissioner of the Securities and Exchange Commission; Paul R. Carey, of New York, to be a commissioner of the Securities and Exchange Commission; Dennis Dollar, of Mississippi, to be a member of the National Credit Union Administration Board; Edward M. Gramlich, of Virginia, to be a member of the Board of Governors of the Federal Reserve; Roger Walton Ferguson, of Massachusetts, to be a member of the Board of Governors of the Federal Reserve; and Ellen Seidman, of the District of Columbia, to be a director of thrift supervision.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MACK. Mr. President, I ask unanimous consent the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, September 30, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to receive testimony on the impact of a new climate treaty on U.S. labor, electricity supply, manufacturing, and the general economy.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. MACK. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to meet to consider S. 1180, the Endangered Species Recovery Act of 1997, Tuesday, September 30, 9:30 a.m., Hearing Room (SD–406).

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

COMMITTEE ON FOREIGN RELATIONS

Mr. MACK. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, September 30, 1997, at 4:00 p.m. to hold a House/Senate conference.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MACK. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee special investigation to meet on Tuesday, September 30, at 10 a.m., for a hearing on campaign financing issues.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MACK. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on tobacco settlement during the session of the Senate on Tuesday, September 30, 1997, at 10 a.m.

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

COMMITTEE ON THE JUDICIARY

Mr. MACK. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, September 30, 1997 at 2 p.m. in room 226 of the Senate Dirksen Office Building to hold a hearing on the nomination of Raymond C. Fisher, Jr., of California, to be Associate Attorney General.

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

COMMITTEE ON THE JUDICIARY

Mr. MACK. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, September 30, 1997 at 3 p.m. in room 226 of the Senate Dirksen Office Building to hold a Judicial Nominations hearing.

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

SUBCOMMITTEE ON CONSTITUTION, FEDERALISM, AND PROPERTY RIGHTS

Mr. MACK. Mr. President, I ask unanimous consent that the Subcommittee on Constitution, Federalism, and Property Rights of the Senate Committee on the Judiciary, be authorized to meet during the session of the Senate on Tuesday, September 30, 1997, at 10:30 a.m. to hold a hearing in room 226, Senate Dirksen Building, on ''Unconstitutional Set-Asides: ISTEA's Race-Based Set-Asides After ADARAND.''

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, September 30, 1997, at 2:30 p.m., on Fast Track.

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

ADDITIONAL STATEMENTS

NOMINATION OF BILL LANN LEE

• Mrs. BOXER. Mr. President, I take the floor today to speak about the nomination of Bill Lann Lee to be Assistant Attorney General for Civil Rights at the Department of Justice. I urge the Judiciary Committee to act expeditiously on this nomination and send it to the full Senate for a vote.

Bill Lann Lee brings outstanding legal, educational and personal credentials to this important position. Most recently, he served as the western regional counsel for the NAACP Legal Defense and Education Fund. Mr. Lee is also regarded by many as a skilled consensus-builder with a knack for finding pragmatic solutions, earning him praise from allies and adversaries alike. His numerous accomplishments in litigation and over 20 years of experience in civil rights work have established him as one of the most experienced civil rights lawyers in the Nation.

Bill Lee was inspired to become a civil rights lawyer by his father, who was subjected to discrimination in

housing and other areas because of his race, even after serving his country loyally in the U.S. Army during World War II. Witnessing this bigotry had a profound impact on young Bill. After graduating from Columbia Law School in 1974, he entered the legal profession with a passion for serving the public interest and advocating for civil rights.

Bill Lee will bring a passion and commitment to the cause of civil rights and equal treatment under law for all Americans. He is a tremendous role model for all Americans who care about civil rights. Early in life, he recognized the importance of public service and he has dedicated his life to it.

On that point, I would like to take this opportunity to express my concern that many Americans, especially those with Asian names or of Asian heritage, may be less interested in becoming involved in public life as a result of a series of unfortunate and disparaging remarks made by some in the media and in public positions.

Such remarks and misperceptions appeal to the worst human instincts when we should be appealing to the best. A recent study by the National Asian Pacific American Legal Consortium documented an increase last year in hate crimes targeting Asian Pacific Americans.

