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Senate

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

PRAYER

The guest Chaplain, Rev. Philip A. Smith, president of Providence College, Providence, RI, offered the following prayer:

Let us pause for a few moments and place ourselves in the presence of God.

As we gather in Your presence this morning, O gracious God, we thank You for the gifts You have bestowed on us. The grandeur of the universe, the wonder of love, the beauty of friendship, and the time to enjoy it all. We thank You for the privilege of living in a land of plenty and promise, equality and opportunity, a land where freedom reigns and peace is possible.

We ask Your blessings on the Members of this Senate as they grapple with complex economic, social, political, and cultural challenges in this Nation and around the world. Grant them the insight, wisdom, and courage to fashion legislation that will create a fresh vision and inspire hope, that will balance opportunity costs with social justice, that will enhance the quality of life for all Americans, while paying special attention to those in our midst who experience their existence as fragile or painful: the ill and the elderly, the unloved and the unwanted, the hungry and the homeless, the disadvantaged and the downtrodden.

Finally, we ask to enrich our faith and strengthen our hope, nurture our wisdom and deepen our love, increase our compassion, and broaden our tolerance so that our lives may illuminate the lives of others and light up the places where we labor and live.

We ask You this as a people of faith confident of Your love and goodness and as a people of hope who trust in Your promises. Amen.

PLEDGE OF ALLEGIANCE

The Honorable CRAIG THOMAS, a Senator from the State of Wyoming, led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 2549, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2549) to authorize appropriations for fiscal year 2001 for military activities of the Department of Defense and for other purposes.

Pending: Smith (of NH) amendment No. 3210, to prohibit granting security clearances to felons.

McCain amendment No. 3214 (to amendment No. 3210), to require the disclosure of expenditures and contributions by certain political organizations.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, again I wish to express my cooperation to the leadership of the Senate, most specifically my distinguished ranking member, Mr. LEVIN. We are making progress on this bill.

I inquire first of the Chair with regard to time allocations. I believe, under the previous order, 1 hour has been reserved for the distinguished junior Senator from Massachusetts, to be assigned at some point today; is that not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. I inquire further about the distinguished Senator from New Hampshire, Mr. ROBERT SMITH. I believe he has 30 minutes, and again that is an undesignated time?

The PRESIDING OFFICER. That is correct.

Mr. WARNER. I think there are other designations of time we should recite.

The PRESIDING OFFICER. Senator INHOFE from Oklahoma has 10 minutes; Senator SNOWE from Maine has 30 minutes.

Mr. WARNER. If those Senators will counsel with the managers, we are going to do everything we can to arrange for their recognition at a time mutually convenient.

I see the distinguished junior Senator from Massachusetts on the floor. It may well be that we could proceed with that, but I shall defer to my colleague momentarily.

SCHEDULE

For the benefit of the Senate, we will resume consideration of the Department of Defense authorization bill. At 1 o'clock, the Senate will begin 2 hours of debate on the McCain amendment regarding soft money disclosure. That 2 hours will be equally divided between the sponsors of that amendment and the Senator from Virginia.

Following that debate, Senator KENNEDY will be recognized to offer an amendment regarding health care management organizations. Under a previous order, there will be up to 2 hours of debate on the Kennedy amendment, again, with the time equally divided between Kennedy proponents and the Senator from Virginia and/or his designee.

Votes will occur at approximately 5 o'clock. Senators should be aware, other amendments may be offered during the morning session. Therefore, votes may occur prior to the 1 o'clock orders.

I thank my colleagues. I know the distinguished minority whip seeks recognition on a matter.

Mr. REID. Mr. President, the only correction I make is that the amendment will be offered by Senator

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

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DASCHLE or his designee, rather than Senator KENNEDY.

Mr. WARNER. I thank the distinguished Senator. Yesterday I believe the Senator brought that to my attention and we failed to record it. My statement is so amended by the distinguished Senator from Nevada.

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

LEAVE OF ABSENCE

Mr. REID. Mr. President, on behalf of Senator CONRAD, I ask unanimous consent, under rule VI, paragraph 2, he be permitted to be absent from the service of the Senate today, Thursday, June 8.

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

Mr. WARNER. Mr. President, I propose to my ranking member that as soon as we conclude our opening remarks, the Senate then recognize the junior Senator from Massachusetts for a period of 1 hour; is that correct?

Mr. KERRY. Mr. President, my two colleagues, the Senator from Connecticut and the Senator from Rhode Island would like to take a moment to acknowledge our distinguished visiting Chaplain this morning. If they could just have a moment to do that.

Mr. WARNER. I am delighted to accommodate them in that fashion.

The PRESIDING OFFICER. The Senator from Rhode Island.

GREETINGS TO REV. PHILIP A. SMITH

Mr. REED. Mr. President, I am delighted to welcome Father Philip Smith, the president of Providence College, our guest Chaplain.

Providence College is an extraordinary institution in my home State of Rhode Island. It is a place where many of my neighbors and friends have been educated. More than that, it has been a source of strength, purpose, and inspiration for the whole community. Father Smith is the 11th president of Providence College and has been a paramount leader both for his institution and for the State of Rhode Island.

Providence College is a Dominican college, a college committed to not only developing the minds but the character of its students. Its leader is a theologian, a scholar, and a leader in his own right. His leadership is not simply intellectual; he is a leader of integrity and of commitment.

Rhode Island is proud of Providence College, and particularly proud of the president of Providence College, Rev. Philip Smith. It was an honor to have him in the Chamber today to lead us in prayer. I thank him and I commend him. I wish him well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, at this juncture I ought to ask to associate myself with the remarks of the distinguished Senator from Rhode Island. He has spoken eloquently about Father Philip Smith and his wonderful leadership at Providence College.

I am honored to be a graduate of Providence, as was my father. I have fond memories of my years there, as my father did in his undergraduate days.

Father Smith led this institution most admirably during his tenure. We are delighted and honored he is performing the duties of assistant chaplain here today. I commend him for his opening prayer.

The Dominican priests are known as the order of preachers, Mr. President. Certainly Father Smith eloquently displayed that historic reputation of the Dominican order. The lives of the students who have attended Providence College have been so admirably altered as a result of the education of this wonderful institution. I know they join me in expressing our gratitude, not only to Father Smith but the faculty and administrator and others over the years who provided literally thousands of students and families with a wonderful educational opportunity in liberal arts, medicine and health, a very diverse academic curricula that is offered at Providence College. But also as my colleague from Rhode Island has adequately and appropriately identified, it is the spiritual leadership as well which we appreciate immensely.

It is truly an honor to welcome Father Smith to this Chamber, to thank him for his words, and to wish him and the entire family of Providence College the very best in the years to come.

The PRESIDING OFFICER. The Senator from Virginia.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001—Continued

Mr. WARNER. Mr. President, for the information of the Senate, I would like to pose a unanimous consent request with regard to the sequencing of speakers.

We have the distinguished Senator from Massachusetts who has, under a previous order, 1 hour. I suggest he be the first and lead off this morning, followed by the distinguished Senator from Maine, the chair of the Senate Seapower Subcommittee, and that would be for a period of 30 minutes thereafter. Following that, the distinguished ranking member and I have some 30 cleared amendments which we will offer to the Senate following these two sets of remarks.

Then Senator SMITH; as soon as I can reach him, I will sequence him in.

I just inform the Senate I will be seeking recognition to offer an amendment on behalf of Senator DODD and myself, and I will acquaint the ranking member with the text of that amendment shortly.

Just for the moment, the unanimous consent request is the Senator from Massachusetts, followed by the Senator from Maine followed by a period of time, probably not to exceed 30 minutes, for the ranking member and myself to deal with some 30-odd amendments.

The PRESIDING OFFICER. Is there objection? The Senator from Michigan.

Mr. LEVIN. Mr. President, I would add the following: It is my understanding of the unanimous consent agreement that recognition of the speakers who are listed here with a fixed period of time, including Senator KERRY, Senator SMITH, Senator SNOWE, and Senator INHOFE, is solely for the purpose of debate and not for the purpose of offering an amendment. Is the Senator correct?

The PRESIDING OFFICER. That is correct.

Mr. LEVIN. I thank the Chair.

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

Mr. WARNER. I yield the floor.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the chairman and ranking member for their courtesy and I appreciate the time of the Senate to be able to discuss an issue of extraordinary importance. It is an issue that is contained in this bill. It is a line item in this bill of some $85 million with respect to the issue of national missile defense.

President Clinton has just returned from his first meeting with the new Russian President, Vladimir Putin, and arms control dominated their agenda, in particular, the plan of the United States to deploy a limited national defense system, which would require amending the 1972 ABM Treaty. Russia is still strongly opposed to changing that treaty, and I think we can all expect this will continue to be an issue of great discussion between the United States and Russia in the months and possibly years to come.

As I said, in the Senate today, this defense bill authorizes funding for the construction of the national missile defense initial deployment facilities. Regretfully, we do not always have the time in the Senate to lay out policy considerations in a thorough, quiet, and thoughtful way, and I will try to do that this morning. The question of whether, when, and how the United States should deploy a defense against ballistic missiles is, in fact, complex—tremendously complex. I want to take some time today to walk through the issues that are involved in that debate and to lay bare the implications it will have for the national security of the United States.

No American leader can dismiss an idea that might protect American citizens from a legitimate threat. If there is a real potential of a rogue nation, as we call them, firing a few missiles at any city in the United States, responsible leadership requires that we make our best, most thoughtful efforts to defend against that threat. The same is true of the potential threat of accidental launch. If ever either of these things happened, no leader could explain away not having chosen to defend against such a disaster when doing so made sense.

The questions before us now are several. Does it make sense to deploy a national missile defense now, unilaterally, if the result might be to put America at even greater risk? Do we have more time to work with allies and others to find a mutually acceptable, nonthreatening way of proceeding? Have the threats to which we are responding been exaggerated, and are they more defined by politics than by genuine threat assessment and scientific fact? Have we sufficiently explored various technologies and architectures so we are proceeding in the most thoughtful and effective way?

The President has set out four criteria on which he will base his decision to deploy an NMD: The status of the threat, the status and effectiveness of the proposed system's technology, the cost of the system, and the likely impact of deploying such a system on the overall strategic environment and U.S. arms control efforts in general. In my judgment, at this point in time none of these criteria are met to satisfaction.

While the threat from developing missile programs has emerged more quickly than we expected, I do not believe it justifies a rush to action on the proposed defensive system, which is far from technologically sound and will probably not even provide the appropriate response to the threat as it continues to develop. More importantly, a unilateral decision of the United States to deploy an NMD system could undermine global strategic stability, damage our relationship with key allies in Europe and Asia, and weaken our continuing efforts to reduce the nuclear danger.

Turning first to the issue of the threat that we face, this question deserves far greater scrutiny than it has thus far received. I hear a number of colleagues, the State Department, and others, saying: Oh, yes, the threat exists. Indeed, to some degree the threat does exist. But it is important for us to examine to what degree. Recently, the decades-long debate on the issue of deploying an NMD has taken on bipartisan relevance as the threat of a rogue ballistic missile program has increased.

I want to be very clear. At this point, I support the deployment, in cooperation with our friends and allies, of a limited, effective National Missile Defense System aimed at containing the threat from small rogue ballistic missile programs or the odd, accidental, or unauthorized launch from a major power. But I do not believe the United States should attempt to unilaterally deploy a National Missile Defense System aimed at altering the strategic balance. We have made tremendous progress over the last two decades in reducing the threat from weapons of mass destruction through bilateral strategic reductions with Russia and multilateral arms control agreements such as the Chemical Weapons Convention. We simply cannot allow these efforts to be undermined in any way as we confront the emerging ballistic missile threat.

Even as we have made progress with Russia on reducing our cold war arsenals, ballistic missile technology has spread, and the threat to the United States from rogue powers, so-called, has grown. The July 1998 Rumsfeld report found that the threat from developing ballistic missile states, especially North Korea, Iran, and Iraq, is developing faster than expected and could pose an imminent threat to the U.S. homeland in the next 5 years. That conclusion was reinforced just 1 month later when North Korea tested a three-stage Taepo Dong-1 missile, launching it over Japan and raising tensions in the region. While the missile's third stage failed, the test confirmed that North Korea's program for long-range missiles is advancing towards an ICBM capability that could ultimately—and I stress ultimately—threaten the United States, as surely as its shorter range missiles threaten our troops and our allies in the region today.

A 1999 national intelligence estimate on the ballistic missile threat found that in addition to the continuing threat from Russia and China, the United States faces a developing threat from North Korea, Iran, and Iraq.

In addition to the possibility that North Korea might convert the Taepo Dong-1 missile into an inaccurate ICBM capable of carrying a light payload to the United States, the report found that North Korea could weaponize the larger Taepo Dong-2 to deliver a crude nuclear weapon to American shores, and it could do so at any time, with little warning. The NIE also found that, in the next 15 years, Iran could test an ICBM capable of carrying a nuclear weapon to the United States—and certainly to our allies in Europe and the Middle East—and that Iraq may be able to do the same in a slightly longer time frame.

The picture of the evolving threat to the United States from ballistic missile programs in hostile nations has changed minds in the Senate about the necessity of developing and testing a national missile defense. It has changed my mind about what might be appropriate to think about and to test and develop.

If Americans in Alaska or Hawaii must face this threat, however uncertain, I do not believe someone in public life can responsibly tell them: We will not look at or take steps to protect you.

But as we confront the technological challenges and the political ramifications of developing and deploying a national missile defense, we are compelled to take a closer look at the threat we are rushing to meet. I believe the missile threat from North Korea, Iran, and Iraq is real but not imminent, and that we confront today much greater, much more immediate dangers, from which national missile defense cannot and will not protect us.

To begin, it is critical to note that both the Rumsfeld Commission and the National Intelligence Estimate adopted new standards for assessing the ballistic missile threat in response to political pressures from the Congress.

The 1995 NIE was viciously criticized for underestimating the threat from rogue missile programs. Some in Congress accused the administration of deliberately downplaying the threat to undermine their call for a national missile defense.

To get the answer that they were looking for, the Congress then established the Rumsfeld Commission to review the threat. Now, that commission was made up of some of the best minds in U.S. defense policy—both supporters and skeptics of national missile defense. I do not suggest the commission's report was somehow fixed. These are people who have devoted their lives in honorable service to their country. The report reflects no less than their best assessment of the threat.

But in reaching the conclusions that have alarmed so many about the immediacy of the threat, we must responsibly take note of the fact that the commission did depart from the standards that we had traditionally used to measure the threat.

First, the commission reduced the range of ballistic missiles that we consider to be a threat from missiles that can reach the continental United States to those that can only reach Hawaii and Alaska.

I think this is a minor distinction because, as I said earlier, no responsible leader is going to suggest that you should leave Americans in Hawaii or Alaska exposed to attack. But certainly the only reason to hit Hawaii or Alaska, if you have very few weapons measured against other targets, is to wreak terror. And insomuch as that is the only reason, one has to factor that into the threat analysis in ways they did not.

Secondly, it shortened the time period for considering a developing program to be a threat from the old standard which measured when a program could actually be deployed to a new standard of when it was simply tested.

Again, I would be willing to concede this as a minor distinction because if a nation were to be intent on using one of these weapons, it might not wait to meet the stringent testing requirements that we usually try to meet before deploying a new system. It could just test a missile, see that it works, and make plans to use it.

These changes are relatively minor, but they need to be acknowledged and factored into the overall discussion.

But the third change which needs to be factored in is not insignificant because both the Rumsfeld Commission and the 1999 NIE abandoned the old standard of assessing the likelihood that a nation would use its missile capacity in favor of a new standard of whether a nation simply has the relevant capacity for a missile attack,

with no analysis whatsoever of the other factors that go into a decision to actually put that capability to use.

This is tremendously important because, as we know from the cold war, threat is more than simply a function of capability; it is a function of attention and other political and military considerations. Through diplomacy and deterrence, the United States can alter the intentions of nations that pursue ballistic missile programs and so alter the threat they pose to us.

This is not simply wishful thinking. There are many examples today of nations who possess the technical capacity to attack the United States, but whom we do not consider a threat. India and Pakistan have made dramatic progress in developing medium-range ballistic missile programs. But the intelligence community does not consider India and Pakistan to pose a threat to U.S. interests. Their missile capacity alone does not translate into a threat because they do not hold aggressive intentions against us.

Clearly, North Korea, Iran, and Iraq are hostile to us, and our ability to use diplomacy to reduce the threat they pose will be limited. But having the capacity to reach us and an animosity towards us does not automatically translate into the intention to use weapons of mass destruction against us.

In the 40 years that we faced the former Soviet Union, with the raw capability to destroy each other, neither side resorted to using its arsenal of missiles. Why not? Because even in periods of intense animosity and tension, under the most unpredictable and isolated of regimes, political and military deterrence has a powerful determining effect on a nation's decision to use force. We have already seen this at work in our efforts to contain North Korea's nuclear and missile programs. We saw it at work in the gulf war when Saddam Hussein was deterred from using his weapons of mass destruction by the sure promise of a devastating response from the United States.

During the summer of 1999, intelligence reports indicated that North Korea was preparing the first test-launch of the Taepo Dong-2. Regional tensions rose, as Japan, South Korea and the United States warned Pyongyang that it would face serious consequences if it went ahead with another long-range missile launch. The test was indefinitely delayed, for ''political reasons,'' which no doubt included U.S. military deterrence and the robust diplomatic efforts by the United States and its key allies in the region.

Threatening to cut off nearly $1 billion of food assistance and KEDO funding to North Korea should the test go forward, while also holding out the possibility of easing economic sanctions if the test were called off, helped South Korea, Japan and the United States make the case to Pyongyang that its interests would be better served through restraint. An unprecedented dialogue between the United States and North Korea, initiated by former Secretary of Defense William Perry during the height of this crisis, continues today. It aims to verifiably freeze Pyongyang's missile programs and end 50 years of North Korea's economic isolation.

Acknowledging that these political developments can have an important impact on the threat, the intelligence community, according to a May 19 article in the Los Angeles Times, will reflect in its forthcoming NIE that the threat from North Korea's missile program has eased since last fall. And if it has eased since last fall, indeed, we should be thinking about the urgency of decisions we make that may have a profound impact on the overall balance of power.

In short, even as we remain clear-eyed about the threat these nations pose to American interests, we must not look at the danger as somehow preordained or unavoidable.

In cooperation with our friends and allies, we must vigorously implore the tools of diplomacy to reduce the threat. We must redouble our efforts to stop the proliferation of these deadly weapons. We cannot just dismiss the importance of U.S. military deterrence.

Only madmen, only the most profoundly detached madmen, bent on self-destruction, would launch a missile against U.S. soil, which obviously would invite the most swift and devastating response. One or two or three missiles fired by North Korea or Iraq would leave a clear address of who the sender was, and there is no question that the United States would have the ability to eliminate them from the face of this planet. All people would recognize that as an immediate and legitimate response.

My second major concern about the current debate over the missile threat is that it does nothing to address equally dangerous but more immediate and more likely threats to U.S. interests.

For one, U.S. troops and U.S. allies today confront the menace of theater ballistic missiles, capable of delivering chemical or biological weapons. We saw during the gulf war how important theater missile defense is to maintaining allied unity and enabling our troops to focus on their mission. We must continue to push this technology forward regardless of whether we deploy an NMD system.

The American people also face the very real threat of terrorist attack. The 1999 State Department report on Patterns of Global Terrorism shows that while the threat of state-sponsored terrorism against the U.S. is declining, the threat from nonstate actors, who increasingly have access to chemical and biological weapons, and possibly even small nuclear devices, is growing. These terrorist groups are most likely to attack us covertly, quietly slipping explosives into a building, unleashing chemical weapons into a crowded subway, or sending a crude nuclear weapon into a busy harbor.

An NMD system will not protect American citizens from any of these more immediate and more realistic threats.

Finally, on the issue of the missile threat we are confronting, I remain deeply concerned about Russia's command and control over its nuclear forces. Russia has more than 6,000 strategic missiles armed with nuclear warheads. Maintaining these missiles on high alert significantly increases the threat of an accidental or an unauthorized launch. In 1995, the Russian military misidentified a U.S. weather rocket launched from Norway as a possible attack on the Russian Federation. With Russia's strategic forces already on high-alert, President Yelstin and his advisors had just minutes to decide whether to launch a retaliatory strike on the United States. And yet, in an effort to reassure Russia that the proposed missile defense will not prompt an American first strike, the administration seems to be encouraging Russia to, in fact, maintain its strategic forces on high alert to allow for a quick, annihilating counterattack that would overwhelm the proposed limited defense they are offering.

In effect, in order to deploy the system the administration is currently defining, they are prepared to have Russia, maintain with a bad command-and-control system weapons on hair trigger or targeted in order to maintain the balance.

In sum, the threat from rogue missile programs is neither as imminent nor is as mutable as some have argued. We have time to use the diplomatic tools at our disposal to try to alter the political calculation that any nation might make before it decided to use ballistic missile capacity.

Moreover, the United States faces other, more immediate threats that will not be met by an NMD. To meet the full range of threats to our national security, we need to simultaneously address the emerging threat from the rogue ballistic missile program, maintain a vigorous defense against theater ballistic missiles and acts of terrorism, and avoid actions that would undermine the strategic stability we have fought so hard to establish.

Let me speak for a moment now about the technology. In making his deployment decision, the President will also consider the technological readiness and effectiveness of the proposed system. Again, I have grave concerns that we are sacrificing careful technical development of this system to meet an artificial deadline, and, may I say, those concerns are shared by people far more expert than I am. Moreover, even if the proposed system were to work as planned, I am not convinced it would provide the most effective defense against a developing missile threat.

Let's look for a moment at the system currently under consideration. The

administration has proposed a limited system to protect all 50 States against small-scale attacks by ICBMs. In the simplest terms, this is a ground-based, hit-to-kill system.

An interceptor fired from American soil must hit the incoming missile directly to destroy it. Most of the components of this system are already developed and are undergoing testing. It will be deployed in 3 phases and is to be completed by about 2010, if the decision to deploy is made this year. The completed system will include 200, 250 interceptors deployed in Alaska and North Dakota, to be complemented by a sophisticated array of upgraded early-warning radars and satellite-based launch detection and tracking systems. I have two fundamental questions about this proposed system: Will the technology work as intended, and is the system the most appropriate and effective defense against this defined threat?

There are three components to consider in answering the first question: The technology's ability to function at the most basic level, its operational effectiveness against real world threats, and its reliability.

I do not believe the compressed testing program and decision deadline permit us to come close to drawing definitive conclusions about those three fundamental elements of readiness.

In a Deployment Readiness Review scheduled for late July of this year, the Pentagon will assess the system, largely on the results of three intercept tests. The first of these in October of 1999 was initially hailed as a success because the interceptor did hit the target, but then, on further examination, the Pentagon conceded that the interceptor had initially been confused, it had drifted off course, ultimately heading for the decoy balloon, and possibly striking the dummy warhead only by accident. That is test No. 1.

The second test in January of 2000 failed because of a sensor coolant leak.

The third test has not even taken place yet. The third test, initially planned for April 2000, was postponed until late June and has recently been postponed again. It is expected in early July, just a few weeks before the Pentagon review.

To begin with, after two tests, neither satisfactory, it is still unclear whether the system will function at a basic level under the most favorable conditions. Even if the next test is a resounding success, I fail to see how that would be enough to convince people we have thoroughly vetted the potential problems of a system.

On the second issue of whether the system will be operationally effective, we have very little information on which to proceed. We have not yet had an opportunity to test operational versions of the components in anything such as the environment they would face in a real defensive engagement. We are only guessing at this point how well the system would respond to targets launched from unanticipated locations or how it would perform over much greater distances and much higher speeds than those at which it has been tested.

Finally, the question of reliability is best answered over time and extensive use of the system. Any program in its developing stages will run into technical glitches, and this program has been no different. That does not mean the system will not ever work properly, but it does mean we ought to take the time to find out, particularly before we do something that upsets the balance in the ways this may potentially do.

That is one more reason to postpone the deployment decision, to give the President and the Pentagon the opportunity to conduct a thorough and rigorous testing program.

This recommendation is not made in a vacuum. Two independent reviews have reached a similar conclusion about the risks of rushing to deployment. In February of 1998, a Pentagon panel led by former Air Force Chief of Staff Gen. Larry Welch, characterized the truncated testing program as a ''rush to failure.'' The panel's second report recommended delaying the decision to deploy until 2003 at the earliest to allow key program elements to be fully tested and proven. The concerns of the Welch Panel were reinforced by the release in February 2000 of a report by the Defense Department's office of operational test and evaluation (DOT&E).

The Coyle report decried the undue pressure being applied to the national missile defense testing program and warned that rushing through testing to meet artificial decision deadlines has ''historically resulted in a negative effect on virtually every troubled DOD development program.'' The Report recommended that the Pentagon postpone its Deployment Readiness Review to allow for a thorough analysis and clear understanding of the results of the third intercept test (now scheduled for early July), which will be the first ''integrated systems'' test of all the components except the booster.

The scientific community is concerned about more than the risks of a shortened testing program. The best scientific minds in America have begun to warn that even if the technology functions as planned, the system could be defeated by relatively simple countermeasures. The 1999 NIE that addressed the ballistic missile threat concluded that the same nations that are developing long-range ballistic missile systems could develop or buy countermeasure technologies by the time they are ready to deploy their missile systems.

Just think, we could expend billions of dollars, we could upset the strategic balance, we could initiate a new arms race, and we could not even get a system that withstands remarkably simple, inexpensive countermeasures. Now, there is a stroke of brilliant strategic thinking.

The proposed national missile defense is an exo-atmospheric system, meaning the interceptor is intended to hit the target after the boost phase when it has left the atmosphere and before reentry. An IBM releases its payload immediately after the boost phase. If that payload were to consist of more than simply one warhead, then an interceptor would have more than one target with which to contend after the boost phase.

The Union of Concerned Scientists recently published a thorough technical analysis of three countermeasures that would be particularly well suited to overwhelming this kind of system, chemical and biological bomblets, antisimulation decoys, and warhead shrouds. North Korea, Iran, and Iraq are all believed to have programs capable of weaponizing chemical and biological weapons which are cheaper and easier to acquire than the most rudimentary nuclear warhead.

The most effective means of delivering a CBW, a chemical-biological warfare warhead on a ballistic missile, is not to deploy one large warhead filled with the agent but to divide it up into as many as 100 submunitions, or bomblets. There are few technical barriers to weaponizing CBW this way, and it allows the agents to be dispersed over a large area, inflicting maximum casualties. Because the limited NMD system will not be able to intercept a missile before the bomblets are dispersed, it could quickly be overpowered by just three incoming missiles armed with bomblets—and that is assuming every interceptor hit its target. Just one missile carrying 100 targets would pose a formidable challenge to the system being designed with possibly devastating effects.

The exo-atmospheric system is also vulnerable to missiles carrying nuclear warheads armed with decoys. Using antisimulation, an attacker would disguise the nuclear warhead to look like a decoy by placing it in a lightweight balloon and releasing it along with a large number of similar but empty balloons. Using simple technology to raise the temperature in all of the balloons, the attacker could make the balloon containing the warhead indistinguishable to infrared radar from the empty balloons, forcing the defensive system to shoot down every balloon in order to ensure that the warhead is destroyed. By deploying a large number of balloons, an attacker could easily overwhelm a limited national missile defense system. Alternately, by covering the warhead with a shroud cooled by liquid nitrogen, an attacker could reduce the warhead's infrared radiation by a factor of at least 1 million, making it incredibly difficult for the system's sensors to detect the warhead in time to hit it.

I have only touched very cursorily on the simplest countermeasures that could be available to an attacker with ballistic missiles, but I believe this discussion raises serious questions about

a major operational vulnerability in the proposed system and about whether this system is the best response to the threats we are most likely to face in the years ahead. I don't believe it is.

There is a simpler, more sensible, less threatening, more manageable approach to missile defense that deserves greater consideration. Rather than pursuing the single-layer exo-atmospheric system, I believe we should focus our research efforts on developing a forward-deployed, boost phase intercept system. Such a system would build on the current technology of the Army's land-based theater high altitude air defense, THAAD, and the Navy's sea-based theaterwide defense system to provide forward-deployed defenses against both theater ballistic missile threats and long-range ballistic missile threats in their boost phase.

The Navy already deploys the Aegis fleet air defense system. An upgraded version of this sea-based system could be stationed off the coast of North Korea or in the Mediterranean or in the Persian Gulf to shoot down an ICBM in its earliest and slowest stage. The ground-based THAAD system could be similarly adapted to meet the long-range and theater ballistic missile threats. Because these systems would target a missile in its boost phase, they would eliminate the current system's vulnerability to countermeasures. This approach could also be more narrowly targeted at specific threats and it could be used to extend ballistic missile protection to U.S. allies and to our troops in the field.

As Dick Garwin, an expert on missile defense and a member of the Rumsfeld Commission has so aptly argued, the key advantage to the mobile forward-deployed missile defense system is that rather than having to create an impenetrable umbrella over the entire U.S. territory, it would only require us to put an impenetrable lid over the much smaller territory of an identified rogue nation or in a location where there is the potential for an accidental launch. A targeted system, by explicitly addressing specific threats, would be much less destabilizing than a system designed only to protect U.S. soil. It would reassure Russia that we do not intend to undermine its nuclear deterrent, and it would enable Russia and the United States to continue to reduce and to secure our remaining strategic arsenals. It would reassure U.S. allies that they will not be left vulnerable to missile threats and that they need not consider deploying nuclear deterrents of their own. In short, this alternative approach could do what the proposed national defense system will not do: It will make us safer.

There are two major obstacles to deploying a boost phase system, but I believe both of those obstacles can and must be overcome. First, the technology is not yet there. The Navy's theaterwide defense system was designed to shoot down cruise missiles and other threats to U.S. warships. Without much faster intercept missiles than are currently available, the system would not be able to stop a high speed ICBM, even in the relatively slow boost phase. The THAAD system, which continues to face considerable challenges in its demonstration and testing phases, is also being designed to stop ballistic missiles, but it hasn't been tested yet against the kinds of high speeds of an ICBM.

Which raises the second obstacle to deploying this system: the current interpretation of the ABM Treaty, as embodied in the 1997 demarcation agreements between Russia and the United States, does not allow us to test or deploy a theater ballistic missile system capable of shooting down an ICBM. I will address this issue a little more in a moment, but let me say that I am deeply disturbed by the notion that we should withdraw from the ABM Treaty and unilaterally deploy an ABM system, particularly the kind of system I have defined that may not do the job. In the long run, such a move would undermine U.S. security rather than advance it. It is possible—and I believe necessary—to reach an agreement with Russia on changes to the ABM Treaty that would allow us to deploy an effective limited defense system such as I have described. In fact, President Putin hinted quite openly at the potential for that kind of an agreement being reached. I commend the President for working hard to reach an agreement with Russia that will allow us both to deploy in an intelligent and mutual way that does not upset the balance.

I want to briefly address the issue of cost, which I find to be the least problematic of the four criterion under consideration. Those who oppose the idea of a missile defense point to the fact that, in the last forty years, the United States has spent roughly $120 billion trying to develop an effective defense against ballistic missiles. And because this tremendous investment has still not yielded definitive results, they argue that we should abandon the effort before pouring additional resources into it.

I disagree. I believe that we can certainly afford to devote a small portion of the Defense budget to develop a workable national missile defense. The projected cost of doing so varies—from roughly $4 billion to develop a boost-phase system that would build on existing defenses to an estimated $60 billion to deploy the three-phased ground-based system currently under consideration by the Administration. These estimates will probably be revised upward as we confront the inevitable technology challenges and delays. But, spread out over the next 5 to 10 years, I believe we can well afford this relatively modest investment in America's security, provided that our research efforts focus on developing a realistic response to the emerging threat.

My only real concern about the cost of developing a national missile defense is in the perception that addressing this threat somehow makes us safe from the myriad other threats that we face. We must not allow the debate over NMD to hinder our cooperation with Russia, China, and our allies to stop the proliferation of WMD and ballistic missile technology. In particular, we must remain steadfast in our efforts to reduce the dangers posed by the enormous weapons arsenal of the former Soviet Union. Continued Russian cooperation with the expanded Comprehensive Threat Reduction programs will have a far greater impact on America's safety from weapons of mass destruction than deploying an NMD system. We must not sacrifice the one for the other.

Let me go to the final of the four considerations the President has set forward because I believe that a unilateral decision to deploy a national missile defense system would have a disastrous effect on the international strategic and political environment. It could destabilize our already difficult relationships with Russia and China and undermine our allies' confidence in the reliability of the U.S. defensive commitment. It would jeopardize current hard fought arms control agreements, and it could erode more than 40 years of U.S. leadership on arms control.

The administration clearly understands the dangers of a unilateral U.S. deployment. President Clinton was not able to reach agreement with the Russian President, but he has made progress in convincing the Russian leadership that the ballistic missile threat is real. To be clear, I don't support the administration's current proposal, but I do support its effort to work out with Russia this important issue. The next administration needs to complete that task, if we cannot do it in the next months.

While simply declaring our intent to deploy a system does not constitute an abrogation of the ABM Treaty, it surely signals that the U.S. withdrawal from the treaty is imminent.

Mr. President, the first casualty of such a declaration would be START II. Article 2 paragraph 2 of the Russian instrument of ratification gives Russia the right to withdraw from START II if the U.S. withdraws from or violates the 1972 ABM Treaty. Russia would also probably stop implementation of START I, as well as cooperation with our comprehensive threat reduction program. I don't have time at this moment to go through the full picture of the threat reduction problems. But suffice it to say that really the most immediate and urgent threat the United States faces are the numbers of weapons on Russian soil with a command and control system that is increasingly degraded, and the single highest priority of the United States now is keeping the comprehensive threat reduction program on target. To lose that by a unilateral statement of our intention to proceed would be one of the most dramatic losses of the last 40 to 50 years.

So continued cooperation with Russia on these arms control programs is critical. Furthermore, no matter how transparent we are with Russia about the intent and capabilities of the proposed system, Russia's military leadership will interpret a unilateral deployment as a direct threat to their deterrence capacity. And while Russia doesn't have the economic strength today to significantly enhance its military capabilities, there are clear examples of Russia's capacity to wield formidable military power when it wants. We must not allow a unilateral NMD deployment to provoke the Russian people into setting aside the difficult but necessary tasks of democratization and economic reform in a vain effort to return to Russia's days of military glory.

Finally, with regard to Russia, a unilateral deployment by the United States would jeopardize our cooperation on a whole range of significant issues. However imperfect it is, U.S.-Russian cooperation will continue to be important on matters from stopping Teheran's proliferation efforts and containing Iraq's weapons programs to promoting stability in the Balkans.

While the impact of a limited U.S. system on Russian security considerations would be largely perceptual, at least as long as that system remains limited, its impact on China's strategic posture is real and immediate. China today has roughly 20-plus long-range missiles. The proposed system would undermine China's strategic deterrent as surely as it would contain the threat from North Korea. And that poses a problem because, unlike North Korea, China has the financial resources to build a much larger arsenal.

The Pentagon believes it is likely that China will increase the number and sophistication of its long-range missiles just as part of its overall military modernization effort, regardless of what we do on NMD. But as with Russia, if an NMD decision is made without consultation with China, the leadership in Beijing will perceive the deployment as at least partially directed at them. And given the recent strain in U.S.-China relations and uncertainty in the Taiwan Strait, the vital U.S. national interest in maintaining stability in the Pacific would, in fact, be greatly undermined by such a decision made too rashly.

Nobody understands the destabilizing effect of a unilateral U.S. NMD decision better than our allies in Europe and in the Pacific. The steps that Russia and China would take to address their insecurities about the U.S. system will make their neighbors less secure. And a new environment of competition and distrust will undermine regional stability by impeding cooperation on proliferation, drug trafficking, humanitarian crises, and all the other transnational problems we are confronting together. So I think it is critical that we find a way to deploy an NMD without sending even a hint of a message that the security of the American people is becoming decoupled from that of our allies. In Asia, both South Korea and Japan have the capability to deploy nuclear programs of their own. Neither has done so, in part, because both have great confidence in the integrity the U.S. security guarantees and in the U.S. nuclear umbrella that extends over them. They also believe that, while China does aspire to be a regional power, the threat it poses is best addressed through engagement and efforts to anchor China in the international community. Both of these assumptions would be undermined by a unilateral U.S. NMD deployment.

First, our ironclad security guarantees will be perceived by the Japanese, by the South Koreans, and others, as somewhat rusty if we pursue a current NMD proposal to create a shield over the U.S. territory. U.S. cities would no longer be vulnerable to the same threats from North Korea that Seoul and Tokyo would continue to face. And so they would say: Well, there is a decoupling; we don't feel as safe as we did. Maybe now we have to make decisions to nuclearize ourselves in order to guarantee our own safety.

China's response to a unilateral U.S. NMD will make it, at least in the short term, a far greater threat to regional stability than it poses today. If South Korea and Japan change their perceptions both of the threat they face and of U.S. willingness to protect them, they then could both be motivated to explore independent means of boosting their defenses. Then it becomes a world of greater tensions, not lesser tensions. It becomes a world of greater hair-trigger capacity, not greater safety-lock capacity.

Our European allies have expressed the same concerns about decoupling as I have expressed about Asia. We certainly cannot dismiss the calculations that Great Britain, France, and Germany will make about the impact of the U.S. NMD system. But I believe their concerns hinge largely on the affect a unilateral decision would have on Russia, concerns that would be greatly ameliorated if we make the NMD decision with Russia's cooperation.

Finally, much has been made of the impact a U.S. national missile defense system would have and what it would do to the international arms control regime. For all of the reasons I have just discussed, a unilateral decision would greatly damage U.S. security interests. I want to repeat that. It will, in fact, damage U.S. security interests.

The history of unilateral steps in advancing strategic weapons shows a very clear pattern of sure response and escalation. In 1945, the United States exploded the first atomic bomb. The Soviets followed in 1949. In 1948, we unveiled the first nuclear-armed intercontinental bomber. The Soviets followed in 1955. In 1952, we exploded the first hydrogen bomb. The Soviets followed 1 year later. In 1957, the Soviets beat us, for the one time, and launched the first satellite into orbit and perfected the first ICBM. We followed suit within 12 months. In 1960, the United States fired the first submarine-launched ballistic missile. The Soviets followed in 1968. In 1964, we developed the first multiple warhead missile and reentry vehicle; we tested the first MIRV. The Soviets MIRVed in 1973, and so on, throughout the cold war, up until the point that we made a different decision—the ABM Treaty and reducing the level of nuclear weapons.

The rationale for testing and deploying a missile defense is to make America and the world safer. It is to defend against a threat, however realistic, of a rogue state/terrorist launch of an ICBM, or an accidental launch. No one has been openly suggesting a public rationale at this time of a defense against any and all missiles, such as the original Star Wars envisioned, but some have not given up on that dream. It is, in fact, the intensity and tenacity of their continued advocacy for such a system that drives other people's fears of what the U.S. may be up to and which significantly complicates the test of selling even a limited and legitimately restrained architecture.

Mr. President, in diplomacy—as in life—other nations and other people make policies based not only on real fears, or legitimate reactions to an advocacy/nonfriend's actions, but they also make choices based on perceived fears—on worst case scenarios defined to their leaders by experts. We do the same thing.

The problem with unilaterally deployed defense architecture is that other nations may see intentions and long-term possibilities that negatively affect their sense of security, just as it did throughout the cold war. For instance, a system that today is limited, but exclusively controlled by us and exclusively within our technological capacity is a system that they perceive could be expanded and distributed at any time in the future to completely alter the balance of power—the balance of terror as we have thought of it. That may sound terrific to us and even be good for us for a short period of time—but every lesson of the arms race for the last 55 years shows that the advantage is short lived, the effect is simply to require everyone to build more weapons at extraordinary expense, and the advantage is inevitably wiped out with the world becoming a more dangerous place in the meantime. That is precisely why the ABM treaty was negotiated—to try to limit the unbridled competition, stabilize the balance and create a protocol by which both sides could confidently reduce weapons.

The negotiation of the ABM Treaty put an end to this cycle of ratcheting up the strategic danger. After 20 years of trying to outdo each other—building an increasingly dangerous, increasingly unstable strategic environment in the process—we recognized that deploying strategic defenses, far from

making us safer, would only invite a response and an escalation of the danger. There is no reason to believe that a unilateral move by the United States to alter the strategic balance would not have the same affect today as it had for forty years. At the very least, it would stop and probably reverse the progress we have made on strategic reductions. And it will reduce our capacity to cooperate with Russia on the single greatest threat we face, which are the ''loose nukes'' existing in the former Soviet Union.

Under START I levels, both sides agree to reduce those arsenals to 6,500 warheads. Under START II, those levels come down to 3,500 warheads. And we are moving toward further reductions in our discussions on START III, down to 2,000 warheads. With every agreement, the American people are safer. A unilateral withdrawal from the ABM Treaty would stop this progress in its tracks. No NMD system under consideration can make us safe enough to justify such a reckless act.

I strongly disagree with my colleagues who argue that the United States is no longer bound by our legal obligations under the ABM Treaty. No president has ever withdrawn us from the Treaty, and President Clinton has reaffirmed our commitment to it. We retain our obligations to the Treaty under international law, and those obligations continue to serve us well. It would never have been possible to negotiate reductions in U.S. and Soviet strategic forces without the ABM Treaty's limit on national missile defense. The Russians continue to underscore that linkage. And since, as I've already argued, Russia's strategic arsenal continues to pose a serious threat to the United States and her allies, we must not take steps—including the unilateral withdrawal from the ABM Treaty—that will undermine our efforts to reduce and contain that threat.

However, the strategic situation we confront today is worlds apart from the one we faced in 1972, and we must not artificially limit our options as we confront the emerging threats to our security. Under the forward-deployed boost-phase system I have described, the United States would need to seek Russian agreement to change the 1997 ABM Treaty Demarcation agreements, which establish the line between theater missile defense systems that are not limited by the Treaty and the strategic defenses the Treaty proscribes. In a nutshell, these agreements allow the United States to deploy and test the PAC–3, THAAD and Navy Theater-Wide TMD systems, but prohibit us from developing or testing capabilities that would enable these systems to shoot down ICBMs.

As long as we are discussing ABM Treaty amendments with Russia, we should work with them to develop a new concept of strategic defense. A boost-phase intercept program would sweep away the line between theater and long-range missile defense. But by limiting the number of interceptors that could be deployed and working with Russia, China, and our allies, so that we move multilaterally, we can maximize the transparency of the system, we can strike the right balance between meeting new and emerging threats without abandoning the principles of strategic stability that have served us well for decades.

The most important challenge for U.S. national security planners in the years ahead will be to work with our friends and allies to develop a defense against the threat that has been defined. But how we respond to that threat is critical. We must not rush into a politically driven decision on something as critical as this; on something that has the potential by any rational person's thinking to make us less secure—not more secure.

I urge President Clinton to delay the deployment decision indefinitely. I believe, even while the threat we face is real and growing, that it is not imminent. We have the time. We need to take the time to develop and test the most effective defense, and we will need time to build international support for deploying a limited, effective system.

I believe that support will be more forthcoming when we are seen to be responding to a changing security environment rather than simply buckling to political pressure.

For 40 years, we have led international efforts to reduce and contain the danger from nuclear weapons. We can continue that leadership by exploiting our technological strengths to find a system that will extend that defense to our friends and allies but not abrogate the responsibilities of leadership with a hasty, shortsighted decision that will have lasting consequences.

I hope in the days and months ahead my colleagues will join me in a thoughtful and probing analysis of these issues so we can together make the United States stronger and not simply make this an issue that falls prey to the political dialog in the year 2000.

I thank my colleagues for their time. I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Maine is recognized for 30 minutes.

Ms. SNOWE. I thank the President.

I want to begin my remarks by commending our Chairman, Senator JOHN WARNER, who has provided extraordinary leadership in crafting this measure which supports our men and women in uniform with funding for the pay, health care, and hardware that they need and deserve. I can think of no one with greater credibility on these issues or a wider breadth of knowledge, and I thank him for his outstanding efforts.

I also want to thank the distinguished ranking member of the Senate Armed Services Committee, Senator LEVIN, who also has made invaluable contributions to the development of this reauthorization.

This critical legislation which we are considering here today, with our distinguished chairman, and the bipartisan support of the ranking member, Senator LEVIN, the senior Senator from Michigan, represents the committee's response to legitimate concerns and recognizes the sacrifices of those who are at the heart of the legislation—the men and women who serve in our Nation's Armed Forces.

As a member of the Armed Services Committee and chair of the Seapower Subcommittee, I know we must never forget that the men and women in uniform are the ones who make our Nation's defense force the finest and strongest in the world, and I salute each of them for their unwavering service.

We are honor bound to ensure that they are provided the very best equipment, afforded the highest respect, and compensated at a level commensurate with their remarkable service to this Nation. And I believe this bill reflects those principles.

Since the end of the cold war we have reduced the overall military force structure by 36 percent and reduced the defense budget by 40 percent—a trend that this bill reverses.

And let me say that comes not a moment too soon. Because while the size of our armed services has decreased, the number of contingencies that our service members are called on to respond to has increased in a fashion that can only be described as dramatic.

In fact, the Navy/Marine Corps team alone responded to 58 contingency missions between 1980 and 1989, while between 1990 and 1999 they responded to 192—a remarkable threefold increase in operations.

During the cold war, the U.N. Security Council rarely approved the creation of peace operations. In fact, the U.N. implemented only 13 such operations between 1948 and 1978, and none from 1979 to 1987. By contrast, since 1988—just twelve years ago—38 peacekeeping operations have been established—nearly three times as many than the previous 40 years.

As a result of the challenges presented by having to do more with less, the Armed Services Committee has heard from our leaders in uniform on how our current military forces are being stretched too thin, and that estimates predicted in the fiscal year 1997 QDR underestimated how much the United States would be using our military.

I fully support this bill which authorizes $309.8 billion in budget authority, an amount which is consistent with the concurrent budget resolution. For the second year in a row—we recognize the shortfall and reverse a 14-year decline by authorizing a real increase in defense spending. This funding is $4.5 billion above the President's fiscal year 2001 request, and provides a necessary increase in defense spending that is vital if we are to meet the national security challenges of the 21st century.

This bill not only provides funds for better tools and equipment for our service men and women to do their jobs but it also enhances quality of life for themselves and their families. It approves a 3.7-percent pay raise for our military personnel as well as authorizing extensive improvements in military health care for active duty personnel, military retirees, and their families.

As chair of the Seapower Subcommittee, I was particularly interested in an article that I read this morning in Defense News titled ''U.S. Navy: Stretched Too Thin?'' by Daniel Goure. I ask unanimous consent that this article be printed in the RECORD.

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

[From the Defense News, June 12, 2000]

U.S. NAVY: STRETCHED THIN?—SURGING DEMANDS OVERWHELM SHRINKING FORCE

(By Daniel Goure)

The term floating around Washington to describe the current state of the U.S. armed forces is overstretched. This means the military is attempting to respond to too many demands with too few forces.

Clear evidence of this overstretch was provided by the war in Kosovo. In order to meet the demands posed by that conflict, the United States had to curtail air operations in the skies over Iraq and leave the eastern Pacific without an aircraft carrier.

The number of missions the U.S. military has been asked to perform has increased dramatically in the last decade—by some measures almost eight-fold—while the force posture has shrunk by more than a third.

In testimony this year before Congress, senior Defense Department officials and the heads of the military services revealed the startling fact that by their own estimates the existing force posture is inadequate to meet the stated national security requirement of being able to fight and win two major theater wars.

Nowhere is the problem worse than for the Navy. This is due, in large measure, to the Navy's unique set of roles and missions. Unlike the other services which are now poised to conduct expeditionary warfare based on power projection from the continental United States, the Navy is required to maintain continuous forward presence in all critical regions.

The Armed Forces Journal reported that in September 1998, Adm. Jay Johnson, chief of naval operations, told the Senate Armed Services Committee that ''On any given day, one-third of the Navy's forces are forward deployed. . . . In addition, it must ensure freedom of the seas and, increasingly, provide time-critical strike assets for operations against the world's littorals under the rubric of operations from the sea.''