This disturbing trend demonstrates that now is the time for these issues to be handled fairly, thoroughly and expediently, under strong new leadership by the Justice Department's Civil Rights Division. ●

DEPARTMENT OF DEFENSE APPROPRIATIONS CONFERENCE REPORT

SECTION 8123

● Mr. SPECTER. Mr. President, I would like to enter into a colloquy with Senate Appropriations Committee Chairman TED STEVENS concerning section 8123 of the fiscal year 1998 Defense appropriations bill, H.R. 2266.

Is it the chairman's expectation that the Secretary of Defense will not exercise the authority in section 8123 with regard to specialty steel and other steel products encompassed in the following Harmonized System of Tariffs (HTS) numbers: 7208 (carbon steel); 7218 through 7223 (stainless steel); 7224 through 7229 (alloy steels, high speed tool steels and electrical steels); 7304 through 7306 (stainless steel pipe and tube); 7502 through 7508 (nickel-based alloys; 8105, 8108, 8109 (cobalt/titanium/zirconium-based alloys); 8211, 8215 (stainless steel flatware) unless the failure of the Secretary of Defense to exercise such waiver authority pursuant to section 8123 will trigger unilateral retaliatory sanctions by a foreign country?

Mr. STEVENS. The Senator is correct.

Mr. D'AMATO. I would like to associate myself with the comments of the senior Senator from Pennsylvania, Mr. SPECTER, and underscore my similar expectation that the Secretary of Defense will not exercise the authority in section 8123 with regard to the products enumerated by Senator SPECTER. ●

50TH ANNIVERSARY OF ELLSWORTH AIR FORCE BASE'S 28TH BOMB WING

● Mr. JOHNSON. Mr. President, I would like to take this opportunity to recognize the men and women of Ellsworth Air Force Base's 28th Bomb Wing and join them in their celebration of the Air Force's and the bomb wing's 50th anniversary.

This is a wonderful time to reflect on the remarkable role the U.S. Air Force and the 28th Bomb Wing have played in our national security and to look toward the future at the growing importance air superiority will have in maintaining the peace around the world. These past five decades have provided countless successes and great memories for the men and women who piloted, maintained, and provided oversight to the numerous important missions of the U.S. Air Force. Our country owes all who have served a debt of gratitude.

The 28th Bomb Wing was born in August 1947 when the Strategic Air Command organized the wing at Rapid City Army Air Field, later renamed Ellsworth Air Force Base, SD. In 1949, the 28th participated in the first of a long line of historical missions when B–29's flew a 90-day show-of force mission during the Soviet blockade of Berlin. At the start of the cold war, the B–29's gave way to B–36 Peacemakers in 1950 as the 28th provided an umbrella of security for NATO countries.

The crews of the B–36 were dedicated to their missions—primarily reconnaissance and to gather photographic and electronic information. However, according to B–36 crew chief Bill Shoemaker, they did everything from drop haybales to stranded livestock during the terrible winters of 1949 and 1950 for Operation Haylifts; transport Thanksgiving turkeys to soldiers in Greenland; attend the coronation of Queen Elizabeth II, and take a member of the royal family on a short flight. The ability to perform any job, and do it well, was the hallmark of the B–36 crew and a trait that has been reflected in the personnel of the 28th throughout the years.

Senior Master Sgt. Dave Sitch spent 6 of his 26 years of military service at Ellsworth Air Force Base as part of the 28th Bomb Wing—1951–55, 1974–76. ''In the days of the '36 and as part of the 28th, that was the closest group I had ever been in. There was a lot of competition among the squadrons, but there was a lot of camaraderie too. We looked out for each other.''

Jet technology changed the face of aeronautics, and the all-jet B–52 Stratofortress started replacing the Peacemakers in 1957. The 28th Bomb Wing played an important role in the Vietnam war, flying both bombers and tankers for 9 years. Over the next 20 years, Ellsworth Air Force Base became a vital component of our country's defensive strategy as the 28th assumed the bomber role in the Strategic Projection Force. The B–52 mission expanded to include sea reconnaissance, surveillance, and conventional operations from forward bases, and Ellsworth Air Force Base's reach extended to a number of hot spots overseas.

Don Strachan spent 10 years as a member of the 28th Bomb Wing at Ellsworth Air Force Base. He recalls a time when the B–52's participated in an operation titled Airborne Alert, in which one-third of the entire B–52 fleet was expected to remain airborne at all times between 1957 and 1960. ''Some of the wings couldn't handle it, but the 28th filled in. We never failed to meet our commitment. It was like family. We supported everyone extremely well. The esprit de corps was unmatched. There was a great deal of sharing among the crews. People would come in and observe our operations.''

Strachan and Shoemaker recalled conducting maintenance on planes in desperately cold temperatures. While stationed with the B–36's in Greenland, Shoemaker recalled, ''It was so cold, you couldn't do anything. We worked under the lights on ramps. It was so dark all the time.'' Strachan said maintenance crews worked in chill factors that were 100 degrees below zero. ''Nothing stopped the 28th,'' said Strachan.

Fred Hurst spent six different stints totaling 19 years at Ellsworth Air Force Base as a member of the 28th Bomb Wing. For many years, he served as president of the 28th Bomb Wing Reunion Association and was recently succeeded in the position by Strachan. Hurst spent 30 years of military service, working in maintenance on B–29's, B–36's, and B–52's and retired from military service as a chief master sergeant. He retired last year as a civilian worker and advisor on B–1B operations. Hurst says the 28th Bomb Wing has always been admired for its professionalism and efficiency. ''It is a good wing. It's been at the top for so many years as far as performance goes. It has a great safety record. Whenever someone had a problem, everyone and his brother tried to help him.''

Mike Isaman spent a total of 15 years at Ellsworth Air Force Base over two stints. As a member of the 28th Bomb Wing, Isaman said teamwork was key to the success of any operation, as well as to the success of the Wing and the Base. ''We were all friends. Everyone looked out after each other. It was a team. It worked together. They all stood together. We would do anything possible for other crews and squadrons.''

The Air Force introduced the next generation of bombers, the B–1B Lancer, in 1987, and once again, the 28th took the lead in housing the sleek new bombers. Adding to its already storied combat experience, the wing deployed

both tanker and airborne command post aircraft to Operations Desert Shield/Desert Storm. Following action in the Persian Gulf, B–1's were taken off alert, and the world began to settle into the post-cold war era. The 28th Bomb Wing, successful in protecting the United States for five decades began the transition from the strategic role to an all-conventional mission. Once again, the 28th shone brightly as the bomb wing successfully participated in the congressionally directed operational readiness assessment known as Dakota Challenge in 1994. The 77th Bomb Squadron was activated at Ellsworth Air Force Base in April 1997, and the 28th Bomb Wing will continue to stand tall as the ''Pioneer of Peace for the 21st Century.''

I strongly support the B–1B program and share the view of the Air Force that the B–1B is the backbone of our bomber force. It deserves this reputation because of the versatility, efficiency, and effectiveness of the craft. To the flight crews as well as the ground support, administrative staff, security personnel, base support, and hospital personnel who served and continue to serve as part of the 28th, I salute and commend your efforts. The active duty members, families, and retirees have forged an unbreakable bond with the communities of Box Elder and Rapid City.

Mr. President, I would like to take this opportunity to thank all of those associated with Ellsworth and the Air Force for their impressive efforts and for their commitment to South Dakota and the United States. I know they have had an illustrious past, and I know they will continue their success in the future. Their missions will continue, although modified to fit the requirements of the post-cold war world, and I have no doubt that they will continue to be the ''first to fight with decisive combat airpower that achieves the aims of the combatant commander's campaign'' as their mission states. Best wishes for another 50 years of pride and success.●

INTERNATIONAL RESCUE COMMITTEE OF NEW YORK

● Mr. MOYNIHAN. Mr. President, today I am proud to note the accomplishments of the International Rescue Committee of New York.

This week the International Rescue Committee was awarded the Conrad N. Hilton Humanitarian Prize, in recognition of its relief and resettlement services to millions of refugees. In presenting the award to John C. Whitehead, chairman of the IRC Board, former President Jimmy Carter said, ''This year, the Hilton Foundation has fulfilled a vital need in bringing the refugee issue, one that is often overlooked or ignored, to the forefront by honoring the International Rescue Committee.''