It should be remembered that the 1999 military strikes against terrorist sites in Afghanistan, which is land-locked, and Sudan, which has coastline only on the Red Sea, was accomplished solely by cruise missiles launched from U.S. Navy ships.

Naturally, naval forces are in demand during crisis and conflict and have made significant, and in some instances, singular contributions to military operations in the Balkans and Middle East.

In fact, since the end of the Cold War, the Navy has responded to some 80 crisis deployments, approximately one every four weeks, while struggling to maintain forward presence in non-crises regions.

So far, the Navy has been able to perform its missions and respond to crises. This is unlikely to remain true in the future. The size of the navy has shrunk by nearly half during the last decade. From a force of well over 500 ships at the end of the Cold War, the navy is reduced to some 300 ships today.

The mathematics of the problem are simple: A force half the size attempting to perform eight times the missions has an effective 16-fold increase in its required operational tempo. This increased burden results in longer deployments, reduced maintenance, lower morale and less time on-station. Ultimately, it means that on any given day, there will not be enough ships to meet all the requirements and cover all the crises.

The Navy understands the problem. In testimony before the House of Representatives this year. Vice Adm. Conrad Lautenbach, deputy chief of naval operations, stated that ''it is no secret that our current resources of 316 ships is fully deployed and in many cases stretched thin to meet the growing national security demands.''

This is not merely the view from the headquarters. Adm. Dennis McGinn, commander Third Fleet, stated in an appearance before Congress in February that ''force structure throughout the Navy is such that an increased commitment anywhere necessitates reduction of operations somewhere else, or a quality of life impact due to increased operating tempo.''

Vice Adm. Charles Moore, commander of the U.S. Fifth Fleet, operating in the Arabian Sea and Persian Gulf, told the House Armed Services procurement subcommittee Feb. 29 that ''Although I am receiving the necessary forces to meet Fifth Fleet obligations, the fleet is stretched, and I am uncertain how much longer they can continue to juggle forces to meet the varied regional requirements, including the Fifth Fleet's.

''I am uncertain that we have the surge capability to a major theater contingency, or theater war. Eventually, the increased operational tempo on our fewer and fewer ships will take its toll on their availability and readiness.''

The reality is that numbers matter, particularly for naval forces. This is due in part to the tyranny of distance that is imposed on every Navy ship, whether or not it is steaming in harm's way. Deployments to the Persian Gulf, 8,000 miles from the Navy's home ports on both coasts, mean ships must travel from 10 to 14 days just to reach their forward deployed positions.

Even deployments from Norfolk, Va., to the Caribbean take several days. The conventional wisdom is that in order to provide adequate rotation and maintain a tolerable operational tempo, an inventory of three ships is required for every one deployed forward.

However, when the time required for steaming to and from global deployment areas, maintenance and overhaul, and training and shakedowns are included, the ratio rises to four, five and even six ships to one.

As a result of recent events such as Kosovo, in which U.S. naval forces in the western Pacific were stripped of their aircraft carrier in order to support naval operations in the Adriatic, public and congressional attention was focused on the inadequacy of the Navy's inventory of aircraft carriers. The Joint Chiefs of Staff published an attack submarine study that concluded the nation requires 68 attack boats instead of the 50 they had been allowed.

Attention is particularly lacking on the Navy's surface combatants. These are the destroyers and cruisers, the workhorses of the Navy. Not only do they protect aircraft carriers and visibly demonstrate forward presence, but due to the advent of precision strike systems and advanced communication and surveillance, increasingly are the principal combat forces deployed to a regional crisis.

A recent surface combatant study concluded that the Navy required up to 139 multimission warships to satisfy the full range of requirements and meet day-to-day operations. Instead, the navy has been allowed only 116. At least a quarter of these are aging frigates and older destroyers that lack the modern offensive and defensive capabilities essential to a 21st-century Navy.

Speaking about the inadequate number of surface combatants, one senior Navy source cited by Defense News in the Jan. 31 issue said, ''We know we are broken. We are running our ships into the ground, our missions are expanding and our force structure is being driven down to 116 surface ships. We have to address it before we hit the precipice.''

To avoid breaking the force, the Navy must increase its number of surface combatants. This also will expand significantly the number of vertical-launch system tubes available in the fleet. The Navy needs to add 15–20 more surface combatants to the fleet during the next decade, beyond the new construction already planned, just to maintain its current operational tempo.

In order to meet immediate needs, the Navy must retain older DDG–51s and build more of them. When a new destroyer, the DDG–21, becomes available later in the decade, the Navy would like to purchase an additional 16 ships beyond the 32 they are scheduled to buy.

It is time for the administration, Congress and the American people to realize that U.S. national security and global stability could be damaged by no maintaining an adequate Navy.

To paraphrase an old rhyme, for want of a surface combatant, forward presence was lost. For want of forward presence, an important ally was lost. For want of an ally, peace in the region was lost. For want of peace, the region itself was lost. And all this for the want of surface combatants.

Ms. SNOWE. Mr. President, this article describes the current state of the U.S. Armed Forces and how they are overstretched. This means that the military is attempting to respond to too many demands with too few forces. And I quote ''Nowhere is the problem worse than for the Navy.''

In the Seapower subcommittee's work this year in review of the fiscal year 2001 budget request we continued the Congress' review of the adequacy of Navy and Marine Corps force structure to carry out the National Security Strategy, which we all know has been signed by the President of the United States.

This included hearings, visits to fleet units, and discussions with the most junior personnel in the fleet to the highest flag officers and civilian leaders in the Navy and Marine Corps.

The subcommittee constructed a firm foundation for review of the fiscal year 2001 budget request by requesting operational commanders to testify on their ability to carry out the National Security Strategy.

The operational commanders confirmed what my colleagues and I had been hearing directly from fleet units which included discussions with individual sailors and marines representing

a cross section of all ranks. The operational commanders provided convincing evidence that their commands do not have a sufficient number of ships and airplanes to carry out the National Security Strategy to shape the international environment and respond to crisis within the required time frame.

They further testified that the Navy has reduced the force structure to the extent that the brunt of the burden of this inadequate force structure is being borne, in their words, by the men and women in their commands.

Simply put, in the words of the Sixth Fleet commander,

> Nine years ago, we never anticipated the environment in which we find ourselves operating. The sense that it was going to be a much easier load, that we might actually be able to take our pack off every now and again prevailed. And it for the most part underpinned the decline in defense spending in my estimation. We were wrong. And the facts have borne that out with ever increasing consistency in those nine years that have occurred.

And I quote the Second Fleet commander.

> . . . back in the euphoric days at the end of the Cold War as we were drawing down, we actually figured that we would have a window of opportunity here where we could afford to, in fact, decrease structure, turn some of that savings into a long-term recapitalization, maybe forego an upgrade or modernization here and there. And that just has not been the case.

In this article, Mr. Goure quotes Vice Admiral Charles Moore, commander of the U.S. Fifth Fleet, he states ''I am uncertain how much longer they can continue to juggle forces to meet the varied regional requirements.''

And he further quotes Vice Admiral Dennis McGinn, commander of the Third Fleet, ''that force structure throughout the Navy is such that an increased commitment anywhere necessitates reduction of operations somewhere else, or a quality of life impact due to increased operating tempo.''

Again, those are the words of our commanders on the front lines charged with carrying out the day-to-day operations of our naval forces and to the challenges and requirements around the world.

It is noteworthy that these commanders state that the prediction of how much our naval forces could be reduced does not represent the reality of what is going on in the world.

I have two charts which I think explain graphically the numbers that are consistent with the commander's explanations and characterizations of the demands that have been placed on them as a result of a reduced force structure, while at the same time increasing the number of responses to contingency operations. Both charts use the same timeframe across the board. The charts track data in 4-year increments starting in 1980 and continuing through 1990. Each chart shows the 8 years before the cold war, 1980 through 1987, then the period between the end of the cold war and the beginning of the Quadrennial Defense Review in assessing exactly how many ships will be required to meet the security demands around the world. Here we have the ship force structure from 1980 to 1999.

I bring to my colleagues' attention the last 8 years charted in the graphs, the time period between 1992 to 1995, which is before the Quadrennial Defense Review; and then in 1996 to 1999, the post Quadrennial Defense Review in terms of the number of ships we have. We have the ship force structure on the top chart, and on the bottom chart we have the number of contingency operations during these same time periods. These last two data points in these graphs are significant because they show the large force structure reductions of over 200 ships while at the same time the contingencies more than triple, from 31 to 103.

The QDR, we know, developed the exact force structure that was necessary for both the Navy and the Marine Corps in this instance to respond to the number of requirements around the world and what they anticipated would be the number of operations around the world. The QDR has anticipated there would be a rise in contingency operations but not to the extent to which they have occurred.

The first chart shows the ship force structure, the dramatic decline in the number of ships, both in decommissioning and in the reduction, and the number of new constructions. At its peak during the cold war, we were up to 500, going towards a 600-ship Navy. We can see we had 500 ships in 1980 to 1983; up to 1988, we had 550 ships. We were building up to a 600-ship Navy. We declined to 417 ships at the end of the cold war and, prior to the development of the Quadrennial Defense Review, to a total of 316 ships. In those 8 short years where we declined from 500 ships to 316 ships, we had a dramatic increase in the number of contingency operations.

The second chart shows during the end of the cold war we had 31 contingency operations, when we had 550 ships. During 1992 and 1995, prior to the Quadrennial Defense Review in terms of assessing how many ships we would need, we had 68 contingency operations and 417 ships. In the post QDR, in 1996 to 1999, we had 103 contingency operations, tripling the number we had during the cold war. Yet we only had 316 ships during this period.

This is a dramatic increase in the number of contingency operations. While we had the highest number of ships, we had the lowest number of contingency operations. While we now have the lowest number of ships, we have the highest number of contingency operations. That is placing tremendous pressure on our Armed Forces and our personnel because of the lack of ships to meet those responses. So not only is it a problem in trying to meet the demands around the world, but it also is problematic for our men and women in uniform in terms of the quality of life, in terms of morale, in terms of recruitment and retention. That is the end result of what is happening. It may be difficult to quantify. I think these charts illustrate very clearly the pressures that are being placed on our naval forces and the Marine Corps today.

This is a disturbing and alarming trend. I think it does support the commander's testimony that we are being stretched too thin in responding to the increasing number of contingencies while reducing the number of ships. The assertion that a smaller number of more capable ships resulting in a stronger Navy is just not being borne out. Some would say it is quality that matters. That may well be true. In fact, we are moving to enhance the quality of the ships in the future.

As the commanders have told us time and again and repeatedly in testimony before the Seapower Subcommittee, numbers do count. Quantity, as one commander said, is a quality all its own. One ship, even though it is more capable than three ships it replaces, cannot cover two geographic areas at once. The fact is, we found that out during the course of the Kosovo campaign and the onset of the Kosovo campaign. In fact, General Clark, the Supreme Allied Commander, had requested an aircraft carrier presence in the Adriatic. It took 2 weeks before we were able to have an aircraft carrier in the Adriatic, 2 weeks into the Kosovo conflict.

We heard in testimony before the Seapower Subcommittee from Vice Admiral Murphy, who is commander of the 6th Fleet, who told us that:

> . . . if we had a Navy air wing—

And I am using his words—

> in the fight from day one, we could only speculate as to the difference the naval air would have made in the first 2 weeks but I believe it would have been substantial.

In his words, he said it would have been substantial. It could have made a difference, having that airpower there from day one of the Kosovo conflict. But that did not happen. It took 2 weeks.

In the meantime, we left a gap in the Pacific command. We left the Pacific command without an aircraft carrier because we had to cover the Persian Gulf and, of course, meet the demands in Kosovo. That is what happens when we are stretched too thin and we do not have the number of ships to meet our responsibilities around the world.

As I said in the course of my discussion this morning, the fact is, the demands being placed on our naval forces and the Marine Corps are becoming greater and greater. Yet the number of ships to meet those demands is becoming fewer. So the question becomes, How many ships? That is a good question, one we are striving to answer. Have we gone too far in bringing down

the number of ships to 300? The operational commanders will tell us yes. Without a doubt, due to the high operational tempo that is reflected in this chart, as we have seen, tripling the number of contingency operations compared to where we were during the cold war, I would have to agree. We have had 103 contingency operations during the period of 1996 to 1999, with 316 ships. Yet during the cold war period, during a 9-year period, we only had 31. So obviously the demands are greater.

I think we have to make some decisions about where we need to go in the future. As the commander of the 6th Fleet testified, again during the course of his testimony, he said:

> Numbers count. If there is an insufficiency of numbers, by the time you figure it out, it is usually too late.

So these shortcomings become a concern, as I say, leaving gaps, for example, in the Pacific command, not being able to respond to the Supreme Allied Commander by having an aircraft carrier for the duration of the entire conflict because we don't have enough ships; or because of the impact on the men and women because of the extended deployments, because of the quality of life, because of the recruitment and retention problems and the soaring cost of contingency operations—it is having an impact across the board. So, yes, there are higher risks in all respects. We have to address those risks.

We are trying. As chair of the Seapower Subcommittee and member of the overall committee, we have been asking for a report from the Pentagon as to what is their long-term shipbuilding plan that will ascertain exactly how many ships will be required to respond to these demands.

Senator ROBB of Virginia had included an amendment to the Defense authorization last year that asked for this long-term shipbuilding plan. The statutory requirement included a deadline of February of this year for the Pentagon to submit this report to the committee and to the Congress. They have failed to meet this prescribed statutory requirement of this analysis so the committee could make some decisions for the long term because it is not easy to shift these decisions when it comes to shipbuilding. It takes 5 to 6 years, on average, to construct a ship.

If we are going to reverse some of the trends that are already inherent in the budgets that have been submitted by the Pentagon, and if we are going to respond to those shifts, it is going to take a required lead time to make those changes. Yet the Defense Department has not submitted this analysis that was required under the law by February of this year. We have asked time and again; we have submitted letters to the Pentagon. I plan to hold a hearing to find out exactly why this report has not been submitted to the committee so we, in turn, can make the decisions, evaluate the analysis, and make some changes for the future.

If we are being told by the top civilian and military leadership of the Navy and Marine Corps that they are being stretched too thin, even with today's force structure of about 316 ships, then we are required to make some decisions about the future. They have confirmed time and again the predicted operating tempo of the Quadrennial Defense Review upon which this force structure of 316 ships is being based is different, quite different from what is occurring around the world. In fact, in regard to the QDR, the Navy's Deputy Chief of Naval Operations for Resources, Warfare Requirements and Assessments testified:

> . . . prognostications for the future were different than the reality has turned out in the last few years . . . we need to build higher number of ships than we are building today.

Other witnesses have also confirmed the budget request that was submitted by the administration did not include the construction of 8.7 new ships required to recapitalize the fleet at a rate that would maintain 308 ships, let alone increasing the number above the 316 ships in the fleet today.

We had testimony from a Congressional Research Service witness that a $10 billion to $12 billion investment on an annual basis, depending on the actual ship mix, to build an average of 8.7 ships per year is required just to maintain a 308-ship Navy. However, as I said, the budget request submitted by the Pentagon and by the administration for future years was only 7.5 ships per year on average. So that exacerbates the force structure problem rather than addressing it with the required resources.

The fact is, the historical average for shipbuilding over the last 5 to 6 years has been 7.5 ships. That puts us on a course for 263 ships in the Navy. So it is obviously far below the 300-ship Navy that has been determined to be necessary by the Quadrennial Defense Review, certainly less than the 316-ship Navy we have today, and certainly that is fewer ships than we need to be able to respond when it comes to the number of challenges around the world and the number of contingency operations that we have been engaged in and are responding to, just in a 4-year period between 1996 and 1999, which has been 103 contingency operations.

The subcommittee has tried to respond to these challenges. We have tried to respond in a number of ways, at least to begin to reverse course until we get this analysis from the Pentagon. Again, as I said, we will demand that analysis from the Pentagon so we can make a decision whether it is going to be 300 ships or 263 ships—which we are on a course towards, given the request and given the previous budgets by the administration—or if we are going to change that course, increasing the number from 316 or 300 or whatever the number may be. But we need to have a realistic assessment of where we should go in the future.

We have tried in this budget before us today in the reauthorization to respond to some of the issues. We have decided to do it in a number of ways. First, we included a legislative provision that will provide for advanced procurement but at the same time save $1.1 billion in taxpayers' dollars, if the Navy takes advantage of the opportunities that are provided in this reauthorization. To attain $500 million of the $1.1 billion in savings, the bill authorizes the Navy to buy the next six DDG–51 ships under a multiyear agreement at an economic rate of three ships per year and provides $143 million in advanced procurement to achieve economies of scale.

An additional $600 million in savings will result from the Navy contracting for the LHD–8 with prior year funding, as well as $460 million in this bill, and future full funding.

These smart acquisition strategies are actions that leverage the ship construction funding. It also provides a number of other cost-saving provisions. We authorize a block buy for economic order quantities for up to five *Virginia* class submarines and smart product modeling for our Navy's aircraft carriers. Both of these initiatives will result in shipbuilding savings.

Over the long haul, to sustain the minimum ship requirements, the Navy must find economies in all areas, including reducing operational costs for its entire fleet. The key to reducing these operating costs of ships lies in research and development for the design of future ships that can operate more efficiently and with less manning.

Our bill does approve ship design research and development which will directly result in reduced overall life-cycle costs of the Navy's next generation of ships. The research and development investment includes $550 million for the DD–21 program, $38 million for the CVN–77, $236 million for the CVN(X) and $207 million for the *Virginia* class submarine technologies.

In addition to the ship force structure issues, subcommittee witnesses testified that capabilities must remain ahead of the threats designed to disrupt or deny maritime operations on the high seas and in the littorals.

We also had testimony that indicated air and sea strategic lift and support are absolutely important to support all warfighting commanders in chief and all services, as well as supporting other Government agencies.

We tried to address the requirements to modernize the equipment as soon as possible while continuing the research and development which has the potential to provide our forces with the future systems they require.

We also supported the Marine Corps requirements of two LPD–17 class amphibious ships, which is state-of-the-art advance transport ships, as well as 12 MV–22 tilt-rotor aircraft, one landing craft air cushion life extension, and an additional $27 million for the advanced amphibious assault vehicle research and development.

We tried to address a number of the requirements for both the Navy and the Marine Corps to address what we consider to be the deficiencies that were submitted in the budget request by the administration for the Navy and the Marine Corps. It is also an attempt to fill the gap that has been placed on both of those services with respect to demands that not only have been required of them in contingency operations, but also in terms of the reduced force structure that has been demonstrated by these charts and by the realities in the world today.

I hope in the future we will be able to have the kind of analysis upon which we can develop what will be an adequate force structure, what will be an adequate number of ships, and other requirements for the Navy and the Marine Corps. Whether it is a 300-ship Navy, 308-ship Navy, a 316-ship Navy or beyond, or a 263-ship Navy, which has been the historical trend, as I said, over the last 5 to 6 years and which this authorization is attempting to reverse, it is going to take more than that. Obviously, we need to have the numbers and the analysis upon which to base those numbers from the Defense Department so that Congress has the ability to analyze those numbers in terms of what is sufficient to meet the security challenges around the world.

As I said earlier, the Quadrennial Defense Review developed a number. They said a 300-ship Navy would be adequate to respond to the security challenges. They anticipated there would be an increase in contingency operations, but the problem is they did not anticipate the extent to which those operations would place demands on our naval forces and our Marine Corps.

The PRESIDING OFFICER (Mr. ALLARD). The Senator's time has expired.

Ms. SNOWE. Mr. President, I again thank the chairman of the Armed Services Committee for his leadership and the ranking member of the Subcommittee on Seapower, Senator KENNEDY. I also thank the professional staff: Gary Hall, Tom McKenzie, and John Barnes on the majority side, and Creighton Greene on the minority side. I also thank my personal staff: Tom Vecchiolla, Sam Horton, and Jennifer Ogilvie, defense fellows in my office as well.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank our distinguished colleague for her contribution first as chairman of the Seapower Subcommittee, and for this very important message she has delivered to the Senate this morning.

I understand our distinguished colleague from Michigan, Mr. LEVIN, and the Senator from Georgia have consulted, and the Senator from Georgia desires some time now.

Mr. LEVIN. I hope the Chair will now recognize the next person seeking recognition.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CLELAND. Mr. President, I thank Chairman WARNER and ranking member LEVIN for their hard work during the Department of Defense authorization process this year. They have done a tremendous job in enhancing the quality of life for our military personnel and their families. I appreciate the support of Senators LEVIN, BINGAMAN, REED, and ROBB, who have cosponsored my GI bill enhancements which we are about to adopt.

Specifically, I recognize the chairman of the Senate Armed Services Committee, the distinguished Senator from Virginia, Mr. WARNER, who himself went to school on the GI bill after World War II. I thank him for his support and his encouragement in improving the GI bill for military personnel and their families.

My amendment will improve and enhance the current educational benefits and create the GI bill for the 21st century.

One of the most important provisions of my amendment would give the service Secretaries the authority to authorize a service member to transfer his or her basic Montgomery GI bill benefits to family members. It will make the GI bill for the first time family friendly. This will give the Secretaries of the services a very powerful retention tool.

My amendment will also give the Secretaries the authority to authorize the Veterans' Educational Assistance Program, VEAP, participants and those active duty personnel who did not enroll in the Montgomery GI bill to participate in the current GI bill program.

Another enhancement to the current Montgomery GI bill extends the period in which the members of Reserve components can use this benefit.

Other provisions of this amendment will allow the Service Secretaries to pay 100 percent of tuition assistance or enable service members to use the Montgomery GI bill to cover any unpaid tuition and expenses when the services do not pay 100 percent.

This GI bill amendment is an important retention tool for the services, as well as a wonderful benefit for the men and women who bravely serve our country. I believe that education begets education. We must continue to focus our resources in retaining our personnel and meeting their personal needs. It is cheaper and better all around to retain than retrain.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank Senator CLELAND for making an extraordinary contribution, not just on this amendment but in so many ways on the Armed Services Committee and in the Senate. This will be an aid to recruitment and retention. I congratulate him for his usual perceptiveness of trying to improve the morale and conditions for the men and women in our armed services. He is a supreme leader in that regard. I thank him for his continuing leadership and look forward to the adoption of his amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I join my distinguished colleague from Michigan. The Senator and I have been here 22 years, and we have seen a lot of Senators come and go on the Armed Services Committee. When this fine American stepped on to our committee, from the first day he has taken a position for which we all respect and value his guidance and judgment.

I will say, this man has a sense of humor. Now, it takes sometimes a little probing to get it out. He always combines his humor with history. He is a great student of military history and those who have been in public life in the past. He livens up the committee meetings and the markups. When things are sort of in a trough, he will inject himself.

But this is something he and I have discussed for a number of years. I am very hopeful that we, in the course of the conference, can achieve some measure of these goals, maybe the full measure, I say to the Senator, but I know not.

As I have said, with great humility, what modest military career I have had in terms of periods of active duty, both at the end of World War II and during the Korean War, in no way compares to the heroic service that this fine Senator rendered his country.

But I will say, the greatest investment America made in post-World War II, in those years when this country was returning to normalcy—they were exciting years, 1946 to 1950—it was the GI bill, the investment by America in that generation of some 16 million men and women who were privileged to serve in uniform during that period, and I was a modest recipient of the GI bill. I would not be here today, I say to the Senator, had it not been for that education given to me.

My father had passed on in the closing months of World War II, and my mother was widowed. We were prepared to all struggle together to do the best we could in our family. Among the assets was not the money to go to college. Had it not been for the GI bill, I would not be here today.

So you have a strong shoulder at the wheel with this Senator. But I salute you. We are going to do our very best. I thank you for working tirelessly on behalf of the men and women of the Armed Forces.

Mr. President, the distinguished ranking member and I are prepared to offer a number of amendments with our colleagues.

AMENDMENT NO. 3216

(Purpose: To ensure that obligations to make payments under the CVN–69 contract for a fiscal year after fiscal year 2001 is subject to the availability of appropriations)

Mr. WARNER. Mr. President, on behalf of Senator SNOWE and Senator

KENNEDY, I offer an amendment, which is a technical amendment to section 125 of the bill regarding the overhaul of CVN–69, the U.S.S. *Eisenhower.*

Mr. President, I believe this amendment has been cleared by the other side; am I correct?

Mr. LEVIN. The amendment has been cleared.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] for Ms. SNOWE, for herself and Mr. KENNEDY, proposes an amendment numbered 3216.

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

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

The amendment is as follows:

On page 31, strike lines 16 through 18, and insert the following:

''of the CVN–69 nuclear aircraft carrier.

''(c) CONDITION FOR OUT-YEAR CONTRACT PAYMENTS.—A contract entered into under subsection (b) shall include a clause that states that any obligation of the United States to make a payment under the contract for a fiscal year afer fiscal year 2001 is subject to the availability of appropriations for that purpose for that later fiscal year.''

The PRESIDING OFFICER. Is there further debate on the amendment?

There being no further debate on the amendment, the amendment is agreed to.

The amendment (No. 3216) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3217

(Purpose: To repeal authorities to delay pay days at the end of fiscal year 2000)

Mr. WARNER. Mr. President, I offer an amendment which repeals authorities to delay pay days—that is, military and civilian—at the end of fiscal year 2000 and into fiscal year 2001. I believe this amendment has been cleared.

Mr. LEVIN. It has been cleared.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3217.

The amendment is as follows:

On page 364, between the matter following line 13 and line 14, insert the following:

SEC. 1010. REPEAL OF CERTAIN PROVISIONS SHIFTING CERTAIN OUTLAYS FROM ONE FISCAL YEAR TO ANOTHER.

Sections 305 and 306 of H.R. 3425 of the 106th Congress, as enacted into law by section 1000(a)(5) of Public Law 106–113 (113 Stat. 1501A–306), are repealed.

The PRESIDING OFFICER. Is there any further debate on the amendment?

There being no further debate, the amendment is agreed to.

The amendment (No. 3217) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3218

(Purpose: To require a report on the Defense Travel System and to limit the use of funds for the system)

Mr. LEVIN. Mr. President, on behalf of Senator ROBB, I offer an amendment which requires the Secretary of Defense to submit a report to the congressional defense committees concerning the management and fielding of the defense travel system. I believe this has been cleared by the other side.

Mr. WARNER. Mr. President, it has been cleared. I commend the Senator from Virginia. This is a very important subject. Indeed, it is one on which we should have additional oversight. This report will be helpful.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. ROBB, proposes an amendment numbered 3218.

The amendment is as follows:

On page ____, between lines ____ and ____, insert the following:

SEC. . DEFENSE TRAVEL SYSTEM.

(a) REQUIREMENT FOR REPORT.—Not later than November 30, 2000, the Secretary of Defense shall submit to the congressional defense committees a report on the Defense Travel System.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) A detailed discussion of the development, testing, and fielding of the system, including the performance requirements, the evaluation criteria, the funding that has been provided for the development, testing, and fielding of the system, and the funding that is projected to be required for completing the development, testing, and fielding of the system.

(2) The schedule that has been followed for the testing of the system, including the initial operational test and evaluation and the final operational testing and evaluation, together with the results of the testing.

(3) The cost savings expected to result from the deployment of the system and from the completed implementation of the system, together with a discussion of how the savings are estimated and the expected schedule for the realization of the savings.

(4) An analysis of the costs and benefits of fielding the front-end software for the system throughout all 18 geographical areas selected for the original fielding of the system.

(c) LIMITATIONS.—(1) Not more than 25 percent of the amount authorized to be appropriated under section 301(5) for the Defense Travel System may be obligated or expended before the date on which the Secretary submits the report required under subsection (a).

(2) Funds appropriated for the Defense Travel System pursuant to the authorization of appropriations referred to in paragraph (1) may not be used for a purpose other than the Defense Travel System unless the Secretary first submits to Congress a written notification of the intended use and the amount to be so used.

Mr. WARNER. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the amendment is agreed to.

The amendment (No. 3218) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3219

(Purpose: To modify authority to carry out a fiscal year 1990 military construction project relating to Portsmouth Naval Hospital, Virginia)

Mr. WARNER. Mr. President, on behalf of Senator ROBB and myself, I offer an amendment which would modify the authority to carry out a fiscal year 1990 military construction project relating to the naval hospital at Portsmouth, VA.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself and Mr. ROBB, proposes an amendment numbered 3219.

The amendment is as follows:

On page 501, between lines 10 and 11, insert the following:

SEC. 2404. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 1990 PROJECT.

(a) INCREASE.—Section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189), as amended by section 2407 of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105–261; 112 Stat. 2197), is amended in the item relating to Portsmouth Naval Hospital, Virginia, by striking ''$351,354,000'' and inserting ''$359,854,000''.

(b) CONFORMING AMENDMENT.—Section 2405(b)(2) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991, as amended by section 2407 of the Military Construction Authorization Act for Fiscal Year 1999, is amended by striking ''$342,854,000'' and inserting ''$351,354,000''.

Mr. WARNER. Let the RECORD reflect it has been cleared on both sides.

Mr. LEVIN. We support the amendment.

The PRESIDING OFFICER. There being no objection, the amendment is agreed to.

The amendment (No. 3219) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3220

(Purpose: To authorize the payment of $7,975 for a fine for environmental permit violations at Fort Sam Houston, Texas)

Mr. WARNER. Mr. President, I offer an amendment to section 345 of S. 2549 that would authorize the Secretary of the Army to pay the cash fine of $7,975 to the Texas Natural Resources Conservation Commission for permit violations assessed under the Resource Conservation and Recovery Act at Fort Sam Houston, TX.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3220.

The amendment is as follows:

On page 94, between lines 6 and 7, insert the following:

(6) $7,975 for payment to the Texas Natural Resource Conservation Commission of a cash fine for permit violations assessed under the Solid Waste Disposal Act.

Mr. LEVIN. The amendment has been cleared on this side.

Mr. WARNER. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without further debate, the amendment is agreed to.

The amendment (No. 3220) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3221

(Purpose: To strike section 344, relating to a modification of authority for indemnification of transferees of closing defense property)

Mr. WARNER. Mr. President, I offer an amendment to strike all of section 344 of S. 2549.

I believe this amendment has been cleared.

Mr. LEVIN. The amendment has been cleared.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3221.

The amendment is as follows:

On page 88, strike line 11 and all that follows through page 92, line 19.

The PRESIDING OFFICER. Without further debate, the amendment is agreed to.

The amendment (No. 3221) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3222

Mr. WARNER. Mr. President, I offer an amendment which makes technical corrections to the bill. This has been cleared on the other side.

Mr. LEVIN. It has been cleared.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3222.

The amendment is as follows:

On page 147, line 6, strike ''section 573(b)'' and insert ''section 573(c)''.

On page 303, strike line 10 and insert the following:

SEC. 901. REPEAL OF LIMITATION ON MAJOR.

On page 358, beginning on line 11, strike ''Defense Finance and Accounting System'' and insert ''Defense Finance and Accounting Service''.

On page 358, beginning on line 12, strike ''contract administration service'' and insert ''contract administration services system''.

On page 359, line 5, strike ''Defense Finance and Accounting System'' and insert ''Defense Finance and Accounting Service''.

On page 359, beginning on line 6, strike ''contract administration service'' and insert ''contract administration services system''.

On page 359, beginning on line 9, strike ''Defense Finance and Accounting System'' and insert ''Defense Finance and Accounting Service''.

On page 493, in the table following line 10, strike ''136 units'' in the purpose column in the item relating to Mountain Home Air Force Base, Idaho, and insert ''119 units''.

Mr. WARNER. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without further debate on the amendment, the amendment is agreed to.

The amendment (No. 3222) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3223

Mr. WARNER. Mr. President, I offer a technical amendment in relation to the DOE future-years nuclear security plan.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3223.

The amendment is as follows:

On page 584, line 13, strike ''3101(c)'' and insert ''3101(a)(1)(C)''.

Mr. LEVIN. Mr. President, the amendment has been cleared on this side.

Mr. WARNER. I urge adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate on the amendment, the amendment is agreed to.

The amendment (No. 3223) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3224

Mr. WARNER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3224.

The amendment is as follows:

On page 565, strike lines 9 through 13.

Mr. LEVIN. The amendment has been cleared.

The PRESIDING OFFICER. Without further debate, the amendment is agreed to.

The amendment (No. 3224) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3225

Mr. WARNER. I offer a technical amendment in relation to the mixed oxide fuel construction project.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3225.

The amendment is as follows:

On page 554, line 25, strike ''$31,000,000.'' and insert ''$20,000,000.''.

On page 555, line 4, strike ''$15,000,000.'' and insert ''$26,000,000.''.

Mr. LEVIN. The amendment has been cleared on this side.

The PRESIDING OFFICER. Without further debate, the amendment is agreed to.

The amendment (No. 3225) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3226

(Purpose: To enhance and improve educational assistance under the Montgomery GI Bill in order to enhance recruitment and retention of members of the Armed Forces)

Mr. LEVIN. Mr. President, on behalf of Senator CLELAND, and other cosponsors whom he has identified, I offer an amendment that would enhance the Montgomery GI bill for both active and reserve members of the Armed Forces. This is the amendment we just discussed and on which we are so appreciative of Senator CLELAND's leadership.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] for Mr. CLELAND, for himself, Mr. ROBB, and Mr. REED, proposes an amendment numbered 3226.

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

Mr. CLELAND. Mr. President, I come before you today to offer an amendment that addresses the educational needs of our men and our men and women in uniform and their families. I appreciate the support of my colleagues who have supported my provisions to enhance the GI bill, Senators LEVIN, BINGAMAN, REED, and ROBB. I also like to recognize the chairman of the Senate Armed Services Committee, Senator WARNER, who himself went to school on the GI bill. I want to thank him for his support and encouragement in improving the GI bill for military personnel and their families.

I call this measure the HOPE—Help Our Professionals Educationally—Act of 2000. This measure is the same at my original legislation, S. 2402.

Last year, Time magazine named the American GI as the Person of the Century. That alone is a statement about the value of our military personnel. They are recognized around the world for their dedication and commitment to fight for our country and for peace in the world. This past century has been the most violent century in the

modern era. The American GI has fought in the trenches during the First World War, the beaches at Normandy, in the jungles of Vietnam, in the deserts of the Persian Gulf, and most recently in the Balkans and Kosovo.

The face of our military and the people who fight our wars has changed. The traditional image of the single, mostly male, drafted, and disposable soldier is gone. Today we are fielding the force for the 21st century. This new force is a volunteer force, filled with men and women who are highly skilled, married, and definitely not disposable. Gone are the days when quality of life for a GI included a beer in the barracks and a three-day pass. Now, we know we have to recruit a soldier and retain a family.

We have won the cold war. This victory has changed the world and our military. The new world order has given us a new world disorder. The United States is responding to crises around the globe—whether it be strategic bombing or humanitarian assistance—and our military is the most effective response. In order to meet these challenges, we are retooling our forces to be lighter, leaner and meaner. This is a positive move. Along with this lighter force, our military professionals must be highly educated and highly trained.

Our nation is currently experiencing the longest running peacetime economic growth in history. This economic expansion has been a boom for our nation. However, there is a negative impact of this growing economy. With the enticement of quick prosperity in the civilian sector it is more difficult than ever to recruit and retain our highly skilled force.

In fiscal year 99, the Army missed its recruiting goals by 6,291 recruits, while the Air Force missed its recruiting goal by 1,732 recruits. Pilot retention problems persist for all services; the Air Force ended FY99 1,200 pilots short and the Navy ended FY99 500 pilots short. The Army is having problems retaining captains, while the Navy faces manning challenges for Surface Warfare Officers and Special Warfare Officers. It is estimated than $6 million is spent to train a pilot. We as a nation cannot afford to train our people, only to lose them to the private sector. It is better to retain than retrain.

There is hope that we are addressing these challenges. Last year was a momentous year for our military personnel. The Senate passed legislation that significantly enhances the quality of life for our military personnel. From retirement reform to pay raises, this Congress is on record supporting our men and women in uniform. However, more must be done.

In talking with our military personnel, we know that money alone is not enough. Education is the number one reason service members come into the military and the number one reason its members are leaving. Last year the Senate began to address this issue by supporting improved education benefits for military members and their families. Since last year, we have gone back and studied this issue further. In reviewing the current Montgomery GI bill, we found several disincentives and conflicts among the education benefits offered by the services. These conflicts make the GI bill, an earned benefit, less attractive than it could be.

My amendment will improve and enhance the current educational benefits and create the GI bill for the 21st century.

One of the most important provisions of my amendment would give the Service Secretaries the authority to authorize a service member to transfer his or her basic MGIB benefits to family members. Many service members tell us that they really want to stay in the service, but do not feel that they can stay and provide an education for their families. This will give them an Educational Savings Account, so that they can stay in the service and still provide an education for their spouses and children. This will give the Secretaries a very powerful retention tool. The measure would allow the Services to authorize transfer of basic GI bill benefits anytime after 6 years of service. To encourage members to stay longer, the transferred benefits could not be used until completion of at least 10 years of service. I believe that the Services can use this much like a reenlistment bonus to keep valuable service members in the service. It can be creatively combined with reenlistment bonuses to create a very powerful and cost effective incentive for highly skilled military personnel to stay in the Service. In talking with service members upon their departure from the military, we have found that the family plays a crucial role in the decision of a member to continue their military career. Reality dictates that we must address the needs of the family in order to retain our soldiers, sailors, airmen, and marines.

My amendment would also give the Secretaries the authority to authorize the Veterans' Educational Assistance Program (VEAP) participants and those active duty personnel who did not enroll in MGIB to participate in the current GI bill program. The VEAP participants would contribute $1200, and those who did not enroll in MGIB would contribute $1500. The services would pay any additional costs of the benefits of this measure.

Another enhancement to the current MGIB would extend the period in which the members of Reserve components can use this benefit. Currently they lose this benefit when they leave the service or after 10 years of service. They have no benefit when they leave service. My amendment will permit them to use the benefit up to 5 years after their separation. This will encourage them to stay in the Reserves for a full career. Other provisions of this amendment would allow the Service Secretaries to pay 100 percent tuition assistance or enable service members to use the MGIB to cover any unpaid tuition and expenses when the services don't pay 100 percent.

Mr. President, I believe that this is a necessary next step for improving our education benefits for our military members and their families. We must offer them credible choices. If we offer them choices, and treat the members and their families properly, we will show them our respect for their service and dedication. Maybe then we can turn around our current retention statistics. This GI bill is an important retention tool for the services. I believe that education begets education. We must continue to focus our resources in retaining our personnel based on their needs.

Mr. LEVIN. I wonder if the clerk could read for us the list of cosponsors on that amendment so any others who might wish cosponsorship.

The PRESIDING OFFICER. The clerk will read the cosponsors.

The legislative clerk read as follows:

The Senator from Michigan Mr. LEVIN, for Mr. CLELAND, for himself, Mr. WARNER, Mr. ROBB, and Mr. REED of Rhode Island.

Mr. LEVIN. I ask unanimous consent to be added as a cosponsor of the amendment.

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

Mr. WARNER. Mr. President, given the importance of this legislation, I ask unanimous consent that such other Senators who desire to be cosponsors may be listed through the close of business today.

The PRESIDING OFFICER. Without objection, it is so ordered. Without objection, the amendment is agreed to.

The amendment (No. 3226) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3227

(Purpose: To strike section 553(c) which repeals authority regarding grants and contracts to uncooperative instutions of higher education)

Mr. LEVIN. Mr. President, on behalf of Senator KENNEDY, I offer an amendment that would strike a repeal of the duplicative authority from section 553 of the bill. I believe the amendment has been cleared on the other side.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. KENNEDY, for himself, and Mr. CLELAND, proposes an amendment numbered 3227.

The amendment is as follows:

On page 186, strike lines 1 through 9, and insert the following:

(c) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall take effect on July 1, 2002.

(2) The amendments made by subsection (b).

The PRESIDING OFFICER. Without further debate, the amendment is agreed to.

The amendment (No. 3227) was agreed to.

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

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3228

(Purpose: To amend titles 10 and 38, United States Code, to strengthen the financial security of families of uniformed services personnel in cases of loss of family members)

Mr. WARNER. On behalf of Senator MCCAIN, I offer an amendment that will enhance the survival benefit plan available to retired members of the uniformed services, and I ask unanimous consent to be listed as cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. MCCAIN, for himself, Mr. WARNER, and Mr. LEVIN, proposes an amendment numbered 3228.

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

Mr. MCCAIN. Mr. President, today I am introducing three amendments to S. 2549, the National Defense Authorization Act for FY2001. The first amendment will provide more pay for mid-career enlisted service members. The second amendment will authorize survivor benefit improvements for the families of service members. The third amendment will improve benefits for members of the National Guard and Reservists.

Last year, I was pleased to see military pay table reform enacted into law. Our servicemembers will receive a much needed pay raise next month, and I commend my colleagues on both sides of the aisle who voted for this legislation.

However, there was one group of servicemembers that was under-represented in last year's pay table reform. Our E–5s, E–6s and E–7s have seen their pay erode in comparison to other pay grades. With our severe recruitment and retention issues still looming, we must adequately compensate our mid-grade enlisted servicemembers who are critical to leading the junior enlisted force.

We have significantly underpaid these enlisted members since the advent of the All-Volunteer Force. The value of their pay, compared to that of a private/seaman/airman, has dropped 50% since the all volunteer force was enacted by Congress.

The 1990s placed undue burdens on our career NCOs. Their expansion of duties during the drawdown came with little or no pay incentives, resulting in the departure of mid-grade NCOs and Petty Officers from the uniformed services.

On promotion to grades E–5 through E–8, the gap between military and civilian pay begins to widen. Last year's pay table reform, which helped to alleviate this gap, increased the pay of mid-grade officers, but is lacking for the mid-grade enlisted force.

My amendment would alleviate this inequity by increasing the pay for E–5s, E–6s and E–7s to the same level as those of officers with similar lengths of service. The amendment is estimated to cost approximately $200–300 million a year and is similar to legislation recently introduced in the House.

My second amendment would provide low-cost survivor benefit plan improvements for the survivors of active duty personnel who die in the line of duty. Under current SBP rules, only survivors of retired members or those of active duty members who have greater than 20 years of service are eligible for SBP.

My amendment, at an estimated cost of only $800 thousand in FY01 and $12.6 million over 5 years, would extend SBP coverage to all survivors of members who die on active duty with the annuities calculated as if the member had been retired with a 100% disability on the date of death.

This is an inexpensive amendment that would greatly help the survivors of our courageous servicemembers who have made the ultimate sacrifice in the defense of our country.

The second part of this amendment is a no-cost initiative that would allow the spouses and children of active duty personnel to participate in the Serviceman Group Life Insurance Program.

Junior servicemembers can rarely afford commercial insurance on their spouses and children, and the unexpected loss of their spouses—who in many cases are the primary care givers of their children—places an extreme strain on the service members' ability to properly take care of their families.

Premiums for this insurance would be significantly lower than comparable life insurance programs, because the Serviceman Group Life Insurance Program is composed of a consortium of insurance companies. This amendment would simply authorize spouses to buy up to 50% of the servicemember benefits—a maximum of $100,000 in coverage, and each dependent child could be covered for up to $10,000.

The final amendment I have offered today increases benefits for the Total Force—members of the National Guard and the Reserve Components. The National Guard and Reserves have become a larger percentage of the Total Force and are essential partners in a wide range of military operations. Due to the high operating tempo demands on the active component, the Reserve components are being called upon more frequently and for longer periods than ever before. We must stop treating them like a ''second class'' force.

This amendment will specifically authorize five improvements for the National Guard and Reserves. First, it will urge through a sense of Congress that the President should adequately request in the DoD budget the funds necessary to modernize these forces, and support their training and readiness accounts to ensure that the Total Force can continue to support our National Military Strategy.

Second, this amendment will authorize National Guard and reserve servicemembers to travel for duty or training on a space-required basis on military airlift between the servicemember's home of record and their place of duty.

Third, it will authorize National Guard and reserve servicemembers who travel more than 50 miles from their home of record to attend their drills to be able to stay at Bachelor Quarters on military installations.

Fourth, it will increase from 75 to 90 the maximum number of reserve retirement points that may be credited in a year for reserve service.

Finally, it will authorize legal/JAG services be extended for up to twice the length of period of military service after active duty recall for National Guard and reserve servicemembers to handle issues or problems under the Sailor and Soldier Act.

In conclusion, I would like to emphasize the importance of enacting meaningful improvements for our servicemembers; our Soldiers, Sailors, Airmen, Marines, their families and their survivors. They risk their lives to defend our shores and preserve democracy and we can not thank them enough for their service. But we can pay them more, improve their benefits to their survivors, and support the Total Force in a similar manner as the active forces. Our servicemembers past, present, and future need these improvements, and these three amendments are just one step we can take to show our support and improve the quality of life for our servicemembers and their families.

The PRESIDING OFFICER. Without further debate, the amendment is agreed to.

The amendment (No. 3228) was agreed to.

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

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, I ask unanimous consent to be added as a cosponsor to amendment No. 3228.

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

AMENDMENT NO. 3229

(Purpose: To provide an additional increase in military basic pay for enlisted members of the uniformed services in pay grades E–5, E–6, or E–7)

Mr. WARNER. Mr. President, on behalf of Senator MCCAIN, I offer an amendment that would provide an additional increase in the military basic pay for enlisted personnel in grades E5, E6, E7, and I ask unanimous consent to

be listed as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. MCCAIN, for himself, and Mr. WARNER, proposes an amendment numbered 3229.

The amendment is as follows:

On page 206, between lines 15 and 16, insert the following:

SEC. 610. RESTRUCTURING OF BASIC PAY TABLES FOR CERTAIN ENLISTED MEMBERS.

(a) IN GENERAL.—The table under the heading ''ENLISTED MEMBERS'' in section 601(c) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 105–65; 113 Stat. 648) is amended by striking the amounts relating to pay grades E–7, E–6, and E–5 and inserting the amounts for the corresponding years of service specified in the following table:

ENLISTED MEMBERS

[Years of service computed under section 205 of title 37, United States Code]

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
E–7	1,765.80	1,927.80	2,001.00	2,073.00	2,148.60
E–6	1,518.90	1,678.20	1,752.60	1,824.30	1,899.40
E–5	1,332.60	1,494.00	1,566.00	1,640.40	1,715.70
	Over 8	Over 10	Over 12	Over 14	Over 16
E–7	2,277.80	2,350.70	2,423.20	2,495.90	2,570.90
E–6	2,022.60	2,096.40	2,168.60	2,241.90	2,294.80
E–5	1,821.00	1,893.00	1,967.10	1,967.60	1,967.60
	Over 18	Over 20	Over 22	Over 24	Over 26
E–7	2,644.20	2,717.50	2,844.40	2,926.40	3,134.40
E–6	2,332.00	2,332.00	2,335.00	2,335.00	2,335.00
E–5	1,967.60	1,967.60	1,967.60	1,967.60	1,967.60

(b) APPLICATION OF AMENDMENTS.—The amendments made by subsection (a) shall take effect as of October 1, 2000, and shall apply with respect to months beginning on or after that date.

The PRESIDING OFFICER. Without further debate, the amendment is agreed to.

The amendment (No. 3229) was agreed to.

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

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3230

(Purpose: To improve the benefits for members of the reserve components of the Armed Forces and their dependents)

Mr. WARNER. Mr. President, on behalf of Senators GRAMS, MCCAIN, SESSIONS, ALLARD, ASHCROFT, and myself, I offer an amendment that would improve benefits for members of the reserve components of the Armed Forces and their dependents.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. GRAMS, for himself, Mr. MCCAIN, Mr. SESSIONS, Mr. ALLARD, Mr. ASHCROFT, Mr. WARNER, and Mr. LEVIN, proposes an amendment numbered 3230.

The amendment is as follows:

On page 239, after line 22, add the following:

Subtitle F—Additional Benefits For Reserves and Their Dependents

SEC. 671. SENSE OF CONGRESS.

It is the sense of Congress that it is in the national interest for the President to provide the funds for the reserve components of the Armed Forces (including the National Guard and Reserves) that are sufficient to ensure that the reserve components meet the requirements specified for the reserve components in the National Military Strategy, including training requirements.