The Conrad N. Hilton Foundation created the annual award to recognize outstanding efforts by the best American charitable organization engaged in combating ''famine, war, disease, human affliction and man's inhumanity to man.'' IRC was selected to receive the award by a prestigious international jury that included Dr. C. Everett Koop, former Surgeon General of the United States. It was accorded the Hilton Prize on the basis of its achievements in alleviating suffering, on the sustainability of its programs, and on the extent to which it reaches out and involves others in accomplishing its mission.

I want to congratulate the International Rescue Committee on its fine achievements and salute the Conrad N. Hilton Foundation for recognizing those efforts.●

CELEBRATION OF FLORIDA INTERNATIONAL UNIVERSITY'S SILVER ANNIVERSARY

● Mr. GRAHAM. Mr. President, this month the people of Florida join with faculty, staff, students, and more than 70,000 alumni in honoring Florida International University on its 25th anniversary. For the past quarter century, this outstanding institution's commitment to academic excellence and its constant celebration of diversity has enriched communities throughout Florida, the United States, and the entire world.

This milestone anniversary is particularly special to members of the Graham family. In 1943, State senator Ernest R. Graham—my father—introduced legislation to establish a public university in south Florida. Twenty-two years later, on May 26, 1965, the Florida State senate unanimously passed legislation to fulfill his vision. On September 19, 1972, Florida International University opened its doors for the first time.

That would have been a proud day for my father. When I was growing up in the Miami area, he used to tell my brothers, sister, and I that the best investment he ever made were his Dade County school taxes. He was proud, even enthusiastic, about paying those taxes because they enabled his children to get a strong education in the Dade County public school system. If he were alive today, my father would agree that the time and energy he put into laying the groundwork for a Florida International University was yet another wise educational investment.

After only a quarter-century in existence, FIU has already gained acclaim as one of the most academically challenging and culturally diverse universities in the entire United States. This distinction is a credit to Florida International University's hard-working staff, dedicated faculty, bright student body, loyal alumni, and especially the wise, dynamic leadership of FIU's four presidents—Charles Perry, Harold Crosby, Gregory Wolfe, and Modesto Maidique.

Each of these four outstanding individuals have contributed to Florida International University's popularity, prestige, and reputation. When Charles Perry took the reins of FIU in 1969, a full 3 years before the university opened, the campus was a run-down airport tower, old empty hangars, and 342 acres of land in west Dade County. His boundless energy and zeal for establishing an outstanding public university in south Florida led to the largest opening day enrollment of any university in American history. On September 19, 1972, nearly 6,000 students started classes at Florida International University.

Presidents Harold Crosby and Gregory Wolfe continued the outstanding work that president Perry had begun. President Crosby placed special emphasis on fulfilling the international vision espoused by FIU's founders, hiring faculty members from a number of foreign countries and establishing the multilingual, multicultural center. President Wolfe led Florida International through its critical transition from 2- to 4-year university.

For the last 10 years, Florida International University has had the good fortune to be guided by a dedicated, hard-working leader with an eye for excellence, a passion for education, a keen insight into bringing town and gown together in support of academic success, and a determination to make FIU second to none in preparing students for the United States' future in an increasingly international economy and society.

It might have been destiny that brought President Modesto ''Mitch'' Maidique to Florida International University. He has helped to mold FIU in his own image—president Maidique's own background contains the same ethnic and cultural diversity, financial savvy, and academic excellence that have come to characterize south Florida's preeminent public university.

The son of German-Czech emigrants who settled in Cuba during the early 1800's, president Maidique was born in Havana in 1940. At the end of his formal education, he had earned three degrees from the Massachusetts Institute of Technology—bachelor of science, master of science, doctor of electrical engineering—and another from the business program at MIT's Cambridge neighbor, Harvard University. By the time he assumed Florida International University's presidency in 1986, he had added professor and distinguished businessman to his résumé, teaching at prestigious institutions like Harvard and Stanford and lending his scientific knowledge and business know-how to several prominent firms.

Success followed president Maidique to Florida International. His decade of leadership has spurred a number of impressive academic, financial, and cultural achievements. In academics, U.S. News & World Report consistently ranks Florida International University as one of the top 150 national universities in the United States. Money magazine says that it is among America's best public commuter universities.

Perhaps Florida International University's greatest academic achievement is the fact that it so earnestly works to provide an outstanding education to all students, regardless of socioeconomic background. Thanks in part to low tuition rates, and to the work ethic and frugality of FIU administrators, faculty, and staff, its students are the fifth least indebted in the Nation. U.S. News & World Report rates it as one of the 10 best educational buys in the United States.

Finally, Florida International University is one of the most diverse colleges in the United States that is increasingly benefited by its ethnic diversity. For the last 25 years, it has been training young adults to live, work, and succeed in a world that speaks multiple languages and celebrates a variety of cultural achievements. More than half of its student body is Hispanic, and the university produces more Hispanic graduates than any other university in America. All in all, it has 70,000 alumni that represent all 50 States and more than 146 countries.

Mr. President, I join with all Floridians in congratulating president Modesto Maidique and every past and present member of the Florida International University community on its historic 25th anniversary. As the university prepares to begin its next quarter-century, its abiding commitment to academic excellence, affordability, and diversity is leading the United States into the 21st century.●

TRIBUTE TO LESLIE LORD AND SCOTT E. PHILLIPS

● Mr. SMITH of New Hampshire. Mr. President, I rise today to honor the memories of two brave New Hampshire State Troopers killed in the line of duty. Leslie Lord, 45, of Pittsburg and Scott E. Phillips, 32, of Colebrook both bravely gave their lives trying to protect others and stop a man wielding an automatic rifle throughout the town of Colebrook, New Hampshire on August 19th. Vickie Bunnell, a Colebrook District Court judge, and Dennis Joos, editor of the Sentinel newspaper, were also innocent victims in the shooting spree.

Leslie Lord was a 1974 graduate of Pittsburg High School and the next year graduated in the 25th class at the New Hampshire Police Academy. Later, Lord became the chief of police in his hometown, until January 16, 1987, when he resigned to become a state highway enforcement officer. After working as a state highway truck inspector, Lord became a state trooper for the Granite state in 1996.

Lord, who was not only a husband to Beverly, was also a father to two teenage boys, Cory and Shawn.

Scott Phillips was a 1984 graduate of White Mountain Regional High School in Whitefield and also a veteran of the U.S. Army. He served with the military police, including a tour of duty in Panama. In 1990, as a member of the 90th class at the State Police Academy, Phillips graduated an impressive 14th in a class of 38.

Phillips lived in Colebrook with his dear wife, Christine, their young son, Keenan, 2½, and their 1-year-old daughter, Clancy.

Both Troopers Lord and Phillips were known as dedicated, hardworking, and well-liked individuals by members of their respective communities.

Mr. President, the state of New Hampshire as well as the families of these fine state troopers have suffered a tremendous loss. I would like to commend the efforts of both men, for their actions were nothing short of heroic. I would also like to extend to the families of not only Lord and Phillips, but also of Vickie Bunnell and Dennis Joos, my deepest heartfelt sorrow and I pray that God watches over them. The memories of Leslie Lord and Scott E. Phillips will live on in all of the lives they have touched, for they were two remarkable and beloved individuals.●

TRIBUTE TO CONRAD RICHARD GAGNON, JR. AND MAUREEN E. CONNELLY

● Mr. SMITH of New Hampshire. Mr. President, I rise today to honor Conrad Richard Gagnon, Jr. and Maureen E. Connelly who were named finalists in the second annual Samsung American Legion Scholarship Program.

The scholarship program is funded by a $5 million endowment from the Samsung Group, an international company based in South Korea, and is administered by the American Legion, the world's largest veterans organization. Only direct decedents of U.S. wartime veterans are eligible for the scholarships.

Conrad and Maureen are among many other outstanding young Americans named as finalists to compete for one of ten college scholarships, each worth $20,000. The students were judged on the basis of their involvement in their school and community, and for their academic achievements.