SEC. 672. TRAVEL BY RESERVES ON MILITARY AIRCRAFT.

(a) SPACE-REQUIRED TRAVEL FOR TRAVEL TO DUTY STATIONS INCONUS AND OCONUS.—(1) Subsection (a) of section 18505 of title 10, United States Code, is amended to read as follows:

''(a) A member of a reserve component traveling to a place of annual training duty or inactive-duty training (including a place other than the member's unit training assembly if the member is performing annual training duty or inactive-duty training in another location) may travel in a space-required status on aircraft of the armed forces between the member's home and the place of such duty or training.''.

(2) The heading of such section is amended to read as follows:

''§ 18505. Reserves traveling to annual training duty or inactive-duty training: authority for space-required travel''.

(b) SPACE-AVAILABLE TRAVEL FOR MEMBERS OF SELECTED RESERVE, GRAY AREA RETIREES, AND DEPENDENTS.—Chapter 1805 of such title is amended by adding at the end the following new section:

''§ 18506. Space-available travel: Selected Reserve members and reserve retirees under age 60; dependents

''(a) ELIGIBILITY FOR SPACE-AVAILABLE TRAVEL.—The Secretary of Defense shall prescribe regulations to allow persons described in subsection (b) to receive transportation on aircraft of the Department of Defense on a space-available basis under the same terms and conditions (including terms and conditions applicable to travel outside the United States) as apply to members of the armed forces entitled to retired pay.

''(b) PERSONS ELIGIBLE.—Subsection (a) applies to the following persons:

''(1) A person who is a member of the Selected Reserve in good standing (as determined by the Secretary concerned) or who is a participating member of the Individual Ready Reserve of the Navy or Coast Guard in good standing (as determined by the Secretary concerned).

''(c) DEPENDENTS.—A dependent of a person described in subsection (b) shall be provided transportation under this section on the same basis as dependents of members of the armed forces entitled to retired pay.

''(d) LIMITATION ON REQUIRED IDENTIFICATION.—Neither the 'Authentication of Reserve Status for Travel Eligibility' form (DD Form 1853), nor or any other form, other than the presentation of military identification and duty orders upon request, or other methods of identification required of active duty personnel, shall be required of reserve component personnel using space-available transportation within or outside the continental United States under this section.''.

(c) CLERICAL AMENDMENTS.—The table of sections at the beginning of such chapter is amended by striking the item relating to section 18505 and inserting the following new items:

''18505. Reserves traveling to annual training duty or inactive-duty training: authority for space-required travel.

''18506. Space-available travel: Selected Reserve members and reserve retirees under age 60; dependents.''.

(d) IMPLEMENTING REGULATIONS.—Regulations under section 18506 of title 10, United States Code, as added by subsection (b), shall be prescribed not later than 180 days after the date of the enactment of this Act.

SEC. 673. BILLETING SERVICES FOR RESERVE MEMBERS TRAVELING FOR INACTIVE DUTY TRAINING.

(a) IN GENERAL.—(1) Chapter 1217 of title 10, United States Code, is amended by inserting after section 12603 the following new section:

''§ 12604. Billeting in Department of Defense facilities: Reserves attending inactive-duty training

''(a) AUTHORITY FOR BILLETING ON SAME BASIS AS ACTIVE DUTY MEMBERS TRAVELING UNDER ORDERS.—The Secretary of Defense shall prescribe regulations authorizing a Reserve traveling to inactive-duty training at a location more than 50 miles from that Reserve's residence to be eligible for billeting in Department of Defense facilities on the same basis and to the same extent as a member of the armed forces on active duty who is traveling under orders away from the member's permanent duty station.

''(b) PROOF OF REASON FOR TRAVEL.—The Secretary shall include in the regulations the means for confirming a Reserve's eligibility for billeting under subsection (a).''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 12603 the following new item:

''12604. Billeting in Department of Defense facilities: Reserves attending inactive-duty training.

(b) EFFECTIVE DATE.—Section 12604 of title 10, United States Code, as added by subsection (a), shall apply with respect to periods of inactive-duty training beginning more than 180 days after the date of the enactment of this Act.

SEC. 674. INCREASE IN MAXIMUM NUMBER OF RESERVE RETIREMENT POINTS THAT MAY BE CREDITED IN ANY YEAR.

Section 12733(3) of title 10, United States Code, is amended by striking ''but not more than'' and all that follows and inserting ''but not more than—

''(A) 60 days in any one year of service before the year of service that includes September 23, 1996;

''(B) 75 days in the year of service that includes September 23, 1996, and in any subsequent year of service before the year of service that includes the date of the enactment of the National Defense Authorization Act for Fiscal Year 2001; and

''(C) 90 days in the year of service that includes the date of the enactment of the National Defense Authorization Act for Fiscal Year 2001 and in any subsequent year of service.''.

SEC. 675. AUTHORITY FOR PROVISION OF LEGAL SERVICES TO RESERVE COMPONENT MEMBERS FOLLOWING RELEASE FROM ACTIVE DUTY.

(a) LEGAL SERVICES.—Section 1044(a) of title 10, United States Code, is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph (4):

''(4) Members of reserve components of the armed forces not covered by paragraph (1) or (2) following release from active duty under a call or order to active duty for more than 30 days issued under a mobilization authority (as determined by the Secretary of Defense), but only during the period that begins on the date of the release and is equal to at least twice the length of the period served on active duty under such call or order to active duty.''.

(b) DEPENDENTS.—Paragraph (5) of such section, as redesignated by subsection (a)(1), is amended by striking ''and (3)'' and inserting ''(3), and (4)''.

(c) IMPLEMENTING REGULATIONS.—Regulations to implement the amendments made by this section shall be prescribed not later than 180 days after the date of the enactment of this Act.

Mr. GRAMS. Mr. President, I thank Chairman WARNER for his help and leadership in accepting my amendment to help our National Guard and Reserves. Without his steadfast support for our military personnel, the changes being endorsed in my amendment would not be possible.

In an attempt to maintain a strong national defense despite budget cuts, the President has increasingly asked the Guard and Reserves to make up the difference. Work days contributed by reservists have risen from 1 million days in 1992, to over 13 million days last year. If you look at the Armed Forces personnel participating in the Bosnia and Kosovo operations, 33 percent are members of the Guard and Reserves in Bosnia and 22 percent in Kosovo. The National Guard can provide many of the same services as the active duty personnel at a fraction of the cost. But what impact does this have on Guardsmen, Reservists, and their families?

I support the total force concept, but I don't believe we can afford to balance DoD's budget on the backs of our citizen soldiers and airmen. That's why I introduced this amendment to the Defense Authorization bill, along with Senators MCCAIN, ALLARD, SESSIONS, ASHCROFT, WARNER, and LEVIN.

My amendment addresses quality of life issues. It extends space required travel to the National Guard and Reserves for travel to duty stations both inside and outside of the United States. It also provides the same space available travel privileges for the Guard, Reserves, and dependents that the armed forces provides to retired military and their dependents. My amendment gives them the same priority status and billeting privileges as active duty personnel when traveling for monthly drills. It raises the annual reserve retirement point maximum, upon which retirement pensions are based, from 75 to 90. Finally, it will extend free legal services to Selected Reservists by Judge Advocate General officers for a time equal to twice the length of their last period of active duty service.

I believe the dramatic increase in overseas active-duty assignments for reserve members merits the extension of military benefits for our Nation's citizen soldiers. It is only fair to close these disparities. This amendment would restore fairness to Guard and Reserve members, and it would strengthen our national defense and increase our military readiness by alleviating many of the recruitment and retention problems.

These are difficult days, without clear and easy answers. But I'm glad that, as we often have during trying times, we're able to turn to the men and women of the National Guard and Reserves to help ease the way. We must not forget their sacrifices. For in the words of President Calvin Coolidge, ''the nation which forgets its defenders will itself be forgotten.''

The PRESIDING OFFICER. Without further debate, the amendment is agreed to.

The amendment (No. 3230) was agreed to.

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

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, I ask unanimous consent to be added as a cosponsor of amendment No. 3230.

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

AMENDMENT NO. 3231

(Purpose: To authorize the President to award the gold and silver medals on behalf of the Congress to the Navajo Code Talkers, in recognition of their contributions to the Nation)

Mr. LEVIN. Mr. President, on behalf of Senator BINGAMAN, I offer an amendment that would authorize the President to award gold and silver medals on behalf of Congress to the Navaho Code Talkers in recognition of their contributions to the Nation during World War II.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows;

The Senator from Michigan [Mr. Levin], for Mr. BINGAMAN, for himself and Mr. WARNER, proposes an amendment numbered 3231.

The amendment is as follows:

At the end of title X, insert the following:

SEC. 10___. CONGRESSIONAL MEDALS FOR NAVAJO CODE TALKERS.

(a) FINDINGS.—Congress finds that—

(1) on December 7, 1941, the Japanese Empire attacked Pearl Harbor and war was declared by Congress on the following day;

(2) the military code developed by the United States for transmitting messages had been deciphered by the Japanese, and a search was made by United States Intelligence to develop new means to counter the enemy;

(3) the United States Government called upon the Navajo Nation to support the military effort by recruiting and enlisting 29 Navajo men to serve as Marine Corps Radio Operators;

(4) the number of Navajo enlistees later increased to more than 350;

(5) at the time, the Navajos were often treated as second-class citizens, and they were a people who were discouraged from using their own native language;

(6) the Navajo Marine Corps Radio Operators, who became known as the ''Navajo Code Talkers'', were used to develop a code using their native language to communicate military messages in the Pacific;

(7) to the enemy's frustration, the code developed by these Native Americans proved to be unbreakable, and was used extensively throughout the Pacific theater;

(8) the Navajo language, discouraged in the past, was instrumental in developing the most significant and successful military code of the time;

(9) at Iwo Jima alone, the Navajo Code Talkers passed more than 800 error-free messages in a 48-hour period;

(10) use of the Navajo Code was so successful, that—

(A) military commanders credited it in saving the lives of countless American soldiers and in the success of the engagements of the United States in the battles of Guadalcanal, Tarawa, Saipan, Iwo Jima, and Okinawa;

(B) some Code Talkers were guarded by fellow Marines, whose role was to kill them in case of imminent capture by the enemy; and

(C) the Navajo Code was kept secret for 23 years after the end of World War II;

(11) following the conclusion of World War II, the Department of Defense maintained the secrecy of the Navajo Code until it was declassified in 1968; and

(12) only then did a realization of the sacrifice and valor of these brave Native Americans emerge from history.

(b) CONGRESSIONAL MEDALS AUTHORIZED.—To express recognition by the United States and its citizens in honoring the Navajo Code Talkers, who distinguished themselves in performing a unique, highly successful communications operation that greatly assisted in saving countless lives and hastening the end of World War II in the Pacific, the President is authorized—

(1) to award to each of the original 29 Navajo Code Talkers, or a surviving family member, on behalf of the Congress, a gold medal of appropriate design, honoring the Navajo Code Talkers; and

(2) to award to each person who qualified as a Navajo Code Talker (MOS 642), or a surviving family member, on behalf of the Congress, a silver medal of appropriate design, honoring the Navajo Code Talkers.

(c) DESIGN AND STRIKING.—For purposes of the awards authorized by subsection (b), the Secretary of the Treasury (in this section referred to as the ''Secretary'') shall strike gold and silver medals with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

(d) DUPLICATE MEDALS.—The Secretary may strike and sell duplicates in bronze of the medals struck pursuant to this section, under such regulations as the Secretary may prescribe, and at a price sufficient to cover the costs thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the medals.

(e) NATIONAL MEDALS.—The medals struck pursuant to this section are national medals for purposes of chapter 51, of title 31, United States Code.

(f) AUTHORITY TO USE FUND AMOUNTS.—There is authorized to be charged against the United States Mint Public Enterprise Fund, not more than $30,000, to pay for the costs of the medals authorized by this section.

(g) PROCEEDS OF SALE.—Amounts received from the sale of duplicate medals under this section shall be deposited in the United States Mint Public Enterprise Fund.

Mr. WARNER. Mr. President, I ask unanimous consent to be added as a cosponsor of the amendment.

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

Without further debate, the amendment is agreed to.

The amendment (No. 3231) was agreed to.

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

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, let me expand on this and say how much I respect Senator BINGAMAN for bringing this to the attention of the Senate and incorporating this most well-deserved recognition on behalf of these individuals.

Again, with brief service in the concluding months of the war, particularly while I was in the Navy, the Marine Corps utilized these individuals a great deal. What they would do is get on the walkie-talkies in the heat of battle and in their native tongue communicate the orders of the officers and noncommissioned officers to forward and other positions, subjecting themselves to the most intense elements of combat at the time. They were very brave individuals. They performed a remarkable service. Here we are, some 56 years after the intensity of the fighting in the Pacific, which began in 1941, honoring them. They were magnificent human beings, and the men in the forward units of combat appreciated what they did. I salute our distinguished colleague. I am delighted to be a cosponsor.

Mr. LEVIN. Mr. President, I join my good friend, Senator WARNER, in thanking and commending the men for their gallant service during World War II and to thank Senator BINGAMAN for remembering them and having us as a body remember them. That is a real service, too. We are both grateful to Senator BINGAMAN.

Mr. WARNER. In other words, the enemy simply did not, if they picked up this language with their listening systems, have the vaguest idea. There are stories of the confusion of the enemy: They didn't know who it was on the beach, what was coming at them. It was remarkable.

Mr. LEVIN. It is a great bit of history, and it is great to be reminded of it.

Mr. WARNER. Indeed.

Mr. LEVIN. I hope it has been written up because it is not familiar to me. I am now going to become familiar with it.

Mr. WARNER. There were quite a few stories written about them. They were self-effacing, humble people, proud to be identified with their tribes. They went back into the sinews of America, as so many of the men and women did, to take up their responsibilities at home.

AMENDMENT NO. 3232

(Purpose: To revise the fee structure for residents of the Armed Forces Retirement Home)

Mr. WARNER. Mr. President, on behalf of Senator LOTT, I offer an amendment that would revise the fee structure for residents of the Armed Services Retirement Home.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. LOTT, proposes an amendment numbered 3232.

The amendment is as follows:

On page 236, between lines 6 and 7, insert the following:

SEC. 646. FEES PAID BY RESIDENTS OF THE ARMED FORCES RETIREMENT HOME.

(a) NAVAL HOME.—Section 1514 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 414) is amended by striking subsection (d) and inserting the following:

''(d) NAVAL HOME.—The monthly fee required to be paid by a resident of the Naval Home under subsection (a) shall be as follows:

''(1) For a resident in an independent living status, $500.

''(2) For a resident in an assisted living status, $750.

''(3) For a resident of a skilled nursing facility, $1,250.''.

(b) UNITED STATES SOLDIERS' AND AIRMEN'S HOME.—Subsection (c) of such section is amended—

(1) by striking ''(c) FIXING FEES.—'' and inserting ''(c) UNITED STATES SOLDIERS' AND AIRMEN'S HOME.—'';

(2) in paragraph (1)—

(A) by striking ''the fee required by subsection (a) of this section'' and inserting ''the fee required to be paid by residents of the United States Soldiers' and Airmen's Home under subsection (a)''; and

(B) by striking ''needs of the Retirement Home'' and inserting ''needs of that establishment''; and

(3) in paragraph (2), by striking the second sentence.

(c) SAVINGS PROVISION.—Such section is further amended by adding at the end the following:

''(e) RESIDENTS BEFORE FISCAL YEAR 2001.—A resident of the Retirement Home on September 30, 2000, may not be charged a monthly fee under this section in an amount that exceeds the amount of the monthly fee charged that resident for the month of September 2000.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2000.

The PRESIDING OFFICER. Without further debate, the amendment is agreed to.

The amendment (No. 3232) was agreed to.

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

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3233

(Purpose: To request the President to advance the late Rear Admiral Husband E. Kimmel on the retired list of the Navy to the highest grade held as Commander in Chief, United States Fleet, during World War II, and to advance the late Major General Walter C. Short on the retired list of the Army to the highest grade held as Commanding General, Hawaiian Department, during World War II, as was done under the Officer Personnel Act of 1947 for all other senior officers who served in positions of command during World War II; and to express the sense of Congress regarding the professional performance of Admiral Kimmel and Lieutenant General Short)

Mr. LEVIN. Mr. President, on behalf of Senator KENNEDY, I offer an amendment that would authorize the President to advance Rear Adm. Husband Kimmel on the retired list to the highest grade held as commander in chief, U.S. Fleet, during World War II and to advance Army Maj. Gen. Walter Short on the retirement list of the Army to the highest grade held as commanding general, Hawaiian Department, during World War II.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. KENNEDY, for himself, Mr. THURMOND, Mr. ROTH, and Mr. BIDEN, proposes an amendment numbered 3233.

The amendment is as follows:

On page 200, after line 23, insert the following:

SEC. 566. SENIOR OFFICERS IN COMMAND IN HAWAII ON DECEMBER 7, 1941.

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

(1) Rear Admiral Husband E. Kimmel, formerly the Commander in Chief of the United States Fleet and the Commander in Chief, United States Pacific Fleet, had an excellent and unassailable record throughout his career in the United States Navy prior to the December 7, 1941, attack on Pearl Harbor.

(2) Major General Walter C. Short, formerly the Commander of the United States Army Hawaiian Department, had an excellent and unassailable record throughout his career in the United States Army prior to the December 7, 1941, attack on Pearl Harbor.

(3) Numerous investigations following the attack on Pearl Harbor have documented that Admiral Kimmel and Lieutenant General Short were not provided necessary and critical intelligence that was available, that

foretold of war with Japan, that warned of imminent attack, and that would have alerted them to prepare for the attack, including such essential communiques as the Japanese Pearl Harbor Bomb Plot message of September 24, 1941, and the message sent from the Imperial Japanese Foreign Ministry to the Japanese Ambassador in the United States from December 6 to 7, 1941, known as the Fourteen-Part Message.

(4) On December 16, 1941, Admiral Kimmel and Lieutenant General Short were relieved of their commands and returned to their permanent ranks of rear admiral and major general.

(5) Admiral William Harrison Standley, who served as a member of the investigating commission known as the Roberts Commission that accused Admiral Kimmel and Lieutenant General Short of ''dereliction of duty'' only six weeks after the attack on Pearl Harbor, later disavowed the report maintaining that ''these two officers were martyred'' and ''if they had been brought to trial, both would have been cleared of the charge''.

(6) On October 19, 1944, a Naval Court of Inquiry exonerated Admiral Kimmel on the grounds that his military decisions and the disposition of his forces at the time of the December 7, 1941, attack on Pearl Harbor were proper ''by virtue of the information that Admiral Kimmel had at hand which indicated neither the probability nor the imminence of an air attack on Pearl Harbor''; criticized the higher command for not sharing with Admiral Kimmel ''during the very critical period of November 26 to December 7, 1941, important information...regarding the Japanese situation''; and, concluded that the Japanese attack and its outcome was attributable to no serious fault on the part of anyone in the naval service.

(7) On June 15, 1944, an investigation conducted by Admiral T. C. Hart at the direction of the Secretary of the Navy produced evidence, subsequently confirmed, that essential intelligence concerning Japanese intentions and war plans was available in Washington but was not shared with Admiral Kimmel.

(8) On October 20, 1944, the Army Pearl Harbor Board of Investigation determined that Lieutenant General Short had not been kept ''fully advised of the growing tenseness of the Japanese situation which indicated an increasing necessity for better preparation for war''; detailed information and intelligence about Japanese intentions and war plans were available in ''abundance'' but were not shared with the General Short's Hawaii command; and General Short was not provided ''on the evening of December 6th and the early morning of December 7th, the critical information indicating an almost immediate break with Japan, though there was ample time to have accomplished this''.

(9) The reports by both the Naval Court of Inquiry and the Army Pearl Harbor Board of Investigation were kept secret, and Rear Admiral Kimmel and Major General Short were denied their requests to defend themselves through trial by court-martial.

(10) The joint committee of Congress that was established to investigate the conduct of Admiral Kimmel and Lieutenant General Short completed, on May 31, 1946, a 1,075-page report which included the conclusions of the committee that the two officers had not been guilty of dereliction of duty.

(11) The then Chief of Naval Personnel, Admiral J. L. Holloway, Jr., on April 27, 1954, recommended that Admiral Kimmel be advanced in rank in accordance with the provisions of the Officer Personnel Act of 1947.

(12) On November 13, 1991, a majority of the members of the Board for the Correction of Military Records of the Department of the Army found that Lieutenant General Short ''was unjustly held responsible for the Pearl Harbor disaster'' and that ''it would be equitable and just'' to advance him to the rank of lieutenant general on the retired list.

(13) In October 1994, the then Chief of Naval Operations, Admiral Carlisle Trost, withdrew his 1988 recommendation against the advancement of Admiral Kimmel and recommended that the case of Admiral Kimmel be reopened.

(14) Although the Dorn Report, a report on the results of a Department of Defense study that was issued on December 15, 1995, did not provide support for an advancement of Rear Admiral Kimmel or Major General Short in grade, it did set forth as a conclusion of the study that ''responsibility for the Pearl Harbor disaster should not fall solely on the shoulders of Admiral Kimmel and Lieutenant General Short, it should be broadly shared''.

(15) The Dorn Report found that ''Army and Navy officials in Washington were privy to intercepted Japanese diplomatic communications...which provided crucial confirmation of the imminence of war''; that ''the evidence of the handling of these messages in Washington reveals some ineptitude, some unwarranted assumptions and misestimations, limited coordination, ambiguous language, and lack of clarification and followup at higher levels''; and, that ''together, these characteristics resulted in failure...to appreciate fully and to convey to the commanders in Hawaii the sense of focus and urgency that these intercepts should have engendered''.

(16) On July 21, 1997, Vice Admiral David C. Richardson (United States Navy, retired) responded to the Dorn Report with his own study which confirmed findings of the Naval Court of Inquiry and the Army Pearl Harbor Board of Investigation and established, among other facts, that the war effort in 1941 was undermined by a restrictive intelligence distribution policy, and the degree to which the commanders of the United States forces in Hawaii were not alerted about the impending attack on Hawaii was directly attributable to the withholding of intelligence from Admiral Kimmel and Lieutenant General Short.

(17) The Officer Personnel Act of 1947, in establishing a promotion system for the Navy and the Army, provided a legal basis for the President to honor any officer of the Armed Forces of the United States who served his country as a senior commander during World War II with a placement of that officer, with the advice and consent of the Senate, on the retired list with the highest grade held while on the active duty list.

(18) Rear Admiral Kimmel and Major General Short are the only two eligible officers from World War II who were excluded from the list of retired officers presented for advancement on the retired lists to their highest wartime ranks under the terms of the Officer Personnel Act of 1947.

(19) This singular exclusion from advancement on the retired list serves only to perpetuate the myth that the senior commanders in Hawaii were derelict in their duty and responsible for the success of the attack on Pearl Harbor, a distinct and unacceptable expression of dishonor toward two of the finest officers who have served in the Armed Forces of the United States.

(20) Major General Walter Short died on September 23, 1949, and Rear Admiral Husband Kimmel died on May 14, 1968, without the honor of having been returned to their wartime ranks as were their fellow veterans of World War II.

(21) The Veterans of Foreign Wars, the Pearl Harbor Survivors Association, the Admiral Nimitz Foundation, the Naval Academy Alumni Association, the Retired Officers Association, and the Pearl Harbor Commemorative Committee, and other associations and numerous retired military officers have called for the rehabilitation of the reputations and honor of Admiral Kimmel and Lieutenant General Short through their posthumous advancement on the retired lists to their highest wartime grades.

(b) ADVANCEMENT OF REAR ADMIRAL KIMMEL AND MAJOR GENERAL SHORT ON RETIRED LISTS.—(1) The President is requested—

(A) to advance the late Rear Admiral Husband E. Kimmel to the grade of admiral on the retired list of the Navy; and

(B) to advance the late Major General Walter C. Short to the grade of lieutenant general on the retired list of the Army.

(2) Any advancement in grade on a retired list requested under paragraph (1) shall not increase or change the compensation or benefits from the United States to which any person is now or may in the future be entitled based upon the military service of the officer advanced.

(c) SENSE OF CONGRESS REGARDING THE PROFESSIONAL PERFORMANCE OF ADMIRAL KIMMEL AND LIEUTENANT GENERAL SHORT.—It is the sense of Congress that—

(1) the late Rear Admiral Husband E. Kimmel performed his duties as Commander in Chief, United States Pacific Fleet, competently and professionally, and, therefore, the losses incurred by the United States in the attacks on the naval base at Pearl Harbor, Hawaii, and other targets on the island of Oahu, Hawaii, on December 7, 1941, were not a result of dereliction in the performance of those duties by the then Admiral Kimmel; and

(2) the late Major General Walter C. Short performed his duties as Commanding General, Hawaiian Department, competently and professionally, and, therefore, the losses incurred by the United States in the attacks on Hickam Army Air Field and Schofield Barracks, Hawaii, and other targets on the island of Oahu, Hawaii, on December 7, 1941, were not a result of dereliction in the performance of those duties by the then Lieutenant General Short.

Mr. KENNEDY. Mr. President, I am proud to join my colleagues in again offering this amendment to restore the reputations of two distinguished military officers who have unfairly borne the sole blame for the success of the Japanese attack on Pearl Harbor at the beginning of World War II—Admiral Husband E. Kimmel of the United States Navy and General Walter C. Short of the United States Army.

The Senate passed this same amendment as part of last year's Department of Defense Authorization Act, but unfortunately it was dropped in conference. Now, our amendment is part of this year's House version of the Defense Authorization Act.

At last, we have an excellent opportunity to correct a serious wrong from World War II that has unfairly tarnished the reputation of our military and our nation for justice and honor.

Admiral Kimmel and General Short were the Navy and Army commanders at Pearl Harbor during the attack on December 7, 1941. Despite their loyal and distinguished service, they were unfairly turned into scapegoats for the nation's lack of preparation for that attack and the catastrophe that took place.

Justice for these men is long overdue. Wartime investigations after the attack concluded that our fleet in Hawaii under the command of Admiral Kimmel and our land forces under the command of General Short had been properly positioned, given the information they had received. The investigations also found that their superior officers in Washington had not passed on vital intelligence information that could have made a difference in America's preparedness for the attack. These conclusions of the wartime investigations were kept secret, in order to protect the war effort. Clearly, there is no longer any justification for ignoring these facts.

Since these initial findings, numerous military, governmental, and congressional investigations have concluded that the blame for this attack should have been widely shared. This amendment, and the case for Admiral Kimmel and General Short, have received strong support from former Chiefs of Naval Operations, Army Chiefs of Staff, and Chairmen of the Joint Chiefs of Staff, including Admiral Thomas H. Moorer, Admiral Carlisle Trost, Admiral J.L. Holloway III, Admiral William J. Crowe, Admiral Elmo Zumwalt, General Andrew J. Goodpaster, and General William J. McCaffrey.

Our amendment recommends that the President posthumously advance Admiral Kimmel and General Short to their highest wartime rank in accord with the Officer Personnel Act of 1947. Admiral Kimmel and General Short are the only two officers eligible under this act who did not receive advancement on the retired list. The amendment involves no monetary compensation. It simply asks that now, at this late date, these two military leaders finally be treated the same as their peers.

I first became interested in this issue when I received a letter 2 years ago from a good friend in Boston who, for many years, has been one of the preeminent lawyers in America, Edward B. Hanify. As a young Navy lawyer and Lieutenant J.G. in 1944, Mr. Hanify was assigned as counsel to Admiral Kimmel.

He accompanied Admiral Kimmel when he testified before the Army Board of Investigation, and he later heard the testimony in the lengthy congressional investigation of Pearl Harbor by the Roberts Commission.

Mr. Hanify is probably one of the few surviving people who heard Kimmel's testimony before the Naval Court of Inquiry, and he has closely followed all subsequent developments on the Pearl Harbor catastrophe and the allocation of responsibility for that disaster.

I would like to quote a few brief paragraphs from Mr. Hanify's letter, because it eloquently summarizes the overwhelming case for justice for Admiral Kimmel. Mr. Hanify writes:

The odious charge of ''dereliction of duty'' made by the Roberts Commission was the cause of almost irreparable damage to the reputation of Admiral Kimmel, despite the fact that the finding was later repudiated and found groundless.

I am satisfied that Admiral Kimmel was subject to callous and cruel treatment by his superiors who were attempting to deflect the blame ultimately ascribed to them, particularly on account of their strange behavior on the evening of December 6 and morning of December 7 in failing to warn the Pacific Fleet and the Hawaiian Army Department that a Japanese attack on the United States was scheduled for December 7, and that intercepted intelligence indicated that Pearl Harbor was a most probable point of attack. Washington had this intelligence and knew that the Navy and Army in Hawaii did not have it, or any means of obtaining it.

Subsequent investigation by both services repudiated the ''dereliction of duty'' charge. In the case of Admiral Kimmel, the Naval Court of Inquiry found that his plans and dispositions were adequate and competent in light of the information which he had from Washington.

Adequate and competent in light of the information which he had from Washington.

Mr. Hanify concludes, ''The proposed legislation provides some measure of remedial justice to a conscientious officer who for years unjustly bore the odium and disgrace associated with the Pearl Harbor catastrophe.''

Last year, the Senate took a giant step toward correcting this great wrong by passing our amendment. I urge the Senate to support this amendment again this year.

Mr. THURMOND. Mr. President, I rise in support of my colleague Senator KENNEDY's amendment which would act on restoring the honor and rank of Admiral Kimmel and General Short. I have been working on this issue since 1985.

In my opinion, Admiral Kimmel and General Short are the two final victims of Pearl Harbor. These men were doing their duty to the best of their ability.

The blame directed at these two WWII flag officers for nearly six decades is undeserved. Neither Admiral Kimmel nor General Short was notified before the attack that Washington had decoded top-secret Japanese radio intercepts that warned of the pending attack. Despite the fact that the charge of dereliction of duty was never proved against the two officers, that charge still exists in the minds of many people.

This perception is wrong and must be corrected by us now. History and justice argue for nothing less. Military, governmental, and congressional investigations have provided clear evidence that these two commanders were singled out for blame that should have been widely shared.

The following are several basic irrefutable facts about this issue:

The intelligence made available to the Pearl Harbor commanders was not sufficient to justify a higher level of vigilance than was maintained prior to the attack.

Neither officer knew of the decoded intelligence in Washington indication the Japanese had identified the United States as an enemy.

Both commanders were assured by their superiors they were getting the best intelligence available at the time.

There were no prudent defensive options available for the officers that would have significantly affected the outcome of the attack.

On numerous occasions, history has vindicated the axiom that ''victory finds a hundred fathers but defeat is an orphan.'' Admiral Kimmel and General Short have been solely and unjustly rendered the ''fathers of Pearl Harbor.'' Responsibility for this catastrophe is just not that simple.

It is extremely perplexing that almost everyone above Kimmel and Short escaped censure. Yet, we know now that civilian and military officials in Washington withheld vital intelligence information which could have more fully alerted the field commanders to their imminent peril.

The bungling that left the Pacific Fleet exposed and defenseless that day did not begin and end in Hawaii. In 1995, I held an in-depth meeting to review this matter which included the officers' families, historians, experts, and retired high-ranking military officers, who all testified in favor of the two commanders.

In response to this review, Under Defense Secretary Edwin Dorn's subsequent report disclosed officially—for the first time—that blame should be ''broadly shared.'' The Dorn Report stated members of the high command in Washington were privy to intercepted Japanese messages that in their totality ''. . . pointed strongly toward an attack on Pearl Harbor on the 7th of December, 1941 . . .'' and that this intelligence was never sent to the Hawaiian commanders.

The Dorn Report went so far as to characterize the handling of critically important decoded Japanese messages in Washington as revealing ''ineptitude . . . unwarranted assumptions and misestimates, limited coordination, ambiguous language, and lack of clarification and followup at higher levels.''

They are eligible for this advancement in rank by token of the Officer Personnel Act of 1947, which authorizes retirement at highest wartime rank. All eligible officers have benefited. All except for two: Admiral Kimmel and General Short. This advancement in rank would officially vindicate them. No retroactive pay would be involved.

The posthumous promotion of Admiral Kimmel and General Short will be a small step in restoring honor to these men.

It is time for Congress and the administration to step forward and do the right thing.

This year is the 59th anniversary of the Pearl Harbor attack, providing an appropriate time to promote Admiral Kimmel and General Short. I urge adoption of the amendment and yield the floor.

Mr. ROTH. Mr. President, I rise today with my colleague from Delaware, Senator BIDEN, and Senator KENNEDY, and Senator THURMOND to sponsor an amendment whose intent is to

redress a grave injustice that haunts us from the tribulations of World War II.

On May 25 of last year, this body held an historically important vote requesting the long-overdue, posthumous advancement of two fine World War II officers, Admiral Husband Kimmel and General Walter Short. The Senate voted in support of including the Kimmel-Short resolution as part of the Defense Authorization Bill for Fiscal Year 2000, but the provision was not included in the final legislation. This year, the House of Representatives had included the exact language of the Senate amendment adopted last year, and so we are again seeking the Senate to support inclusion of this important resolution.

Admiral Husband Kimmel and General Walter Short were the two senior commanders of U.S. forces deployed in the Pacific at the time of the disastrous surprise December 7, 1941, attack on Pearl Harbor. In the immediate aftermath of the attack, they were unfairly and publicly charged with dereliction of duty and blamed as singularly responsible for the success of that attack.

Less than 6 weeks after the Pearl Harbor attack, in a hastily prepared report to the President, the Roberts Commission—perhaps the most flawed and unfortunately most influential investigation of the disaster—levelled the dereliction of duty charge against Kimmel and Short—a charge that was immediately and highly publicized.

Admiral William Harrison Standley, who served as a member of this Commission, later disavowed its report, stating that these two officers were ''martyred'' and ''if they had been brought to trial, they would have been cleared of the charge.''

Later, Admiral J.O. Richardson, who was Admiral Kimmel's predecessor as Commander-in-Chief, U.S. Pacific Fleet wrote:

''In the impression that the Roberts Commission created in the minds of the American people, and in the way it was drawn up for that specific purpose, I believe that the report of the Roberts Commission was the most unfair, unjust, and deceptively dishonest document ever printed by the Government Printing Office.''

After the end of World War II, this scapegoating was given a painfully enduring veneer when Admiral Kimmel and General Short were not advanced on the retired lists to their highest ranks of war-time command—an honor that was given to every other senior commander who served in war-time positions above his regular grade.

Admiral Kimmel, a two star admiral, served in four star command. General Short, a two star general, served in a three star command. Let me repeat, advancement on the on retired lists was granted to every other flag rank officer who served in World War II in a post above their grade.

That decision against Kimmel and Short was made despite the fact that war-time investigations had exonerated these commanders of the dereliction of duty charge and criticized their higher commands for significant failings that contributed to the success of the attack on Pearl Harbor. More than six studies and investigations conducted after the war, including one Department of Defense report completed in 1995 at Senator THURMOND's request, reconfirmed these findings.

Our amendment is a rewrite of Senate Joint Resolution 19, the Kimmel-Short Resolution, that I, Senator BIDEN, Senator THURMOND, Senator HELMS, Senator STEVENS, Senator COCHRAN, Senator KENNEDY, Senator DOMENICI, Senator SPECTER, Senator ENZI, Senator MURKOWSKI, Senator ABRAHAM, Senator CRAIG, Senator DURBIN, Senator JOHN KERRY, Senator KYL, Senator HOLLINGS, Senator BOB SMITH, Senator COLLINS, Senator LANDRIEU, Senator VOINOVICH, Senator DEWINE, and Senator FEINSTEIN—a total of 23 co-sponsors—introduced last April. It is the same amendment this body adopted by a rollcall vote last May. It is the same amendment accepted by the House Armed Services Committee as part of their version of the Department of Defense authorization bill.

The amendment calls upon the President of the United States to advance posthumously on the retirement lists Admiral Kimmel and General Short to the grades of their highest war-time commands. Its passage would communicate the Senate's recognition of the injustice done to them and call upon the President to take corrective action.

Such a statement by the Senate would do much to remove the stigma of blame that so unfairly burdens the reputations of these two officers. It is a correction consistent with our military's tradition of honor.

Mr. President, the investigations providing clear evidence that Admiral Kimmel and General Short were unfairly singled out for blame include a 1944 Navy Court of Inquiry, the 1944 Army Pearl Harbor Board of Investigation, a 1946 Joint Congressional Committee, and a 1991 Army Board for the Correction of Military Records.

The findings of these official reports can be summarized as four principal points.

First, there is ample evidence that the Hawaiian commanders were not provided vital intelligence that they needed, and that was available in Washington prior to the attack on Pearl Harbor.

Second, the disposition of forces in Hawaii were proper and consistent with the information made available to Admiral Kimmel and General Short.

In my review of this fundamental point, I was most struck by the honor and integrity demonstrated by General George Marshall who was Army Chief of Staff at the time of the December 7, 1941 attack on Pearl Harbor.

On November 27 of that year, General Short interpreted a vaguely written war warning message sent from the high command in Washington as suggesting the need to defend against sabotage. Consequently, he concentrated his aircraft away from perimeter roads to protect them, thus inadvertently increasing their vulnerability to air attack. When he reported his preparations to the General Staff in Washington, the General Staff took no steps to clarify the reality of the situation.

In 1946 before a Joint Congressional Committee on the Pearl Harbor disaster General Marshall testified that he was responsible for ensuring the proper disposition of General Short's forces. He acknowledged that he must have received General Short's report, which would have been his opportunity to issue a corrective message, and that he failed to do so.

Mr. President, General Marshall's integrity and sense of responsibility is a model for all of us. I only wish it had been able to have greater influence over the case of Admiral Kimmel and General Short.

A third theme of these investigations concerned the failure of the Department of War and the Department of the Navy to properly manage the flow of intelligence. The 1995 Department of Defense report stated that the handling of intelligence in Washington during the time leading up to the attack on Pearl Harbor was characterized by, among other faults, ineptitude, limited coordination, ambiguous language, and lack of clarification and follow-up.

The fourth and most important theme that permeates the aforementioned reports is that blame for the disaster at Pearl Harbor cannot be placed only upon the Hawaiian commanders. They all underscored significant failures and shortcomings of the senior authorities in Washington that contributed significantly—if not predominantly—to the success of the surprise attack on Pearl Harbor.

The 1995 Department of Defense report put it best, stating that ''responsibility for the Pearl Harbor disaster should not fall solely on the shoulders of Admiral Kimmel and General Short; it should be broadly shared.''

This is an important quote. It shows that the Department of Defense recognizes that these two commanders should not be singled out for blame. Yet, still today on this issue, our government's words do not match its actions. Kimmel and Short remain the only two officials who have been forced to pay a price for the disaster at Pearl harbor.

Let me add one poignant fact about the two wartime investigations. Their conclusions—that Kimmel's and Short's forces had been properly disposed according to the information available to them and that their superiors had failed to share important intelligence—were kept secret on the grounds that making them public would have been detrimental to the war effort.

Be that as it may, there is no longer any reason to perpetuate the cruel

myth that Kimmel and Short were singularly responsible for the disaster at Pearl Harbor. Admiral Spruance, one of our great naval commanders of World War II, shares this view. He put it this way:

''I have always felt that Kimmel and Short were held responsible for Pearl Harbor in order that the American people might have no reason to lose confidence in their government in Washington. This was probably justifiable under the circumstances at that time, but it does not justify forever damning those two fine officers.''

Mr. President, this is a matter of justice and fairness that goes to the core of our military tradition and our nation's sense of military honor. That, above, all should relieve us of any inhibition to doing what is right and just.

Mr. President, this sense of the Senate has been endorsed by countless military officers, including those who have served at the highest levels of command. These include former Chairmen of the Joint Chiefs of Staff Admiral Thomas H. Moorer and Admiral William J. Crowe, and former Chiefs of Naval Operations Admiral J.L. Holloway III, Admiral Elmo R. Zumwalt and Admiral Carlisle A.H. Trost.

Moreover a number of public organizations have called for posthumous advancement of Kimmel and Short. The VFW passed a resolution calling for the advancement of Admiral Kimmel and General Short.

Let me add that Senator Robert Dole, one of our most distinguished colleagues and a veteran who served heroically in World War II, has also endorsed this sense of the Senate resolution.

Yesterday, June 6, is a day that shall forever be remembered as a date of great sacrifice and great accomplishment for the men who took part of Operation Overload. D-Day marked the turning of the tide in the allied war effort in Europe, and led to our victory in the Second World War.

December 7, 1941, is also a date that will forever be remembered. That day will continue to be ''a date which will live in infamy.'' It will serve as a constant reminder that the United States must remain vigilant to outside threats and to always be prepared.

However, this amendment is about justice, equity, and honor. Its purpose is to redress an historic wrong, to ensure that Admiral Kimmel and General Short are treated with the dignity and honor they deserve, and to ensure that justice and fairness fully permeate the memory and the important lessons learned from the catastrophe at Pearl Harbor.

As we commemorate another anniversary of the success of D-Day, it is a most appropriate time to redress this injustice. After 50 years, this correction is long overdue. I urge my colleagues to support this amendment.

Mr. BIDEN. Mr. President, I and my colleagues—Senators ROTH, KENNEDY, and THURMOND—are reintroducing an amendment that the Senate passed last year to provide long overdue justice for the two fine military officers, Admiral Husband Kimmel and General Walter Short.

Last year the Senate voted to include this amendment in the Defense authorization bill, but because the House had not considered such a provision, it was not included in the final conference report.

This year, having had time to consider the facts, the House Armed Services Committee included the exact same language that the Senate passed last year in their fiscal year 2001 Defense authorization bill, which passed the full House on May 18.

I also want to remind my colleagues that this resolution has the support of various veterans groups, including the Veterans of Foreign Wars (VFW) and the Pearl Harbor Survivors Association. It is also a move supported by former Chiefs of Naval Operations, including Admirals Thomas H. Moorer, Carlisle Trost, J.L. Holloway III, William J. Crowe, and Elmo Zumwalt.

As most of you know, Admiral Kimmel and General Short commanded U.S. forces in the Pacific at the time of the 1941 attack on Pearl Harbor. Afterwards, they were blamed as completely responsible for the success of that attack.

I will not go through an exhaustive review of this case. I think the amendment itself provides the facts and the record from last year's debate was also quite thorough. Instead, I want to review the reasons I think this is the right action to take.

For me, this issue comes down to basic fairness and justice. It was entirely appropriate for President Roosevelt to decide to relieve these officers of their command immediately following the attack. Not only was it his prerogative as Commander in Chief, he also needed to make sure the nation had confidence in its military as it headed into war. So, I can understand the need, at that time, to make them the scapegoats for the devastating defeat. What I do not accept is that the decisions of this government in those extreme times have been left to stand for the past 59 years.

To be more specific, it was a conscious decision by the government to actively release a finding of ''dereliction of duty'' a mere month after Pearl Harbor. Not one of the many subsequent and substantially more thorough investigations to follow agreed with that finding. Even worse, the findings of the official reviews done by the military in the Army and Navy Inquiry Boards of 1944—saying that Kimmel and Short's forces were properly disposed—were classified and kept from the public.

Think about it. We are a nation proud to have a civilian led military. The concept of civilian rule is basic to our notion of democracy. This means that the civilian leadership also has responsibilities to the members of its military. The families of Admiral Kimmel and General Short were vilified. They received death threats. Yet, Admiral Kimmel and General Short were denied their requests for a court martial. They were not allowed to properly defend themselves and their honor.

Whatever the exigencies of wartime, it is unconscionable that government actions which vilified these men and their families should continue to stand 59 years later. It is appropriate that government action be taken to rectify this. There are very few official acts we can take to rectify this. The one suggested by this amendment is to advance these officers on the retirement list. They were the only two officers eligible for such advancement after Congress passed the 1947 Officer Personnel Act, denied that advancement.

I also want to point out that I do not believe this is rewriting history or shifting blame, instead, it is acknowledging the truth. The 1995 report by then Undersecretary Edward Dorn said, ''Responsibility for the Pearl Harbor disaster should not fall solely on the shoulders of Admiral Kimmel and Lieutenant General Short, it should be broadly shared.'' To say that and then take no action to identify others responsible or to rectify the absolute scapegoating of these two officers is to say that military officers can be hung out to dry and cannot expect fairness from their civilian government.

Again, with civilian leadership, comes responsibility. This advancement on the retirement ranks involves no compensation. Instead, it upholds the military tradition that responsible officers take the blame for their failures, not for the failures of others. The unfortunate reality is that Admiral Kimmel and General Short were blamed entirely and forced into early retirement. As Members of Congress we face no statute of limitations on treating honorable people with frankness and finding out the truth so that we can learn from our mistakes.

By not taking any action to identify those who Undersecretary Dorn says share the blame, we have denied our military the opportunity to learn from the multiple failures that gave Japan the opportunity to so devastate our fleet.

This is not to say that the sponsors of this amendment want to place blame in a new quarter. This is not a witchhunt aimed at those superior officers who were advanced in rank and continued to serve, despite being implicated in the losses at Pearl Harbor. Instead, it validates that the historic record, as it is becoming clearer and clearer, is correct to say that blame should be shared. This amendment validates the instincts of those historians who have sought the full story and not the simply black-and-white version needed by a grieving nation immediately following the attack.

So, I urge my colleagues to support this amendment again this year. Quite simply, in the name of truth, justice,

and fairness, after 59 years the government that denied Admiral Kimmel and General Short a fair hearing and suppressed findings favorable to their case while releasing hostile information owes them this official action.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3233) was agreed to.

Mr. WARNER. Mr. President, Senator ROTH has worked tirelessly on the issue of revisiting that chapter of our history, the attack on Pearl Harbor. Those listening to this debate will recall that Admiral Kimmel was the Navy commander and General Short was the Army commander.

There has been a great deal of controversy throughout history as to their role and the degree of culpability they had for the actions that befell our Armed Forces on that day. This is an action of some import being taken by the Senate. I remember a debate on the floor one night in the context of last year's authorization bill when Senator ROTH sat right here in this chair for hour upon hour when we debated this issue.

Mr. LEVIN. Mr. President, I tip my hat in tribute to Senators KENNEDY and BIDEN, Senator ROTH and Senator THURMOND, and others, who have brought this to our attention repeatedly over the years. Hopefully, this matter can now be resolved in the appropriate way. Senator KENNEDY and his colleagues have been absolutely tenacious in this matter. Hopefully, it will result in a good ending.

Mr. REID. Mr. President, 3 or 4 days ago, I received a letter from the grandson of Admiral Kimmel. It was a very moving letter. I wasn't personally familiar with this issue.

I ask unanimous consent that the letter written to me by the admiral's grandson be printed in the RECORD.

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

MAY 24, 2000.

Hon. HARRY REID,
McLean, VA.

DEAR SENATOR REID: There is a matter of great interest to me that I would like to bring to your attention as a member of the Senate. I'm particularly interested in your opinion because I know you as a man of great integrity.

Last year, May 25th, the Senate voted (52 yeas, 47 nays, 1 not voting) in favor of Amendment No. 388 to the Senate Defense Authorization Act of FY 2000 recommending to the President that he restore the rank of Admiral for my grandfather, Rear Admiral Husband E. Kimmel. Amendment No. 388 was subsequently deleted from the Joint Defense Authorization Act for FY 2000.

On May 18, 2000 the House voted (353 yeas, 63 nays) in favor of the House Defense Authorization Act for FY 2001, which contains the same rank-restoration language for my grandfather that the Senate voted for last year.

It appears that the Senate will soon be asked to again vote on the rank-restoration matter for my grandfather. Since I have never talked to you about this subject, I do not know why you voted against the Amendment last year. I would very much appreciate the opportunity to discuss this issue with you. My interest in this matter goes beyond the familial. I spent ten years in the navy, twenty-five years in the FBI, and a lifetime of study, which I believe gives me unique perspective and insight into this seminal event.

I have enclosed a copy of Admiral Kimmel's Facts About Pearl Harbor, and thank you for your attention to this matter.

Respectfully,

THOMAS K. KIMMEL, Jr.

Enclosure (1).