Conrad is a native of Bedford, New Hampshire and is currently in his senior year of high school. He is the son of Conrad and Gisele Gagnon, and has three bothers: Brian, Tim and Dan. His grandfather, Richard Adalard Gagnon, is a World War Two veteran.

Conrad has distinguished himself by achieving excellent grades, as well as being involved in numerous and varied actives. He is an associate editor of his school year book, a member of his school's math team, and French club. He has been awarded the Boy Scouts Order of the Arrow, and will travel to California and Japan this summer on the Sony Student Abroad scholarship. Conrad also participates in community service activities such as peer tutoring, food drives, and was involved in organizing an effort to place over one hundred of his peers in volunteer positions. He would like to study engineering and law in college.

Maureen is a resident of Greenland, New Hampshire. She attends Portsmouth High School. She is the daughter of Mark and Marian Connelly, and she has a sister Carolyn and a brother Steven. Her grandfather, Quentin Dante Halstead, served on active duty in World War Two, the Korean War, and the Vietnam War.

Maureen has earned outstanding grades in honors and advance placement classes. She is also very active on her school's field hockey team and track team. In addition she is a member of student government, serving in the capacity of treasure, as well as a member of the school newspaper staff. Maureen volunteers her time to teach young children field hockey, and she maintains a job as a lifeguard. She is a senior in high school and would like to be a doctor.

Young men and women such as CONRAD and Maureen are a valuable asset to New Hampshire and the future of the United States. I congratulate them on all their hard work and wish them success in their future endeavors.●

IN MEMORY OF CHAD WARREN

Mr. SMITH of New Hampshire. Mr. President, I rise today in memory of Chad Warren, a young, thoughtful and motivated man who recently passed away. Chad was only 25 years old when he unfortunately lost his life, only months away from his 26th birthday. He is an example to us all because of his sheer dedication to his job and his unconditional love for his family.

Working at the Goodhue Hawkins Navy Yard for the past six years, Chad became an invaluable employee and was also known as a friend to all. Hard working and dedicated are only mere words to epitomize Chad as a person. He started out as a boat washer and dockboy and soon progressed to a boat rigger and forklift operator He then achieved certification as a boat mechanic. Mr. President, I admire Chad not only for his dedication but also for the heart he put into his service at the Navy Yard.

Prior to his employment, Chad was in Steve Durgan's Junior High Geography and U.S. History classes at Kingswood Regional Junior/Senior High School. Steve, a close personal friend of mine, described Chad as quiet, shy and thoughtful.

At such a young age, Chad was surrounded by many close, loving people. Besides his mother, Linda Morrill of Wolfeboro, New Hampshire, and his father, Paul Warren of Ashburnham, Massachusetts, Chad leaves his dear wife Sherri Warren and their young beloved children Corbin, 5 years old, Shane, 8 years old, and Amber, 12 years old. Chad was blessed to have these valuable people in his life.

Mr. President, to lose any life is a sad event. But to lose a young life, one full of energy, life, hopes and dreams is a tragedy. My heart and prayers go out

to Chad's family and especially his wife, Sherri, and their children, Corbin, Shane, and Amber. The loss of a husband and father is irreplaceable but Chad's memory will always live on in those who loved him.●

TRIBUTE TO JEREMY CHARRON

● Mr. SMITH of New Hampshire. Mr. President, I rise today to honor the memory of a bright, young police officer wrongfully killed while on duty. Officer Jeremy Charron, 24, of Concord, New Hampshire, was gunned down while checking on a report of a suspicious car during the early morning hours of August 24th.

Officer Charron embodied all that is honorable about our state's law enforcement professionals. His selfless devotion to protecting the lives of innocent New Hampshire citizens enabled him to perform the heroic acts for which he will always be remembered. It is not often that we see such strength, valor, and courage in a person. Jeremy Charron was unique and his family can be proud of his bravery in this tragedy.

Jeremy Charron was an All-American kid, a high school athlete, a natural leader, president of his senior class at Hillsborough-Deering High School, a U.S. Marine and a police officer.

Fulfilling his life long dream, Charron became a police officer for the town of Epsom, New Hampshire, in November, after completing the full-time police academy training and becoming certified as a full-time officer July 11.

Charron also served in the U.S. Marine Corps from July 1992 to June 1996, when he received an honorable discharge.

Born to Robert and Frances Charron, Jeremy leaves brothers Rob, 28, and Andrew, 27, and sisters, Amanda, 21, and Bethany, 12, and his finance, April LaRochelle.

Mr. President, the family of Jeremy Charron has suffered a great loss. The people of New Hampshire again have lost another fine officer. It is a time for faith and a time for healing. My prayers and sympathy go out to the families and friends of Officer Charron.●

UNANIMOUS-CONSENT AGREEMENT—CONFERENCE REPORT ACCOMPANYING H.R. 2378

Mr. LOTT. Mr. President, I ask unanimous consent that the majority leader, after consultation with the minority leader, proceed to consideration of the conference report accompanying H.R. 2378, the Treasury-Postal Service appropriations bill. I further ask unanimous consent that the reading be waived and the conference report be limited to the following debate time:

The two managers, 15 minutes each;

Senator MCCAIN, up to 10 minutes;

Senator BROWNBACK, up to 10 minutes;

Senator WELLSTONE, up to 10 minutes.

I further ask unanimous consent that immediately following the expiration of time, the Senate proceed to a vote on the adoption of the conference report with no intervening action or debate.

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

U.S. DISTRICT COURTS ARBITRATION APPROPRIATIONS AUTHORIZATION ACT

Mr. LOTT. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on (S. 996) to provide for the authorization of appropriations in each fiscal year for arbitration in U.S. district courts.

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

Resolved, That the bill from the Senate (S. 996) entitled ''An Act to provide for the authorization of appropriations in each fiscal year for arbitration in United States district courts.'', do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. ARBITRATION IN DISTRICT COURTS.

Section 905 of the Judicial Improvements and Access to Justice Act (28 U.S.C. 651 note) is amended in the first sentence by striking ''for each of the fiscal years 1994 through 1997'' and inserting ''for each fiscal year''.

SEC. 2. ENHANCEMENT OF JUDICIAL INFORMATION DISSEMINATION.

Section 103(b)(2) of the Civil Justice Reform Act of 1990 (Public Law 101–650; 104 Stat. 5096; 28 U.S.C. 471 note) is amended—

(1) by inserting ''(A)'' after ''(2)'';

(2) by striking ''sections 471 through 478'' and inserting ''sections 472, 473, 474, 475, 477, and 478''; and

(3) by adding at the end the following new subparagraph:

''(B) The requirements set forth in section 476 of title 28, United States Code, as added by subsection (a), shall remain in effect permanently.''.

SEC. 3. EXTENSION OF CERTAIN TEMPORARY JUDGESHIPS.

Section 203(c) of the Judicial Improvements Act of 1990 (28 U.S.C. 133 note) is amended—

(1) by striking paragraph (1) and redesignating the succeeding paragraphs accordingly; and

(2) by striking the last 3 sentences and inserting the following: ''Except with respect to the western district of Michigan and the eastern district of Pennsylvania, the first vacancy in the office of district judge in each of the judicial districts named in this subsection, occurring 10 years or more after the confirmation date of the judge named to fill the temporary judgeship created by this subsection, shall not be filled. The first vacancy in the office of district judge in the western district of Michigan, occurring after December 1, 1995, shall not be filled. The first vacancy in the office of district judge in the eastern district of Pennsylvania, occurring 5 years or more after the confirmation date of the judge named to the fill the temporary judgeship created for such district under this subsection, shall not be filled. For districts named in this subsection for which multiple judgeships are created by this Act, the last of those judgeships filled shall be the judgeships created under this section.''.

SEC. 4. TRANSFER OF FEDERAL COURT JUDGESHIP.

The table contained in section 133(a) of title 28, United States Code, is amended by amending the item relating to Louisiana to read as follows:

''Louisiana:	
''Eastern	12
''Middle	3
''Western	7''.

Amend the title so as to read ''An Act to provide for the authorization of appropriations in each fiscal year for arbitration in United States district courts, and for other purposes.''.

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate concur in the amendments of the House.

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

EXTENDING CERTAIN PROGRAMS UNDER THE ENERGY POLICY AND CONSERVATION ACT

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2472, which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2472) to extend certain programs under the Energy Policy and Conservation Act.