FACTS ABOUT PEARL HARBOR

(By Husband E. Kimmel)

GROTON, CONNECTICUT,
June 3, 1958.

Hon. CLARENCE CANNON,
Congressman from Missouri, House Office Building, Washington, DC.

SIR: Your remarks on the floor of the House of Representatives on May 6, 1958 were recently called to my attention. They included the following passages which I quote from the Congressional Record of May 6, 1958.—

''A subcommittee of the Committee on Appropriations held hearings in which it was testified that at the time of the attack the Naval Commander, Admiral Kimmel and the Army Commander General Short were not even on speaking terms. And the exhaustive investigations by the commission appointed by the President and by the Joint Committee of the House and Senate showed that although both had been repeatedly alerted ''over a period of weeks prior to the attack'' they did not confer on the matter at any time.

''At one of the most critical periods in the defense of the nation, there was not the slightest cooperation between the Army and the Navy.

''Had they merely checked and compared the official message; received by each, they could not have failed to have taken the precautions which would have rendered the attack futile and in all likelihood have prevented the Second World War and the situation in which we find ourselves today. . . .

''It was not the Japanese superiority winning the victory. It was our own lack of cooperation between Army and Navy throwing victory away. . . .

''When the Jap naval code was broken and when for some time we were reading all official messages from Tokyo to the Japanese fleet, much of this information came to Admiral Kimmel at his Hawaiian headquarters.''. . .

From your remarks I have learned for the first time the origin of the lie that General Short and I were not on speaking terms at the time of the attack. I would like very much to know the identity of the individual who gave this testimony before a subcommittee of the Appropriations Committee.

In regard to the alleged lack of cooperation between General Short and me your statement is completely in error. We did consult together frequently. As a man in your position should know before making the charges you have made, the Naval Court of Inquiry which was composed of Admiral Orin G. Murfin, Admiral Edward C. Kalbfus and Vice Admiral Adolphus Andrews, all of whom had held high commands afloat, made an exhaustive investigation and reached the following conclusion:—

''Finding of Fact Number V.

''Admiral Kimmel and Lieutenant General Short were personal friends. They met frequently, both socially and officially. Their relations were cordial and cooperative in every respect and, in general, this is true as regards their subordinates. They frequently conferred with each other on official matters of common interest, but invariably did so when messages were received by either which had any bearing on the development of the United States-Japanese situation or on their general plans in preparing for war. Each was mindful of his own responsibility and the responsibilities vested in the other. Each was informed of measures being undertaken by the other to a degree sufficient for all practical purposes.''

Your statement that the actions of the 1941 Hawaiian Commanders might have prevented the Second World War and the situation in which we find ourselves today is utterly fantastic. The Hawaiian Commanders had no part in the exchange of notes between the two governments and were never informed of the terms of the so called ultimatum of November 26, 1941 to Japan, nor were they notified that the feeling of informed sources in Washington was that the Japanese reply to this ultimatum would trigger the attack on the United States. To blame the Hawaiian Commanders of 1941 for the situation in which we find ourselves today is something out of Alice in Wonderland.

With regard to the Japanese messages intercepted and decoded, exhaustive testimony before the Naval Court of Inquiry and the Joint Congressional Committee of Investigation shows that none of these decoded messages received after July 1941 were supplied to me and none were supplied to General Short.

My book, ''Admiral Kimmel's Story'', contains a collection of documented facts which support this statement and give the text of important decoded intercepts which were withheld from me and from General Short. These decoded intercepts were in such detail that they made the Japanese intentions clear. Had they been supplied to the Hawaiian Commanders the result of the attack would have been far different if indeed the attack would ever have been made.

I know of no other occasion in our military history where vital information was denied the commanders in the field.

To make unfounded charges against me and General Short to support your argument is grossly unfair and a misrepresentation of facts. The success of the attack on Pearl Harbor was not the result of inter-service rivalries at Pearl Harbor. This success was caused by the deliberate failure of Washington to give the Commanders in Hawaii the information available in Washington to which they were entitled. This information which was denied to the Hawaiian Commanders was supplied to the American Commanders in the Philippines and to the British.

I request you insert this letter in the Congressional Record.

Yours very truly,

HUSBAND E. KIMMEL.

GROTON, CONNECTICUT,
July 7, 1958.

Hon. CLARENCE CANNON,
House of Representatives, Committee on Appropriations, Eighty Fifth Congress, Washington, DC.

SIR: You have failed up to the present time to provide me with the name of the individual whom you quoted in your remarks appearing in the Congressional Record of May 6, 1958 as authority for your statement that General Short and I were not on speaking terms when the Japanese attacked Pearl Harbor. I know that to be wholly false and believe I am entitled to the name of the person so testifying. Whether or not he testified under oath and his qualifications. Moreover I would appreciate a definite reference to the hearing of the Sub-Committee of the appropriations Committee if printed and if not a

transcript of that part of the record to which you refer.

The receipt of your remarks in the Congressional Record of 18 June is acknowledged. It was forwarded without accompanying letter in a franked envelope bearing your name and I presume sent by your direction.

Your remarks are a continuation of the frantic efforts of the Roosevelt Administration to divert attention from the failures in Washington and to place the blame for the catastrophe on the Commanders at Pearl Harbor. Your account of the testimony that General Short and I were not on speaking terms given to your committee shortly after Pearl Harbor was effectively publicized though sixteen years later I am still denied the name of the individual who perpetrated this lie.

For four years, from 1941 to 1945, the administration supporters and gossip peddlers had a field day making statements which the wall of government war time secrecy prevented me from answering.

One of the most persistent and widespread was to the effect that General Short and I were not on speaking terms at the time of the attack. Another was that the uniformed services in Hawaii were all drunk when the attack came. This is the reason the Naval Court of Inquiry investigated these charges thoroughly and set forth their falsity in unmistakable language.

You still seek to sustain these charges by the simple expedient of attacking the integrity of the investigators and witnesses who reached conclusions or gave testimony which does not suit you.

You have slandered the honorable, capable, and devoted officers who served as members of the Army Board of Investigation and the Navy Court of Inquiry. You have also slandered the personnel of the Army and Navy stationed in Hawaii in 1941, many of whom gave their lives in defense of this country.

It is astounding to me that you should charge General Short and me of falsely testifying as to our personal and official cooperation even when as you phrase it ''all but life itself depended on their convincing the world that they had been friends when they should have been friends.''

The testimony on this matter given before the Naval Court of Inquiry was given under oath and was true to my personal knowledge and is substantiated by much other testimony.

You, yourself, refer to the statements in the Roberts Report to the effect that General Short and I conferred on November 27 and December 1, 2 and 3. You further state from the Roberts Report—''They did not then or subsequently hold any conferences specially directed to the meaning and significance of the warning messages received by both.'' (General Short—Admiral Kimmel).

How ridiculous it is to assume that the Commander in Chief of the Pacific Fleet is unable to understand a message sent by the Navy Department without conferring with the Commanding General of the Hawaiian Department to determine what the Navy Department meant by the messages that were sent to him and conversely that the Commanding General Hawaiian Department had to confer with the Commander in Chief Pacific Fleet in order for him to know what the messages sent to him by the War Department meant. If the messages were so worded the fault lay neither with me or General Short.

You imply that my request to revise the transcript of my testimony before the Roberts Commission is censurable and completely ignore the published statement of Admiral William H. Standley, USN, retired, a former Chief of Naval Operations and a member of the Roberts Commission. He wrote regarding Admiral Kimmel—''He was permitted no counsel and had no right to ask questions or to cross examine witnesses as he would have had if he had been made a defendant. Thus both Short and Kimmel were denied all of the usual rights accorded to American citizens appearing before judicial proceedings as interested parties.'' Even communists plotting the overthrow of our country are accorded far more legal safeguards than were granted to me and General Short. Admiral Standley also wrote, ''In spite of the known inefficiency of the Commission's reporters, when Admiral Kimmel asked permission to correct his testimony in which he had found so many errors that it took him two days to go over it, the Commission voted to keep the record as originally made although the answers recorded to many questions were obviously incorrect and many of them absurd. At my urgent insistences, the Commission did finally authorize Admiral Kimmel's corrected testimony to be attached to the record as an addendum.''

Your remarks with regard to the conduct of both officers and men on the evening preceding the Pearl Harbor attack is an insult to the gallant men who died in the treacherous Japanese attack and to all the members of both Army and Navy stationed on the Island of Oahu. Infrequently there might be an individual who overindulged in intoxicants but these were promptly apprehended by the shore patrol or military police and returned to their ship or station. The evidence as to the sobriety of officers and men was clear in the documentary evidence available to the investigation boards and yet in spite of their findings you state, ''But the very fact that it was considered necessary to emphasize this testimony naturally gives rise to some doubt.'' You apparently are quite willing to doubt the testimony given and believe the worst of the fine young men in the armed forces that were stationed in Hawaii.

I was not permitted to know what testimony was presented to the Roberts Commission and was never given an opportunity to clarify or refute any statement made before it.

I was not made a defendant before the Hawaii one-man investigation, was not called to testify, and was not permitted to have any knowledge of the proceedings. I requested authority to attend this investigation and was advised that time did not permit. When I repeated my request the Secretary of the Navy did not even reply. Perhaps the reason may be found in the testimony of Captain Safford who narrated before the Joint Congressional Committee the pressure to which he was subjected by the Committee Counsel to make him change his testimony. All did not have the strength of character of Captain Safford and some modified their preceding sworn statements.

Although I requested the Joint Congressional Committee to call certain witnesses many of them were not called to testify. Among these was Fleet Admiral F. Halsey, my senior Fleet Air Officer at the time of the attack.

The Navy court of Inquiry was the only investigation of Peal Harbor before which I was permitted to cross examine and call witnesses. You are substantially correct in your statement that this inquiry ''found Admiral Kimmel as pure as the driven snow.'' In more moderate language expressed by Admiral Murfin, the President of the Court, years later, ''We found Admiral Kimmel had done everything possible under the circumstances.''

On Advice of Counsel I declined to take part in the Hart Investigation because the stipulations demanded of me would have placed my fate completely in the hands of the Secretary of the Navy. This I did regretfully because it was through my efforts that this investigation was initiated. The proceedings of the Hart Investigation were a valuable contribution.

Why were the Secretary of the Navy and the Secretary of War so anxious to have the damaging testimony in both the Naval Court of Inquiry and the Army Inquiry changed? The answer is very simple, both inquiries had found that the responsibility for the Pearl Harbor disaster rested in large part at the Headquarters of our government in Washington. Admiral Standley whom I have referred to above wrote:

''From the beginning of our investigation I held a firm belief that the real responsibility for the disaster at Pearl Harbor was lodged many thousands of miles from the Territory of Hawaii.''

Even the Hewitt Investigation found—

''During his incumbency as Commander in Chief Pacific Fleet, Admiral Kimmel was indefatigable, resourceful and energetic in his efforts to prepare the Fleet for war.''

You refer to the information that had been forwarded to me and to General Short and specifically to a message based upon information from our Ambassador in Tokyo, Mr. Grew, dated 27 January 1941 to the effect that the Peruvian Ambassador in Tokyo had heard rumors that in the event of trouble breaking out between the United States and Japan, the Japanese intended to make a surprise attack against Pearl Harbor but you make no mention of the letter of the Chief of Naval Operations which forwarded this information to me on 1 February 1941 to the effect that, ''The Division of Naval Intelligence places no credence in these rumors. Furthermore based upon known data regarding the present disposition and employment of Japanese Naval and Army forces no move against Pearl Harbor appears imminent or planned for the foreseeable future.''

This estimate was never changed.

When you refer to—''A position so admirable defended as Pearl Harbor with every facility, submarine nets, radar, sonar, planes and ships of the line'' you create a very false impression. Admiral Richardson was relieved because he so strongly held that the Fleet should not be based in the Hawaiian area.

The Army anti-aircraft batteries were woefully lacking but the War Department was unable to supply more.

Of 180 long range bombing planes authorized by the War Department early in 1941 only 12 had arrived and of these six were out of commission as they had been stripped of vital parts to enable other planes of similar type to continue their flight to their destination in the Philippines.

Of 100 Navy patrol planes authorized for the 14th Naval District at Pearl Harbor not one had arrived prior to December 7, 1941.

With regard to the radar installations, these had just been installed and their personnel were under training. The installation of these stations had been delayed due to the inability of the Army and the Interior Department to agree upon the location of these stations.

With reference to personnel for the ships there were serious shortages of both officers and enlisted personnel and men were constantly being detached to provide crews for ships being newly commissioned.

No one has ever explained why the weaknesses so clearly described in the Secretary of the Navy's letter of 24 January, 1941 were permitted to continue during all the months at this outlying station whose security was vital to the safety of the fleet and of the United States.

Facilities to fuel the fleet were inadequate and a severe handicap to all fleet operations.

The only planes in Hawaii suitable for long distance scouting were the patrol planes assigned to the fleet and they were totally inadequate to cover the approaches to Hawaii. The only planes suitable for long range bombing were the six B–17 Army planes and those attached to the two carriers.

At the time of the attack the two carriers were on missions initiated by the Navy Department.

These and other deficiencies had been repeatedly reported by General Short and me as well as by our predecessors.

The messages of October 16, November 24 and November 27, 1941 from the Navy Department to the Commander of the Pacific Fleet and the messages of November 27 and November 29, 1941 to General Short from the War Department stressed sabotage and that an attack if made would be directed against ports in South East Asia or the Philippines. With the benefit of the intercepted Japanese messages, how they arrived at this conclusion will always be a mystery to me.

To add to our difficulties the messages also directed that, ''If hostilities cannot, repeat cannot be avoided, the United States desires that Japan commit the first overt act. . . .''

The message of November 27, 1941 from the War Department to General Short specifically directed him to, ''Report measures taken''. On the same date General Short replied, ''Department alerted to prevent sabotage. Liaison with Navy.''

Recorded testimony shows this report was read by the Secretary of War, the Chief of Staff of the Army, the Chief of War Plans Army, and the Chief of War Plans Navy. There can be no reasonable doubt that this report was read and understood by these responsible officials in Washington. For nine days and until the Japanese attack the War Department did not express any disapproval of this alert and did not give General Short any information calculated to make him change the alert.

What was most needed at Pearl Harbor at this time was the information in Washington from the Japanese intercepts that indicated clearly an attack on Pearl Harbor.

The Navy Department sent me various messages quoting from intercepted Japanese dispatches. I believed I was getting all such messages and acted accordingly. After the attack I found that many vitally important messages were withheld from the Hawaiian Commanders.

I was never informed that Japanese intercepted messages had divided Pearl Harbor into five areas and sought minute information of the berthing of ships in those areas.

A Japanese dispatch decoded and translated on October 9, 1941 stated,

''With regard to warships and aircraft carriers, we would like to have you report on those at anchor, (those are not so important) tied up at wharves, buoys, and in docks. (Designate types and classes briefly. If possible we would like to have you make mention of the fact when there are two or more vessels alongside the same wharf)''.

On October 10, 1941, another dispatch was decoded and translated in Washington which described an elaborate and detailed system of symbols to be used thereafter in designating the location of vessels in Pearl Harbor.

A dispatch of November 15 decoded and translated in Washington on December 3, 1941 stated,

''As relations between Japan and the United States are most critical, make your ''ships in harbor report'' irregular but at the rate of twice a week. Although you already are no doubt aware, please take extra care to maintain secrecy.''

A dispatch of November 18 decoded and translated in Washington on December 5, 1941 stated,

''Please report on the following areas as to vessels anchored therein: Area N. Pearl Harbor, Mamala Bay (Honolulu), and the Areas adjacent thereto. (Make your investigation with great secrecy)''.

A dispatch of November decoded and translated in Washington on December 6, 1941, stated the Japanese Consul General in Honolulu had reported that in area A there was a battleship of the Oklahoma Class; that in Area O there were three heavy cruisers at anchor, as well as carrier ''Enterprise'' or some other vessel; that two heavy cruisers of the Chicago Class were tied up at docks ''KS''. The course taken by destroyers entering the harbor, their speed and distances apart were also described.

On December 4 a dispatch was decoded and translated in Washington which gave instructions to the Japanese Consul in Honolulu to investigate bases in the neighborhood of the Hawaiian military reservation.

On December 5, 1941 a dispatch was decoded and translated in Washington which stated.

''We have been receiving reports from you on ship movements, but in future you will also report even when there are no movements''.

In no other area was the Japanese Government seeking the detailed information that they sought about Pearl Harbor.

In the period immediately preceding the attack reports were demanded even when there were no ship movements. This detailed information obtained with such pains-taking care had no conceivable usefulness from a military viewpoint except for an attack on Pearl Harbor.

No one had a more direct and immediate interest in the security of the fleet in Pearl Harbor than its Commander-in-Chief. No one had a greater right than I to know that Japan had carved up Pearl Harbor into sub areas and was seeking and receiving reports as to the precise berthings in that harbor of the ships of the fleet. I had been sent Mr. Grew's report earlier in the year with positive advice from the Navy Department that no credence was to be placed in the rumored Japanese plans for an attack on Pearl Harbor. I was told then, that no Japanese move against Pearl Harbor appeared, ''imminent or planned for the forseeable future''. Certainly I was entitled to know what information in the Navy Department completely altered the information and advice previously given to me. Surely I was entitled to know of the intercepted dispatches between Tokyo and Honolulu on and after September 24, 1941, which indicated that a Japanese move against Pearl Harbor was planned in Tokyo.

Yet not one of these dispatches about the location of ships in Pearl Harbor was supplied to me.

Knowledge of these foregoing dispatches would have radically changed the estimate of the situation made by me and my staff.

General Willoughby in his book MacArthur 1941–1945 quotes a staff report from MacArthur's Headquarters.

''It was known that the Japanese consul in Honolulu cabled Tokyo reports on general ship movements. In October his instructions were ''sharpened''. Tokyo called for specific instead of general reports. In November, the daily reports were on a grid-system of the inner harbor with coordinate locations of American men of war: this was no longer a case of diplomatic curiosity; coordinate grid is the classical method for pin-point target designation; our battleships had suddenly become targets.''

''Spencer Akin was uneasy from the start. We drew our own conclusions and the Filipino-American troops took up beach positions long before the Japanese landings.''

If MacArthur's Headquarters which had no responsibility for Pearl Harbor were impressed by this information it is impossible to understand how its significance escaped all the talent in the War and Navy Department in Washington.

The dispatches about the berthing of ships in Pearl Harbor also clarified the significance of other Japanese dispatches decoded and translated in the Navy Department prior to the attack.

The deadline date was first established by a dispatch decoded and translated on November 5, 1941 the date of its origin.

''Because of various circumstances, it is absolutely necessary that all arrangements for the signing of this agreement be completed by the 25th of this month. I realize that this is a difficult order, but under the circumstances it is an unavoidable one. Please understand this thoroughly and tackle the problem of saving the Japanese-United States relations from falling into a chaotic condition. Do so with great determination and with unstinted effort, I beg of you.

''This information is to be kept strictly to yourself alone''.

The deadline was reiterated in a dispatch decoded and translated in the Navy Department on November 12, 1941.

''Judging from the progress of the conversations, there seem to be indications that the United States is still not fully aware of the exceedingly criticalness of the situation here. The fact remains that the date set forth in my message #736 is absolutely immovable under present conditions. It is a definite deadline and therefore it is essential that a settlement be reached by about that time. The session of Parliament opens on the 15th (work will start on (the following day?)) according to the schedule. The government must have a clear picture of things to come in presenting its case at the session. You can see, therefore, that the situation is nearing a climax, and that time is indeed becoming short . . .''

''Whatever the case may be, the fact remains that the date set forth in my message #736 is an absolutely immovable one. Please, therefore, make the United States see the light, so as to make possible the signing of the agreement by that date''.

The deadline was again repeated in a dispatch decoded in Washington on November 17.

''For your Honor's own information.

1. I have read your #1090 and you may be sure that you have all my gratitude for the efforts you have put forth, but the fate of our Empire hangs by the slender thread of a few days, so please fight harder than you ever did before''.

''2. In you opinion we ought to wait and see what turn the war takes and remain patient. However, I am awfully sorry to say that the situation renders this out of the question. I set the deadline for the solution of these negotiations in my #736 and there will be no change. Please try to understand that. You see how short the time is; therefore, do not allow the United States to sidetrack us and delay the negotiations any further. Press them for a solution on the basis of our proposals and do your best to bring about an immediate solution''.

The deadline was finally extended on November 22 for four days in a dispatch decoded and translated on November 22, 1941.

''It was awfully hard for us to consider changing the date we set in my #736. You should know this, however, I know you are working hard. Stick to our fixed policy and do your very best. Spare no efforts and try to bring about the solution we desire. There are reasons beyond your ability to guess why we wanted to settle Japanese-American relations by the 25th, but if within the next three or four days you can finish your conversations with the Americans; if the signing

can be completed by the 29th, (let me write it out for you—twenty-ninth); if the pertinent notes can be exchanged; if we can get an understanding with Great Britain and the Netherlands; and in short, if everything can be finished, we have decided to wait until that date. This time we mean it, that the deadline absolutely cannot be changed. After that things are automatically going to happen. Please take this into your careful consideration and work harder than you ever have before. This, for the present, is for the information of you two Ambassadors alone.''

Again on November 24, 1941, Tokyo specifically instructed its ambassadors in Washington that the November 29 deadline was set in Tokyo time.

In at least six separate dispatches on November 5, 11, 15, 16, 22 and 24 Japan established and extended the deadline finally advanced to November 29.

After the deadline date a Japanese plan was automatically going into operation. It was of such importance that the Japanese Government declared: ''The fate of our Empire hangs by the slender thread of a few days.''

On December 1, 1941 Tokyo advised its ambassadors in Washington:

''The date set in my message #812 has come and gone and the situation continues to be increasingly critical.''

A dispatch on November 28 decoded and translated on the same day, stated:

''Well, you two ambassadors have exerted superhuman efforts but, in spite of this, the United States has gone ahead and presented this humiliating proposal. This was quite unexpected and extremely regrettable. The Imperial Government can by no means use it as a basis for negotiations. Therefore, with a report of the views of the Imperial Government on this American proposal which I send you in two or three days, the negotiations will be de facto ruptured. This is inevitable.''

Not one of the Japanese messages about the ''Deadline'' were supplied to me although the American Commanders in the Philippines were supplied with this information as they were also supplied with all the information in the decoded Japanese intercepts that were denied to the Hawaiian Commanders.

The Commanders at Pearl Harbor were not kept informed of the progress of negotiations with Japan. I was never supplied with the text of Mr. Hull's message of November 26, 1941 to the Japanese Government which has been referred to frequently as an ultimatum. Mr. Stimson characterized it as Mr. Hull's decision to ''kick the whole thing over.''

Among other terms this note provided:

''The Government of Japan will withdraw all military, naval, air and police forces from China and Indo China.

''The Government of the United States and the Government of Japan will not support—militarily, politically, economically—any government or regime in China other than the National Government of the Republic of China with Capital temporarily at Chunking.

''Both Governments will agree that no agreement which either has concluded with any third power or powers shall be interpreted by it in such a way as to conflict with the fundamental purpose of this agreement, the establishment and preservation of peace throughout the Pacific Area.''

The reply to this note was delivered in Washington within hours of the Japanese attack.

My information on this and previous exchanges between the two governments was obtained from newspapers and radio. I believe Washington newspaper correspondents and the editors of our leading newspapers were kept better informed than were the Commanders at Pearl Harbor.

After receipt by Tokyo of the American note of November 26, the intercepted Japanese dispatches indicate that Japan attached great importance to the continuance of negotiations in order to conceal the plan that would take effect automatically on November 29, as evidenced by the Japanese dispatch of November 28:

''. . . I do not wish you to give the impression that the negotiations are broken off. Merely say to them that you are awaiting instructions and that, although the opinions of your government are not yet clear to you, to your own way of thinking the Imperial Government has always made just claims and has borne great sacrifices for the sake of peace in the Pacific. . . .''

I never received this information.

Again the dispatches from Tokyo to Washington of December 1, 1941:

''. . . to prevent the United States from becoming unduly suspicious we have been advising the press and others that though there are some wide differences between Japan and the United States, the negotiations are continuing. (The above is for only your information.)''

I never received this information.

Again in the transpacific telephone conversations and dispatches the same theme is stressed, be careful not to alarm the Government of the United States and do nothing to cause a breaking off of negotiations.

This information was decoded and translated in Washington on November 30 and was never sent to me.

The intercepted Japanese diplomatic dispatches show that on and after November 29 a Japanese plan of action automatically went into effect: that the plan was of such importance it involved the fate of the Empire: that Japan urgently wanted the United States to believe that negotiations were continuing after the deadline date to prevent suspicion as to the nature of the plan.

What was the plan? Why such elaborate instructions to stretch out negotiations as a pretext to hide the unfolding of this plan? Anyone reading the Japanese intercepted messages would face this question.

No effort was made to mask the movements or presence of Naval Forces moving southward, because physical and radio observation of that movement were unavoidable. The troop movements to southern Indo China were the subject of formal exchanges between the Governments of Japan and the United States as evidenced by the communication which Mr. Wells handed to Mr. Nomura on December 2, 1941.

Other dispatches were received in Washington which gave evidence of the deepening crisis.

On the afternoon of December 6, 1941 a Japanese intercept was decoded which warned that a fourteen part message from Japan was on its way to the Ambassadors in Washington. That the time for presenting this message to our State Department would be supplied later.

By 3:00 p.m. December 6, 1941 thirteen of the fourteen parts had been received. The decoding and translation was completed by 9:00 p.m. and distributed to the most important officers of the government by midnight. Nine p.m. in Washington was 3:30 in the afternoon in Hawaii. At midnight it was 6:30 p.m. in Hawaii.

When the thirteen parts were delivered to Mr. Roosevelt about 9:00 p.m., he remarked, ''This means war''.

The time of delivery message and the fourteenth part were decoded and translated by 9:00 a.m. December 7, 1941, the time for delivery was set at 1:00 p.m. Washington time which was 7:30 a.m. at Honolulu and 2:00 a.m. at Manila.

Yet not one word of the receipt of these messages which again clearly indicated an attack on Hawaii were ever given to General Short and me.

The story of the whereabouts of the Chief of Staff of the Army and the Chief of Naval Operations and their unaccountable lapse of memory has been publicized so much that it is unnecessary for me to repeat it.

I have written a documented account of Pearl Harbor. Other accounts which also tell the true story have been published by Charles A. Beard, Charles Callan Tansill, Frederic R. Sanborn, Harry Elmer Barnes, Admiral Robert A. Theobald, John T. Flynn, George Morgenstern, Walter Trohan, Percy L. Greaves, Jr. and many others.

I repeat to you once more Mr. Cannon, the success of the attack on Pearl Harbor was not the result of inter-service rivalries at Pearl Harbor. This success was caused by the deliberate failure of Washington to give the Commanders in Hawaii the information available in Washington to which they were entitled. This information which was denied to the Hawaiian Commanders was supplied to the American Commanders in the Philippines and to the British.

Finally, Mr. Congressman, the officers and men stationed in the Hawaiian Islands were fine, upstanding and well disciplined young Americans whom the American People should ever remember with gratitude and honor. In the attack launched by the Japanese they showed themselves fearless, resourceful and self-sacrificing and I shall always be proud of having commanded such men but I cannot forgive those responsible for the death of the more than 3000 soldiers, sailors and marines who died for their country on the 7th of December 1941 nor accept your insinuation that hangovers from intemperance ashore on the night of 6 December may have contributed to the delay in opening fire on the attacking Japanese planes. As a matter of fact many anti-aircraft guns on the ships were manned at the time of the attack and all anti-aircraft guns of the fleet were in action in less than ten minutes.

It is requested that you insert this letter in the Congressional Record.

Yours very truly,

HUSBAND E. KIMMEL.

GROTON, CONNECTICUT,
July 8, 1958.

Mr. J. EDGAR HOOVER,
Federal Bureau of Investigation,
Washington 25, DC.

MY DEAR MR. HOOVER: Thank you for your letter of 25 June, 1958, and your references to the Robert's Commission, The Army Pearl Harbor Report, the Naval Court of Inquiry and the Hewitt Inquiry. I am familiar with them, but all except the Roberts Commission Report were long after the hearings of a sub committee of the Appropriations Committee of the House of Representatives in 1942. Congressman Cannon advised me the information given to the Committee immediately after Pearl harbor was from the Federal Bureau of Investigation.

I judge from your letter there was no evidence in the Federal Bureau of Investigation in 1942 to the effect that General Short and I were not on speaking terms at the time of the Japanese attack on Pearl Harbor.

Is this correct?

If this is not correct will you kindly cite the evidence in order that I may learn the name of the individual who instigated this infamous lie.

Yours very truly,

HUSBAND E. KIMMEL.

JANUARY 28 1962.

Mr. Cannon refused to publish my letters in the Congressional Record, but some Congressmen friends of mine did so.

I never received a reply to my letter of 8 July, 1958 to Mr. J. Edgar Hoover and I have

never been supplied with the name of the individual who is alleged to have testified that General Short and I were not on speaking terms.

HUSBAND E. KIMMEL.

Mr. REID. The letter was very moving, about what the whole family has gone through as a result of this incident. It affected the life of not only the admiral but his entire family. I also extend my appreciation to the Senators who have been so tenacious in allowing this matter to move forward.

Mr. WARNER. Mr. President, I ask unanimous consent that Senator MCCAIN be listed as a cosponsor on the amendment by the Senator from Georgia on the Montgomery GI bill.

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

Mr. WARNER. Mr. President, in the context of the Kimmel/Short matter, recently I have had an opportunity to be visited by the former Chief of Naval Operations, Adm. James Holloway, who would strongly endorse the action that is before the Senate with regard to these two officers.

Mr. LEVIN. Mr. President, I ask unanimous consent that Senator REID of Nevada be added as a cosponsor of this amendment.

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

AMENDMENT NO. 3234

(Purpose: To require reports on the spare parts and repair parts program of the Air Force for the C–5 aircraft)

Mr. LEVIN. On behalf of Senators BIDEN and ROTH, I send an amendment to the desk that would require reports on the spare parts and repair parts program of the Air Force for the C–5 aircraft.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. BIDEN, for himself and Mr. ROTH, proposes an amendment numbered 3234.

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

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

The amendment is as follows:

On page 378, between lines 19 and 20, insert the following:

SEC. 1027. REPORT ON SPARE PARTS AND REPAIR PARTS PROGRAM OF THE AIR FORCE FOR THE C–5 AIRCRAFT.

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

(1) There exists a significant shortfall in the Nation's current strategic airlift requirement, even though strategic airlift remains critical to the national security strategy of the United States.

(2) This shortfall results from the slow phase-out C–141 aircraft and their replacement with C–17 aircraft and from lower than optimal reliability rates for the C–5 aircraft.

(3) One of the primary causes of these reliability rates for C–5 aircraft, and especially for operational unit aircraft, is the shortage of spare repair parts. Over the past 5 years, this shortage has been particularly evident in the C–5 fleet.

(4) NMCS (Not Mission Capable for Supply) rates for C–5 aircraft have increased significantly in the period between 1997 and 1999. At Dover Air Force Base, Delaware, an average of 7 through 9 C–5 aircraft were not available during that period because of a lack of parts.

(5) Average rates of cannibalization of C–5 aircraft per 100 sorties of such aircraft have also increased during that period and are well above the Air Mobility Command standard. In any given month, this means devoting additional manhours to cannibalizations of C–5 aircraft. At Dover Air Force Base, an average of 800 to 1,000 additional manhours were required for cannibalizations of C–5 aircraft during that period. Cannibalizations are often required for aircraft that transit through a base such as Dover Air Force Base, as well as those that are based there.

(6) High cannibalization rates indicate a significant problem in delivering spare parts in a timely manner and systemic problems within the repair and maintenance process, and also demoralize overworked maintenance crews.

(7) The C–5 aircraft remains an absolutely critical asset in air mobility and airlifting heavy equipment and personnel to both military contingencies and humanitarian relief efforts around the world.

(8) Despite increased funding for spare and repair parts and other efforts by the Air Force to mitigate the parts shortage problem, Congress continues to receive reports of significant cannibalizations to airworthy C–5 aircraft and parts backlogs.

(b) REPORTS.—Not later than January 1, 2001, and September 30, 2001, the Secretary of the Air Force shall submit to the congressional defense committees a report on the overall status of the spare and repair parts program of the Air Force for the C–5 aircraft. The report shall include the following—

(1) a statement the funds currently allocated to parts for the C–5 aircraft and the adequacy of such funds to meet current and future parts and maintenance requirements for that aircraft;

(2) a description of current efforts to address shortfalls in parts for such aircraft, including an assessment of potential short-term and long-term effects of such efforts;

(3) an assessment of the effects of such shortfalls on readiness and reliability ratings for C–5 aircraft;

(4) a description of cannibalization rates for C–5 aircraft and the manhours devoted to cannibalizations of such aircraft; and

(5) an assessment of the effects of parts shortfalls and cannibalizations with respect to C–5 aircraft on readiness and retention.

Mr. BIDEN. Mr. President, I rise to offer an amendment that addresses a problem that I have seen directly impact the moral and readiness of units at the base I am most familiar with, Dover Air Force Base. First, I want to thank the committee for all of its hard work on this issue and for accepting this amendment. Despite the fact that we in Congress have increased the funding levels for spare parts for the past three years, the supply of spare and repair parts for the C–5's at Dover has been inadequate.

What does this mean? It means maintenance crews must work two-to-three times as hard because they have to cannibalize parts from other airplanes. It means planes that should be performing missions are being used for parts so that other planes may fly. It means that planes spend between 250 and 300 days on average in depots, waiting for regular maintenance, modernizations, and part replacements.

At Dover, from 1997 to 1999, an average of 7 to 9 C–5 aircraft were not available because of a lack of parts. This is out of a total fleet at Dover of only 36 aircraft! In addition, the average manhours required for cannibalizations during that period was between 800 and 1,000. Those are additional hours, above what is normally expected to replace a part.

Think of that in terms of a typical 40 hour work week—that's 20 to 25 additional weeks of work! Clearly, our maintenance teams cannot be expected to continue working like this. These are highly skilled professionals who are willing to sacrifice for this nation because they know how important the C–5's mission is to national security. It is absolutely wrong of this nation to continue to ask them to make those sacrifices year in and year out. We must get them the tools, and in this case, the parts, to do their jobs the right way.

In his testimony March 3, 2000 before the Readiness Subcommittee of the Armed Service Committee, Secretary of the Air Force F. Whitten Peters talked about the problem, pointing out that, ''The C–5 related MICAP rate had increased over the last two quarters by 36 percent.'' Just to clarify, MICAP rate is defined by the Secretary ''as the total hours a maintenance technician waits for all the parts that have been ordered to fix an aircraft.''

In that same testimony, the Secretary also said, ''The impact of these additional MICAP hours has been a decline in readiness.''

The problem is not just a Dover problem. On March 7, 2000, Major General Larry D. Northington, the Deputy Assistant Secretary (Budget) for the Air Force testified on the problem of parts shortages throughout the Air Force to Readiness Subcommittee. He pointed out that we must look at all aspects of this problem. ''We must, therefore, expect significant spares investments for along time to come. We also need to understand that mission capable rates are not a product of spares funding alone. It requires dollars, deliveries of the right parts, trained and experienced technicians, and, over time, a sustained effort to upgrade the fleet to achieve higher levels of reliability and maintainability.''

In other words, this is not a problem that can be solved by increased funding alone. We must also look at the entire structure that is supposed to be delivering parts and making sure we have adequate numbers of experienced people to maintain aircraft. In addition, we have to look at long-term modernization.

I am very pleased that this committee has fully supported the three C–5 modernization programs that are critical to improving reliability and maintainability—High Pressure Turbine Replacement, Avionics Modernization Program, and Reliability Enhancement and Re-engining Program.

Already, the High Pressure Turbine replacements that have occurred has meant that engines stay on their wings

at least double the time they had in the past before needing to be removed for maintenance. This is an easy mid-term fix that is already paying for itself. For the longer term, new engines are essential. The Committee authorized full funding for the necessary testing and design to put new engines on the C–5 and to replace antiquated parts that are particularly prone to breaking.

The C–5 engine was one of the first large jet engines ever made. Commercial planes are a good 5 generations of engines beyond the C–5. It is no wonder that there are no longer parts suppliers available. In fact, it can take up to two years to get parts because manufacturers no longer make those parts and so new versions must be created. Two years is not acceptable. With new engines, reliability will increase and operations and maintenance costs will go down. This not only means enhanced readiness, it also means that our military personnel doesn't have to work 20 to 25 extra weeks a year.

In addition, the committee fully supported the Avionics Modernization Program. This program will ensure that C–5's can fly in operationally more efficient airspace under the new Global Air Traffic Management System. In addition, this program improves the safety of aircrews by installing systems like Traffic Collision and Avoidance Systems (TCAS) and enhanced all weather navigation systems. Clearly, as the committee recognized, we cannot justify delaying these important upgrades to the entire C–5 fleet.

Until these modernization programs are completed though, the immediate problem is the day-to-day maintenance needs. Foremost among those needs is that parts be available to keep planes flying and that the cannibalization rates be reduced.

The current situation cannot continue. It daily hurts the morale of our personnel and lowers the readiness of our military force. The C–5 is the long-legged workhorse of our strategic airlift fleet. It carries more cargo and heavier cargo further than any other plane in our inventory. It is what gets our warfighters and their heavy equipment to the fight. It is also what gets humanitarian assistance to needy victims quickly enough to make a difference.

My amendment simply requires the Secretary of the Air Force provide two reports to Congress, one by January 31 and one by September 30 of next year on the exact situation of C–5 parts shortages, what is being done to fix this problem, what the impacts of the problem are for aircraft readiness and reliability ratings, and what the impacts of the problem are for personnel readiness and retention. It is my hope that such a thorough review will allow us to take the necessary steps to fix this problem once and for all. I know that the Air Force is concerned and taking steps to improve the parts shortage problem. I want to make sure that those efforts are comprehensive and that the hardworking men and women at Dover Air Force Base get some relief.

Mr. ROTH. Mr. President, I rise to discuss an amendment offered by my colleague from Delaware, Senator JOE BIDEN, and myself. This amendment deals with the vital importance of the C–5 Galaxy to our nation's strategic airlift capability. No other aircraft has the capabilities of this proven workhorse, and as we look to prepare our military for the future we must not overlook the need to ensure the Galaxy has the parts necessary to perform safely and effectively.

I would like to commend the chairman and the ranking member for accepting this very important amendment, which requires the Secretary of the Air Force to report on ''the overall status of the spare and repair parts program of the Air Force for the C–5 aircraft.''

The C–5 is the largest cargo transport plane in our Air Force. It is proven, and we depend on it to perform a vital role in our nation's Strategic Airlift. Currently, spare parts shortages have resulted in the grounding of nearly one quarter of the C–5 fleet. Needless to say, this is a serious problem.

The report required by this amendment will detail the funds currently allocated to parts for the C–5, the adequacy of those funds to meet future requirements for the C–5, the descriptions of current efforts to address short-term and long-term shortfalls in parts, an assessment of the effects of the shortfalls on C–5 readiness and reliability ratings, a description on cannibalization rates for the C–5 aircraft and man hours devoted to cannibalizations, and the effects of these shortfalls on readiness and retention.

I believe this report will shed light on a problem of which my colleague from Delaware and I are painfully aware. Dover Air Force Base, in my state of Delaware, is home to 36 C–5 Galaxies. At Dover, the spare parts shortage has truly hit home.

''Cann Birds'', or C–5 Galaxies that have been cannibalized for their parts, is an unfortunate sight on the base. Men and women at Dover must spend long hours cannibalizing aircraft to find parts necessary for other C–5s. These long hours have led to increased frustration and lowered morale among some of the hardest working and most valuable people in our Air Force and civilian personnel. We are losing expertise in this area due to this decreased morale.

The lack of spare parts is not the only issue. Often, when the need for a part is recognized, there is a long lag-time between requests for parts and delivery. I hope that this amendment, by shining light on these problems and requiring the Air Force to examine the issues, will result in greater understanding of how to reach a solution.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3234) was agreed to.

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

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, there are several colleagues desiring to be recognized for debate on this bill. Senator LEVIN and I will proceed to ask of the Chair that a group of amendments be adopted en bloc.

Mr. LEVIN. Mr. President, that is fine with this Senator.

AMENDMENTS NOS. 3235 THROUGH 3251, EN BLOC

Mr. WARNER. Mr. President, I send a series of amendments to the desk that have been cleared by the ranking member and myself.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], proposes amendments numbered 3235 through 3251, en bloc.

Mr. WARNER. Mr. President, I ask unanimous consent that the amendments be agreed to en bloc, the motions to reconsider be laid upon the table, and that any statements relating to these individual amendments be printed in the RECORD.

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

The amendments (Nos. 3235 through 3251) were agreed to en bloc, as follows.

AMENDMENT NO. 3235

(Purpose: To authorize a land conveyance, Fort Riley, Kansas)

On page 539, between lines 7 and 8, insert the following:

SEC. 2836. LAND CONVEYANCE, FORT RILEY, KANSAS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the State of Kansas, all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 70 acres at Fort Riley Military Reservation, Fort Riley, Kansas. The preferred site is adjacent to the Fort Riley Military Reservation boundary, along the north side of Huebner Road across from the First Territorial Capitol of Kansas Historical Site Museum.

(b) CONDITIONS OF CONVEYANCE.—The conveyance required by subsection (a) shall be subject to the following conditions:

(1) That the State of Kansas use the property conveyed solely for purposes of establishing and maintaining a State-operated veterans cemetery.

(2) That all costs associated with the conveyance, including the cost of relocating water and electric utilities should the Secretary determine that such relocations are necessary, be borne by the State of Kansas.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary and the Director of the Kansas Commission on Veterans Affairs.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance required by subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

AMENDMENT NO. 3236

(Purpose: To clarify the authority of the director of a laboratory to manage personnel under an existing authority to conduct a personnel demonstration project)

On page 436, between lines 2 and 3, insert the following:

SEC. 1114. CLARIFICATION OF PERSONNEL MANAGEMENT AUTHORITY OF UNDER A PERSONNEL DEMONSTRATION PROJECT.

Section 342(b) of the National Defense Authorization Act for Fiscal Year 1995 is amended—

(1) by striking the last sentence of paragraph (4); and

(2) by adding at the end the following:

''(5) The employees of a laboratory covered by a personnel demonstration project under this section shall be managed by the director of the laboratory subject to the supervision of the Under Secretary of Defense for Acquisition, Technology, and Logistics. Notwithstanding any other provision of law, the director of the laboratory is authorized to appoint individuals to positions in the laboratory, and to fix the compensation of such individuals for service in those positions, under the demonstration project without the review or approval of any official or agency other than the Under Secretary.''.

AMENDMENT NO. 3237

(Purpose: To authorize, with an offset, an additional $1,500,000 for the Air Force for research, development, test, and evaluation on weathering and corrosion on aircraft surfaces and parts (PE62102F))

On page 34, between lines 2 and 3, insert the following:

SEC. 203. ADDITIONAL AUTHORIZATION FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION ON WEATHERING AND CORROSION OF AIRCRAFT SURFACES AND PARTS.

(a) INCREASE IN AUTHORIZATION.—The amount authorized to be appropriated by section 201(3) is hereby increased by $1,500,000.

(b) AVAILABILITY OF FUNDS.—The amount available under section 201(3), as increased by subsection (a), for research, development, test, and evaluation on weathering and corrosion of aircraft surfaces and parts (PE62102F) is hereby increased by $1,500,000.

(c) OFFSET.—The amount authorized to be appropriated by section 201(4) is hereby decreased by $1,5000,000, with the amount of such decrease being allocated to Sensor and Guidance Technology (PE63762E).

AMENDMENT NO. 3238

(Purpose: To state the sense of the Senate on maintaining an effective strategic nuclear TRIAD)

On page 372, between lines 6 and 7, insert the following:

SEC. 1019. SENSE OF SENATE ON THE MAINTENANCE OF THE STRATEGIC NUCLEAR TRIAD.

It is the sense of the Senate that, in light of the potential for further arms control agreements with the Russian Federation limiting strategic forces—

(1) it is in the national interest of the United States to maintain a robust and balanced TRIAD of strategic nuclear delivery vehicles, including long-range bombers, land-based intercontinental ballistic missiles (ICBMs), and ballistic missile submarines; and

(2) reductions to United States conventional bomber capability are not in the national interest of the United States.

AMENDMENT NO. 3239

(Purpose: To require the designation of each government-owned, government-operated ammunition plant of the Army as Centers of Industrial and Technical Excellence)

On page 72, strike line 3, and insert the following:

''(B) Each arsenal of the Army.

''(C) Each government-owned, government-operated ammunition plant of the Army.''.

On page 77, strike line 17, and insert the following: ''gency.

''(f) CONSTRUCTION OF PROVISION.—Nothing in this section may be construed to authorize a change, otherwise prohibited by law, from the performance of work at a Center of Industrial and Technical Excellence by Department of Defense personnel to performance by a contractor.''.

AMENDMENT NO. 3240

(Purpose: To establish a commission to assess the future of the United States aerospace industry and to make recommendations for actions by the Federal Government)

On page 415, between lines 2 and 3, insert the following:

SEC. 1061. AEROSPACE INDUSTRY BLUE RIBBON COMMISSION.

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

(1) The United States aerospace industry, composed of manufacturers of commercial, military, and business aircraft, helicopters, aircraft engines, missiles, spacecraft, materials, and related components and equipment, has a unique role in the economic and national security of our Nation.

(2) In 1999, the aerospace industry continued to produce, at $37,000,000,000, the largest trade surplus of any industry in the United States economy.

(3) The United States aerospace industry employs 800,000 Americans in highly skilled positions associated with manufacturing aerospace products.

(4) United States aerospace technology is preeminent in the global marketplace for both defense and commercial products.

(5) History since World War I has demonstrated that a superior aerospace capability usually determines victory in military operations and that a robust, technically innovative aerospace capability will be essential for maintaining United States military superiority in the 21st century.

(6) Federal Government policies concerning investment in aerospace research and development and procurement, controls on the export of services and goods containing advanced technologies, and other aspects of the Government-industry relationship will have a critical impact on the ability of the United States aerospace industry to retain its position of global leadership.

(7) Recent trends in investment in aerospace research and development, in changes in global aerospace market share, and in the development of competitive, non-United States aerospace industries could undermine the future role of the United States aerospace industry in the national economy and in the security of the Nation.

(8) Because the United States aerospace industry stands at an historical crossroads, it is advisable for the President and Congress to appoint a blue ribbon commission to assess the future of the industry and to make recommendations for Federal Government actions to ensure United States preeminence in aerospace in the 21st century.

(b) ESTABLISHMENT.—There is established a Blue Ribbon Commission on the Future of the United States Aerospace Industry.

(c) MEMBERSHIP.—(1) The Commission shall be composed of 12 members appointed, not later than March 1, 2001, as follows:

(A) Up to 6 members appointed by the President.

(B) Two members appointed by the Majority Leader of the Senate.

(C) Two members appointed by the Speaker of the House of Representatives.

(D) One member appointed by the Minority Leader of the Senate.

(E) One member appointed by the Minority Leader of the House of Representatives.

(2) The members of the Commission shall be appointed from among—

(A) persons with extensive experience and national reputations in aerospace manufacturing, economics, finance, national security, international trade or foreign policy; and

(B) persons who are representative of labor organizations associated with the aerospace industry.

(3) Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(4) The President shall designate one member of the Commission to serve as the Chairman.

(5) The Commission shall meet at the call of the Chairman. A majority of the members shall constitute a quorum, but a lesser number may hold hearings for the Commission.

(d) DUTIES.—(1) The Commission shall—

(A) study the issues associated with the future of the United States aerospace industry in the global economy, particularly in relationship to United States national security; and

(B) assess the future importance of the domestic aerospace industry for the economic and national security of the United States.

(2) In order to fulfill its responsibilities, the Commission shall study the following:

(A) The budget process of the Federal Government, particularly with a view to assessing the adequacy of projected budgets of the Federal Government agencies for aerospace research and development and procurement.