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. 1270

(Purpose: To extend certain programs under the Energy Policy and Conservation Act and for other purposes)

Mr. LOTT. Mr. President, Senator MURKOWSKI has an amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi (Mr. LOTT), for Mr. MURKOWSKI, proposes an amendment numbered 1270.

Mr. LOTT. Mr. President, I ask unanimous consent that the 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 in lieu thereof:

''SECTION 1. ENERGY POLICY AND CONSERVATION ACT AMENDMENTS.

''The Energy Policy and Conservation Act is amended—

''(1) in section 166 (42 U.S.C. 6246) by striking for 'fiscal year' and inserting in lieu thereof 'through October 31,';

''(2) in section 181 (42 U.S.C. 6251) by striking 'September 30' both places it appears and inserting in lieu thereof 'October 31'; and

''(3) in section 281 (42 U.S.C. 6285) by striking 'September 30' both places it appears and inserting in lieu thereof 'October 31'.''.

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. 1270) was agreed to.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed, as

amended; that the motion to reconsider be laid upon the table; and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (H.R. 2472), as amended, was read the third time and passed.

PROVIDING FOR RELEASE OF REVERSIONARY INTEREST HELD BY THE UNITED STATES

Mr. LOTT. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of H.R. 394 and, further, that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 394) to provide for the release of the reversionary interest held by the United States in certain property located in the County of Iosco, Michigan.

The Senate proceeded to consider the bill.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed; that the motion to reconsider be laid upon the table; and that 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 (H.R. 394) was read the third time and passed.

HOOD BAY LAND EXCHANGE ACT OF 1997

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 177, H.R. 1948.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1948) to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes.

The Senate proceeded to consider the bill.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed; that the motion to reconsider be laid upon the table; and that 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 (H.R. 1948) was read the third time and passed.

AUTHORIZING SUPPLEMENTAL EXPENDITURES

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 126, which was reported by the Rules Committee today.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 126) authorizing supplemental expenditures by the Committee on Veterans' Affairs.

The Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to; that the motion to reconsider be laid upon the table; and that any statements 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. 126) was agreed to, as follows:

S. RES. 126

Resolved, That section 18(b) of Senate Resolution 54, 105th Congress, agreed to February 13, 1997, is amended by striking out ''$1,123,430'' and inserting in lieu thereof ''$1,698,430''.

Mr. LOTT. I should note, Mr. President, that all these unanimous-consent requests have been discussed with and cleared by the minority leader's staff.

ORDERS FOR WEDNESDAY, OCTOBER 1, 1997

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Wednesday, October 1. I further ask unanimous consent that on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately begin consideration of the Treasury-Postal Service appropriations conference report as agreed to under the previous consent agreement.

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

PROGRAM

Mr. LOTT. Mr. President, tomorrow morning, the Senate will begin 60 minutes of debate on the Treasury-Postal Service appropriations conference report. Senators can, therefore, expect rollcall votes Wednesday morning at approximately 11 a.m. or earlier if debate time is yielded back, and it could be yielded back, so the vote could be shortly before 11 o'clock. Following that vote, the Senate will resume consideration of the DC appropriations bill. It is the intention of the majority leader to finish action on the final appropriations measure. In observance of Rosh Hashanah, no recall call votes will occur after 1 p.m. tomorrow. Therefore, all Senators' cooperation will be appreciated in allowing the Senate to conclude action on the pending bill. I should note that we will continue to try to get an agreement to clear conference reports, and we probably will be in session until about 4 o'clock tomorrow afternoon, but there will be no recorded votes after 1 o'clock.

ADJOURNMENT UNTIL TOMORROW AT 10 A.M.

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

There being no objection, the Senate, at 7:28 p.m., adjourned until 10 a.m., Wednesday, October 1, 1997.

NOMINATIONS

Executive nominations received by the Senate September 30, 1997:

DEPARTMENT OF STATE

KATHRYN LINDA HAYCOCK PROFFITT, OF ARIZONA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MALTA.

WILLIAM H. TWADDELL, OF RHODE ISLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERAL REPUBLIC OF NIGERIA.