(B) The acquisition process of the Federal Government, particularly with a view to assessing—

(i) the adequacy of the current acquisition process of Federal agencies; and

(ii) the procedures for developing and fielding aerospace systems incorporating new technologies in a timely fashion.

(C) The policies, procedures, and methods for the financing and payment of government contracts.

(D) Statutes and regulations governing international trade and the export of technology, particularly with a view to assessing—

(i) the extent to which the current system for controlling the export of aerospace goods, services, and technologies reflects an adequate balance between the need to protect national security and the need to ensure unhindered access to the global marketplace; and

(ii) the adequacy of United States and multilateral trade laws and policies for maintaining the international competitiveness of the United States aerospace industry.

(E) Policies governing taxation, particularly with a view to assessing the impact of current tax laws and practices on the international competitiveness of the aerospace industry.

(F) Programs for the maintenance of the national space launch infrastructure, particularly with a view to assessing the adequacy of current and projected programs for maintaining the national space launch infrastructure.

(G) Programs for the support of science and engineering education, including current programs for supporting aerospace science

and engineering efforts at institutions of higher learning, with a view to determining the adequacy of those programs.

(e) REPORT.—(1) Not later than March 1, 2002, the Commission shall submit a report on its activities to the President and Congress.

(2) The report shall include the following:

(A) The Commission's findings and conclusions.

(B) Recommendations for actions by Federal Government agencies to support the maintenance of a robust aerospace industry in the United States in the 21st century.

(C) A discussion of the appropriate means for implementing the recommendations.

(f) IMPLEMENTATION OF RECOMMENDATIONS.—The heads of the executive agencies of the Federal Government having responsibility for matters covered by recommendations of the Commission shall consider the implementation of those recommendations in accordance with regular administrative procedures. The Director of the Office of Management and Budget shall coordinate the consideration of the recommendations among the heads of those agencies.

(g) ADMINISTRATIVE REQUIREMENTS AND AUTHORITIES.—(1) The Director of the Office of Management and Budget shall ensure that the Commission is provided such administrative services, facilities, staff, and other support services as may be necessary. Any expenses of the Commission shall be paid from funds available to the Director.

(2) The Commission may hold hearings, sit and act at times and places, take testimony, and receive evidence that the Commission considers advisable to carry out the purposes of this Act.

(3) The Commission may secure directly from any department or agency of the Federal Government any information that the Commission considers necessary to carry out the provisions of this Act. Upon the request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(4) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(5) The Commission is an advisory committee for the purposes of the Federal Advisory Committee Act (5 U.S.C. App. 2).

(h) COMMISSION PERSONNEL MATTERS.—(1) Members of the Commission shall serve without additional compensation for their service on the Commission, except that members appointed from among private citizens may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in government service under subchapter I of chapter 57 of title 5, United States Code, while away from their homes and places of business in the performance of services for the Commission.

(2) The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate any staff that may be necessary to enable the Commission to perform its duties. The employment of a head of staff shall be subject to confirmation by the Commission. The Chairman may fix the compensation of the staff personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rates of pay fixed by the Chairman shall be in compliance with the guidelines prescribed under section 7(d) of the Federal Advisory Committee Act.

(3) Any Federal Government employee may be detailed to the Commission without reimbursement. Any such detail shall be without interruption or loss of civil status or privilege.

(4) The Chairman may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(i) TERMINATION.—The Commission shall terminate 30 days after the submission of the report under subsection (e).

Mr. LIEBERMAN. Mr. President, I rise to make a few remarks concerning an amendment to the National Defense Authorization Act (S. 2549) that would establish a commission to assess the future of the United States aerospace industry and to make recommendations for actions by the Federal Government to improve this industries global competitiveness.

The modern aerospace industry fulfills vital roles for our nation. It is a pillar of the business community that employs 800,000 skilled workers. It is an engine of economic growth that generated a net trade surplus of $37 billion in 1998, larger than any other industrial sector. It is a working model of private-public partnership, yielding commercial and military benefits that have enhanced our communication and transportation networks while enabling the aerospace dominance demonstrated in both Kosovo and the Gulf War. And its well-known products, from the Boeing 777 to the Blackhawk helicopter to the Space Shuttle, serve as fitting symbols of American preeminence in an inter-connected world that thrives on speed and technology.

Unfortunately, this key industrial sector is facing new challenges to its leadership role in the global economy. Since 1985, foreign competition has cut the American share of the worldwide aerospace market from 72 percent to 56 percent. In order to remain competitive, we must reevaluate industrial regulations enacted during the Cold War, that might hamper innovation, flexibility, and growth. We must reconsider our defense research priorities, to counteract the 50% decline in domestic funding for aerospace research and development during the last decade. We must reexamine the rules that govern export of aerospace products and technologies, and develop policies that permit access to global markets while protecting national security. we must assess all of these areas in light of new trade agreements that may require adjustments to federal regulations and policies. Ultimately, we must assess the future of the aerospace industry and ensure that government policy plays a positive role in its development.

To accomplish this goal, this amendment calls for the creation of a Presidential commission empowered to recommend action to the federal government regarding the future of the aerospace industry. The commission shall be composed of experts in aerospace manufacturing, national security, and related economic issues, as well as representatives of organized labor. The commission is directed to study economic and national security issues confronting the aerospace industry, such as the state of government funding for aerospace research and procurement, the rules governing exportation of aerospace goods and technologies, the effect of current taxation and trade policies on the aerospace industry, and the adequacy of aerospace science and engineering education in institutions of higher learning. I urge the Congress to support the creation of the Commission and the next President to support its activities and heed its counsel. By creating such a commission and through careful consideration of these complex issues, we can ensure that this valuable American industry soars into the 21st century, turbulence-free.

AMENDMENT NO. 3241

(Purpose: To guarantee the right of all active duty military personnel merchant mariners, and their dependents to vote in Federal, State, and local elections)

At the appropriate place, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Military Voting Rights Act of 2000''.

SEC. 2. GUARANTEE OF RESIDENCY.

Article VII of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. 700 et seq.) is amended by adding at the end the following.

''SEC. 704. (a) For purposes of voting for an office of the United States or of a State, a person who is absent from a State in compliance with military or naval orders shall not, solely by reason of that absence—

''(1) be deemed to have lost a residence or domicile in that State;

''(2) be deemed to have acquired a residence or domicile in any other State; or

''(3) be deemed to have become resident in or a resident of any other State.

''((b) In this section, the term 'State' includes a territory or possession of the United States, a political subdivision of a State, territory, or possession, and the District of Columbia.''.

SEC. 3. STATE RESPONSIBILITY TO GUARANTEE MILITARY VOTING RIGHTS.

(a) REGISTRATION AND BALLOTING.—Section 102 of the Uniformed and Overseas Absentee Voting Act (42 U.S.C. 1973ff–1) is amended—

(1) by inserting ''(a) ELECTIONS FOR FEDERAL OFFICES.—'' before ''Each State shall—''; and

(2) by adding at the end the following:

''(b) ELECTIONS FOR STATE AND LOCAL OFFICES.—Each State shall—

''(1) permit absent uniformed services voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and run-off elections for State and local offices; and

''(2) accept and process, with respect to any election described in paragraph (1), any otherwise valid voter registration application from an absent uniformed services voter if the application is received by the appropriate State election official not less than 30 days before the election.''.

(b) CONFORMING AMENDMENT.—The heading for title I of such Act is amended by striking our ''FOR FEDERAL OFFICE''.

AMENDMENT NO. 3242

(Purpose: To modify authority for the use of certain Navy property by the Oxnard Harbor District, Port Hueneme, California)

On page 543, between lines 19 and 20, insert the following:

SEC. 2855. MODIFICATION OF AUTHORITY FOR OXNARD HARBOR DISTRICT, PORT HUENEME, CALIFORNIA, TO USE CERTAIN NAVY PROPERTY.

(a) ADDITIONAL RESTRICTIONS ON JOINT USE.—Subsection (c) of section 2843 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3067) is amended to read as follows:

''(c) RESTRICTIONS ON USE.—The District's use of the property covered by an agreement under subsection (a) is subject to the following conditions:

''(1) The District shall suspend operations under the agreement upon notification by the commanding officer of the Center that the property is needed to support mission essential naval vessel support requirements or Navy contingency operations, including combat missions, natural disasters, and humanitarian missions.

''(2) The District shall use the property covered by the agreement in a manner consistent with Navy operations at the Center, including cooperating with the Navy for the purpose of assisting the Navy to meet its through-put requirements at the Center for the expeditious movement of military cargo.

''(3) The commanding officer of the Center may require the District to remove any of its personal property at the Center that the commanding officer determines may interfere with military operations at the Center. If the District cannot expeditiously remove the property, the commanding officer may provide for the removal of the property at District expense.''.

(b) CONSIDERATION.—Subsection (d) of such section is amended to read as follows:

''(d) CONSIDERATION.—(1) As consideration for the use of the property covered by an agreement under subsection (a), the District shall pay to the Navy an amount that is mutually agreeable to the parties to the agreement, taking into account the nature and extent of the District's use of the property.

''(2) The Secretary may accept in-kind consideration under paragraph (1), including consideration in the form of—

''(A) the District's maintenance, preservation, improvement, protection, repair, or restoration of all or any portion of the property covered by the agreement;

''(B) the construction of new facilities, the modification of existing facilities, or the replacement of facilities vacated by the Navy on account of the agreement; and

''(C) covering the cost of relocation of the operations of the Navy from the vacated facilities to the replacement facilities.

''(3) All cash consideration received under paragraph (1) shall be deposited in the special account in the Treasury established for the Navy under section 2667(d) of title 10, United States Code. The amounts deposited in the special account pursuant to this paragraph shall be available, as provided in appropriation Acts, for general supervision, administration, overhead expenses, and Center operations and for the maintenance preservation, improvement, protection, repair, or restoration of property at the Center.''.

(c) CONFORMING AMENDMENTS.—Such section is further amended—

(1) by striking subsection (f); and

(2) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

AMENDMENT NO. 3243

(Purpose: To amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older)

In title VI, at the end of subtitle D, add the following:

SEC. . COMPUTATION OF SURVIVOR BENEFITS.

(a) INCREASED BASIC ANNUITY.—(1) Subsection (a)(1)(B)(i) of section 1451 of title 10, United States Code, is amended by striking ''35 percent of the base amount.'' and inserting ''the product of the base amount and the percent applicable for the month. The percent applicable for a month is 35 percent for months beginning on or before the date of the enactment of the National Defense Authorization Act for Fiscal Year 2001, 40 percent for months beginning after such date and before October 2004, and 45 percent for months beginning after September 2004.''.

(2) Subsection (a)(2)(B)(i)(I) of such section is amended by striking ''35 percent'' and inserting ''the percent specified under subsection (a)(1)(B)(i) as being applicable for the month''.

(3) Subsection (c)(1)(B)(i) of such section is amended—

(A) by striking ''35 percent'' and inserting ''the applicable percent''; and

(B) by adding at the end the following: ''The percent applicable for a month under the preceding sentence is the percent specified under subsection (a)(1)(B)(i) as being applicable for the month.''.

(4) The heading for subsection (d)(2)(A) of such section is amended to read as follows: ''COMPUTATION OF ANNUITY.—''.

(b) ADJUSTED SUPPLEMENTAL ANNUITY.—Section 1457(b) of title 10, United States Code, is amended—

(1) by striking ''5, 10, 15, or 20 percent'' and inserting ''the applicable percent''; and

(2) by inserting after the first sentence the following: ''The percent used for the computation shall be an even multiple of 5 percent and, whatever the percent specified in the election, may not exceed 20 percent for months beginning on or before the date of the enactment of the National Defense Authorization Act for Fiscal Year 2001, 15 percent for months beginning after that date and before October 2004, and 10 percent for months beginning after September 2004.''.

(c) RECOMPUTATION OF ANNUITIES.—(1) Effective on the first day of each month referred to in paragraph (2)—

(A) each annuity under section 1450 of title 10, United States Code, that commenced before that month, is computed under a provision of section 1451 of that title amended by subsection (a), and is payable for that month shall be recomputed so as to be equal to the amount that would be in effect if the percent applicable for that month under that provision, as so amended, had been used for the initial computation of the annuity; and

(B) each supplemental survivor annuity under section 1457 of such title that commenced before that month and is payable for that month shall be recomputed so as to be equal to the amount that would be in effect if the percent applicable for that month under that section, as amended by this section, had been used for the initial computation of the supplemental survivor annuity.

(2) The requirements for recomputation of annuities under paragraph (1) apply with respect to the following months:

(A) The first month that begins after the date of the enactment of this Act.

(B) October 2004.

(d) RECOMPUTATION OF RETIRED PAY REDUCTIONS FOR SUPPLEMENTAL SURVIVOR ANNUITIES.—The Secretary of Defense shall take such actions as are necessitated by the amendments made by subsection (b) and the requirements of subsection (c)(1)(B) to ensure that the reductions in retired pay under section 1460 of title 10, United States Code, are adjusted to achieve the objectives set forth in subsection (b) of that section.

Mr. THURMOND. Mr. President, last year, I introduced S. 763, a bill that would correct a long-standing injustice to the widows of our military retirees. Although my bill was accepted by the Senate as an amendment to the fiscal year 2000 defense authorization bill, it was dropped during the conference at the insistence of the House conferees.

Today, I am again offering S. 763 as an amendment to the national Defense authorization bill. My amendment would immediately increase the minimum Survivor Benefit Plan annuity from 35 percent to 40 percent of the Survivor Benefit Plan for survivors over the age 62. The amendment would provide a further increase to 45 percent of covered retired pay as of October 1, 2004.

Mr. President, I am confident that each senator has received mail from military spouses expressing their dismay that they are not receiving the 55 percent of their husband's retirement pay as advertised in the Survivor Benefit Plan literature provided by the military. The reason that they do not receive the 55 percent of retired pay is that current law mandates that at age 62 this amount be reduced either by the account of the Survivors Social Security benefit or to 35 percent of the SBP. This law is especially irksome to those retirees who joined the plan when it was first offered in 1972. These service members were never informed of the age-62 reduction until they had made an irrevocable decision to participate. Many retirees and their spouses, as the constituent mail attests, believed their premium payments would guarantee 55 percent of retired pay for the life of the survivor. It is not hard to imagine the shock and financial disadvantage these men and women who so loyally served the Nation in troubled spots throughout the world undergo when they learn of the annuity reduction.

Mr. President, uniformed services retirees pay too much for the available SBP benefit both, compared to what is promised and what is offered to other federal retirees. When the Survivor Benefit Plan was enacted in 1972, the Congress intended that the government would pay 40 percent of the cost to parallel the government subsidy of the Federal civilian survivor benefit plan. That was short-lived. Over time, the government's cost sharing has declined to about 26 percent. In other words, the retiree's premiums now cover 74 percent of expected long-term program costs versus the intended 60 percent. Contrast this with the federal civilian SBP, which has a 42 percent subsidy for those personnel under the Federal Employees Retirement System and a 50 percent subsidy for those under the Civil Service Retirement System. Further, Federal civilian survivors receive 50 percent of retired pay with no offset at age 62. Although Federal civilian premiums are 10 percent retired pay compared to 6.5 percent for military retirees, the difference in the percent of contribution is offset by the fact that our service personnel retire at a much younger age than the civil servant and, therefore pay premiums much longer than the federal civilian retiree.

Mr. President, the bill that we are currently considering contains several

initiatives to restore to our military retirees benefits that they have earned, but which gradually were eroded over the past years. My amendment would add a small, but important, earned benefit for our military retirees, especially their survivors.

Mr. President, I want to thank Senators LOTT, CLELAND, COCHRAN, LANDRIEU, SNOWE, MCCAIN, SESSIONS, INOUYE, and DODD for joining me as cosponsors of this amendment and ask for its adoption.

AMENDMENT NO. 3244

(Purpose: To eliminate an inequity in the applicability of early retirement eligibility requirements to military reserve technicians)

On page 236, between lines 6 and 7, insert the following:

SEC. 646. EQUITABLE APPLICATION OF EARLY RETIREMENT ELIGIBILITY REQUIREMENTS TO MILITARY RESERVE TECHNICIANS.

(a) TECHNICIANS COVERED BY FERS.—Paragraph (1) of section 8414(c) of title 5, United States Code, is amended by striking ''after becoming 50 years of age and completing 25 years of service'' and inserting ''after completing 25 years of service or after becoming 50 years of age and completing 20 years of service''.

(b) TECHNICIANS COVERED BY CSRS.—Section 8336 of title 5, United States Code, is amended by adding at the end the following new subsection:

''(p) Section 8414(c) of this title applies—

''(1) under paragraph (1) of such section to a military reserve technician described in that paragraph for purposes of determining entitlement to an annuity under this subchapter; and

''(2) under paragraph (2) of such section to a military technician (dual status) described in that paragraph for purposes of determining entitlement to an annuity under this subchapter.''.

(c) TECHNICAL AMENDMENT.—Section 1109(a)(2) of Public Law 105–261 (112 Stat. 2143) is amended by striking ''adding at the end'' and inserting ''inserting after subsection (n)''.

(d) APPLICABILITY.—Subsection (c) of section 8414 of such title (as amended by subsection (a)), and subsection (p) of section 8336 of title 5, United States Code (as added by subsection (b)), shall apply according to the provisions thereof with respect to separations from service referred to in such subsections that occur on or after October 5, 1999.

AMENDMENT NO. 3245

(Purpose: To provide space-required eligibility for travel on aircraft of the Armed Forces to places of inactive-duty training by members of the reserve components who reside outside the continental United States)

On page 239, after line 22, insert the following:

SEC. 656. TRAVEL BY RESERVES ON MILITARY AIRCRAFT TO AND FROM LOCATIONS OUTSIDE THE CONTINENTAL UNITED STATES FOR INACTIVE-DUTY TRAINING.

(a) SPACE-REQUIRED TRAVEL.—Subsection (a) of section 18505 of title 10, United States Code, is amended—

(1) by inserting ''residence or'' after ''In the case of a member of a reserve component whose''; and

(2) by inserting after ''(including a place'' the following: ''of inactive-duty training''.

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

''§ 18505. Space-required travel: Reserves traveling to inactive-duty training''.

(2) The item relating to such section in the table of sections at the beginning of such chapter is amended to read as follows:

''18505. Space-required travel: Reserves traveling to inactive-duty training.''.

AMENDMENT NO. 3246

(Purpose: To provide additional benefits and protections for personnel incurring injury, illness, or disease in the performance of funeral honors duty)

On page 239, following line 22, add the following:

SEC. 656. ADDITIONAL BENEFITS AND PROTECTIONS FOR PERSONNEL INCURRING INJURY, ILLNESS, OR DISEASE IN THE PERFORMANCE OF FUNERAL HONORS DUTY.

(a) INCAPACITATION PAY.—Section 204 of title 37, United States Code, is amended—

(1) in subsection (g)(1)—

(A) by striking ''or'' at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting ''; or''; and

(C) by adding at the end the following:

''(E) in line of duty while—

''(i) serving on funeral honors duty under section 12503 of this title or section 115 of title 32;

''(ii) traveling to or from the place at which the duty was to be performed; or

''(iii) remaining overnight at or in the vicinity of that place immediately before so serving, if the place is outside reasonable commuting distance from the member's residence.''; and

(2) in subsection (h)(1)—

(A) by striking ''or'' at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting ''; or''; and

(C) by adding at the end the following:

''(E) in line of duty while—

''(i) serving on funeral honors duty under section 12503 of this title or section 115 of title 32;

''(ii) traveling to or from the place at which the duty was to be performed; or

''(iii) remaining overnight at or in the vicinity of that place immediately before so serving, if the place is outside reasonable commuting distance from the member's residence.''.

(b) TORT CLAIMS.—Section 2671 of title 28, United States Code, is amended by inserting ''115,'' in the second paragraph after ''members of the National Guard while engaged in training or duty under section''.

(c) APPLICABILITY.—(1) The amendments made by subsection (a) shall apply with respect to months beginning on or after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply with respect to acts and omissions occurring before, on, or after the date of the enactment of this Act.

AMENDMENT NO. 3247

(Purpose: To require a study of the advisability of increasing the grade authorized for the Vice Chief of the National Guard Bureau to Lieutenant General)

On page 155, line 4, strike ''(g) EFFECTIVE DATE.—This'' and insert the following:

''(g) VICE CHIEF OF NATIONAL GUARD BUREAU.—(1) The Secretary of Defense shall conduct a study of the advisability of increasing the grade authorized for the Vice Chief of the National Guard Bureau to Lieutenant General.

''(2) As part of the study, the Chief of the National Guard Bureau shall submit to the Secretary of Defense an analysis of the functions and responsibilities of the Vice Chief of the National Guard Bureau and the Chief's recommendation as to whether the grade authorized for the Vice Chief should be increased.

''(3) Not later than February 1, 2001, the Secretary shall submit in the Committees on Armed Services of the Senate and House of Representatives a report on the study. The report shall include the following:

''(A) The recommendation of the Chief of the National Guard Bureau and any other information provided by the Chief to the Secretary of Defense pursuant to paragraph (2).

''(B) The conclusions resulting from the study.

''(C) The Secretary's recommendation regarding whether the grade authorized for the Vice Chief of the National Guard Bureau should be increased to Lieutenant General.

''(h) EFFECTIVE DATES.—Subsection (g) shall take effect on the date of the enactment of this Act. Except for that subsection, this''.

AMENDMENT NO. 3248

(Purpose: To exempt commanders of certain Air Force specified combatant commands from a limitation on the number of general officers while general or flag officers of other armed forces are serving as commander of certain unified combatant commands)

On page 155, between lines 9 and 10, insert the following:

SEC. 511. CONTINGENT EXEMPTION FROM LIMITATION ON NUMBER OF AIR FORCE OFFICERS SERVING ON ACTIVE DUTY IN GRADES ABOVE MAJOR GENERAL.

Section 525(b) of title 10, United States Code, is amended by adding at the end the following:

''(8) While an officer of the Army, Navy, or Marine Corps is serving as Commander in Chief of the United States Transportation Command, an officer of the Air Force, while serving as Commander of the Air Mobility Command, if serving in the grade of general, is in addition to the number that would otherwise be permitted for the Air Force for officers serving on active duty in grades above major general under paragraph (1).

''(9) While an officer of the Army, Navy, or Marine Corps is serving as Commander in Chief of the United States Space Command, an officer of the Air Force, while serving as Commander of the Air Force Space Command, if serving in the grade of general, is in addition to the number that would otherwise be permitted for the Air Force for officers serving on active duty in grades above major general under paragraph (1).''.

AMENDMENT NO. 3249

(Purpose: To increase the end strengths authorized for full-time manning of the Army National Guard of the United States)

On page 125, line 19, strike. ''22,536'' and insert ''22,974.''

On page 126, line 10, strike ''22,357'' and insert ''24,728.''

Mr. BOND. Mr. President, my amendment affects every State in the Nation—the Bond-Bryan amendment to S. 2549. As co-chair of the Senate Guard Caucus, I firmly believe that this important piece of legislation is critical to meeting the number one priority of the National Guard—full-time support. As you know, the National Guard relies heavily upon full-time employees to ensure readiness. By performing their critical duties on a daily basis, these

hard-working men and women ensure drill and annual training remain focused on preparation for war fighting and conducting peacetime missions.

During the cold war, Guard and Reserve forces were underutilized. During the 1980's, for example, they numbered more than one million personnel but contributed support to the active forces at a rate of fewer than 1 million work days per year.

At the end of the cold war, force structure and personnel endstrength were drastically cut in all the active services. Almost immediately, the nation discovered that the post-cold-war world is a complex, dangerous, and expensive place. Deployments for contingency operations, peacekeeping missions, humanitarian assistance, disaster relief and counter-terrorism operations increased dramatically. Most recently, our forces have been called upon to destroy the capability of Saddam Hussein and his forces, bring peace and stability to Haiti, force Slobodan Milosevic and his forces out of Kosovo, ensure a safe, stable and secure environment in the Balkans, and rescue and rebuild from natural disasters at home and abroad.

Because of the increased deployments and the reduction in the active force, we became significantly more dependent on the Army and Air National Guard. In striking contrast to cold war levels of contributory support, today's Guard and Reserve forces are providing approximately 13 million work days of support to the active components on an annual basis—a thirteen-fold increase and equivalent to the addition of some 35,000 personnel to active component end strength, or two Army divisions. For example, the 49th Armored Division from the Lone Star State is currently leading operations in Kosovo, and the Army just identified four more Guard units for deployment to Kosovo.

With this shift in reliance from the active force to the Guard came the obligation to increase Guard staffing to keep pace with the expanded mission. The Army and Air National Guard established increased full-time staffing as their number one priority. We agreed with them, but we have not yet held up our end of the bargain. We gave them the mission; we must now give them the personnel resources to accomplish it.

The Department of Defense has identified a shortfall in full-time manning of 1,052 ''AGRs'' (Active Guard/Reserves) and 1,543 Technicians. Frankly, I agree with their numbers, but I do not see how we can afford immediately to increase their staffing to those levels. Accordingly, the Bond-Bryan amendment proposes an incremental increase in the number of full-time positions. We ask that S. 2549 be amended to provide for an additional 526 ''AGRs'' (Active Guard/Reserves) and 771 Technicians. As you can see, this is about half of what the Guard requested, and far less than what was requested in the past. We believe these additional positions will give the Guard the minimum it needs to do the job, while providing the opportunity to reexamine the situation during the next fiscal year.

When we expand the mission, when we increase operating tempo, and when we ask for greater effort; we have to realize that increased funding is often necessary and appropriate. In this case, we have attempted to provide the minimum additional personnel to accomplish a mission we previously assigned but did not fully resource. Your support for this amendment sends a strong message to your constituents and the Guard units in your state that you support the National Guard in its significant role in our Nation's defense, and that you are willing to give the men and women in its ranks the resources to do the job.

Mr. President, I thank Senator WARNER, Senator LEVIN, my co-chair, Senator BRYAN, and our esteemed colleagues for your support of this critical issue.

Mr. BRYAN. Mr. President, I thank the distinguished chairman of the Senate Armed Services Committee, as well as the distinguished ranking member, for agreeing to accept this critical amendment relating to full-time manning for the National Guard. Both of these leaders have been strongly supportive of our efforts, past and present, to ensure that the National Guard has the resources it needs to perform its dual missions, and I want to express my personal gratitude for their leadership and support of the National Guard over the course of several years.

As co-chairman of the Senate National Guard Caucus, there is clearly no higher priority for the National Guard in this fiscal year than the need to provide sufficient resources for full-time operational support. These full-time personnel are the backbone of the National Guard, and make no mistake about it, if we fail to provide sufficient full-time support, there will be a noticeable and precipitous decline in the ability of the National Guard to fulfill its mission both to the states and as part of the National Force Structure.

The amendment we are offering today will authorize $38 million to provide an additional 526 AGRs and 771 Technicians for the Army National Guard. Frankly, Mr. President, I would have liked to have gone further, and provided the Guard with the personnel they need to achieve the minimal personnel levels identified by the National Guard Bureau of 23,500 AGRs and 25,500 Technicians. But like the incremental increases that were provided last year, this amendment represents an important step towards achieving that overall goal.

Our amendment has well over 60 cosponsors from both sides of the aisles. Not many issues attract this much support from across the ideological spectrum, and I interpret that as a Senate endorsement of the critical missions the National Guard performs, ranging from providing important emergency and other support services to their states, to participating in international peacekeeping missions across the globe, including Bosnia and Kosovo. It should be noted that both the Senate majority leader and the Senate minority leader are original cosponsors, as are the chairman and ranking member of the Senate Appropriations Committee. The amendment is also supported by the National Guard Bureau, the National Guard Association of the United States, the Adjutants General Association of the United States, and other organizations.

The National Guard represents 34 percent of our Total Force Army Strength and 19 percent of our Total Air Force Strength. Nearly half a million Americans serve in the National Guard, playing a critical complementary role to their active duty counterparts, and we have an obligation and a responsibility to make sure every Guard unit and armory across the country has the support personnel it requires to function efficiently and effectively.

I am hopeful that with such broad, bipartisan support from the members of the Senate and the Armed Services Committee, we can continue to provide the resources required by the National Guard that will allow these dedicated Americans to perform their mission in support of the Armed Forces of the United States.

Finally, Mr. President, I want to thank my fellow co-chairman of the Senate National Guard Caucus, Senator BOND, for his authorship and leadership on this amendment. Senator BOND continues to demonstrate an impassioned commitment to the National Guard, our reserve components, and all of our Armed Forces. I also wish to recognize and thank Mr. James Pitchford and Ms. Shelby Bell of Senator BOND's staff for their hard work on this successful, bipartisan effort.

AMENDMENT NO. 3250

(Purpose: To provide compensation and benefits to Department of energy employees and contractor employees for exposure to beryllium, radiation, and other toxic substances)

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

Mr. KENNEDY. Mr. President, I strongly support this important step to compensate workers who became sick from occupational exposure to beryllium, radiation, and other toxic substances as part of the Cold War buildup. I commend my colleagues Senator THOMPSON, Senator VOINOVICH, Senator DEWINE, and Senator BINGAMAN for their leadership on this issue.

During the cold war, thousands of men and women who worked at the nation's atomic weapons plants were exposed to unknown hazards. Many were exposed to dangerous radioactive and chemical materials at far greater levels than their employers revealed. The debilitating, and often fatal, illnesses

suffered by these workers came in many forms of cancer, as well as other illnesses that are difficult to diagnose. This provision brings long overdue relief to these workers and their families.

The Department of energy investigated this issue. It found that workers who served for years to maintain and strengthen our defenses during the cold War were not informed or protected against the health hazards they faced at work. Only during the Clinton Administration has the government openly acknowledged that these workers were exposed to materials that were much more radioactive—and much more deadly—than previously revealed.

I commend Secretary Richardson for his leadership in bringing this issue to light, and for his efforts to close this tragic chapter in the nation's history for the thousands of workers and their families whose lives were affected.

On of the earliest instances of the health dangers of beryllium occurred during World War II at the Sylvania Company in Salem, Massachusetts. At this plant, doctors first identified cases of beryllium disease, an acute and often fatal lung illness that seemed similar to tuberculosis. At the time, the company used beryllium in manufacturing fluorescent light bulbs.

Some of the earliest radiation experiments were conducted at the Massachusetts Institute of Technology in Cambridge as part of the Manhattan Project. Scientists at MIT were also among the first to conduct experiments with beryllium oxide ceramics for the Manhattan Project and the Atomic Energy Corporation. Many of the first cases of beryllium disease occurred among these scientists.

We have an opportunity today to remedy the wrongs suffered by these Department of Energy workers. Our amendment creates a basic framework for compensation. It is the least we can do for workers who made such great sacrifices for our country during the cold war. They have already waited too long for this relief.

Mr. THOMPSON. Mr. President, I rise to offer an amendment along with a bipartisan group of Senators, including Senator BINGAMAN, Senator VOINOVICH, Senator KENNEDY, Senator DEWINE, Senator REID, Senator THURMOND, Senator BRYAN, Senator FRIST, Senator MURRAY, Senator MURKOWSKI, Senator HARKIN, and Senator STEVENS.

Mr. President, watching President Clinton's summit meeting with Russian President Vladimir Putin last weekend, I think we were all reminded of how far our two nations have come over the past decade, since President Reagan implored President Gorbachev to ''tear down (the Berlin) Wall,'' and President Bush presided over its destruction. While dangerous new threats have emerged, the Cold War that dominated the politics of our security for four decades is over, and the United States won. We should be proud of that victory and we should never forget the strength and resolve through which it was achieved.

But it has become clear in recent months that that victory came at a high price for some of those who were most responsible for producing it. I am talking about workers in our nuclear weapons facilities run by the Department of Energy or their contractors. We now have evidence that, in at least some instances, the federal government that they had dedicated themselves to serving put these workers in harm's way without their knowledge.

I first became concerned about this issue three years ago when my hometown newspaper, the Nashville Tennessean, published a series of stories describing a pattern of unexplained illnesses in the Oak Ridge, Tennessee area. Many of the current and former Oak Ridge workers profiled in the stories believed that their illnesses were related to their service at the Department of Energy site. In 1997, I asked the Director of the Centers for Disease Control to send a team to Oak Ridge to assess the situation and to try to determine if what we were seeing there was truly unique. Unfortunately, in the end, the CDC did not take a broad enough look at the situation to really answer the questions that had been raised.

And that, of course, has been a pattern at Oak Ridge and at many DOE sites over the years. Countless health studies have been done, some on very narrow populations and some on larger ones, some showing some correlations and some not able to reach any conclusions at all. The data is mixed, some of it is flawed, and we are left with a situation that is confusing and from which it is very difficult to draw any definite conclusions.

And yet, there is a growing realization that there are illnesses among current and former DOE workers that logic tells us are related to their service at these weapons sites. For example, hundreds of current and former workers in the DOE complex have been diagnosed with Chronic Beryllium Disease. Many more have so-called ''beryllium sensitivity,'' which often develops into Chronic Beryllium Disease. The only way to contract either of these conditions is to be exposed to beryllium powder. The only entities that use beryllium in that form are the Department of Energy and the Department of Defense.

And there are other examples, perhaps less clear cut, but certainly worthy of concern. Uranium, plutonium, and a variety of heavy metals found in people's bodies. Anecdotes about hazardous working conditions where people were unprotected against both exposures they knew were there and exposures of which they were not aware. It's time for the federal government to stop automatically denying any responsibility and face up to the fact that it appears as though it made at least some people sick.

The question now is: what do we do about it? And how do we make sure it never happens again?

This amendment attempts to answer the first of those two questions. It would set up a program, administered by the Department of Labor, to provide compensation to employees who are suffering from chronic beryllium disease, or from a radiation-related cancer that is determined to likely have been caused by exposures received in the course of their service at a DOE facility. It would also provide a mechanism for employees suffering from exposures to hazardous chemicals and other toxic substances in the workplace to gain access to state workers' compensation benefits, which are generally denied for such illnesses at present.

Mr. President, our amendment takes a science-based approach. It is not a blank check. It does not provide benefits to anyone and everyone who worked at a DOE facility who has taken ill.

In the case of beryllium, we can say with certainty that if someone has chronic beryllium disease and they worked around beryllium powder, their disease is work-related; there is no other way to get it.

The same is not true of cancer, of course. A physician cannot look at a tumor and say with certainty that it was caused by exposure to radiation, or by smoking, or by a genetic disposition, or by any other factor. However, we do know that radiation in high doses has been linked to certain cancers, and we now know that some workers at DOE facilities were exposed to radiation, often with inadequate protections.

What this amendment does is employ a mechanism developed by scientists at the National Institutes of Health and the National Cancer Institute to determine whether a worker's cancer is at least as likely as not related to exposures received in the course of their employment at a DOE facility. The model takes into account the type of cancer, the dose received, the worker's age at the time of exposure, sex, lifestyle factors such as whether the worker smoked, and other relevant factors.

In many, if not most, cases, it should be possible to determine with a sufficient degree of accuracy the radiation dose a particular worker or group of workers received. However, in some cases—because the Department of Energy kept inadequate or incomplete records, altered some of its records, and even tampered with the dosimetry badges that workers were supposed to wear—it may not be possible to estimate with any degree of certainty the radiation dose a certain worker received. For these workers, who are really the victims of DOE's bad behavior, our amendment provides an expedited track to compensation for a specified list of radiation-related cancers.

Mr. President, the Governmental Affairs Committee, which I chair, held a

hearing on this issue back in March. We heard testimony from several workers from Oak Ridge, Tennessee and Piketon, Ohio who are suffering from devastating illnesses as a result of their service to our country. And of course, it is not just the workers who are affected—it is their entire family that suffers emotionally, financially, and even physically.

In the end, we must remember that these workers were helping to win the cold war, to defend our Nation and protect our security. They were patriotic and proud of the work that they were doing. If the Federal Government made mistakes that jeopardized their health and safety, then we need to do what we can to make it right. That is what this amendment would do. I want to thank the Chairman of the Armed Services Committee, Senator WARNER, for his support, as well as Senator LEVIN. I urge the rest of my colleagues to support it as well.

Mr. BINGAMAN. Mr. President, I am pleased to join with Senator THOMPSON and others in offering this strongly bipartisan amendment. It addresses occupational illnesses scientifically found to be associated with the DOE weapons complex, that have occurred and are now occurring because of activities during the cold war.

This amendment is a joint effort of a bipartisan group of Senators. Specifically, it has been put together by staff for myself, Senator FRED THOMPSON, Senator GEORGE VOINOVICH, Senator MIKE DEWINE, and Senator TED KENNEDY. We have worked with the administration, with worker groups, and with manufacturers. The staff have met with Armed Services Committee staff during the development of this amendment, and I want to acknowledge the chairman and ranking member of the Armed Services Committee for their support for this amendment.

The workers in the DOE nuclear weapons complex, both at the production plants and the laboratories, helped us win the cold war. But that effort left a tragic environmental and human legacy. We are spending billions of dollars each year on the environmental part—cleaning up the physical infrastructure that was contaminated. But we also need to focus on the human legacy.

This amendment is an attempt to put right a situation that should not have occurred. But it proposes to do so in a way that is based on sound science.

The amendment focuses federal held on three classes of injured workers.

The first group is workers who were involved with beryllium. Beryllium is a non-radioactive metal that provokes, in some people, a highly allergic lung reaction. The lungs become scarred, and no longer function.

The second group is workers who dug the tunnels for underground nuclear tests and are today suffering from chronic silicosis due to their occupational exposures to silica, which were not adequately controlled by DOE.

The third group of workers are those who had dangerous doses of radiation on the job.

These workers were employed at numerous current and former DOE facilities. We have included a general definition of DOE and other type of facilities in the legislation, in lieu of including a list that might be incomplete, but for purposes of helping in the implementation of this amendment, if enacted into law, I would like to ask unanimous consent that a non-exclusive list of the facilities intended to be covered under this amendment be printed in the RECORD following my statement.

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

[See exhibit 1.]

Mr. BINGAMAN. For beryllium workers, there are tests today that can detect the first signs of trouble, called beryllium sensitivity, and also the actual impairment, called chronic beryllium disease. If you have beryllium sensitivity, you are at a higher risk for developing chronic beryllium disease. You need annual check-ups with tests that are expensive. If you develop chronic beryllium disease, you might be disabled or die.

This amendment sets up a federal workers' compensation program to provide medical benefits to workers who acquired beryllium sensitivity as a result of their work for DOE. It provides both medical benefits and lost wage protection for workers who suffer disability or death from chronic beryllium disease.

For radiation, the situation is more complex. Radiation is proven to cause cancer in high doses. But when you look at a cancer tumor, you can't tell for sure whether it was caused by an alpha particle of radiation from the workplace, a molecule of a carcinogen in something you ate, or even a stray cosmic ray from outer space. But scientists can make a good estimate of the types of radiation doses that make it more likely than not that your cancer was caused by a workplace exposure.

This amendment puts the Department of Health and Human Services (HHS) in charge of making the causal connection between specific workplace exposures to radiation and cancer. Within the HHS, it is envisioned by this amendment that the National Institute for Occupational Safety and Health (or NIOSH) take the lead for the tasks assigned by this amendment. Thus, the definition section of the amendment specifies that the Secretary of HHS act with the assistance of the Director of NIOSH. This assignment follows a decision made in DOE during the Bush Administration, and ratified by the National Defense Authorization Act for Fiscal Year 1993, to give NIOSH the lead in identifying levels of exposure at DOE sites that present employees with significant health risks.

HHS was also given a Congressional mandate, in the Orphan Drug Act, to develop and publish radioepidemiological tables that estimate ''the likelihood that persons who have or have had any of the radiation related cancers and who have received specific doses prior to the onset of such disease developed cancer as a result of those doses.'' I would like to ask unanimous consent that a more detailed discussion of how the bill envisions these guidelines would be used be included as an exhibit at the end of my remarks.

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

[See exhibit 2.]

Mr. BINGAMAN. Under guidelines developed by the HHS and used in this amendment, if your radiation does was high enough to make it at least as likely as not that your cancer was DOE-work-related, you would be eligible for compensation for lost wages and medical benefits.

The HHS-based method will work for many of the workers at DOE sites. But it won't work for a significant minority who were exposed to radiation, but for whom it would be infeasible to reconstruct their dose.

There are several reasons why reconstructing a dose might be—this infeasibility might exist. First, relevant records of dose may be lacking, or might not exist altogether. Second, there might be a way to reconstruct the dose, but it would be prohibitively expensive to do so. Finally, it might take so long to reconstruct a dose for a group of workers that they will all be dead before we have an answer that can be used to determine their eligibility.

One of the workers who testified at my Los Alamos hearing might be an example of a worker who could fall into the cracks of a system that operated solely on dose histories. He was a supervisor at what was called the ''hot dump'' at Los Alamos. All sorts of radioactive materials were taken there to be disposed of. It is hard to reconstruct who handled what. And digging up the dump to see what was there would not only be very expensive, it would expose new workers to radiation risks that could be large.

There are a few groups of workers that we know, today, belong in this category. They are specifically mentioned in the definition of Special Exposure Cohort. For other workers to be placed in this special category, the decision that it was infeasible to reconstruct their dose would have to be made both by HHS and by an independent external advisory committee of radiation, health, and workplace safety experts. We allow groups of workers to petition to be considered by the advisory committee for inclusion in this group. Once a group of workers was placed in the category, it would be eligible for compensation for a fixed list of radiation-related cancers.

The program in this amendment also allows, in section 3515, for a lump-sum payment, combined with ongoing medical coverage under section 8103 of title 5, United States Code. This could be

helpful, for example, in settling old cases of disability. It may be a good deal for survivors of deceased workers whose deaths were related to their work at DOE sites.

The provisions of the workers' compensation program in this amendment are largely modeled after the Federal Employee's Compensation Program or FECA, which is found in chapter 81 of title 5, United States Code. In many parts of the amendment, entire sections of FECA are incorporated by reference. In other sections, portions of FECA are restated in more general language to account for the fact that the specific language in FECA would cover only Federal employees, while in this amendment we are covering Federal contractor and subcontractor employees, as well. In some instances, we modified provisions in FECA to address known problems in its current implementation or to reflect current standards of administrative law. One example of this is a decision not to incorporate section 8128(b) of title 5, United States Code, into this amendment. That section absolutely precludes judicial review of decisions concerning a claim by the Department of Labor. Since such decisions involve the substantive rights of individuals being conferred by this amendment, and since they are made through an informal administrative process, it seems appropriate to the sponsors of this amendment that there be external review to guard against, for example, arbitrary and capricious conduct in processing a claim.

The amendment also had numerous administrative provisions to ensure a fair process and to guard against double compensation for the same injury.

As the sponsors were developing this amendment, we received a lot of interest in federal compensation for exposure to other toxic substances. This amendment does not provide federal compensation for chemical hazards in the DOE workplace, but does authorize DOE to work with States to get workers with adverse health effects from their exposure to these substances into State worker compensation programs. It also would commission a GAO study of this approach so that we can evaluate, in the context of a future bill, whether such an approach is effective.

We have a duty to take care of sick workers from the nuclear weapons complex today. It is a doable task, and a good use of our national wealth at a time of budget surpluses. I urge my colleagues to support this bipartisan amendment.

EXHIBIT 1

EXAMPLES OF DOE AND ATOMIC WEAPONS EMPLOYER FACILITIES THAT WOULD BE INCLUDED UNDER THE DEFINITIONS IN THIS AMENDMENT

(NOT AN EXCLUSIVE LIST OF FACILITIES)

Atomic Weapons Employer Facility: The following facilities that provided uranium conversion or manufacturing services would be among those included under the definition in section 3503(a)(4):

Allied Signal Uranium Hexafluoride Facility, Metropolis, Illinois.

Linde Air Products facilities, Tonowanda, New York.

Mallinckrodt Chemical Company facilities, St. Louis, Missouri.

Nuclear Fuels Services facilities, Erwin, Tennessee.

Reactive Metals facilities, Ashtabula, Ohio.

Department of Energy Facility: The following facilities (including any predecessor or successor facilities to such facilities) would be among those included under the definition in section 3503(a)(15):

Amchitka Island Test Site, Amchitka, Alaska.

Argonne National Laboratory, Idaho and Illinois.

Brookhaven National Laboratory, Upton, New York.

Chupadera Mesa, White Sands Missile Range, New Mexico.

Fermi Nuclear Laboratory, Batavia, Illinois.

Fernald Feed Materials Production Center, Fernald, Ohio.

Hanford Works, Richland, Washington.

Idaho National Engineering Laboratory, Idaho Falls, Idaho.

Iowa Army Ammunition Plant, Burlington, Iowa.

Kansas City Plant, Kansas City, Missouri.

Latty Avenue Properties, Hazelwood, Missouri.

Lawrence Berkeley National Laboratory, Berkeley, California.

Lawrence Livermore National Laboratory, Livermore, California.

Los Alamos National Laboratory, Los Alamos, New Mexico, including related sites such as Acid/Pueblo Canyons and Bayo Canyon.

Marshall Islands Nuclear Test Sites, but only for period after December 31, 1958.

Maywood Site, Maywood, New Jersey.

Middlesex Sampling Plant, Middlesex, New Jersey.

Mound Facility, Miamisburg, Ohio.

Niagara Falls Storage Site, Lewiston, New York.

Nevada Test Site, Mercury, Nevada.

Oak Ridge Facility, Tennessee, including the K–25 Plant, the Y–12 Plant, and the X–10 Plant.

Paducah Plant, Paducah, Kentucky.

Pantex Plant, Amarillo, Texas.

Pinellas Plant, St. Petersburg, Florida.

Portsmouth Plant, Piketon, Ohio.

Rocky Flats Plant, Golden, Colorado.

Sandia National Laboratories, New Mexico.

Santa Susanna Facilities, Santa Susanna, California.

Savannah River Site, South Carolina.

Waste Isolation Pilot Project, Carlsbad, New Mexico.

Weldon Spring Plant, Weldon Spring, Missouri.

EXHIBIT 2

DETERMINING ''CAUSATION'' FOR RADIATION AND CANCER

Different cancers have different relative sensitivities to radiation.

In 1988, the White Office of Science and Technology Policy endorsed the use by the Veterans Administration of the concept of ''probability of causation'' (PC) in adjudicating claims of injury due to exposure to ionizing radiation. Given that a radiogenic cancer cannot be differentiated from a ''spontaneously'' occurring one or one caused by other dietary, environmental and/or lifestyle factors, the PC—that is, the ''likelihood'' that a diagnosed cancer has been ''caused'' by a given radiation exposure or dose—has to be determined indirectly.

To this end, the National Institutes of Health (NIH) was tasked to develop radioepidemiology tables. These tables, which are currently being updated by the NIH, include data on 35 cancers compared to the 13 cancers in the original tables from 1985. These tables account for the fact that different cancers have different relative sensitivities to ionizing radiation.

The determination of a PC takes into account the radiation dose and dose rate, the types of radiation exposure (external, internal), age at exposure, sex, duration of exposure, elapsed time following exposure, and (for lung cancer only) smoking history. Because a calculated PC is subject to a variety of statistical and methodological uncertainties, a ''confidence interval'' around the PC is also determined.

Thus, a PC is calculated as a single, ''point estimate'' along with a 99% confidence interval which bounds the uncertainty associated with that estimate. If we have 99% certainty that the upper bound of a PC is greater than or equal to 0.5 (i.e., a 50% likelihood of causality), then the cancer is considered at least as likely as not to have been caused by the radiation dose used to calculate the PC.

For example, for a given worker with a particular cancer and radiation exposure history, the PC may by 0.38 with a 99% confidence interval of 0.21 to 0.55. This means that it is 38% likely that this worker's cancer was caused by their radiation dose, and we can say with 99% confidence that this estimate is between 21% and 55%. Since the upper bound, 55% is greater than 50%, this person's cancer would be considered to be at least as likely as not to have been caused by exposure to radiation, and the person would be eligible for benefits under the proposed program.

Mr. VOINOVICH. Mr. President, I rise today to join my colleagues, Senators DEWINE, THOMPSON, FRIST, THURMOND, MURKOWSKI, BINGAMAN, REID, BRYAN, KENNEDY, HARKIN, and MURRAY in support of an important amendment that will provide financial and medical compensation to Department of Energy workers who have been made ill while working to provide for the defense of the United States.

Since the end of World War II, at facilities all across America, tens of thousands of dedicated men and women in our civilian federal workforce helped keep our military fully supplied and our nation fully prepared to face any threat from our adversaries around the world. The success of these workers in meeting this challenge is measured in part with the end of the Cold War and the collapse of the Soviet Union.

However, for many of these workers, their success came at a high price. They sacrificed their health, and even their lives—in many instances without knowing the risks they were facing—to preserve our liberty. I believe these men and women have paid a high price for our freedom, and in their time of need, this nation has a moral obligation to provide some financial and medical assistance to these Cold War veterans.

Last month, I introduced legislation, along with many of the Senators who have co-sponsored this amendment, that would provide financial compensation to Department of Energy workers whose impaired health has been caused

by exposure to beryllium, radiation or other hazardous substances. Our bill, S. 2519, the ''Energy Employees Occupational Illness Compensation Act of 2000,'' also provides that compensation be paid to survivors of workers who have died and suffered from an illness resulting from exposure to these substances.

Need for this type of legislation was further solidified when on May 25th, Energy Secretary Bill Richardson released a Department of Energy report on safety and management practices at the Portsmouth Gaseous Diffusion Plant in Piketon, Ohio. The report, which was based on an independent investigation authorized by Secretary Richardson, highlighted unsafe conditions at Piketon and deemed past management practices as shoddy and in many cases, inadequate to protect the health and safety of Piketon's workforce. The report confirmed many of the fears that these workers have quietly faced for years, and it is why it is imperative that we pass legislation this year that will compensate these cold war heroes.

Mr. President, the amendment that is being offered today by my distinguished colleague Senator THOMPSON is similar to S. 2519 except for minor differences.

Under S. 2519, a federal program is created for all workers who are due compensation because of an illness suffered due to the nature of a person's job. This amendment creates a federal program for workers suffering from beryllium disease, silicosis and cancer due to radiation exposure. Workers suffering from illnesses due to other chemical exposures would be covered under state workers compensation programs. The Department of Energy's Office of Workers' Compensation Advocate—created by this amendment—will help employees apply for compensation with their particular state's worker compensation program.

In addition, S. 219 allows a broad burden of proof to be placed on the government, one that provides a greater number of Department of Energy workers who have cancer related to radiation exposure to receive federal compensation benefits. This amendment maintains that burden of proof for workers at the nation's three Gaseous Diffusion Plants, but, the amendment assumes that other workers will be able to find records showing whether or not their federal service made them sick. If it is not possible for the Department to find an employee's records, or, adequately estimate dose history, then the burden of proof threshold established for workers at the Gaseous Diffusion Plants will apply to that particular employee.

Some of my colleagues may question whether or not the Federal Government should be making an expenditure of this amount of money. Some may ask how we will know which worker or family member has a bona fide claim for compensation. These are legitimate concerns. However, the nature of the illnesses involved suggests more than a coincidental relationship with their victims.

For example, beryllium disease is a ''fingerprint'' disease. That means it is particularly identifiable and cannot be mistaken for any other disease, leaving no doubt as to what caused the illness of the sufferer. Additionally, the processing of the beryllium metals that cause Chronic Beryllium Disease is singularly unique to our nuclear weapons facilities.

In cases of radiation exposure at DoE facilities, it is understandable that some may question whether a person was exposed to radioactive materials from another source, primarily because records may not reflect that an employee was exposed to such materials. The Department of Energy's independent investigation at Portsmouth showed that, in some cases, the destruction and alteration of DoE workers' records occurred. There have been anecdotes indicating similar occurrences at other DoE facilities around the nation.

Additionally, dosimeter badges, which record radiation exposure, were not always required to be worn by DoE workers. And when they were required, they were not always worn properly or consistently. Workers at the Piketon plant also have stated that plant management not only did not keep adequate dosimetry records, in some cases, they chanted the dosimetry records to show lower levels of radiation exposure. There have been reports that DoE plant management would even change dosimeter badges to read ''zero''—which means the level of exposure to radiation would be officially recorded as zero, regardless of the exposure level that actually registered on the badge.

In too many instances, records do not exist, and where they do exist, there is adequate reason to doubt their accuracy. The amendment recognizes that this is the case at the Department of Energy's three Gaseous Diffusion Plants—Piketon, Ohio, Paducah, Kentucky and Oak Ridge, Tennessee—and takes the unusual step of placing the burden of proof on the government to prove that an employee's illness was not caused by workplace hazards.

This amendment allows for sound science where it is available, specifically, if it is possible to adequately and accurately estimate radiation doses, and scientifically assure that a worker's cancer is work-related or not. However, if it is not reasonably possible to adequately and accurately reconstruct doses, then ill workers covered under this amendment would be eligible for compensation that is based on criteria that exists for workers at our nation's Gaseous Diffusion Plants.

To be clear, Mr. President, under normal circumstances, I am not one who would advocate a ''guilty until proven innocent'' approach. I firmly believe that we should use sound science to determine exposure levels and relationship to illness. Yet, these are not normal circumstances, and the reason we are offering this amendment today is because in too many instances, sound science either does not exist in DoE facility records, or it cannot be relied upon for accuracy.

For example, in my own state of Ohio, at the Portsmouth Gaseous Diffusion Plant—a plant that processes high-quality nuclear material—workers had little or no idea that they had been exposed to dangerous levels of radioactive material. As the Department of Energy's own independent investigation has shown, such exposure went on for decades.

The independent investigation at Portsmouth, also demonstrated that until recently, proper safety precautions at Piketon were rarely taken to adequately protect workers' safety. Even when precautions were taken, the use of protective standards was inconsistent and in some instances were deemed only ''moderately effective.''

If consistent, reliable and factual data is not available, Mr. President, then it will be quite difficult if not impossible to utilize sound science in order for employees to prove their claims.

Similar situations like those that have been documented at Piketon have been reported at other Ohio facilities including the Fernald Feed Materials Production Center in Fernald, Ohio and the Mound Facility in Miamisburg, Ohio, not to mention a host of other facilities nationwide. At this time, the Department of Energy is only acknowledging these situations at the Gaseous Diffusion Plant.

In addition to shoddy or non-existent record keeping, the DoE has admitted that at some facilities, workers were not told the nature of the substances they were handling. They weren't told about the ramifications that these materials may have on their future health and quality of life. It is truly unconscionable that DoE managers and other individuals in positions of responsibility could be so insensitive and uncaring.

Last year, the Toledo Blade published an award-winning series of articles outlining the plight of workers suffering from Chronic Beryllium Disease (CBD). While government standards were met in protecting the workers from exposure to beryllium dust, many workers still were diagnosed with CBD. Were the standards too low? Was the protective equipment faulty? Whatever the cause, it is estimated that 1,200 people across the nation have contracted CBD, and hundreds have died from it, making CBD the number-one disease directly caused by our cold war effort.

Mr. President, there may be some who think that this amendment costs too much, so we shouldn't do it. I strongly disagree.

Congress appropriates billions of dollars annually on things that are not

the responsibility of the federal government—and I have voted against most of the bills that include this kind of funding. Here we have a clear instance where the actions of the federal government is responsible for the actions it has taken and the negligence it has shown against its own people. Peoples' health has been compromised and lives have been lost. In many instances, these workers didn't even know that their health and safety were in jeopardy. It is not only a responsibility of this government to provide for these individuals, it is a moral obligation.

My belief that we have a moral obligation to these people was strengthened last October when I attended a public meeting of workers from the Portsmouth Gaseous Diffusion Plant. I learned an incredible amount about the integrity of the hard-working men and women and what they have been through.

I heard heart-wrenching stories from people like Ms. Anita George, a 23 year employee at Piketon who testified that ''I only know of one woman that works in my department that has not had a hysterectomy and other reproductive problems.'' Ms. George described a situation where she and two of her colleagues were exposed to an ''outgassing'' on a ''routine'' decontamination job.

After the exposure, the women started to experience health problems, including heavy bleeding, elevated white blood cell counts and kidney infections. Plant physicians told them that they should ''just lie down and rest'' if they had any problems while they were working. Three years after the exposure, all three women had had hysterectomies. The plant denied their workers' compensation claims.

I also heard from people like Mr. Jeff Walburn, another 23-year plant employee and former councilman and vice mayor of the city of Portsmouth, who testified that while working in one of the buildings, he became so sick that his lungs ''granulated.'' When he went to the infirmary, they said he was ''okay for work.'' Later that day, he went to the hospital because in his words, ''my face was peeling off.'' According to Mr. Walburn, he couldn't speak, his hair started falling out, his lungs started ''coming out'' and his bowels failed to function for more than 6 days. When he went to get his records to file his worker's compensation claim, he was told that his diagnosis had been ''changed, been altered.''

The Department of Energy has held similar public meetings at facilities across the nation—these stories are not unique to the Portsmouth Gaseous Diffusion Plant.

Mr. President, it is unfortunate that this amendment is necessary in the first place; the compensation it will provide is little consolation for the pain, health problems and diminished quality of life that these individuals have suffered. These men and women won the cold war. Now, they simply ask that their government acknowledge that they were made ill in the course of doing their job and recognize that the government must take care of them.

Until recently, the only way many of these employees believed they would ever receive proper restitution for what the government has done to them is to file a lawsuit against the Department of Energy or its contractors. But, in the time that I have been involved in this issue in the Senate, the Department of Energy has come a long way from its decades-long stance of stonewalling and denial of responsibility. Today, they admit that they have wronged our cold war heroes. Still, we must do more.

I believe that all those who have served our nation fighting the cold war have a right to know if the federal government was responsible for causing them illness or harm, and if so, to provide them the care and compensation that they need and deserve. That is the purpose of our amendment, and I am pleased to join with my colleagues in support of its acceptance in this bill.

Mr. MURKOWSKI. Mr. President, I rise as a cosponsor in support of the amendment, and thank all the sponsors for their work in this area.

The purpose of this amendment, put simply, is to provide compensation to workers who have gotten sick as a result of their exposure to hazardous materials in the course of their efforts to build and test nuclear weapons. We must do right by these workers. They were instrumental in winning the cold war. Their efforts deterred hostile attack and safeguarded our security.

I want to highlight a small group of those workers who toiled on a remote island in Alaska to test the largest underground nuclear weapons test our nation ever conducted.

Amchitka is an island in the Aleutian arc 1340 miles southwest of Anchorage. As I mentioned, it is the site of the largest underground nuclear test in U.S. history—the so-called ''Cannikin'' test of 1971. This 5 megaton test was preceded by two prior tests: ''Long Shot,'' an 80 kiloton test in 1965; and ''Milrow,'' a 1 megaton test in 1969.

According to an independent investigator, Dr. Rosalie Bertell, the ionizing radiation exposure above normal background levels experienced by Amchitka workers ranged from 669 up to 17,240 milliren/year. Workers exposures at Amchitka were primarily due to:

Groundwater transport of tritium from the Longshot test;

Radionuclides stored on site or used in the shaft, including scandium 46, cesium 137, and other radioactive diagnostic capsuled sources;

Radioactive thermoelectric generator (RTG) use;

Material released from the Cannikin re-entry operations in 1972;

Unfortunately, it appears that The Atomic Energy Commission—the predecessor of today's Department of Energy—did not provide for the proper protection of these workers. According to Dr. Bertell:

> Although the workers were apparently told that their work was not 'hazardous,' they were actually classified as nuclear workers and were exposed to levels of ionizing radiation from non-natural and/or non-normal sources, above the level which at that time was permitted yearly for the general public, namely 500 mrem/year . . . Doses received by the men during special assignments and during the post-Cannikin cleanup, exceeded the permissible quarterly dose of 1250 mrem and the maximum permissible yearly dose of 5000 mrem.

I would note that the allowable exposure standards for both workers and the general public are much lower today.

The actual amount of radiation the Amchitka workers were exposed to is difficult to quantify, Mr. President. These workers generally did not have the protection of radiation safety training or instruction in the proper usage of Thermoluminescent Dosimeters (TLDs). To make matters even worse, exposure records were not kept in many cases by the AEC. Some of the records that were kept by AEC were later lost. While this was not unusual in the very early years of the nuclear age, radiation protection formalities were well established by the late 1960s and 1970s at the time of the Amchitka tests. Yet the proper procedures were not followed and the proper records were not kept.

So although these were some likely exposures, the records that could help these workers make a claim under existing authority do not exist through no fault of their own. That is the reason that Amchitka workers are included in the ''Special Exposure Cohort'' with the workers at the Gaseous Diffusion Plants in Portsmouth, Ohio; Paducah, Kentucky; and Oak Ridge, Tennessee. If a member of the special exposure cohort gets a specified disease listed in the amendment that is known to be associated with ionizing radiation, her or she is entitled to appropriate compensation.

I appreciate the work of Senator THOMPSON and others, and the consideration given us by the floor managers.

Mr. President, I yield the floor.

AMENDMENT NO. 3251

(Purpose: To conform standards of judicial review of actions relating to selection boards; and to make a technical correction)

Beginning on page 144, strike line 22 and all that follows through page 145, line 4, and insert the following:

may be, only if the court finds that recommendation or action was contrary to law or involved a material error of fact or a material administrative error.

On page 145, strike lines 8 through 12, and insert the following:

only if the court finds the decision to be arbitrary or capricious, not based on substantial evidence, or otherwise contrary to law.

On page 148, line 24, strike ''off Defense'' and insert ''concerned''.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I extend my appreciation for the work done by the

managers of this bill. Also, I want to briefly focus on one amendment that was adopted.

The fact that these amendments were agreed to en bloc doesn't take away from the importance of this legislation. We can come out here and talk for hours on a piece of legislation, and it has no more meaning than some of these that have just been adopted by the managers of the bill. The one I want to discuss is by Senators THOMPSON, VOINOVICH, REID, and a number of other people, dealing with nuclear test site worker compensation.

I had a meeting last week in Las Vegas with a woman named Dorothy Clayton, who, coincidentally, is in town today. Her husband was one of the people working at the test site for over three decades. One of his first duties was to go in after the blast was set off in one of these tunnels and bring out the devices. He had protective equipment on, but of course it didn't work. We didn't know that at the time.

This man, who literally gave his life for the country, developed numerous cancers and died a very difficult death. This legislation would compensate people such as Dorothy Clayton's husband and many others who worked at the Nevada Test Site and other nuclear complexes around the country. People such as this made the cold war something we now look back on saying that we won.

I want everyone to know that this legislation, which has been around for a long time, is now passed. Not only was the meeting in Las Vegas one where Mrs. Clayton talked about her husband's death, but we had Assistant Secretary of Energy Michaels there, who came to express his apologies to Mrs. Clayton and all such people who have been injured and died over the years. He did this by saying that we, the Federal Government, didn't know at the time that problems would develop. It was a very moving occasion, where the Federal Government—looked upon by many as a big brother—stepped forth and said we made a mistake.

With this legislation, we hope to be able to compensate these people in a minimal way for their efforts. So the veil of secrecy in existence for many years is lifted. People have attempted through litigation to have a right to protect themselves, and they could not because it was against the law. Through this legislation, other things we are doing will be made part of the law, and through the appropriations process we will be able to compensate these people.

I very much appreciate the managers agreeing to this amendment. It is extremely important to the thousands and thousands of people in America today, some of whom have lost loved ones.

Mr. WARNER. I thank our colleague. Might I engage the Senator from Nevada and the Senator from Michigan in a colloquy about the procedural efforts. I compliment the Senator from Nevada.

I ask the Senators to inform the managers of the amendments they intend to bring forward. I recognize that the text of the amendments in certain instances cannot be provided at this time. But we need as much information as possible. Hopefully, Members will provide that to the managers. At some point in time, I am going to urge leadership today to have a cutoff and that we at least have the name, the amendment, as much as we can know about it, so that our leadership can have some estimate from the managers as to the time in which this bill could be concluded.

Mr. LEVIN. Mr. President, I know how hard Senator REID is working to put together that list. We hope we will have such a list. Senator REID can comment more directly on that. I thank him for the work he is doing so that we can try to expedite this process.

Mr. REID. I am happy in this instance to be Senator LEVIN's assistant to help move this legislation along. I say to the chairman of the committee, at noon, or thereabouts, we expect the staff will exchange amendments that have now been presented in the various cloakrooms to the managers of the bill. They will work to determine what amendments they want to add or subtract, and, hopefully, at 1 o'clock we will have a finite list of both majority and minority amendments. We can work from that list. As a result of the work done by the two managers, that list is being narrowed significantly this morning.

Mr. WARNER. I thank my colleague.

I assure you that on this side I have the support of my leadership, and we can begin to exchange the lists. I urge the leadership to come to the body and get unanimous consent to have some cutoff at some point today.

Mr. REID. I also say to the chairman, the two leaders have been meeting. They have had discussions about this legislation.

Mr. WARNER. Indeed they have. There has been strong support.

Mr. President, I see our distinguished colleague, a member of the Committee on Armed Services, about to address the Senate on a subject on which I have been privileged to work with him for some time.

I must say that in the many years I have been on this committee I have never seen a more diligent nor a more committed effort than that by the Senator from New Hampshire. It has been a matter of personal pleasure to me to work with him and to go back into the history of the U.S. Navy about an event of great tragedy. I think what he is proposing today will be well received by the Senate and, indeed, hopefully by the naval community which have labored with this burden for these many, many years since the closing days of World War II.

I remember vividly at the time this particular ship was sunk, the Nation was absolutely shocked and just couldn't believe it. Indeed, a famous Virginian, Graham Clayton, who came along as Secretary of the Navy shortly after me, was the naval officer on board a ship that arrived first on the scene. Graham Clayton used to recount to me his personal recollections about this.

I yield the floor.

AMENDMENT NO. 3210, AS MODIFIED

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

Mr. SMITH of New Hampshire. Thank you very much, Mr. President.

Before addressing the Senate on the issue of the Indianapolis, I have an amendment to my amendment 3210 at the desk, and I ask unanimous consent that the modification of my own amendment at the desk be agreed to.

Mr. LEVIN. Mr. President, this is the modification which was previously shared with the minority. We have no objection to the pending Smith amendment being modified.

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

The amendment (No. 3210), as modified, is as follows:

At the appropriate place, add the following:

"SEC. . PERSONNEL SECURITY POLICIES.

No officer or employee of the Department of Defense or any contractor thereof, and no member of the Armed Forces shall be granted a security clearance if that person—

(1) has been convicted in any court within the United States of a crime and sentenced to imprisonment for a term exceeding 1 year;

(2) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

(3) is currently mentally incompetent; or

(4) has been discharged from the Armed Forces under dishonorable conditions.''.

Mr. SMITH of New Hampshire. Mr. President, I thank my colleague from Michigan for working with me. I wish to clarify that he is not necessarily agreeing with all of it, but he has agreed to the modification allowing me to modify my amendment, which he did not have to do. I appreciate it very much.

Before getting into the detail of the tragedy of the U.S.S. *Indianapolis*, which happened so many years ago in 1945, I commend my colleague and the chairman of this committee, Senator John WARNER, a former Secretary of the Navy. When I first approached Senator WARNER on this topic, he was somewhat skeptical, as I was frankly, when I first learned of it. But he took the time to listen to the details and the facts that came forth. He granted a hearing at my request on the U.S.S. *Indianapolis* matter. We heard from survivors and we heard from the Navy. We heard from all sides. As a result of that hearing and the information provided, Senator WARNER worked with me to draft language in this bill to correct an egregious mistake.

Some have said that we are rewriting history in this debate. I am a history teacher. I don't believe you can rewrite

history. I think history is either factual or it isn't. But I think we can correct this. If a mistake is made, or has been made, then I think we have an obligation to correct that mistake. In that view, I want to share with my colleagues over the next few minutes what happened in 1945.

Senator WARNER mentioned an old colleague of his, a friend of his, who had been one of the officers to rescue the crew of the U.S.S. *Indianapolis*. It was only 4 months before that my own father, a naval aviator, was killed just prior to the end of the Second World War after having served in that war. This incident happened just days before the end of the war in which over 1,200 men went down and only 300 and some survived.

These tragedies happened. It is terrible. It is part of the war.

I wish to share with my colleagues what happened and why we are doing what we are doing. I believe that a grievous wrong was committed 55 years ago, and it stained the reputation of an outstanding naval officer. I refer to the late Capt. Charles Butler McVay, III, who was tried and convicted at a court-martial, unjustly I believe. I believe that firmly. I believe that based on the facts. He was tried and convicted unjustly as a result of the sinking by a Japanese submarine of his ship, the U.S.S. *Indianapolis*, shortly before the end of the Second World War.

The loss of the U.S.S. *Indianapolis* to a Japanese submarine attack happened on July 30, 1945. It remains without question the greatest sea disaster in the history of the U.S. Navy. Eight-hundred and eighty men perished. Of the 1,197 men aboard, 880 died at sea. An estimated 900 men, however, survived the actual sinking, but they were left, in some cases, without lifeboats, without food, and without water. And they faced shark attacks for 4 days and 5 nights.

If you can, imagine the horror of that experience of being thrown into the sea in a matter of minutes after a torpedo attack by an enemy submarine and to be in the water with sharks for 4 days and 5 nights without lifeboats, in some cases, and without food and without water. Only 317 of those men remained alive when they were discovered by accident 5 days later, because when their ship failed to arrive on schedule, believe it or not, it was not missed. The ship that was scheduled to arrive in port 4 or 5 days before was never even missed. The Navy had completely lost track of this cruiser, the U.S.S. *Indianapolis*, and its entire crew. When it didn't come into port, nobody missed it. These men literally stayed at sea for 4 or 5 days. The only hope they had was the fact that an SOS had been sent out and somebody had heard it, and they would be found.

This tragedy, as you might expect, was a great embarrassment to the U.S. Navy. It was such an embarrassment to the Navy with a ship going down that the news was not given to the public until the day that President Truman announced the surrender of Japan, thus, lessening its coverage by the media, and as a result its impact on the American people.

Let me frame this again: In the same day's news, President Truman announces the surrender of Japan and then this footnote that the U.S.S. *Indianapolis* was sunk with 317 survivors.

Today, only 130 men still live who survived from the U.S.S. *Indianapolis*. In April of 1998, I met for the first time with 12 of those survivors.

I might add that, sadly, as the months go by survivors pass away. Most of these men are in their seventies and eighties. Every day that goes by and we don't get this issue resolved is another day that we lose survivors.

But they were in Washington to plead for legislation for one simple reason: To clear their captain's name. They were accompanied by a young boy by the name of Hunter Scott of Pensacola, FL, whose school history project had led him to join their cause. I learned from those survivors and from this young boy, who was only 13 years old at the time, the story of the sinking. I had heard about it. I had read about it. But I didn't really know all of the facts. I learned that the survivors had been unanimous for over a half a century in their efforts to have their captain's good name restored. For 50 years, they have fought to restore their captain's name, saying that he was unjustly court-martialed and found guilty of the loss of the U.S.S. *Indianapolis*.

Hunter Scott's involvement had renewed interest in their cause, and Hunter Scott's involvement, I think, as a young boy, came as a result of the book called ''Fatal Voyage: The Sinking of the U.S.S. *Indianapolis*,'' written by Dan Kurzman.

With no financial interest in the book, I would certainly recommend that book to anyone who wishes to know the facts of what happened with the U.S.S. *Indianapolis*.

But Mr. Scott had attracted the attention of the media as well as the attention of his Member of Congress in the House of Representatives, Congressman Joe Scarborough, who had already introduced legislation in the House which called for a posthumous pardon for Captain McVay.

Hunter Scott can be very proud. He demonstrated that one person with grit and perseverance, in search of justice, can find that justice in the Halls of Congress. This boy, at the age of 12 or 13, brought the facts of this case to the Congress. As a result, language now is in this Defense authorization bill which will clear Captain McVay's name as a result of this 12 or 13-year-old boy.

When we hear stories about young people today, we always hear the bad things. This is good. He is a very impressive young man. He testified before the Armed Services Committee. He wasn't nervous. He held his own. He answered tough questions. He had the answers without any hesitation.

Last April, I had another meeting with a second group of survivors, and young Hunter Scott, who had returned to Washington once again in their effort to right what they believed was a wrong. In spite of the hearing, we still haven't gotten it done. Their story, in turn, got my attention and led me to introduce Senate Joint Resolution 26, which expresses the sense of Congress that Captain McVay's court-martial was morally unsustainable; that his conviction was a miscarriage of justice, and that the American people should now recognize his lack of culpability for the loss of the ship and the lives of 880 men who died as a result of the sinking.

Mr. President, this language does not erase the conviction of Captain McVay from his record. We in Congress don't have the authority to erase the conviction of a court-martial. It must remain on his record. But it is not, in my view, a stain on Captain McVay's record. I believe it is a stain upon the conscience of the Navy. Until this or some future President sees fit to order it be expunged, we can't do that. If I could, I would, with the stroke of a pen. I urge President Clinton, or any other President in the future, to do it. But I can't do it. This Senate can't do it.

This resolution does something very important. It represents acknowledgment from one branch of this Government, the U.S. Congress, House and the Senate, that Captain McVay served capably, that his conviction was morally wrong, and that he should no longer be viewed by the American people as responsible for this horrible tragedy which haunted him to the end of his life.

I will take you back 55 years, the end of the Second World War, the late summer of 1945. After surviving a kamikaze attack off Okinawa in March of 1945—which killed 17 of his crew—Captain McVay returned the *Indianapolis* safely to California for repairs. For those who are probably too young to remember the war, a kamikaze attack was a Japanese aircraft that flew directly into the ship with the pilot of the Japanese aircraft giving up his own life to crash land the aircraft into the ship to blow it up. Kamikaze attacks killed a lot of Americans.

McVay's ship and McVay survived, but it killed 17 of his crew. McVay got the ship back to shore. Remember, this ship was just hit by kamikaze attack, but this captain was so well respected and admired by his naval superiors that once the ship was repaired, they didn't even have time to go out and have a shake-down cruise. It was selected to transport components of the atomic bomb which was ultimately dropped on Hiroshima by the *Enola Gay*. They were to deliver the components for that bomb. McVay, among all other captains, and McVay's ship, the *Indianapolis*, was selected for that critically important duty. It successfully delivered the bombing parts to the island of Tinian—and, coincidentally,

setting a speed record across the Pacific for surface vessels which stands to this day.

Here is a ship that was hit by a kamikaze. There was very little time to check the repairs, no shake down, the repairs were performed, and they were given the materials for the bomb and departed for the island of Tinian. The ship was routed on to Guam after that duty for sailing waters to Leyte. At Guam, Captain McVay requested a destroyer escort—this is very important. At Guam, Captain McVay requested a destroyer escort across the Philippine Sea. No capital ship without antisubmarine detection equipment, such as the *Indianapolis*, had ever made that transit unescorted throughout World War II. No ship had ever gone from Guam to Leyte during the war without an escort. McVay requested one. McVay was denied. No escort. He was told it was not necessary.

Navy witnesses at a hearing last September on this resolution conceded that this was the case. The Navy conceded that no escort was provided, even though it was requested. Even worse, McVay was not told that shortly before his departure from Guam, an American destroyer escort, the U.S.S. *Underhill*, had been sunk by a Japanese submarine within the range of his path. Navy witnesses in our September hearing on this bill conceded that this was the case. A request by McVay for a destroyer escort to go from Guam to Leyte. Request denied. Never happened before. They always had escorts.

Second, the U.S.S. *Underhill* had been sunk by a Japanese submarine in the same sea route. They never admitted this.

Third, U.S. intelligence furthermore broke the Japanese code and learned that the I–58, the Japanese submarine, the very submarine which sunk the *Indianapolis*, was operating in the path of the *Indianapolis*. So we had U.S. intelligence that had broken the Japanese code and said the I–58 Japanese submarine was operating in the path of the *Indianapolis*. Many responsible for routing the ship from Guam to the Philippines were aware of the intelligence, but McVay was not told. Navy witnesses at our hearing conceded that was true. That is why, to his credit, Senator JOHN WARNER came over to this issue.

Mr. President, upfront I will say my duty is not to dump on the Navy. I am a former Navy man. My dad was a naval aviator. I love the Navy. But if a mistake is made, we ought to admit the mistake. When the *Indianapolis* was sunk, naval intelligence intercepted a message from the I–58 that it had sunk an American—they said battleship—along the route of the *Indianapolis*. That message was dismissed as enemy propaganda. Naval witnesses at our hearing conceded that was also the case.

So after the ship was sunk, they stayed in the sea for 4 to 5 days because they thought it was propaganda that the Japanese said they sunk a ship. It was a reasonable mistake, I suppose, but maybe they could have checked it out.

It should be remembered at this point that hostilities in July 1945 had moved far to the north of the Philippine Sea. We were preparing for the expected invasion of Japan over 1,000 miles away. The Japanese surface fleet was virtually nonexistent. Only four Japanese submarines were thought to be operational in the entire Pacific region. It is fair to conclude from these facts that there was a relaxed state of alert on the part of naval authorities in the Marianas, and it is also fair to conclude, as a result that, Captain McVay and the men of the *Indianapolis* were sent into harm's way without a proper escort or the intelligence which could have saved the ship and the lives of the 880 members of its crew.

They were in a relaxed state. Captain McVay was basically given no reason to be alarmed about anything.

Following the sinking, the Navy maintained the ship had sunk so fast it had not time to send out an SOS. For many years, this was never contested. But following appearances on several national TV programs, Hunter Scott, this 13-year-old boy, had received word from three separate sources, each providing details of a distress signal of which they were aware which was received from the ship and which, in each case, had been ignored. So the SOS did go out, but it was ignored.

At the September hearing, one of the survivors who had served as a radio man aboard the ship testified that a distress signal did, in fact, go out. He said he watched the needle ''jump,'' on one of the ship's transmitters, signifying a successful transmission. Today, however, the Navy still holds to its position that a distress signal was never received and the truth will likely remain a mystery in this incredible story, never to be resolved.

Following his rescue from the sea, Captain McVay was faced with a court of inquiry in Guam, which ultimately recommended a court-martial. Fleet Adm. Chester Nimitz and Vice Adm. Raymond Spruance, who was McVay's immediate superior and for whom the *Indianapolis* served as flagship, both of these legendary naval heroes of war went on record as opposed to a court-martial for McVay—opposed. Adm. Ernest King, then-Chief of Naval Operations, overruled both Spruance and Nimitz and ordered the court-martial. To the best of my knowledge, this is the first time in the Navy's history that the position taken by such high-ranking officers has been countermanded in a court-martial case.

The question has to be, Why does the Chief of Naval Operations overrule the two officers in command? Admiral Nimitz, one of the most highly respected officers in the entire war in the Navy, recommended no on the court-martial. He was overruled by the CNO, who was not even there. Why? Why?

I believe one of our witnesses at the September hearing, Dr. William Dudley, Chief Naval Historian, may have given us the answer. He testified that Admiral King was a strict disciplinarian who, ''when mistakes were made, was inclined to single out somebody to blame.''

I am forced in this instance to use the word ''scapegoat'' because I believe that is exactly what Captain McVay became. Brought here to the Washington Navy Yard to face his court-martial, Captain McVay was denied his choice of a defense counsel and assigned a naval officer who, although he had a law degree, had never tried a case before. Neither Captain McVay nor his counsel were notified of the specific charges against him until 4 days before the court-martial convened and the charges against him were specious at best.

The Navy settled on two charges against Captain McVay: No. 1, failing promptly to give the order to abandon ship, and, No. 2, hazarding his ship by failing to zigzag. In other words, if you know there are enemy ships in the area, if you zigzag, it is harder for the enemy ship to get a reading on you and sink you.

He was ultimately found innocent on the first charge, failing to promptly abandon ship, when it became apparent—and it should have been long before the charge was brought—that there was no foundation for such charge because he did give the order. The torpedo attack had immediately knocked out the ship's intercom and officers aboard the ship were forced to give the abandon ship order by word of mouth to those around them. The ship was hit and it sunk in a matter of minutes. The entire intercom system was knocked out and you had to give the order to abandon ship one person at a time.

This charge, the second charge, failure to zigzag, including the phrase ''in good visibility,'' became the basis for his conviction. In other words, failure to zigzag in good visibility became the basis for his conviction, one which effectively destroyed his career as a naval officer.

Let's look at the validity of that charge. Captain McVay sailed from Guam with orders to zigzag at his discretion. Shortly before midnight on July 29, 1945, the day before, with visibility severely limited—you zigzag in clear weather—visibility severely limited, and with every reason to believe the waters through which he is sailing were safe, McVay exercised discretion with an order to cease zigzagging and retired to his cabin, leaving orders to the officer of the deck to wake him if the weather conditions changed.

Whether weather conditions changed is debatable. Some survivors say it did. Some were not sure. But survivors were unanimous in depositions taken shortly after their rescue that it was very dark prior to and at the time of the attack; that the visibility was

poor. Chief Warrant Officer Hines, for example, stated he could hardly see the outlines of the turrets on the ship. His and other similar depositions were not made available to Captain McVay's defense counsel.

Again, why not? The Navy maintained, and still does today, that the visibility was good when the Indianapolis was spotted and subsequently torpedoed and sunk that night, ignoring the sworn statements of those who were there when it happened; ignoring them.

Why is this important? It is important because there were no Navy directives in place then, or today, which either ordered or even recommended zigzagging at night in poor visibility. The order to zigzag was discretionary even if the weather was poor.

Moreover, in voicing opposition to Captain McVay's court-martial, Admiral Nimitz, in charge of the Pacific Fleet, pointed out:

> The rule requiring zigzagging would not have applied, in any event, since Captain McVay's orders gave him discretion on that matter and thus took precedence over all other orders.

This is a point, I might add, which Captain McVay's inexperienced defense counsel never even addressed at the court-martial.

To bolster its case against McVay, the Navy brought two witnesses to the court-martial. I have to say this has to be in the category of the unbelievable. One of the witnesses at Captain McVay's naval court-martial, brought in by the U.S. Navy, was a man by the name of Hashimoto, who was the captain of the submarine which sank the U.S.S. *Indianapolis*. The captain of the submarine which sank the U.S.S. *Indianapolis*, the enemy sub, the captain was brought in to testify against a naval captain. That, my colleagues, was uncalled for. It was the height of insult. Imagine this captain, after losing his crew to an enemy torpedo, not even being told by his superiors that there were enemy ships in the area, has the captain of that ship testify against him—an outrage.

The other witness was Glynn R. Dunaho, winner of four Navy Crosses as an American submarine captain during World War II. Neither helped the Navy's case. Both Hashimoto and Dunaho testified that, given the conditions that night, either one of them could have sunk the *Indianapolis*, whether it had been zigzagging or not.

They thought Hashimoto would have helped them. He said he could have sunk the ship; it didn't matter whether it was zigzagging or not. Unbelievably this testimony was brushed aside by the court-martial board.

In our hearings in the Senate this year, high-ranking Navy witnesses insisted Captain McVay was not charged with the loss of his ship; he was not even considered responsible for the loss of the ship or the loss of life. They insisted he was guilty only of hazarding his ship by failing to zigzag.

One question they declined to answer: Would he have been court-martialed if he had arrived safely in the Philippines but had failed to zigzag that night? The answer, quite obviously, is no. And the Navy's argument simply denies logic.

In other words, if failure to zigzag is the problem, then you ought to nail an officer who doesn't do it before a tragedy, not after. If he had arrived in port safely, would he have been charged? The answer is no, of course, he wouldn't have been charged. He had an unblemished record as a naval officer. It defies logic, but it happened.

In truth, McVay's orders gave him discretion to make a judgment, but when he relied on the best information he had, which indicated his path was safe, and exercised that discretion on a dark night, he ended up with a court-martial and humiliation.

No intelligence was given to him. Nobody told him there were enemy submarines in the area. Nobody told him the *Underhill* was sunk days before. No one told him any of that. They also told him he had discretion to zigzag.

In spite of all that, they court-martialed him. They humiliated him for making a judgment call under circumstances which any one of us would have done the same, including those who court-martialed him.

Captain McVay's judgment call to zigzag was not responsible for this disaster, period. Other judgment calls may have been. Let's review some of them.

There was a judgment that his passage was safe; to deny him destroyer escort; to deny him the intelligence about the sinking in his path of the *Underhill*; to ignore the Japanese submarine's report that it had sunk an American battleship along his route; to ignore the failure of the *Indianapolis* to arrive on schedule; if they were, indeed, received, to ignore the distress signals which were reported to be sent out; and to deny Captain McVay the vital intelligence that the Japanese submarine which sank his ship was operating in its path.

Those responsible for these judgment calls were far more responsible for the loss of the *Indianapolis* and its crew than its captain. Guess what happened to them. Nada. No court-martial. Nothing. Nothing happened to those who ignored the intelligence. Nothing happened to those who did not tell the captain about the *Underhill*. Nothing happened to those who did not even report the loss of the ship. Nothing.

Recently, my distinguished colleague and chairman, Senator WARNER, received a personal letter from Hashimoto, the captain of the Japanese submarine.

The PRESIDING OFFICER (Mr. Fitzgerald). The Senator's 30 minutes have expired.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent for an additional 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. WELLSTONE. Mr. President, I ask unanimous consent that I follow the Senator from New Hampshire.

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

Mr. SMITH of New Hampshire. Mr. President, in his letter, Hashimoto confirmed his court-martial testimony by stating that he could have sunk the *Indianapolis* whether it had zigzagged or not. Then he went on to say:

> Our peoples have forgiven each other for that terrible war and its consequences. Perhaps it is time that your people (to) forgave Captain McVay for the humiliation of his unjust conviction.

That came from the man who sank McVay's ship. He was a dedicated, committed Japanese officer who, if you read Mr. Kurzman's book, was glad at the time he sank the ship and, in fact, was looking for a ship to sink.

Hashimoto attended that court-martial. In the English translation of a recent interview Hashimoto gave to a Japanese journalist, here are some excerpts about the court-martial of McVay:

> I wonder (if) the outcome of that court-martial was set from the beginning. . .because at the time of the court-martial, I had a feeling it was contrived. . . .

That came from Hashimoto. There are other comments Hashimoto makes, Mr. President.

There is one direct quote I want to give from his interview:

> I understand English a little bit even then, so I could see at the time I testified that the translator did not tell fully what I said. I mean it was not because of the capacity of the translator. I would say the Navy side did not accept some testimony that were inconvenient to them.

As I conclude, I repeat, I love the Navy. I served the Navy in Vietnam, and I would do it again. My father was a naval aviator and a graduate of the Naval Academy. He was killed at the end of the Second World War after serving in the Pacific and in the North Atlantic. I have no intention of embarrassing the Navy. That is not my purpose in sponsoring this legislation.

It is apparent that the old Navy made a mistake when they court-martialed Captain McVay to divert attention from the many mistakes which led to the sinking of the *Indianapolis*, mistakes beyond McVay's control and responsibility.

It is important to note that at least 350 ships were sunk by enemy action during World War II. No other captain was court-martialed. Only McVay. Tell me, after listening to this testimony, how hard and convincing was the evidence that he deserved to be court-martialed? The answer is no hard evidence that he deserved to be court-martialed.

Captain McVay was a graduate of the Naval Academy in 1920. He was a career naval officer who had a decorated combat record, which included participation in the landings in North Africa and an award of the Silver Star for courage under fire earned during the

Solomon Islands campaign. He was a fine officer and a good captain, and his crew members who survived readily attest to it. To the man, to their dying breath, they have defended this captain after 50 years. What kind of a man would have that kind of capacity? What kind of man would have the crew 50 years later, after enduring this, and with every reason to be angry with him, with every reason to hate him after almost dying in the sea, with him?

The court-martial board found McVay guilty of hazarding his ship by failing to zigzag. His sentence of a loss of grade was remitted in 1946, and he was restored to active duty by Admiral Nimitz who replaced Admiral King as Chief of Naval Operations. But his naval career was ruined. You do not survive that stigma. He served out his time as an aide in the New Orleans Naval District before retiring in 1949 with a so-called ''tombstone promotion'' to rear admiral.

Sadly—and this is the worst part of the story—Captain McVay took his own life in November 1968. Those who knew him feel strongly that the weight of his conviction and the blame which that conviction implied for the loss of the *Indianapolis* and the death of the crew was a reason for his suicide.

Captain McVay is gone. It is too late for him to know what we propose to do, but the undeserved stain upon his name remains. Time is running out for the 130 people out of 300-some who survived, united and steadfast for half a century to clear his name. We owe it to them, to him, and to his family to clear his name.

We have forgotten that these men survived 4 terrifying days and 5 frightening nights in the sea, fighting off sharks, starvation, and no water. Let's not forget them again.

Again, I thank Senator WARNER. Without Senator WARNER, we would not be able to make this happen. I am pleased to hear the House Armed Services Committee adopted the original legislation which I introduced in the Senate. I look forward to working out some language differences on this matter in conference.

We now have the opportunity to give the remaining survivors of this terrible tragedy what they deserve and have fought for so hard and so tenaciously for so long: an acknowledgment by their Government, by their Navy that they made a mistake. After 55 years, we make it right that their captain was not to be blamed for the loss of the *Indianapolis* nor the loss of their shipmates. This is not historical revisionism. It corrects a longstanding historical mistake and rights a terrible wrong.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Minnesota is recognized for 5 minutes.

Mr. WELLSTONE. Mr. President, I was not recognized for 5 minutes.

Mr. WARNER. I did not know that order was entered.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I say to my colleague from Virginia, if my colleague wants the floor right now, I ask unanimous consent that after the Senator from Virginia, I follow him.

Mr. WARNER. I am not hearing the Senator. The Senator is recognized, and that is open-ended; is that the order of the Chair? Unusual. I do not know how it happened, but the Senator got it. What is the Senator advising me?

Mr. WELLSTONE. I am saying to my colleague, I am recognized. I intend to offer an amendment. I heard my colleague from Virginia seeking recognition, and if there are a few things he wants to say right now, I will yield for that. Otherwise, I will go forward.

Mr. WARNER. Will the Senator from Minnesota advise the Chair and the Senator from Virginia exactly how much time he wants and for what purpose? The time being consumed now can be charged to the managers.

Mr. WELLSTONE. I do not intend to take a long time. I intend to lay out a case for an amendment. I cannot give a time. I cannot do it in 5 minutes. There is no time limit, but I do not intend to be long.

Mr. WARNER. I understand that. Of course, we have an order at 1 o'clock to go straight to an amendment.

Mr. WELLSTONE. I intend to be finished before that.

Mr. WARNER. I am trying to finish other things from now until 1 o'clock. This is most unusual. I do not realize how we got to this. I am not sure how we got here, but it is here.

Mr. WELLSTONE. Yes.

Mr. REID. Would the Senator yield without losing his right to the floor?

Mr. WELLSTONE. I am pleased to yield.

Mr. REID. I want to explain to the Senator from Virginia, Senator SMITH asked to be recognized for an additional 5 minutes. Senator WELLSTONE was standing here and said: I ask unanimous consent that I be recognized after Senator SMITH. That is how it happened.

Mr. WARNER. What is done is done. You have it open-ended, I say to the Senator, until 1 o'clock. What can you do to help us?

Mr. WELLSTONE. I say to my colleague from Virginia two things. No. 1, there are two other Senators out here who want to speak briefly. I would be pleased for them to do so—but I do not want to yield the floor—after which I will have the floor.

I say to the Senator from Virginia, I do not think I will take a long time. I will help the manager and try to do it in——

Mr. WARNER. If you can give us a time, then we can help our colleagues. How about 10 minutes?

Mr. WELLSTONE. I say to the Senator from Virginia——

Mr. WARNER. Ten minutes?

Mr. WELLSTONE. I say to the Senator from Virginia, 10 minutes will not be sufficient. I will try to move forward expeditiously. All of us think our amendments are important. I did not come out here intending to speak for hours, but I need to take about 20 minutes to make my case. I do not want to be——

Mr. WARNER. If that is the case, it leaves very little time for the managers to recognize others who are waiting.

Mr. WELLSTONE. We all come and wait, and we all seek recognition.

Mr. WARNER. Fine. Would you settle for 20 minutes?

Mr. WELLSTONE. I will not because I do not know how long it will take.

Mr. WARNER. I yield the floor.

Mr. WELLSTONE. I will try to keep it in that timeframe.

Mr. BIDEN. Mr. President, will the Senator yield to me for a comment without he losing his right to the floor?

Mr. WELLSTONE. I am pleased to yield to the Senators from Delaware and Utah, without losing my right to the floor.

Mr. BIDEN. I say to the managers of the bill—if I can get Senator WARNER's attention—as Senator WARNER knows, the manager of the bill, the chairman of the committee, and Senator LEVIN knows, I had planned to offer the Violence Against Women Act as an amendment. In the meantime, the fellow with whom I have worked most on this legislation, and who has played the most major part on the Republican side of the aisle on the violence against women legislation has been Senator HATCH.

He and I have been working to try to work out a compromise. We think we have done that on the violence against women II legislation, reauthorization of the original legislation. Because of his cooperation and his leadership, actually, I am prepared to not offer my amendment. But I do want the RECORD to show why. It is because of Senator HATCH's commitment and leadership for us to move through the Judiciary Committee with this and find another opportunity to come to the floor with it.

With the permission of the managers, I will yield—without the Senator from Minnesota losing his right to the floor—to my friend from Utah to comment on the Violence Against Women Act.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I join Senator BIDEN this afternoon. We passed the original Violence Against Women Act in 1994. He deserves a great deal of credit for that. I would like to move forward with the passage of the violence against women reauthorization this year.

For almost 10 years, I have stood with my colleague from Delaware, Senator BIDEN, on this particular issue. He and I have worked for almost a year

now to try to resolve any disagreements regarding specific provisions in our respective bills on this issue, S. 245 and S. 51.

What we want to do is combat violence against women. I believe we have a good product. It is the Biden-Hatch Violence Against Women Act of the year 2000.

I have committed to Senator BIDEN that we plan to move this legislation in the Judiciary Committee. I plan to have it on the committee markup for next week. Now, any member of the committee can put it over for a week. I hope they will not. Before the Fourth of July recess, I hope we can pass the bill out of the Judiciary Committee. Hopefully, the leadership will allow us some time on the floor to debate it. It is a very important piece of legislation.

Millions and millions of women, men, and children in this country will benefit by the passage of this bill. I am going to do everything in my power to help Senator BIDEN in getting it passed.

Mr. BIDEN. I ask unanimous consent to proceed for 30 more seconds.

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

Mr. BIDEN. I thank the Senator from Minnesota, Mr. WELLSTONE, and the managers for yesterday accommodating my interest in this. I thank Senator HATCH for his leadership and look forward to us having the bill on the floor in its own right in the near term.

I yield the floor and thank the Senator.

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 3264

(Purpose: To require the Secretary of Health and Human Services to report to Congress on the extent and severity of child poverty)

Mr. WELLSTONE. Mr. President, first of all, I wish to talk about what this amendment is about. Then I want to also make a couple of other comments. I will try to stay within a reasonable time limit.

There have not been very many vehicles out here on the floor —if I say that back in Minnesota, people look for cars or trucks, but what I am saying is that we have not had a lot of opportunity to bring amendments out here that we think are important as they affect the lives of people we represent.

This amendment has been passed by the Senate, but every time it gets passed by the Senate, it gets taken out in conference committee. This will be the third or fourth time. I think on the last vote there were over 80 Senators who voted for it.

The amendment calls for a policy evaluation, in which I think all of us should be interested. We should care enough to want to know about the welfare bill because this is going to be coming up for reauthorization. In every single State in the country we are going to reach a drop-dead date certain where people are basically going to be off welfare. What this amendment calls for, and I will describe it more carefully in a moment, is for Health and Human Services to basically call on the States to aggregate the data and to get the data to us as to where these mothers and children are now.

In other words, we keep hearing about how the rolls have been cut by 50 percent and that, therefore, represents success, but we do not know whether or not the poverty has been cut and we need to know where these mothers are. We need to know what kind of jobs they have and at what kind of wages. We need to know whether or not the families still have health care assistance. There have been some disturbing reports that have come out within the last several weeks that in too many States even though AFDC families—that is, aid to families with dependent children families—by law should be receiving the Medicaid coverage even when they are now working and off welfare, they are not getting that coverage.

We need to know why there has been such a dramatic decline in food stamp participation, which is the most important nutritional safety net program for children in the country. There has been somewhere around a 20-percent cut in participation, and there has been nowhere near that kind of reduction in poverty. We need to understand what is happening.

Most importantly, I would argue, although one can never minimize the importance of whether or not these mothers are able to obtain even living-wage jobs, it is the whole child care situation. I recommend to colleagues a study that has recently been concluded by Yale and Berkeley which is devastating to me as a Senator. Basically, it is a study of what has happened to welfare children during this period of reform.

There have been 1 million more children who have now been pushed into child care. But the problem is that the child care is woefully inadequate and the vast majority of these children are watching TV all day, without any real supervision, without any real education, and therefore, not surprisingly, colleagues, they are even further behind by kindergarten age.

What this amendment would do would be to require the Secretary of Health and Human Services to report to the Congress on the extent and severity of child poverty. In particular, what we are interested in is what is happening with the TANF legislation.

Let me sort of summarize.

The amendment would require the Secretary of Health and Human Services to submit to Congress by June 1, 2001, or prior to any reauthorization of the Personal Responsibility and Work Opportunity Reconciliation Act—we ought to have this evaluation before we reauthorize—a report on the extent of child poverty in this country.

The report must include, A, whether the rate of child poverty has increased under welfare reform; B, whether children living in poverty have gotten poorer under welfare reform—that deals not with the extent of child poverty but the severity of child poverty—and C, how changes in the availability of cash and noncash benefits to poor families have affected child poverty under welfare reform.

In considering the extent and severity of child poverty, the Secretary must also use and report on alternative methods for defining child poverty that more accurately reflect poor families' access to in-kind benefits as their work-related expenses as well as multiple measures of child poverty such as the extreme child poverty rate.

Finally, if the report does find that the extent or severity of child poverty has increased in any way since enactment of the welfare reform legislation, the amendment requires the Secretary to submit with the report a legislative proposal addressing the factors that have led to the increase.

Let me be clear as to what this amendment is about, why I introduce it to this bill, and why I hope for a strong vote.

First of all, what is it about? It is about poor children. Why have I focused on poor children? Because I think that should be part of our agenda. What is my concern? There has been a tremendous amount of gloating and a lot of boasting about how successful this welfare bill has been. I have traveled in the country and spent quite a bit of time with low-income families and with men and women who don't get paid much money but try to work with these families. That is not the report I get at the grassroots level.

What reports have come out—I won't even go through all of the reports today—should give all of us pause. Basically, what we are hearing is that there has perhaps been some reduction in the overall poverty rate but an increase in the poverty of the poorest families; that is to say, families with half the poverty level income.

What I also found out from looking at some of the data, much less some of the travel, is that there are some real concerns; namely, in all too many cases when these mothers now leave and go from welfare to work, which is what this was supposed to be about, the jobs are barely above minimum wage. When they move from welfare to work, all too often they are cut off medical assistance. Families USA says there are 670,000 fewer people receiving Medicaid coverage and health care coverage because of the welfare bill.

When they move from welfare to work, they go from welfare poor to working poor, but they are not being told that they still have their right to participate in the Food Stamp Program for themselves and their children and, therefore, are not participating in that program. When they go from welfare to work, since they were single parents at home, the child care situation is deplorable. It is dangerous.

When people keep talking about how great this bill is, and we haven't even done the policy evaluation, and it is coming up for reauthorization, I argue that it is a security issue for poor families in the United States of America.

Again, what this legislation calls for is a study of child poverty, both to look at the extent of it and the severity of child poverty, to make sure we get the data, to make sure we have the policy evaluation before reauthorization. There should be support for this because we should be interested in policy evaluation.

Again, pretty soon we are basically going to have almost everyone pushed off welfare. Before that happens, before a mother with a severely disabled child is pushed off welfare or before a mother who has been severely beaten and battered is pushed off welfare or before a mother who has struggled with substance abuse is pushed off welfare, and they may not be able to take these jobs—they may not find the kind of employment with which they can support their families—we had better know.

I have quoted Gunnar Myrdal, the famous Swedish sociologist who once said that ignorance is never random; sometimes we don't know what we want to know.

This is the fourth time I have brought this amendment to the floor. The first time, it was defeated by one vote, although it was a different formulation. The second time, it was accepted on a voice vote. That was my mistake. Then it was quickly taken out of conference. The third time, it passed by a huge vote on a bill that then went nowhere. This is the fourth time. The reason I keep coming back is, I am determined that we do this policy evaluation.

Let me give one other example of why I will send this amendment to the desk in a moment.

In focusing on this welfare bill, I know there was a conference committee I attended. This was all about an amendment which, again, the Senate passed, but it was taken out in conference committee, where I was arguing that right now it is wrong not to enable a mother to at least have 2 years of college; that she and the State in which she lives should not be penalized on work participation, and that if the State of Minnesota or California or Michigan or Virginia decided it makes sense to let these mothers have 2 years of higher education, that they and their children will be better off; they should not be penalized.

I went to the conference committee; it was dropped in conference committee. A number of different members of the conference committee were saying: Wait a minute, this welfare bill is hallmark legislation. It is one of the greatest pieces of legislation passed in the last half a century. President Clinton tends to make the same kind of claim.

We can agree; we can disagree. The point is, there ought to be a policy evaluation. There is a lot at stake. What is at stake is literally the health and well-being of poor women and poor children. We ought to at least have this data. We ought to at least make this policy evaluation. We ought to do it before we reauthorize this bill. That is why I introduce this amendment, and that is why in a moment I will send this amendment to the floor.

Before I do, I also want to signal to colleagues that there is a report—I think we will have a debate; I don't know whether it will be today or whether it will be tomorrow or when—on missile defense.

Mr. WARNER. Will the Senator yield for a minute? We want to try to accommodate him. It may well be we can accept the amendment. He has not shown me a copy of it.

Mr. WELLSTONE. I am getting ready to send the amendment to the desk.

Mr. WARNER. We only have 21 minutes left. There is another Senator I would like to accommodate on a matter unrelated to the bill. Is there any harm in looking at it?

Mr. WELLSTONE. Mr. President, I just received the amendment. I will be pleased to send the amendment to the desk. I will say, my colleague has a copy.

Mr. WARNER. I have a copy?

Mr. WELLSTONE. The Senator does. I will also say to my colleague, I am actually trying to finish up in the next 4 or 5 minutes. It is just sort of a bad habit I have. When I keep getting pressed in the opposite direction, I tend to speak longer. I am not trying to take up time, I am just trying to argue my case, I say to the Senator.

Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 3264.

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

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

The amendment is as follows:

At the appropriate place add the following:

SEC. ___. REPORT TO CONGRESS REGARDING EXTENT AND SEVERITY OF CHILD POVERTY.

(a) IN GENERAL.—Not later than June 1, 2001 and prior to any reauthorization of the temporary assistance to needy families program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) for any fiscal year after fiscal year 2002, the Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall report to Congress on the extent and severity of child poverty in the United States. Such report shall, at a minimum—

(1) determine for the period since the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2105)—

(A) whether the rate of child poverty in the United States has increased;

(B) whether the children who live in poverty in the United States have gotten poorer; and

(C) how changes in the availability of cash and non-cash benefits to poor families have affected child poverty in the United States;

(2) identify alternative methods for defining child poverty that are based on consideration of factors other than family income and resources, including consideration of a family's work-related expenses; and

(3) contain multiple measures of child poverty in the United States that may include the child poverty gap and the extreme poverty rate.

(b) LEGISLATIVE PROPOSAL.—If the Secretary determines that during the period since the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2105) the extent or severity of child poverty in the United States has increased to any extent, the Secretary shall include with the report to Congress required under subsection (a) a legislative proposal addressing the factors that led to such increase.

Mr. WELLSTONE. Mr. President, in many ways I would have liked to have taken an hour to talk about this because I happen to believe that what is happening right now with poor women and poor children is a terribly important issue. I have summarized this amendment. I think about 89 Senators voted for this amendment last time. I hope I will get a strong vote this time.

By way of concluding, while I have the floor, I will mention to colleagues, since I know we will have a thoughtful and careful debate on missile defense, there is an excellent study that has come out that I commend to every Senator, done by the Union of Concerned Scientists at the MIT Security Studies Program. The title of it is ''Countermeasures, a Technical Evaluation of the Operational Effectiveness of the Planned U.S. National Missile Defense System.''

These distinguished scientists argue that any testing program must ensure that the baseline threat has realistically declined by having the Pentagon's work in that area reviewed by an independent panel of qualified experts; provide for objective assessment of the design and results of the testing program by an independent standing review; conduct tests against the most effective countermeasures. It is an excellent analysis of the whole problem of countermeasures—that an emerging missile state could reasonably expect to build and to conduct enough tests against countermeasures to determine the effectiveness of the system with high confidence.

We will have an amendment that I plan on doing with Senator DURBIN and other Senators, where we will have a very thoughtful debate about the whole question of the importance of having the testing. I just wanted to speak about this briefly.

I yield the floor.

Mr. WARNER. Mr. President, it is my understanding that the Senator from Minnesota will accept a voice vote. He wanted to address the Senate on that point. We will proceed to adopt the amendment.

Mr. LEVIN. Mr. President, perhaps Senator WELLSTONE will yield to me for 1 minute after he is recognized.

Mr. WELLSTONE. I will yield to the Senator from Michigan.

Mr. LEVIN. Does Senator WELLSTONE have the floor?

Mr. WARNER. I have the floor.

Mr. WELLSTONE. Mr. President, I thank the Senator from Virginia and the Senator from Michigan for their support. We have had a resounding vote for this amendment before. I want to just keep this before the Senate. Somehow I want to get this policy evaluation done. So I think a voice vote, which means this passes with the full support of the Senate, will suffice.

I thank my colleagues for their courtesy and graciousness. I thank the Senator from Virginia for allowing an unlimited amount of time.

Mr. LEVIN. Mr. President, I commend our good friend from Minnesota not just for his good nature but also for his continuing to bring to the attention of the Senate and the Nation the problem addressed in his amendment, and his determination that he get a review of the impact of the actions that we have taken on poor people in this country. He has been in the leadership of this effort continually. He raises this issue with his extraordinarily powerful and eloquent voice. I commend him for that. We will be accepting the amendment.

Mr. WARNER. I think we are ready to agree to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3264) was agreed to.

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

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3267

(Purpose: To establish a National Bipartisan Commission on Cuba to evaluate United States policy with respect to Cuba)

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself and Mr. DODD, proposes an amendment numbered 3267.

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

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

The amendment is as follows:

On page 462, between lines 2 and 3, insert the following:

SEC. ___. ESTABLISHMENT OF NATIONAL BIPARTISAN COMMISSION ON CUBA.

(a) SHORT TITLE.—This section may be cited as the ''National Bipartisan Commission on Cuba Act of 2000''.

(b) PURPOSES.—The purposes of this section are to—

(1) address the serious long-term problems in the relations between the United States and Cuba; and

(2) help build the necessary national consensus on a comprehensive United States policy with respect to Cuba.

(c) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the National Bipartisan Commission on Cuba (in this section referred to as the ''Commission'').

(2) MEMBERSHIP.—The Commission shall be composed of 12 members, who shall be appointed as follows:

(A) Three individuals to be appointed by the President pro tempore of the Senate, of whom two shall be appointed upon the recommendation of the Majority Leader of the Senate and of whom one shall be appointed upon the recommendation of the Minority Leader of the Senate.

(B) Three individuals to be appointed by the Speaker of the House of Representatives, of whom two shall be appointed upon the recommendation of the Majority Leader of the House of Representatives and of whom one shall be appointed upon the recommendation of the Minority Leader of the House of Representatives.

(C) Six individuals to be appointed by the President.

(3) SELECTION OF MEMBERS.—Members of the Commission shall be selected from among distinguished Americans in the private sector who are experienced in the field of international relations, especially Cuban affairs and United States-Cuban relations, and shall include representatives from a cross-section of United States interests, including human rights, religion, public health, military, business, and the Cuban-American community.

(4) DESIGNATION OF CHAIR.—The President shall designate a Chair from among the members of the Commission.

(5) MEETINGS.—The Commission shall meet at the call of the Chair.

(6) QUORUM.—A majority of the members of the Commission shall constitute a quorum.

(7) VACANCIES.—Any vacancy of the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(d) DUTIES AND POWERS OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall be responsible for an examination and documentation of the specific achievements of United States policy with respect to Cuba and an evaluation of—

(A) what national security risk Cuba poses to the United States and an assessment of any role the Cuban government may play in support of acts of international terrorism and the trafficking of illegal drugs;

(B) the indemnification of losses incurred by United States certified claimants with confiscated property in Cuba; and

(C) the domestic and international impacts of the 39-year-old United States economic, trade and travel embargo against Cuba on—

(i) the relations of the United States with allies of the United States;

(ii) the political strength of Fidel Castro;

(iii) the condition of human rights, religious freedom, and freedom of the press in Cuba;

(iv) the health and welfare of the Cuban people;

(v) the Cuban economy; and

(vi) the United States economy, business, and jobs.

(2) CONSULTATION RESPONSIBILITIES.—In carrying out its duties under paragraph (1), the Commission shall consult with governmental leaders of countries substantially impacted by the current state of United States-Cuban relations, particularly countries impacted by the United States trade embargo against Cuba, and with the leaders of nongovernmental organizations operating in those countries.

(3) POWERS OF THE COMMISSION.—The Commission may, for the purpose of carrying out its duties under this subsection, hold hearings, sit and act at times and places in the United States, take testimony, and receive evidence as the Commission considers advisable to carry out the provisions of this section.

(e) REPORT OF THE COMMISSION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commission shall submit a report to the President, the Secretary of State, and Congress setting forth its recommendations for United States policy options based on its evaluations under subsection (d).

(2) CLASSIFIED FORM OF REPORT.—The report required by paragraph (1) shall be submitted in unclassified form, together with a classified annex, if necessary.

(3) INDIVIDUAL OR DISSENTING VIEWS.—Each member of the Commission may include the individual or dissenting views of the member in the report required by paragraph (1).

(f) ADMINISTRATION.—

(1) COOPERATION BY OTHER FEDERAL AGENCIES.—The heads of Executive agencies shall, to the extent permitted by law, provide the Commission such information as it may require for purposes of carrying out its functions.

(2) COMPENSATION.—Members of the Commission 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 of the Commission.

(3) ADMINISTRATIVE SUPPORT.—The Secretary of State shall, to the extent permitted by law, provide the Commission with such administrative services, funds, facilities, staff, and other support services as may be necessary for the performance of its functions.

(g) APPLICABILITY OF OTHER LAWS.—The Federal Advisory Committee Act shall not apply to the Commission to the extent that the provisions of this section are inconsistent with that Act.

(h) TERMINATION DATE.—The Commission shall terminate 60 days after submission of the report required by subsection (e).

Mr. WARNER. Mr. President, Senator DODD is recognized as one who has devoted much of his career to Central America. I have traveled with him in years past to those regions of the world, particularly in troubled times. I respect his judgment and I am pleased that he has joined on the Warner-Dodd amendment. It relates to Cuba.

Senator DODD and I, in the 105th Congress, put in legislation to allow the sale of food and medicine to Cuba. Unfortunately, it was not accepted. We renewed that effort. That was in the 105th, and we renewed it in the 106th. Unfortunately, it was not able to be accepted by the Senate.

This Nation has experienced the Elian Gonzalez case, a most unusual chapter in history. I am not here to describe it because much of that case is clearly in the minds of Americans. But if there is some value out of that case, it has awakened America to the seriousness of this problem between the relationship of our Nation and Cuba.

We have had various policies in effect for some 30-plus years and, in my judgment, those policies have not moved Fidel Castro. But Fidel Castro is a leader who does not have my respect, and I think many in this Chamber would share my view, if not all.

There are certain ways we can bring to bear the influence of the money of America to try to help a change of the government, and to try to help the people to change their leadership.

While we may have put in these series of sanctions over the years with the best of intentions, the simple fact is, there today Fidel Castro reigns, bringing down in a harsh manner on the brow of the people of Cuba deprivations for many basic human rights, deprivation from even the basic fundamentals of democratic principles of government.

One only needs to go to that country to see the low quality of life that the people of Cuba have to face every day they get up, whether it is food, whether it is medicine, whether it is job opportunity, or whether there is any certainty with regard to their future. It is very disgusting and depressing.

Referring back to the Gonzalez case again, the only point I wish to make is that it has opened the eyes of many in this country to the need for the policies of the United States of America in relationship to Cuba to be reexamined.

It is my hope and expectation that the next President will take certain initiatives that will bring our Nation somehow into a relationship where we can be of help to the people of Cuba.

All I wish is to help the people of Cuba. We have tried with food and medicine unsuccessfully, although through various pieces of legislation there is in some ways food and medicine going to those people.

I remember a doctor. Former Senator Malcolm Wallop brought an American doctor to my office with considerable expertise in medicine. He said to me that the medical equipment available to his colleagues in the performance of medicine in Cuba was of a vintage of 30 years old—lacking spare parts, almost nothing in the state-of-art medical equipment.

What a tragedy to be inflicted upon human beings right here so close to America in Central America.

In this amendment, Senator DODD and I simply address the need for a commission to be put in place which would hopefully take an objective view of what we have done as a nation in the past with relation to Cuba and what we might do in the future. That commission would then report back to the next President of the United States and the Congress of the United States in the hopes that we can make some fundamental changes in our policy relationship with Cuba which would help—I repeat help—raise the deplorable quality of life for the people of Cuba.

I anticipate the appearance momentarily of my colleague from Connecticut. We weren't able to judge the exact time when he would arrive.

Mr. LEVIN. Mr. President, I commend Senators WARNER and DODD for their work on a bipartisan basis to establish a bipartisan commission on Cuba. It is important that we conduct a review of the achievements or lack thereof of the embargo. The amendment does not presume the outcome in any way of the commission's effort. It is not intended nor should it be interpreted for a substitute for any other legislative action that Congress might take.

It is constructive. It is bipartisan. It is modest. I think it is, frankly, long overdue. I hope we can adopt this amendment.

Mr. WARNER. Mr. President, I thank my colleague. Would he be kind enough to be a cosponsor of the amendment?

Mr. LEVIN. I would be happy to be a cosponsor. I ask unanimous consent I be added as a cosponsor.

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

Mr. WARNER. Mr. President, Senator DODD and I wrote President Clinton in 1998—we had 22 Senators join us in that letter—recommending that he establish the very commission that is outlined in this legislation, but for reasons which are best known to him, he decided not to do it.

Senator DODD and I recommend this action because there has not been a comprehensive review of U.S.-Cuba policy or a measurement of its effectiveness or ineffectiveness in achieving the goals of democracy and human rights that the people of the United States wanted and which the people of Cuba deserve. We haven't had such a review in 40 years, since President Eisenhower first canceled the sugar quota July 6, 1960, and we imposed the first total embargo on Cuba on February 7, 1962. Most recently, Congress passed the Cuban Democracy Act of 1992 and the Helms–Burton Act of 1996.

Since the passage of both of these bills, there have been significant changes in the world's situation that warrant, in our judgment, a review of our U.S.-Cuba policy, including the termination of billions of dollars of annual Soviet economic assistance to Cuba and the historic visit of Pope John Paul II to Cuba in 1998.

In addition, in recent years numerous delegations from the United States have visited Cuba, including current and former Members of Congress, representatives from the American Association of World Health, and former U.S. military leaders.

These authoritative groups have analyzed the conditions and the capabilities on the island and have presented their findings in areas of health, economy, religious view, freedom, human rights, and military capacity. Also, in May of 1998, the Pentagon completed a study on the security risk of Cuba to the United States. However, the findings and reports of these delegations, including the study by the Pentagon and the call by Pope John Paul II for the opening of Cuba by the world, have not been broadly reviewed by all U.S. policymakers.

We believe it is in the best interests of the United States, our allies, the Cuban people, and indeed the nations in the Central American hemisphere with whom we deal in every respect.

We have a measure that hopefully will come through very shortly regarding a very significant amount of money to help Colombia in fighting the drug wars.

We are constantly working with the Central American countries, except there sits Cuba in isolation.

We, therefore, believe that a national bipartisan commission on Cuba should be created to conduct a thoughtful, rational, objective—let me underline objective—analysis of our current U.S. policy toward Cuba and its overall affect in this hemisphere—not only on Cuba but how that policy is interpreted and considered by the other Central American countries.

This analysis would in turn help shape and strengthen our future relationships with Cuba. Members of the commission would be selected from a bipartisan list of distinguished Americans from the private sector who are experienced in the field of international relations. These individuals should include representatives from a cross-section of U.S. interests, including public health, military, religion, human rights, business, and the Cuban American community.

The commission's tasks would include the delineation of the policies—specifically achievements and the evaluation of:

No. 1, security risks, if any, Cuba poses to the United States, and an assessment of any role the Cuban Government may play in the international terrorism, or illegal drugs;

No. 2, the indemnification of losses incurred by U.S.-certified claimants with confiscated property in Cuba;

No. 3, the domestic and international impact of the nearly 39-year-old U.S.-Cuba economic trade and travel embargo; U.S. international relations with our foreign allies; the political strength of Cuba's leader; the condition of human rights; religious freedom; freedom of the press in Cuba; the health and welfare of the Cuban people; the Cuban economy and U.S. economy and business, and how our relations with Cuba can be affected if we changed that.

More and more Americans from all sectors of our Nation are becoming concerned about the far-reaching effects of our present U.S.-Cuba policy on U.S. interests and the Cuban people.

Establishment of this national bipartisan commission will demonstrate leadership and responsibility on behalf of this Nation towards Cuba and the other nations of that hemisphere. I urge my colleagues to join Senator DODD and myself.

I ask the amendment be laid aside.

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

Mr. WARNER. Will the Presiding Officer state the exact parliamentary situation.

AMENDMENT NO. 3214

The PRESIDING OFFICER. There are 2 hours equally divided on amendment No. 3214.

Mr. WARNER. Do I understand that 1 hour of that is under the control of the Senator from Virginia.

The PRESIDING OFFICER. That is correct.

Mr. WARNER. Mr. President, I do not see Senator MCCAIN here. I think perhaps he should lead off. Does Senator FEINGOLD wish to lead off? Senator FEINGOLD is a principal cosponsor, as I understand.

Mr. FEINGOLD. Correct.

Mr. WARNER. I ask unanimous consent following the remarks of Senator FEINGOLD the distinguished President pro tempore of the Senate be recognized.

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

The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I thank the chairman of the committee.

Mr. President, I begin our side of the debate.

I rise in favor of the McCain-Feingold-Lieberman amendment. I hope we will have an overwhelming vote later this afternoon in favor of full disclosure of the contributions and expenditures of 527 organizations. As we discussed yesterday on the floor, these organizations are the new stealth player in our electoral system. They claim a tax exemption under section 527 of the Internal Revenue Code, a provision that was intended to cover political committees such as party organizations or PACs. At the same time, they refuse to register with the Federal Election Commission and report their activities like other political committees because they claim they are not engaged so-called express advocacy.

In other words, these groups admit they exist for the purpose of influencing elections for purposes of the tax laws, but deny they are political committees for purposes of the election laws. That, my colleagues, is the very definition of evading the law. If it is legal, it is, as some have called it, the ''mother of all loopholes.''

I make one point crystal clear because our debates on campaign finance reform often get bogged down in arguments over whether someone is engaged in electioneering or simply discussing issues. These groups cannot claim that their purpose is simply to raise issues or promote their views on issues to the public. Why is that? They can't make that claim because to qualify for the section 527 tax exemption, they have to meet the definition of a political organization in the tax code. And that definition is as follows:

> The term ''political organization'' means a party, committee, association, fund, or other organization . . . organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures, or both, for an exempt function.

And the term exempt function means:

> The function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors.

These groups self-identify as groups whose primary purpose is to accept contributions or make expenditures to influence an election. These are by definition election-related groups. They refuse to register with the FEC, and they therefore can take any amount of money from anyone—from a wealthy patriotic American, or a multi-national corporation, or a foreign dictator, or a mobster.

Indeed the groups seem to revel in the fact that their activities are completely secret. This chart we will be presenting in a moment shows a public statement by a 527 organization called ''Shape the Debate.'' This organization, according to news reports, is connected with our former colleague and the former Governor of California, Pete Wilson. On its webpage, Shape the Debate advertises for contributions. Contributions, it says, can be given in unlimited amounts, they can be from any source, and they are not political contributions and are not a matter of public record. They are not reported to the FEC, to any State agency, or to the IRS.

Mr. President, the amendment we will vote on this afternoon won't change the fact that the contributions can be in any amount. It won't change the fact that the contributions can come from any source, even foreign contributions, even the proceeds of criminal activity. I regret that all it will do is address this third claim—that the contributions are not a matter of public record. If a group is going to accept money from a foreign government, the American people should know that. That's all we're saying here.

This is something the Congress has to do. Now. It is clear that the FEC is not going to act on this issue this year. It held a meeting on May 25 to discuss a proposal by Commissioner Karl Sandstrom to get a handle on all the secret money that is now flowing into elections. The FEC voted to have the staff prepare a recommendation, but made it very clear that it is not going to act in time to have any impact on the upcoming elections. In fact one commissioner even said ''I want to speak in favor of secrecy.''

As Commissioner Scott Thomas said recently when the FEC deadlocked on whether it should pursue enforcement actions against the Clinton and Dole presidential campaigns for their issue ads in 1996: ''You can put a tag on the toe of the Federal Election Commission.'' The Commission is moribund, it is powerless even to address the most serious loophole ever to arise. This is why Congress must act.

We don't know just how big this problem will be. And we won't ever really know because these groups don't even disclose their existence. Only enterprising news reporters have been able to get information on these groups and their spending. Some estimate that over $100 million in political advertising will come from 527 groups this year.

Here are some of the examples that we know of so far. The executive director of the Sierra Club admitted that a handful of wealthy anonymous donors have given about $4.5 million to the group's 527 organization. Shape the Debate, the group whose website advertisement I cited earlier, has said it expects to raise $2 to $3 million for phone issue ads. It has already run ads against Vice President GORE. We know that Republican for Clear Air, with money from the Wyly brothers who are big contributors to Governor Bush ran over $2 million in ads attacking Senator MCCAIN in the New York primary election earlier this year. And a report in Roll Call a few weeks ago indicates that a groupcalled Council for Responsible Government has formed a 527 and will raise over $2 million and target 25 races this fall.

Mr. President, I ask unanimous consent that newspaper articles about 527 organizations be included in the RECORD following my statement.

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

(See Exhibit 1.)

Mr. FEINGOLD. Mr. President, I do want to emphasize that there is no constitutional problem with this bill. First, there is no constitutional right to a tax exemption, the Supreme Court has made that abundantly clear. This amendment simply requires disclosure as a condition of receiving a tax exemption. If a group doesn't want to make these disclosures, it can simply pay taxes on its income like any other business in the United States. Second, we don't have a problem of vagueness or line drawing here that might implicate first amendment rights. The disclosure requirements are not triggered by any particular action or communication that a group might make. It is triggered by its decision to claim a tax exemption under section 527. Thus, as I said before, these groups self-identify. They make the decision whether they are 527 and if they do, they have to disclose.

There is a simple principle at stake here. It is a question of disclosure versus secrecy. I say to all my colleagues who have argued here on the floor that we do not need reform, we do not need a soft money ban, that all we need is disclosure: Now is the time to put your money where your mouth is. If you vote against this amendment—if you vote against this amendment for disclosure, you will never again be able to argue with any credibility that you support full disclosure. The time has come to put an end to secret money funding secret organizations. As I said yesterday, the combination of money, politics, and secrecy is a dangerous invitation to scandal. What these organizations have done so far in this election cycle, in my view, already is a scandal. Let's agree to this amendment and put a stop to it.

EXHIBIT 1

[From the New York Times, Mar. 29, 2000]

THE 2000 CAMPAIGN: THE MONEY FACTOR; A POLITICAL VOICE, WITHOUT STRINGS

(By John M. Broder and Raymond Bonner)

WASHINGTON, Mar. 28.—The tiny remnant of the American peace movement had a little money and was looking for a voice in the political process. The pharmaceutical industry had a lot of money and was looking for a bullhorn.

Both found it in an obscure corner of the Internal Revenue Code known as Section 527, a provision that opens the way for groups to raise and spend unlimited sums on political activities without any disclosure, as long as they do not expressly advocate voting for a candidate. Section 527 has become the loophole of choice this year for groups large and small, left and right, to spread their messages without revealing the sources of their income or the objects of their spending.

The provision was written into the tax code more than 25 years ago as a way of protecting more income of political parties from taxation. But only recently, after court rulings and Internal Revenue Service opinions broadened its scope, has it been exploited by nonprofit political organizations trying to avoid the donor disclosure rules and contribution limits of federal election laws.

Republicans for Clean Air, the group that broadcast advertisements critical of Senator John McCain in several states before the Super Tuesday primaries, was established under Section 527 by Sam Wyly, a Texas businessman and big contributor to Gov. George W. Bush.

Business Leaders for Sensible Priorities, which is led by Ben Cohen, a founder of Ben & Jerry's Homemade ice cream, has set up a 527 committee to agitate in 10 Congressional races for less spending on weapons and more spending on schools, Duane Peterson, vice president of the group, said last week. He declined to say which races the group planned to focus on.

And on Monday, a Section 527 entity calling itself Shape the Debate began running television commercials in California, New York and Washington that call Vice President Al Gore a hypocrite and ridicule his positions on campaign finance reform and tobacco. The group, which expects to raise $2 million to $3 million this year, was formed by allies of Pete Wilson, the former Republican governor of California.

Two of Shape the Debate's officers are $1,000 contributors to Mr. Bush, but the group's founder, George Gorton, said the organization had no ties to the Bush campaign.

Following an I.R.S. ruling last year that essentially endorsed the practice, conservative lawmakers, liberal interest groups, rich individuals and large corporations have begun to quietly pour tens of millions of dollars into the political cauldron. The organizations say they plan to use the money for advertising, polling, telephone banks and direct mail appeals—all the major functions of a candidate committee or a political party, but without requirements for public disclosure or accountability.

Because there is no law requiring these groups to report their existence, neither the Federal Election Commission nor the Internal Revenue Service can say how many are in place. But lawyers who set them up and campaign finance specialists say that scores of 527's exist and more are being created every week.

Their full impact will probably not be seen until the fall, when the airwaves will most likely be filled with advertisements from previously unknown organizations, mirroring the 11th-hour attack on Mr. McCain by Republicans for Clean Air.

Citizens for Better Medicare, a group created last summer under Section 527 by major drug makers and allied organizations, expects to spend as much as $30 million this year to oppose legislation that the industry thinks will impose government price controls on medicines, the group's officers say.

The group's plans include a national campaign of political advertising this fall, said Timothy C. Ryan, its executive director.

Peace Action, the antiwar group once known as SANE/Freeze, created a 527 operation called the Peace Voter Fund late last year to try to influence the debate this year in eight Congressional races, including the Senate races in New Jersey and Michigan and contests for House seats in Michigan, California, Illinois, and the 3rd, 7th and 12th Congressional Districts in New Jersey.

The fund's $250,000 in seed money came from a handful of wealthy benefactors who insisted on remaining in the shadows, said Van Gosse, organizing director of Peace Action.

Mr. Gosse speaks rhapsodically of Section 527. It offers freedom from the requirements of Federal Election Commission reporting, he noted, and relief from the Internal Revenue Service rules on political activity by charitable organizations.

Mr. Gosse said he would not reveal the names of his major donors. ''That's the whole point,'' he said.

''Unlike a PAC,'' he added, referring to political action committees, which are regulated by the election commission because they work directly on behalf of candidates, ''there's no cap on how much you can spend or accept. There's no I.R.S. gift tax or reporting. It's a thing of beauty from an organizing perspective. It gives one a lot of freedom and fluidity.''

As long as a Section 527 group does not expressly advocate the election or defeat of individual candidates—by using the words ''vote for'' or ''vote against''—there is no requirement to report to the Federal Election Commission. These groups are free to engage in ''issue advocacy,'' which to most voters has become virtually indistinguishable from pro-candidate electioneering.

The new Shape the Debate advertisement could pass for an attack ad sponsored by the Bush campaign as it concludes with the line, ''Al Gore has a lot to answer for.''

Advocates of campaign finance reform see the 527 loophole as a pernicious and proliferating vehicle for getting and spending tens of millions of undisclosed dollars.

''The new Section 527 organizations are a campaign vehicle now ready for mass production,'' Frances R. Hill, a professor of law at the University of Miami, wrote in a recent issue of Tax Notes, a publication for taxation specialists. The 1996 election was marked by concerns and scandals over the unregulated contributions known as soft money, she noted. ''The 2000 federal election may be equally important in campaign finance history for the flowering of the new Section 527 organizations,'' she said.

Mr. Gore called for disclosure of the officers and finances of Section 527 organizations as part of his campaign finance proposal released this week. He called such groups, ''the equivalent of Swiss bank accounts for campaigns.''

Representative Lloyd Doggett, a Texas Democrat, is preparing legislation to regulate Section 527 groups, requiring, at a minimum, disclosure of contributors and expenditures.

''The problem is, our political system is being polluted with substantial amounts of secret contributions and secret expenditures used to attack candidates,'' Mr. DOGGETT said.

Congress' bipartisan Joint Taxation Committee has recommended steps to open Section 527 groups to greater public scrutiny by publishing their tax returns, among other things. But Congress is not likely to act quickly on any proposal to rein in such groups, Mr. DOGGETT said.

Representatives TOM DELAY of Texas and J.C. WATTS of Oklahoma, both Republicans, have established Section 527 funds to burnish their party's image and promote conservative ideas on taxation, the military and education. Former Representative Pat Saiki of Hawaii has created Citizens for the Republican Congress as another safe haven for anonymous big donors.

Scott Reed, who managed Bob Dole's presidential campaign in 1996, has established a 527 group to attract Hispanic voters to the Republican Party. New Gingrich is affiliated with a 527 organization advocating Social Security reform and tax cuts.

Recently, attention has focused on the Section 527 operations of conservatives. But the Sierra Club was one of the first nonprofit organizations to set up a 527 subsidiary, in 1996, and the League of Conservation Voters, which is generally partial to Democrats, followed a year later.

''We agree it's a loophole,'' said Carl Pope, executive director of the Sierra Club. He said a handful of wealthy, anonymous donors had given about $4.5 million to the Sierra Club's 527 committee to use during this year's elections.

Mr. Pope said that his organization would support legislation to eliminate the loophole, but that until then the Sierra Club intended to keep using its 527 political fund.

Karl Gallant, an adviser to Mr. DELAY, said conservatives began to get into the game in a big way after a San Francisco law firm that represents liberal nonprofit organizations announced last April that it had been successful in setting up a 527 political organization for one of its clients. Mr. Gallant set up Mr. DELAY's 527 group, the Republican Issues Majority Committee.

The organization has begun hiring workers and has been spending to mobilize conservative voters in two dozen competitive Congressional districts, Mr. Gallant said. The group expects to spend $25 million this year, he said.

Section 527 was added to the tax code in 1974, primarily to clarify the tax status of purely political, nonprofit organizations, including the Democratic and Republican national parties and PAC's. Under the provision, they do not pay taxes on contributions from donors, only on investment income. But the parties and PAC's are required to report donations and expenditures to the election commission. While these organizations are exempt from taxation, contributions are not tax deductible.

The pure Section 527 organizations like those proliferating today operate in a protected niche of the tax code governing political groups, but because they do advocate on behalf of an individual candidate or candidates, they fall short of election-commission disclosure laws. That is what distinguishes them from a political party or a PAC. Donations are not tax deductible, but the groups' contributions and expenditures do not have to be disclosed to the I.R.S. or the F.E.C.

By 1996, a convergence of factors caused many nonprofit organizations to embrace this kind of vehicle to cover their political activities, said Greg Colvin, a San Francisco lawyer who set up some of the first 527 organizations, for liberal groups.

''Donors were looking for a way to put large, anonymous money into organizations that would have a political effect,'' he said. He added that many groups were eager to flex their political muscle beyond what was permissible under their tax-exempt status

without opening themselves up to a requirement to report their activities to the election commission. And last year the Internal Revenue Service issued an opinion in the case of a group Mr. Colvin represented, endorsing the use of Section 527 by a wide range of political organizations.

Another factor in prompting the interest in Section 527 was a ruling last year by the I.R.S. denying tax-exempt status to the Christian Coalition because of its political activities.

Lawyers who specialize in campaign and tax law have been approaching groups of all ideological stripes for several months, selling them on the benefits of Section 527.

Grover Norquist, the executive director of Americans for Tax Reform, a conservative antitax group, said that a lawyer had recently offered to set up a 527 arm for him for $500.

Mr. Norquist said that at first the new structure did not appear to offer any advantages over his current nonprofit status. But when the law was explained to him more fully, he said, ''Maybe I should have two.''

[From the New York Times, Apr. 2, 2000]

A NEW PLAYER ENTERS THE CAMPAIGN SPENDING FRAY

(By Todd S. Purdum)

LOS ANGELES, Apr. 1.—George Gorton is hardly a political novice.

For 30 years, since he was a college student supporting James L. Buckley's campaign for the United States Senate from New York, he has worked for candidates from Richard M. Nixon to Pete Wilson to Boris N. Yeltsin. But even he had not thought much about Section 527 of the Internal Revenue Code—at least not until last year.

''I was walking around complaining to everybody that I could find about the amount of money that organized labor was spending on issue advocacy,'' said Mr. Gorton, who cut his teeth as national college coordinator for Nixon's Committee for the Re-election of the President in 1972.'' And somebody said to me, 'George that's their First Amendment right.' And I decided labor wasn't wrong to do it; they were right to do it, and so I decided pro-business people should do it, too.''

So Mr. Gorton, who runs a Republican consulting business based in San Diego, started Shape the Debate, a nonprofit political organization that, under Section 527, can raise and spend unlimited amounts of money, with no disclosure requirements for donors, as long as it does not expressly advocate the election or defeat of any candidate. Its inaugural television advertisement, which began airing this week in California and New York, accuses Vice President Al Gore of political hypocrisy, in a mock game show in which contestants answer questions on various topics, including Mr. Gore's support for campaign finance overhaul despite his appearance at an illegal fund-raiser at a Buddhist temple.

''Shape the Debate strongly believes that free enterprise and conservative ideas are more likely to become public policy when candidates and public officials honestly and publicly discuss their positions on them,'' according to the group's credo, which can be found on its Web site, shapethedebate.com. ''Shape the Debate will therefore use stinging ads of rebuke, where appropriate, or gentle praise to remind leading candidates and public officials to honestly discuss our issues, as a means to keep conservative and free enterprise issues uppermost in the minds of the American public.''

The group is among the latest entrants in a growing field of independent campaign expenditure efforts, spurred on by recent court rulings interpreting the tax law. The group's literature emphasizes that contributions are not a matter of public record, and Mr. Gorton said that was an appealing point for donors, most of them Republicans and many of them Californians who supported Mr. Wilson's past campaigns for governor and senator. So far the group has raised about $1.5 million, in chunks of multiple thousands of dollars; Mr. Gorton hopes to raise another $2 million to $3 million for advertising campaigns this year.

''In the atmosphere that's been created by the Clinton-Gore administration, where the secret F.B.I. files of Republican appointees turned up in White House hands, you have to wonder about retribution,'' he said. ''The heart of the First Amendment is that you can criticize your government without fear of retribution.''

Mr. Wilson, who was forced out of office by term limits last year, has helped raise money for the group. As governor, he tangled repeatedly with public employee unions that undertook campaigns opposing his policies, and former Wilson aides say they see the latest effort as a way of evening the score a bit.

''Television is what really does shape the debate,'' said Mr. Wilson, who since last fall has been working for Pacific Capital, an investment banking concern in Beverly Hills. ''The candidates certainly have that obligation, and sometimes they fulfill it and sometimes they don't. But the fact is, there are very definite limits on what they can reasonably expect to raise through their own efforts. Arguably, Bob Dole in 1996 was dead before he ever got to the convention in San Diego, because of the tremendous pummeling he took in the interim in independent expenditures directed against him.''

Mr. Wilson added, ''I think what you've got now is a situation in which most of the spending on television on both sides is going to be financed by independent groups and not the candidates themselves.''

State and national Democratic officials swiftly denounced Shape the Debate's efforts as ''underground financing'' waged by ''George W. Bush's ally,'' in the words of a Democratic National Committee news release. In fact, Mr. Wilson's former aides say, he has never had particularly warm relations with Mr. Bush and has regarded him warily for years as a rival. When Mr. Wilson decided last year not to pursue his own presidential campaign, and Mr. Bush telephoned to wish him well, at least one senior Wilson aide urged him not even to return the call.

Mr. Wilson, who battled a severe recession in his first term before presiding over a sharp recovery, nevertheless remains controversial in California, where his strong stands against affirmative action and illegal immigration provoked a backlash. Mr. Bush has not generally tapped the old network of Wilson advisers in his campaign here, and Mr. Gorton said he did not believe the two men had talked in months.

''I think Peewee's trying to find a way that George Bush will give him a call,'' said former State Senator Art Torres, the chairman of the California Democratic Party, using his party's derisive nickname for Mr. Wilson. ''The problem is, he's now created even more of a fire wall, because of the sensitivity he's created with this ad. They have no sense of subtlety and they never did.''

But Mr. Wilson said: ''I have gotten into this because I think George W. Bush should be president. I also think that had he faltered, John McCain should have been president. And I don't think the vice president should be. It's as simple as that.''

[From the Arizona Republic, May 11, 2000]

CONTRIBUTOR ''LOOPHOLE'' SKIRTS CAMPAIGN LAWS

(By Jon Kamman)

In the frenzy of fund-raising leading to next fall's elections, an old form of political organization has found new life as the perfect vehicle for concealing who is giving and how much.

Variously labeled ''the mother of all loopholes'' and ''black hole groups,'' the so-called section 527 committees are ''the brashest, boldest'' method seen to date for circumventing campaign-finance laws, Common Cause President Scott Harshbarger said.

Arizona Sen. John McCain, who made campaign-finance reform the centerpiece of his bid for the Republican presidential nomination, has termed the groups the ''latest manifestation of corruption in Washington,''

The Section 527 committees take their name from the section of federal tax code under which they are organized, Section 527 dates from the early 1970s, when Congress wanted to make clear that political parties, political-action committees and the like needn't pay taxes on contributions they received.

Recent court and Internal Revenue Service interpretations of the law have given nonprofit organizations free rein to engage in political advocacy while maintaining the privacy they otherwise are denied under election law.

Activists of every hue on the political spectrum, from the Sierra Club to the Republican Issues Majority Committee set up by Rep. Tom DeLay, R-Texas, have hopped on the 527 bandwagon.

Among 527 committees that have revealed themselves are one set up by Ben Cohen, cofounder of Ben & Jerry's Ice Cream, to focus on education issues, and another supported by the pharmaceutical industry to protect against limits on prescription prices.

The stealth-funding groups have no obligation to reveal, to the Federal Election Commission or IRS, membership, contributors or expenditures. Even foreigners, otherwise prohibited from making political donations, may set up a secret 527 committee.

About the only restriction on a 527 group is that it stop short of using explicit terms such as ''vote for'' or ''vote against'' in backing a candidate.

Immunity from disclosure won't continue for long, advocates of campaign-finance reform vow. A bipartisan group of congressional lawmakers, McCain among them, joined with Common Cause last month in denouncing 527 committees and pledging to press for legislation to make them accountable.

The committees are replicating at a pace that's impossible to track because of their secrecy. But the ones that have chosen to identify themselves are set to pour tens of millions of dollars—possibly more than $100 million—into political advertising this year.

That, combined with more traditional forms of ''soft money'' controlled by political parties, is sure to produce a record volume of so-called issue ads, said Sean Aday of the Annenberg Public Policy Center at the University of Pennsylvania/

Spending for such ads ranged from $135 million to $150 million in the 1995–96 campaign, and the amount more than doubled for the congressional elections two years ago, Aday said.

Many new 527 committees bear vague names, such as the Shape the Debate group, affiliated with former California Gov. Pete Wilson, that has sponsored ads attacking Vice President Al Gore.

McCain himself felt the sting of a 527 committee when $2 million worth of television

ads paid for by ''Texans for Clean Air'' were aired just before the Super Tuesday primaries in March. The ads assailed McCain's environmental record and extolled that of his opponent, Texas Gov. George W. Bush.

Although nothing required them to do so, oil-rich brothers Sam and Charles Wyly revealed themselves as the backers of the ads.

[From The Hill, May 17, 2000]

NEW VA-BASED ''527'' WILL TARGET 25 RACES; STARTS IN IDAHO, NJ

(By John Kruger)

The Council for Responsible Government joined the ranks of new ''527'' organizations two weeks ago when it incorporated in Virginia and immediately began running radio and television ads in Idaho against Republican candidate Butch Otter, accusing him of being soft on pornography. It also commenced a direct-mail campaign in New Jersey.

The group, based in Burke, Virginia, intends to raise $2- to 2.5-million and target 25 races around the country this year, according to William Wilson, the group's registered agent.

''We want to promote free market ideas and traditional moral and cultural issues,'' Wilson said. ''We want true accountability to voters,'' which Wilson defined as making sure voters know what a politician's true record it.

''They speak to different sides of an issue with different audiences,'' he explained. ''That's developed a lot of cynicism [among voters].''

Wilson said the group does not engage in issue advocacy or endorse candidates. ''We engage in voter education,'' Wilson said.

Section 527 of the tax code permits political committees to raise and spend unlimited funds without having to disclose their contributors, provided that those funds are not used to expressly advocate the election or defeat of a candidate.

Organizations formed under Section 527 have come under fire from campaign finance groups and members of Congress for eliminating the line between issue advocacy and candidate support.

One such group, the Republican Majority Issues Committee, a group close to House Majority Whip Tom DeLay (R–Texas), was sued last month by the Democratic Congressional Campaign Committee (DCCC).

Wilson said the group registered in Virginia because ''there are some of the finest federal judges in the country, ''alluding to their strong record on First Amendment issues. Wilson said any time a group does something the ''powers that be'' don't like, they are likely to be attacked in court.

''I think it's wise to be afraid of the government,'' he said.

Wilson said the group would not disclose its donors.

''We have a lot of donors, but we want to keep that to ourselves,'' Wilson said. ''We want them to be able to give without the fear of retaliation.''

The group has also started a direct mail campaign warning New Jersey voters that Republican candidate Joel Weingarten had cast votes in favor of tax increases.

Weingarten's campaign has sued the group charging that the council is using soft money and coordinating its mailings with Jamestown Associates, a Princeton, N.J.-based media firm hired by Weingarten's rival Mike Ferguson.

Larry Weitzner, president of Jamestown Associates, denied any connection with the council, dismissing Weingarten's claims as coming from a campaign that is ''desperate'' and ''behind in the pools.''

Gary Glenn, director of the Accountability Project, an arm of the council, also denied any coordination.

''I have no knowledge of the firm whatsoever,'' Glenn wrote in a statement.

Glenn is also president of the American Family Association of Michigan, a Midland-based conservative organization. He said the project is not a separate organization, merely a ''marketing phrase.''

Wilson said the council will also target primary races in August and September, as well as several general election races.

Wilson, who is listed on FEC records as being the political director for U.S. Term Limits, said the council has no ties with any other group.

''It's a volunteer organization. We have no connection with any other organizations,'' Wilson said. ''To the extent we're permitted, we share ideas, sure.''

Wilson said there is no paid staff, just a group of 40 to 45 volunteers around the country. He said the group does not intend to hold any fundraising events, but would rely on one-on-one meetings ''with like-minded people.''

Tom Kean Jr., who is running against Weingarten and Ferguson in New Jersey's 7th Congressional District, decried the mailing.

''We, as voters, deserve the right to know who is defining the candidates seeking this office as well as any office in this nation,'' Kean said in a press release. ''Unfortunately, I fear this is only the first of many such expenditures in this race.''

Mr. WARNER. Will my colleague yield?

Mr. FEINGOLD. I am happy to yield.

Mr. WARNER. Mr. President, a number of colleagues are present on the floor seeking recognition. May we alternate?

Mr. FEINGOLD. Mr. President, I will simply say to the chairman, I will be happy to do that. I ask in this instance that Senator SCHUMER go next because the understanding last night was that he start the process, and then after that alternate.

Mr. WARNER. The Senator from Virginia inquires as to the amount of time the Senator from New York wants.

Mr. SCHUMER. Mr. President, I inform the Senator I will take approximately 10 minutes. Will the Senator from Virginia yield?

Mr. WARNER. Mr. President, I recognize there is a unanimous consent agreement in effect, but I am trying as best I can to work this in a fair and equitable manner.

It is important, in your judgment, that Senator SCHUMER follow you for a period of 10 minutes?

Mr. FEINGOLD. It is not, in my view, essential.

Mr. SCHUMER. If somebody else has a pressing need and will speak for less than a half hour or so, I will be happy to yield.

Mr. WARNER. I did put in a request, of which I thought he was aware, that the President pro tempore will follow.

Mr. SCHUMER. I am happy to yield and thank the Senator from Wisconsin.

Mr. WARNER. We will proceed under the unanimous consent agreement, after the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise this afternoon not to speak about the specifics of the National Defense Authorization Bill, but to speak to the importance of the Senate passing a defense authorization bill. I am very concerned that this bill will be so burdened with non-germane amendments that our House colleagues may challenge it on constitutional grounds—the so-called Blue Slip. If the Senate persists with these type of non-germane amendments there is the strong possibility that for the first time in my 41 years on the Armed Services Committee there will not be a National Defense Authorization Bill.

Mr. President, if there is no authorization bill we will deny the following critical quality of life and readiness programs to our military personnel, both active and retired, and their families:

No 3.7 percent pay raise;

No Thrift Savings Plan;

No concurrent receipt of military retirement pay and disability pay;

No comprehensive lifetime health care benefits; and

No military construction and family housing projects.

Mr. President, it is ironic that two days ago, members were commemorating D-Day and the sacrifices of the thousands of men who charged across the beaches of Normandy. Now only two days later, the Senate is jeopardizing the bill that would ensure that a new generation of soldiers, sailors, airmen and Marines have the same support as those heroes of World War II and the Korean War whose 50th anniversary we will be celebrating. I urge my colleagues to carefully consider the impact of their votes on this strong bipartisan defense authorization bill. We must not jeopardize our 40 year record of providing for the men and women who proudly wear the uniforms of the Nation and make untold sacrifices on a daily basis to ensure the security of our great Nation.

I yield the floor.

AMENDMENT NO. 3214

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I yield to the Senator from New York.

The PRESIDING OFFICER. The Senator from Wisconsin yields. How much time does the Senator from Wisconsin yield?

Mr. FEINGOLD. Ten minutes.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I thank the Senator from Wisconsin for yielding this time and for the leadership on this issue. I also praise my friend from Arizona who has, throughout, been courageous on this issue as on many others, as well as the Senator from Connecticut, whose proposal it is and who has stood as a beacon, in terms of reform.

If you wanted to design a corrupting statute that would blow over our body politic, you would come up with a statute like 527. Although it was inadvertently drafted, and was never intended for this purpose, its effect eats at the very core of our Republic.

Imagine if someone came to you and said: Let's make political contributions tax deductible, unlimited, and secret. Most people, if they were given that case de novo, would say: What? We could not do that. That would be the most pernicious violation of the kinds of things we stand for in this democracy that one could imagine.

Yet that is where we stand today. If this statute is not changed, anyone can give unlimited amounts of money and get tax deductions for them.

Organized crime could contribute to a candidate—not to a candidate, but organized crime could contribute to one of these funds, put ads on the air, and dramatically influence elections. Drug dealers, criminals, could set up funds and affect candidacies. Foreign governments, people from afar, could do this, and there would be no way to track them down or find it out. If the American people knew with some degree of precision what is happening with these accounts, these 527 accounts, they would be shocked. Again, if you were to choose a way of corrupting this democracy, you would design a system similar to these accounts.

Here we are with the Senators from Arizona, Wisconsin, and Connecticut. Their amendment and mine and others simply says: Don't limit the amount of money—although I would like to do that; don't take away the tax deductibility—although I find it absurd that you should get a tax deduction for this but the person who gives $25 aboveboard to the candidate he or she believes in gets no tax deduction, but a large special interest does and influences an election just as profoundly. But we are not doing that. All we are saying is disclose.

I am looking forward to hearing from my colleague from Kentucky. I respect his view on the first amendment, which is, frankly, at least in this area, more absolute than mine, but he put his money where his mouth is when he opposed, for instance, the flag burning amendment.

But disclosure does not violate free speech in any way. If it did, all the disclosure regulations that we have should be abolished. Why is it that, for these accounts which benefit politicians and political parties, there should be secrecy, but for any other kind of account there should not? It is clearly not a first amendment argument.

Mr. President, today is the 211th anniversary of the Bill of Rights. It is the most farsighted document dedicated to freedom and humanity that has been created. We should consecrate that birthday by cleaning up one part of the campaign finance system that would offend the Founding Fathers.

When we see what these accounts do, imagine a Jefferson or a Hamilton or a Madison looking down and saying: These accounts are being defended in the name of the Constitution and of free speech?

Just when we think our campaign system could not possibly get any worse, along comes the discovery of this new loophole, section 527. Section 527 is the largest, most disturbing, and most pernicious loophole in a system rife with backdoor ways to influence Government through hidden money. Mark my words, I say to my colleagues, if we do not close this loophole, or at least expose it to the sunlight of disclosure, the 527 accounts will dominate our elections. The so-called hard money will become unimportant. Even the disclosed soft money will become unimportant. All kinds of people, none of whom we would want to see contributing to campaigns and influencing elections, will come above ground. The effects on our democracy will be profound and profoundly disturbing.

The upshot of the crazy system we have, done by accident almost, is that any group can spend any amount on ads that anyone can see are designed to sway elections, all without disclosure of any kind.

The Judiciary Committee spent months examining whether the Chinese Government improperly funneled money into the 1996 elections. Many of my colleagues on the other side are saying this was improper. If they had used one of these accounts, they never would have known about it, and it would have been perfectly legal. The 527 loophole is an open invitation to foreign governments, or anyone else, to secretly pump as much money as they want into this election. To me, it would be contradictory—no, hypocritical—for those who correctly inveigh against the abuses of the 1996 election not to support the amendment offered by the Senator from Arizona because if my colleagues want to stop foreign government influence and have contributions open and not secret, we must close this loophole.

The amendment offered yesterday would end the system of secret expenditures, hidden identities, and sullied elections. It would prevent not only foreign governments but organized crime, money launderers, and drug lords from contributing.

When this election is over, the sad fact of the matter is that we will not even know if the Chinese Government sought to influence our elections through 527 accounts unless this amendment is adopted because there is no disclosure at all. All we want to do is let the people see the groups, who is paying the tab, and how the contributions are being spent.

The Supreme Court, on this anniversary of the Bill of Rights, has said the right to vote is the most important right we have because in a democracy, the right to vote guarantees all other rights. That basic freedom is tarnished when we prevent the American people from seeing who is trying to influence their vote and how.

One of our great jurists, Justice Brandeis, wrote famously that sunlight is the best disinfectant. The bottom line is simple: Do we want to disinfect a system which has become worse each year, or do we want to, under some kind of contrived argument, keep the present system going for someone's own advantage?

Finally, I stress this amendment is not an attempt to advance the fortunes of one party or another. It is bipartisan, and it is far more important than that.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. SCHUMER. Mr. President, I ask for an additional 30 seconds to finish my point.

Mr. FEINGOLD. I yield 30 seconds.

Mr. SCHUMER. This is not a liberal or conservative amendment. All groups have availed themselves of this kind of loophole. All groups must be stopped. This is basic information that the people of America have a right to know, and we have a duty to see that they get it. I thank the Chair, and I thank the Senator from Wisconsin.

Mr. WARNER. Mr. President, I seek recognition and charge it to the time under my control.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I have listened to the interesting introductory remarks by our two distinguished colleagues, and momentarily we may receive the remarks of another distinguished colleague associated with this amendment.

I tell my colleagues straightforward, they have my vote. I support them, but I ask them to address the question of the matter that is pending before the Senate: The annual Armed Forces bill. This is a list that goes back to 1961. The Senate of the United States unfailingly has passed an authorization bill for the men and women of the Armed Forces. I say to my dear friend and colleague, a former distinguished naval officer, this amendment will torpedo this bill and send it to the bottom of the sea where only Davy Jones could resurrect it.

To what extent have my colleagues who are proposing this thought about breaking 40 years of precedent of the Senate by sinking the annual authorization bill at a time when the threats facing the United States of America are far more diverse, far more complicated than ever in contemporary history; when the men and women of the Armed Forces of the United States are absolutely desperate in terms of pay and benefits to keep them in the jobs as careerists?

We now have one of the lowest retention rates ever. There are no lines of young men and women waiting to volunteer to be recruited. This bill goes a long way. This bill helps with the benefits they rightly deserve. For the first time in the history of the United States of America, we have provisions caring for the medical assistance of the retirees. First time, Mr. President. It is the first time in the history of this

country, and add on the ships and the aircraft.

I read the Constitution of the United States. What are the responsibilities of the Congress as delineated by our Founding Fathers? ''To declare War . . . To raise and support Armies . . . To provide and maintain a Navy; To make Rules for the Government and Regulation of the land and naval Forces . . . .''

That is what this bill does. That is our constitutional fulfillment.

Yet my colleagues who are proposing this know full well this bill is subject to what is known as the blue-slip procedure if it leaves this Chamber with this amendment and goes to the House of Representatives. The House will blue slip it, and this bill is torpedoed.

I await reply of the sponsors of the amendment to the points I have raised and how it could jeopardize and end the fulfillment of the obligation of the Senate under the Constitution of the United States. I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I yield to no one in my concern for the men and women in the military in defense of this Nation. I yield to no one in this body.

I deeply regret that the distinguished chairman of the committee would be part of this red herring which has been raised so Members on both sides of the aisle who oppose disclosure, who have publicly stated time after time they are in favor of full disclosure—I see the Senator from Colorado on the floor. Senator WAYNE ALLARD stated, in reference to campaign finance reform:

> I strongly believe that sunshine is the best disinfectant.

That is from the CONGRESSIONAL RECORD, page 145, Monday, October 18, 1999. He will now be on the floor, I believe, in trying to cover up for that statement. I tell you what, I say to the distinguished chairman. Right now I will ask him to agree to a unanimous consent agreement—right now—that if this provision causes the House, the other body, to blue-slip this, on which they have no grounds to do so, the next appropriate vehicle that the Parliamentarian views is appropriate, this amendment will be made part of. I ask unanimous consent.

Mr. WARNER. I have to object.

The PRESIDING OFFICER. Objection is heard.

Mr. MCCAIN. I thought the Senator from Virginia would object. So I will ask another unanimous consent agreement, that in case this amendment does cause it to be blue-slipped, it be in order on the next appropriate vehicle, as determined by the Parliamentarian, that a vote be held on this amendment with no second-degree amendments. I ask unanimous consent.

Mr. WARNER. Mr. President, I object. I object, Mr. President, on behalf of the leadership of the Senate.

The PRESIDING OFFICER. Objection is heard.

Mr. MCCAIN. I have the floor, Mr. President.

Mr. ALLARD. Will the Senator from Arizona yield to me for a point of order?

Mr. MCCAIN.. I will not yield to the Senator from Colorado until I have finished my statement.

Mr. ALLARD. I just resent the fact that the Senator suggests in some way——

Mr. MCCAIN. I have the floor.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. MCCAIN. The Senator from Arizona has the floor.

The Senator from Colorado said, on October 18, 1999:

> I strongly believe that sunshine is the best disinfectant.

Mr. ALLARD. That is correct.

Mr. MCCAIN. Concerning campaign finance reform. So if the Senator from Colorado and the Senator from Virginia are basing their objections to this amendment on the grounds that it would harm the Defense authorization bill, then they should have no objection—no objection—to the unanimous consent agreement that this amendment be placed on the next appropriate vehicle by the Parliamentarian.

But instead, the Senator from Virginia is objecting—I take it the Senator from Colorado would object—clearly revealing that the true intentions here have a lot more to do with this amendment than with the defense of this Nation.

So the fact is, on blue slips, all revenue bills must originate in the other House. The precedents of the Senate on pages 1214 and 1215 know eight types of amendments. I ask unanimous consent that this be printed in the RECORD.

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

REVENUE

See also ''Constitutionality of Amendments,'' pp. 52–54, 683–686.

Constitution, Article I, Section 7

[PROPOSALS TO RAISE REVENUE]

All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Bills Raising Revenue Originate in the House

The House on various occasions has returned to the Senate bills which the Senate had passed which the House held violated its prerogatives to originate revenue measures.

The following types of proposals originating in the Senate were returned by the House or decided by the Senate to be an infringement of the House's constitutional privilege with respect to originating revenue legislation:

(1) Providing for a bond issue;

(2) Increasing postal rates on certain classes of mail matter;

(3) Exempting for a specific period persons from payment of income taxes on the proceeds of sales of certain vessels if reinvested in new ship construction;

(4) Providing for a tax on motor-vehicle fuels in the District of Columbia and other District of Columbia tax measures;

(5) Agricultural appropriation bill in 1905 with a particular amendment on revenue thereto;

(6) Repealing certain provisions of law relative to publicity of income tax rates, with an amendment increasing individual income tax rates;

(7) Concurrent resolution interpreting the meaning of the Tariff Act of 1922 with respect to imported broken rice; and

(8) The Naval Appropriation bill for 1918 amended to provide for a bond issue of $150,000,000.

Constitutionality of Amendments or Bills—Question of Passed on by Senate

See also ''Constitutionality of Amendments,'' pp. 52–54, 683–686.

Under the precedents of the Senate, points of order as to the constitutionality of a bill or amendments proposing to raise revenue will be submitted to the Senate for decision; the Chair or Presiding Officer has no power or authority to pass thereon.

A point of order on one occasion was made against a bill that it was revenue raising; it was submitted to the Senate, and subsequently laid on the table by voice vote.

Mr. MCCAIN. There are eight types of amendments that have been offered in the Senate in the past that were returned by the House after the House decided that the Senate's action was an infringement on the House's constitutional privilege with respect to originating revenue legislation.

In each of the eight noted examples in the precedents, it is clear that the Senate was seeking to raise revenue of one sort or another, from increasing postal rates to raising bonds or taxing fuel.

This amendment in no way raises any revenue nor does it change in any way the amount of revenue collected by the Treasury pursuant to the Tax Code. It is simply a clarification in what information must be disclosed by entities seeking to claim status under section 527 of the Tax Code.

I say to my friend from Virginia, the American people will see through this. The American people will understand what is being done here—an effort to contravene what literally every Member of this body has said, that we need full disclosure of people who donate to American political campaigns. And if that were not the reason—if that were not the reason—then the Senator from Virginia and the Senator from Colorado would agree to my unanimous consent agreement, which I repeat.

Mr. President, I ask unanimous consent that on the next appropriate vehicle that is viewed appropriate by the Parliamentarian, this amendment be made in order for an up-or-down vote with no second-degree amendments.

Mr. WARNER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MCCAIN. We have just totally disclosed what this is all about. This is not about the defense of the Nation. This is a defense of a corrupt system which, in the view of objective observers, has made a mockery of existing campaign finance laws, which has caused Americans to become alienated from the system.

We were worried about Chinese money in the 1996 elections. Under the

present system of 527, Chinese money, drug money, Mafia money, anybody's money can come into American political campaigns, and there is no reason to disclose it.

So now here we are with 100 Members of this Senate all saying we need full disclosure, using a constitutional facade which is not correct as a reason to vote against this amendment and vote it down.

I say again, for the third time, if it is a constitutional objection, and that objection is legitimate, then the Senator from Virginia and the Senator from Colorado have no reason to object to this amendment being made part of the next appropriate vehicle which is deemed appropriate by the Parliamentarian. And by so objecting to that unanimous consent agreement, their defense or their argument that somehow we are harming the Defense authorization bill does not have credibility.

Mr. President, I do not want to yield all the time. I would be glad to engage in this. But I wondered what would happen last night after we proposed this amendment for full disclosure. I wondered. I wondered what the defense against cleaning up at least to some degree, allowing the American people to know who are contributing to American political campaigns in unprecedented amounts of money, would be.

I repeat, one more time, I yield to no one in this body as to my advocacy for our Nation's defense and the men and women in the military. But if we want to give these men and women in the military confidence in their Government, we should have fully disclosed who it is that contributes to the political campaigns.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, the distinguished Senator from Arizona and I go back a very long way. When I was Secretary of the Navy, he was incarcerated as a consequence of his heroic service in Vietnam. His father was among if not the most valued adviser I had during the turbulent period of that war when I had the responsibility for the Department of the Navy. That was for over 5 years, 1969 through 1974.

I have the highest personal regard for my friend and my colleague, whom I have worked with from the day he returned to the United States of America to be welcomed quite properly as a hero.

I know for a fact that he has always foremost in his mind, every day that he draws a breath, every day the great Lord of ours gives him the strength to take up his responsibilities, the welfare of the men and women of the Armed Forces. I find it very awkward to be in a position to be in opposition to my friend, but the rules are quite clear of the House that it is a matter of privilege of the House regarding the constitutional provision as it relates to taxation.

It has been a matter of privilege since the inception of this Republic. That privilege is determined by the House in the course of resolutions. If this bill goes over, then they adopt a resolution. We know from consultation there are Members of the House who will absolutely take that resolution to the floor, and there is no doubt that this bill will be blue-slipped, and it will be torpedoed and go to the bottom of Davy Jones' locker.

I yield the floor.

Mrs. FEINSTEIN. Mr. President, I rise in support of the amendment offered by the Senator from Arizona to require the disclosure of donors to tax-exempt groups who engage in political activities. These groups use an obscure provision of the Tax Code—section 527—to shield the identity of contributors and use the funds to make anonymous attacks on candidates for public office.

Section 527 organizations represent the latest attempt to bypass campaign finance laws and pour undisclosed money in the electoral process. There is no official public information about the number of such groups, who their officers are, where the money is coming from, and how it is being spent.

Section 527 of the Tax Code was enacted to provide candidates, political parties, and PAC's with special tax treatment. These groups are required to register with the Federal Election Commission and disclose contribution and expenditure information.

In recent years, however, the IRS has ruled that organizations which intend to influence the outcome of an election but do not expressly advocate the election of a candidate qualify as a political organization but are not required to file with the FEC. These groups can raise and spend as much money as they want to influence an election, but the public has no information on who or what they are.

This is precisely the sort of activity that makes the political process appear corrupt and undemocratic. The American public is becoming increasingly disenchanted and uninterested in electoral process because they feel their voices are being drowned out by soft money donations to political parties.

In the case of soft money, however, at least the amount of the contribution and the name of the group or person who is making the donation must be registered with the Federal Election Commission. These groups spend unlimited amounts of money and none of it has to be disclosed. This insidious hijacking of the campaign finance system must be corrected.

It is a simple fact that the American public believes that large contributions are made to influence decisions being made in Washington. They are becomingly increasingly cynical of the process and fewer and fewer people are participating in elections.

In 1996, voter turnout was 48.8 percent—the lowest level since 1924. Turnout for the 1998 mid-term election was 36 percent—the lowest for a nonpresidential election in 56 years. Congress has a responsibility to take steps to reverse this trend.

The first step should be to require the disclosure of contributors to tax-exempt organizations. The Senate must act to close this loophole and we must do it now. I urge my colleagues to support this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I yield such time as my distinguished colleague desires.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. I thank the Senator from Virginia.

Mr. President, I came to the floor to talk about the importance of the authorization of the Department of Defense. This is an important piece of legislation. I am not here to impugn the motives of some of the other Members of the Senate or to try to mischaracterize what their reasons might be for coming to the floor.

This is a good piece of legislation. Senator MCCAIN from Arizona is certainly a hero in my mind; he continues to be that. I know he is trying to do what he thinks is best for this country. I respect that. I think we have before us a very important piece of legislation. We should not put it at risk.

This is an authorization bill that increases, by some $4.5 billion, defense spending over what the President proposed. It is a 4.4-percent increase in real terms over what we spent last year. If there is anything we have neglected over the last several years in the budget, it is our defense.

We have been obligating our troops overseas. In fact, if we look at the record, between 1956 and 1992, our troops were deployed some 51 times. Between 1992 and today, we had the same number of deployments. At the same time we are increasing our reliability on our fighting men and women, we are cutting their budget. I think that is inexcusable.

It is time Congress recognized what the problem is that the President of the United States in particular recognizes: We are not appreciating the service of our men and women in the Armed Forces.

With this legislation, we begin to appreciate the dedication and hard work of the men and women who have been serving us in the Armed Forces. Again, I thank Chairman WARNER for allowing me another opportunity to speak in strong support of this essential bill for our men and women in the Armed Forces.

This bill is a fitting tribute for those who served, are serving, and will serve in the armed services in the future. The defense bill is simply too important to be mired in political goals but should show them respect and provide them the best defense authorization bill we possibly can.

The fiscal year 2001 Defense Authorization Act is a bipartisan effort. For the second year in a row, we have reversed the downward trend in defense spending by increasing this year's funding by $4.5 billion over the President's request for a funding level of $309.8 billion.

As the Strategic Subcommittee chairman, we held four hearings. The first hearing was on our national and theater and missile defense programs. The second hearing was on our national security space programs. We had a third hearing, the first congressional hearing on the newly-created and much-needed National Nuclear Security Administration, NNSA, and we had a fourth hearing on the environmental management programs at the Department of Energy.

In response to the needs we have heard during the hearings, the Strategic Subcommittee has a net budget authority increase of $266.7 million above the President's budget. This includes an increase of $503.3 million to the Department of Defense account and a decrease of $263.3 million to the Department of Energy accounts.

There are two provisions I will highlight which pertain to the future of our nuclear forces. The first relates to the great debate we had on Tuesday and Wednesday regarding the amendment by Senator KERREY and the second degree by Senator WARNER. The original provision requires the Secretary of Defense, in consultation with the Secretary of Energy, to conduct an updated Nuclear Posture Review. It was in 1994 that we had the last Nuclear Posture Review. However, with the adoption of the Warner amendment, there is not in place a mechanism by which the President may waive the START I force level requirements.

The second provision requires the Secretary of Defense, in consultation with the Secretary of Energy, to develop a long-range plan for the sustainment and modernization of U.S. strategic nuclear forces. We are concerned that neither Department had a long-term vision about their current modernization efforts. Both of these provisions are important pieces of the puzzle for the future of our nuclear weapons posture.

A few budget items I will highlight include an increase of $92.4 million for the airborne laser program that requires the Air Force to stay on the budgetary path for a 2003 lethal demonstration and a 2007 initial operational capability; an increase of $30 million for the space-based laser program; a $129 million increase for national missile defense risk reduction; an increase of $60 million for Navy theaterwide; and an extra $8 million for the Arrow system improvement program; and for the tactical high energy program, an increase of $15 million.

For the Department of Energy programs, we increase by $87 million a program within the NNSA, which is an increase of $331 million over last year. In the Department of Energy's environmental management account, we decrease the authorization by $132 million. However, I will stress that this bill still increases the environmental management account by more than $250 million over last year's appropriated amount.

Again, I will mention a few important highlights of the authorization bill outside of the Strategic Subcommittee. There are many significant improvements to the TRICARE program for active-duty family members. The bill includes a comprehensive retail and national mail order pharmacy program for eligible beneficiaries, no enrollment fees or deductible, resulting in the first medical entitlement for the military Medicare-eligible population. I am very happy with the extensions and expansions of the Medicare subvention program to major medical centers and the number of sites for the Federal Employees Health Benefits Demonstration Program. Yesterday, the Senate, by a vote of 96–1, supported Warner-Hutchinson, which eliminated the law that forced military retirees out of the military health care system when they became eligible for Medicare. Now they have all the rights and benefits of any other retiree.

With regard to the workers at the Department of Energy, we provide employee incentives for retention and separation of Federal employees at closure project facilities. These incentives are needed in order to mitigate the anticipated high attrition rate of certain Federal employees with critical skills. Just today, we accepted a very important amendment which established an employee compensation initiative for Department of Energy employees who were injured as a result of their employment at Department of Energy sites.

As the Strategic Committee chairman, I believe this bill is the only vehicle to provide such an initiative for these workers and their families. I think that is very important. This bill is the only vehicle to provide such initiative for those workers and their families who work at the Department of Energy sites.

On Tuesday, this bill added an additional piece of funding for a memorial which should have already been built. The amendment added $6 million for the World War II memorial.

I will include for the record a copy of the opinion editorial I wrote concerning the World War II memorial. I ask unanimous consent that that be printed in the RECORD.

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

TIME HAS COME TO HONOR THE ''GREATEST GENERATION'' WITH A GREAT MEMORIAL

(By Senator Wayne Allard)

June 6 marked the 56th Anniversary of D-Day, the greatest battle fought by what has become known as the ''greatest generation''—the men and women who served our country in World War II.

Although it might seem incredible, there is no national monument to recognize those who served our country in Second World War. The Iwo Jima sculpture near Arlington Cemetery is sometimes thought as holding that distinction, but it actually commemorates the Marine Corps alone. There has long been an effort to build something to serve as a focal point dedicated to the memory of what our entire country and its armed forces went through—the memory of what was lost and of what was won—and this project is finally nearing the construction phase.

I had the honor of listening to former U.S. Senator Bob Dole recently talk about his life and service in the 10th Mountain Division during World War II. To the many roles this undeniably great man has had over the years—Senate Majority Leader, president and vice president nominee, Congressman, and W.W.II platoon leader—he has added fundraiser for the national World War II Memorial. As we remember those who sacrificed to make D-Day a success, I think it is entirely appropriate to pass along his request to me for support from my fellow Coloradans in raising the needed funds to complete this most worthy memorial.

Construction on the memorial is scheduled to begin soon on the National Mall in a powerful location between the Washington Monument and Lincoln Memorial on Veterans Day, 2000. But the $100 million goal has still not quite been reached, and that money needs to be raised to complete the memorial project.

The memorial was conceived to be privately supported. This is how many other monuments that line the Washington Mall—the Vietnam and Korean War memorial, and the Washington and Lincoln memorials, for instance—were financed. The government has given support in the form of land and will contribute operation and maintenance requirements as well, but the remaining funding still needs to be found.

The preliminary design features a lowered plaza surrounding a pool. The amphitheater-like entrance will be flanked by two large American flags. Within two granite arches at the north and south ends of the plaza, bronze American eagles hold laurels memorializing the victory of the W.W.II generation. Fifty-six stone pillars surrounding the plaza represent the 48 states and 8 territories that comprised the U.S. during W.W.II; collectively, they symbolize the unit and strength of the nation.

If we look closely, everyone of us knows someone who served our country during World War II. Be it a father, uncle, brother, sister, neighbor or friend, I encourage you to contribute to this cause in their honor. It is time the ''great generation'' had a great memorial to honor their sacrifice and service to our country.

Information on the project can be obtained through the National World War II Memorial, 2300 Clarendon Blvd., Suite 501 Arlington, Virginia 22201 or at wwiimemorial.com and 1–800–639–4WW2.

Mr. ALLARD. Finally, I want to mention my strong support for the Smith amendment, of which I am a cosponsor. This amendment would prohibit the granting of security clearances for DOD or contractor employees who have been convicted and sentenced for a felony, an unlawful user or addict to any controlled substance, and any other criteria. To be brief, our U.S. national security is too important to risk by granting clearances to felons. We are all concerned about personal rights, but when it comes to security issues, these must override all others.

Mr. President, I thank Chairman WARNER for the opportunity to point out some of the highlights in the bill which the Strategic Subcommittee has oversight of and to congratulate him and Senator LEVIN for the bipartisan way in which this bill was developed. I ask all Senators to strongly support S. 2549. One of Congress' main responsibilities is to provide for the common defense of the United States. I am proud of what this bill provides for our men and women in uniform.

We must not be blinded by political motives when it comes to our men and women in the armed services. All of the issues that come before the Senate are critical, but I hope that when it comes to this bill, we will remember why we are doing this. This bill is not for us and our political goals, but for our young men and women in the armed services.

I see this bill as a tribute to the dedication and hard work of these young men and women—the same men and women I had the opportunity to visit a few weeks ago on the U.S.S. *Enterprise*.

At this time, I ask unanimous consent that a piece I wrote regarding that visit and dedication be printed in the RECORD.

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

ARMED FORCES DAY 2000—A TRIBUTE TO OUR MEN AND WOMEN IN UNIFORM

(By U.S. Senator Wayne Allard)

Saturday, May 20th was Armed Forces Day and I can think of no better time to honor those who serve this great country in the United States military. The millions of active duty personnel who have so unselfishly dedicated their lives to protecting freedom deserve the highest degree of respect and a day of honor.

I recently had the privilege of being invited to tour the U.S.S. *Enterprise* during a training mission off the Florida coast. My experience aboard *Enterprise* reminded me of the awesome power and strength of the United States military. But more importantly it reminded me of the hard work and sacrifice of the men and women serving in our armed forces.

The U.S.S. *Enterprise* was commissioned on Sept. 24, 1960 and was the world's first nuclear-powered aircraft carrier. This incredible ship is the largest carrier in the Naval fleet at 1,123 feet long and 250 feet high. While walking along the 4.47 acre flight deck with Captain James A. Winnefeld, Jr., Commanding Officer, it was amazing to learn that ''The Big E'' remains the fastest combatant in the world.

Spending two days touring the *Enterprise* showed me what a hard working and knowledgeable military force we have. As I moved through the ship I was greeted with enthusiasm, as sailors explained the ship's equipment and their role as part of the *Enterprise* crew. At full staff, the ''Big E'', as it is affectionately known, has over 5,000 crew members from every state of the union, most of whom are between 18 and 24 years old. These young adults are charged with maintaining and operating the largest air craft carrier in the world and guiding multi million dollar airplanes as they land on a floating runway. I was in awe of these men and women who work harder and have more responsibility than many people do in a lifetime.

''The Big E'' is a ship that never sleeps, it operates twenty four hours a day, a seven days a week. I watched as a handful of tired pilots sat down for 'diner' at 10:30 p.m. on a Sunday night. Hungry and tired, they wanted it no other way. I had the privileged of joining Captain Winnefeld in honoring the 'Sailor of the Day,' Machinist Mate 1st Class Michael Gibbons, for spending three conservative days repairing the main condensation pump which is critical to the propulsion plant, taking only a few 30 minutes breaks to sleep. I witnessed the same degree of commitment in a separate part of the ship as Aviation Boatswains May 2nd Class Andre Farrell showed me how the a cables on the flight deck operate and are maintained below. His task for the past two days was to create the metal attachment which holds the one of the four arresting tailbook cables together and his voice was filled with pride as explained the entire 8 hours process. Between giving orders to his crew, he pointed out a few tiny air bulles that formed during the cooling process of the metal attachment. Although he started his shift at 4:30 a.m. and probably won't sleep for the next 24 hours, he smiles and tells me it will be redone, that it must be perfect—lives of our pilots are at risk if it is not. The amazing thing is, they all do it with a smile.

When I think about Armed Forces Day, I think about two events I experienced on the Enterprise. First, are the sailors from across Colorado who has down for breakfast with me in the enlisted mess hall, who gleamed with pride for the job they do and the important role they play in our nations defense. Second, was the ''Town Hall meeting'' I held, where I responded to questions and concerns ranging from military health care to social Security, from members of the crew. These one on one interactions were extremely valuable to me and I learned as much from these events as the crew did.

I have never witnessed a more dedicated or hard working group of people than the draw of the U.S.S. *Enterprise*. It makes me proud when I realize that the ''Big E'' crew is representative of the millions of American military personnel throughout the World. Nevermind that many of them could be paid more money for less work work in a civilian job, may not get eight hours sleep each night or see their for weeks at the time—they have those sacrifices for the country they love.

I hope that Coloradan's joint me join me in using Armed Forces Day to thank those who are serving in the best military force in the world.

Mr. ALLARD. Mr. President, I ask for a strong vote on this bill in order to get the much needed and well-deserved resources to our military personnel.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that Senator REID of Rhode Island be added as a cosponsor of the amendment.

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

Mr. FEINGOLD. Mr. President, I yield 8 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. I thank the Chair and my friend from Wisconsin. I ask unanimous consent that Senator FEINSTEIN of California be added as a cosponsor of the amendment.

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

Mr. LIEBERMAN. Mr. President, we have watched the steady deterioration of the vitality of our democracy under assault not from the kinds of foreign enemies that the Department of Defense authorization bill is aimed at protecting us against, but in some senses, an assault from ourselves. We have allowed our political system—particularly the post-Watergate reforms that were adopted to put limits on how much people could give to campaigns, to require full disclosure of those contributions—to be evaded, eroded, made a mockery of. The result is that the people of this country rightly conclude that money buys access and influence and affects our Government, and it turns millions of them off from the process.

The vitality of this democracy, which is the pulsating virtue and the essence of America that generations of our soldiers have fought and died for, is under attack domestically.

The question is whether we will respond, whether we will defend our democracy. We have had terrible controversies here on the floor over this question, focused particularly in recent months and years on the work that the Senators from Arizona and Wisconsin have done—Senators MCCAIN and FEINGOLD—particularly trying to focus in on soft money. The controversies have not produced yet the 60 votes we need to adopt a change. But even in the case of soft money, though it clearly violates the intention of the law, which is to limit contributions, there is disclosure. So that part of the post-Watergate reform is still honored.

Now we have the appearance of these 527s, stealth PACs—spending enormous amounts of money in advertising, buying time for what has become ''Big Brother'' propaganda over TV to influence voters, without letting them or those who are the targets of those advertisements or the opponents of those for whom they are being placed know who is paying for them, how much are they paying, and where is the money coming from. Is it coming from America? Is it coming from abroad?

So a bipartisan group of us—breaking through the division on party lines that has characterized too much of this debate about campaign finance reform and too much debate here generally—earlier this year, proposed two responses. The amendment before the Senate now is the second of those responses. It simply requires disclosure. It doesn't end the mockery of saying one thing to the Federal Elections Commission and another to the IRS—yes, I am in the business of influencing elections, so I deserve the tax exemption; or, no, I am not, so I don't have to register under the campaign finance laws. All this amendment does is ask for disclosure.

Where is the money coming from? Who is giving it? Who is running these organizations? Who is coming in to try to influence the sacred right of voting—the franchise that is at the heart of our democracy? I had hoped that this amendment, which is reasonable,

moderate, and only invoking the ideal of the right to know, would not evoke controversy on the floor.

So I am disappointed at the response today and disappointed particularly that it comes from those who apparently support the essence of the amendment. I understand this question of an objection—the so-called blue-slip objection being raised in the House because, technically—though really in a very minimal way, if at all—this may affect revenue. This is about political freedom, about electoral reform, about disclosure to the public. It is hardly at all, if at all, a revenue measure.

I understand the fear that if this amendment passes, it may be objected to in the House, and as my distinguished chairman from Virginia, who I dearly love and respect, said before, it could sink this bill, which I enthusiastically support, to the bottom of the ocean, such that hardly Davy Jones could rescue it. Here is my response to that, respectfully: I hope not. I say that this amendment is so important and gives us such a unique opportunity in the recent history of this body to come together across party lines and to do something in the direction of campaign finance reform that it is worth putting it on the bill. I say, as one of the proponents of this amendment, that if, in fact, the fears expressed here are realized, which is that in the House the bill is blue-slipped, objected to on constitutional grounds that it is a revenue-raising measure and should start in the House, then we can do what has been done with many bills, including the DOD authorization bills, in past years—bring it back here under unanimous consent. Who would object to bringing it back? Take this amendment off, send the bill back, and play the role.

They may continue referring to the metaphor of Davy Jones rescuing the bill, but let's not, on a technical basis, miss the opportunity to take one significant step to defend our democracy against the insidious forces of unlimited, secret cash that are corrupting it and distancing millions of our fellow citizens from the process itself.

Mr. President, how much time remains on the time yielded to me?

The PRESIDING OFFICER. The Senator has 1 minute of his 8 minutes.

Mr. LIEBERMAN. I thank the Chair. Some may ask why disclosure is so important. Well, the Supreme Court has spoken about the appearance of corruption. Here, there is the profound suspicion of corruption; but without information, we don't even have the ability to know whether there is corruption, let alone to have the appearance of corruption—big money, secret money, perhaps not even American money, raised by elected officials, raised by left-leaning, right-leaning ideological groups, raised by political groups, and trade and economic groups, do nothing but undermine our system. The least that we can ask is for disclosure.

Mr. President, I appeal to my colleagues, let's break the reflex action and let's rise to the moment. Let's do something correct and courageous here. Let's adopt this amendment and agree together, arm in arm, that if the House refuses to take the bill with this amendment on it, we will strip it off and find the next appropriate vehicle, having spoken for this amendment to attach this principle and to advance the health and vitality of our democracy. No less than that is at stake here.

I yield the floor.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Virginia.

Mr. WARNER. Mr. President, I would like to ask a question of my colleague. I will charge the time of the entire colloquy to that under my control.

As always, the Senator from Connecticut is fair and straightforward, and clearly in his dissertation to the Senate he said, yes, there is a vestige that this blue-slip procedure could send it to the bottom to Davy Jones' Locker, which I accept.

I read from Descher's House Precedents, which is the ''bible'' that guides the House.

This is fascinating. Listen to the title: ''Invasion of House Jurisdiction or Prerogatives.''

Isn't that interesting?

> Invasion of the House prerogative to originate revenue-raising legislation granted by article I, section 7, of the Constitution raises a question of privilege of the House.

I have studied all of this very carefully. Once that question of privilege is raised, the Senate is left to their interpretation.

Colleagues are clearly putting forward this amendment with the best of intentions. I said I would support the amendment in any other venue but this. It does raise it, and the House will not allow it. I can recite dozens of precedents. A year or two ago, they sent a blue slip to us on S. 4, the thrift savings accounts for sailors, soldiers, and marines.

I am saying to my dear friend: Why should we take the risk, given the few legislative days left, and given all the work? It is interesting. Our committee has had 50 committee hearings and 11 markup sessions. That is a year's work by 20-plus members of our committee and by the staff, paid for by the Senate, out of taxpayers' funds. All of that is for naught if this bill goes down. It would be the first time in 40 years.

I say to my colleagues: No matter how strongly you feel about the merits of this bill, consider our own constitutional responsibility to provide under the Constitution for the men and women of the Armed Forces.

I say to my colleague: I would like to know what his reasoning is to take this risk. The Senator from Connecticut is not known as a risk taker.

Mr. LIEBERMAN. Mr. President, I will not respond to the description of the Senator from Connecticut. But let me say, if there is a risk, here is a risk that has a remedy. The reason the Senator from Connecticut is prepared to take the risk is the balance of equities involved and the balance of interests involved.

I am so incensed by the proliferation. We are using military terms, quite appropriately, on this campaign finance amendment. I note the House chose to use appropriately a militaristic term—''invasion''—when talking about their privileges.

But our democracy is so much under threat from the corrosive spread of money in our system that I think we have a moment of opportunity here to get together to pass this amendment and make the statement; in other words, a procedural vote on this. My dear friend and chairman in the House on this very matter on another bill a week or so ago fell short of passage on a motion to recommit, I believe, by barely 10 votes.

I am not prepared to make a judgment about how the House will vote on this matter. But I think we have a chance to speak.

I pledge to the Senator from Virginia, the distinguished chairman of the Armed Services Committee, under whose leadership this committee on which I am honored to serve had a very busy and productive year resulting in this bill. I can't imagine that any Member of this Chamber would deny a unanimous consent request. If, in fact, the House saw this as an invasion of their privilege and stopped the Department of Defense authorization bill, we would come back here and take this amendment off, and find another vehicle for it.

I appeal to my chairman just finally on this point. I appreciate very much his statement that he supports the substance of the amendment. If he proceeds on the course of a constitutional objection based on House prerogatives, I appeal to him to find a way to join with us, since we agree on the merits of this amendment, to get a guarantee that the Senate will be able to speak as soon and as clearly as possible on the next available bill to at least require disclosure of contributions and sources of contributions to these 527 stealth PACs.

Mr. WARNER. Mr. President, I thank my colleague. When I regain the floor later I will talk about how long 527 has been around. The Senator from Connecticut sounds as if it has just come on the horizon. It has been around. I don't know why we are taking it up today when it has been around for some time.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I yield such time as my colleague from New Hampshire may require.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, I thank my colleague from Virginia, the chairman of the Armed Services Committee. The ''U.S.S. WARNER'' has been under siege on the floor for the last few days, but, as usual, he

holds up well under hostile fire and keeps his ship on course.

If anyone needs to be reminded, this is a debate supposedly about the bill to fund the operation of our armed services. It is a good bill for our military. It doesn't do everything we would like, but it certainly makes a vast improvement over what we have been doing.

I rise to show support for that bill. As a member of the committee, I helped to write it, and also to show support for my chairman who has endured some hostile fire, I think, unfairly.

During the recess last week, the Members had the opportunity to remember those who fought for the freedom that we enjoy in this Nation, and remember those who paid the ultimate price in giving their lives. That was the Memorial Day recess.

I think in deference to those and to those who now serve us, I think we ought to stay focused, as the chairman has tried to do here, on the issue at hand. This is not a debate about campaign finance, nor should it be. We owe it to the soldiers, sailors, and airmen who serve today, who will serve in the future, and to those who have already served, to get this bill passed, and to do so quickly.

I think we should be reminded that this bill authorizes over $300 billion in defense spending—a 4.4-percent real increase—reversing some 14 years of neglect.

You can go down the list: But aircraft, helicopters, submarines, surface ships, many other weapons systems, and missile defense, on and on—not to mention addressing some real critical needs in readiness.

The bill adds about $1.5 billion for key programs in readiness, including ammunition, spare parts, maintenance, operation, and training. This is very important.

I think it is below the dignity of those who have served and will serve and who are serving to reduce this debate to something other than what the issue is at hand. That is what disturbs me.

I understand and fully respect the right of any colleague to offer an amendment that is within the rules, and I respect it. But I also don't think it is good judgment to do it.

This bill is going to modernize our forces. It will allow us to develop the technologies that we need to address the threats that we face in the coming century in areas such as missile defense.

My colleague, Senator ALLARD, who chairs the subcommittee I used to chair on strategic forces, has done an outstanding job in addressing that, as have so many of my other colleagues. This will allow us to address the quality of life of our service men and women and their families. There is a 3.7-percent pay raise in this bill.

I am not commenting on the importance or lack of importance of the other issues that we debate here. But it is not the appropriate place to do it. Is it within the rules of the Senate to do it? Yes. In that sense, I suppose you can say it is appropriate. But is it the right thing to do on a military budget and on the defense budget of the United States? I don't think so. I think it does not dignify the debate. I think it reflects badly on the Senate. That is my honest opinion.

I know the frustrations. We have had debates on campaign finance and the proponents of campaign finance reform have lost, repeatedly. I understand the frustration. I have been on the losing side on many of debates many times. I look forward to the day some of the debates will have a majority to win.

Maybe that is the approach we ought to take, rather than, with all due respect, dragging this defense bill into this debate.

I will highlight a couple of other things. As chairman of the Environment and Public Works Committee, this bill has $1.27 billion for environment restoration. I thank the chairman for his outstanding leadership in putting this together, as well as Senator LEVIN.

The bill also authorizes additional funds for programs important to New Hampshire and the Nation. These programs address unfunded military requirements, continue or enhance current promising Department of Defense programs, or support the technology base needed for future military systems. Inclusion of these additional funds is testament to the technical expertise and successful competition for DOD contracts of defense companies and institutions in my home State of New Hampshire.

In addition to authorizing a $350 million increase for important missile defense programs that I support, this bill provides important funds that the President neglected in his budget that are important for the U.S. to maintain its leadership in military space power. It authorizes $25 million for the Kinetic Energy Anti-Satellite (KE–ASAT) program that will provide a last-resort ''hard-kill'' capability for the U.S. to protect our troops from enemy surveillance. It authorizes an additional $15 million for the Space Maneuver Vehicle to leverage the NASA X–37 investment in an area that also holds great promise for military applications. It also authorizes an additional $12 million for micro-satellite technology that demonstrates key future space-control concepts.

The bill also pays a fitting tribute to our former President Ronald Reagan and his vision for our nation's missile defense by renaming the Kwajalian missile test range in his honor—a facility we use to test and refine our missile defense concepts making an NMD deployment possible today.

Finally, it includes additional tasks for the Space Commission which is just getting started not only to assess the organizational and managerial changes needed to ensure U.S. space power in the years ahead but also address the cultural issues in the military that dampen our ability to become a true space power.

I will mention one other item before I yield the floor. I have an amendment I have offered that has not yet been voted on. I will highlight it for a minute. The amendment was modeled on the restrictions which have been placed on gun ownership. It says if you are a felon, you don't get a security clearance. That is the essence of it. It is pretty well refined. The language is a little tighter than that so the definition of ''felon'' is restricted.

It is very interesting that under current law you can have access to some of the highest ranking military secrets, about some of the biggest weapons in America's arsenal, but you can't buy a handgun. What does that say about the security clearances we are issuing, if you can't have access to a pistol or rifle, but you can have access to the most lethal weapons in America's arsenal? It is happening now. Murderers, robbers, and pedophiles are getting security clearances, and they couldn't have access to a handgun. I think it is pretty interesting that we are in this situation.

My amendment, which, hopefully, will be added to the bill, prohibits security clearances for persons actually sentenced to over a year—in essence, a felon. If you plead, bargain down a sentence to under a year, you can still never own a firearm but you could, without my amendment, get a security clearance.

I hope we will pass my amendment. I look forward to a vote on that amendment. If it is accepted, that will be fine. If it is not accepted, I look forward to the vote.

I urge my colleagues to support this legislation, to refrain from the debate that might delay the passage of this legislation, and send a message to our troops that we care about them, we are ready to help their readiness, we are ready to help with the new weapon systems they need, and we are ready to give them the pay raise they deserve.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I ask unanimous consent Senators DURBIN, BRYAN, and BOXER be added as cosponsors to the amendment.

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

Mr. FEINGOLD. I yield to the Senator from New Jersey.

Mr. TORRICELLI. Mr. President, I state my regret over the position in which we find ourselves with Senator WARNER. There is no one in this institution more committed to the Armed Forces. His legislation deserves being supported.

I regret this amendment has become a complication. However, it is a necessity. This is an extraordinary moment in the national political process. Make no mistake, if this Senate fails to deal

with the problem of 527 organizations and their influence in the American political process, what little remains of campaign finance laws in this Nation will collapse before our eyes.

The Justice Department may be investigating foreign contributions and the media may be discussing soft money, but the Members of the Senate know that the newest and largest challenge to the integrity of the American political financial system are the 527 organizations. It would be difficult for most Americans to even believe the scale of the problem. It is not a new problem. In 1996, $67 million was introduced to the American political systems through these organizations; 2 years ago, it was $250 million. It could easily be hundreds of millions of dollars in the ensuing months if the Senate does not act.

It is a contradiction with everything this Congress on a bipartisan basis has attempted to do to preserve some integrity in the American financial political system in the last 30 years. The donors to these organizations are secret. They are not necessarily American. They use tax deductions. They distort the national political debate. Everything we are now investigating is legal if they are done through these organizations: foreign governments, illegal organizations, individuals who simply want to distort the system through the exclusive use of their own money.

Some of these organizations may not be organizations at all. It could be a single individual writing $1 million or a multimillion-dollar check in the disguise of an organization. Compounding the problem, adding insult to injury, they are reducing it from their taxes.

Only a few days ago, in the State of New Jersey, two Republican primaries were influenced by these organizations. Candidates were campaigning, raising funds, gaining support, and these organizations with secret donors began their advertising campaigns. Not a single voter knew who they were, where they came from, what the moneys were about. They only heard the advertisements.

In some respects, this is not a policy question; it is a law enforcement problem. If these organizations coordinate with candidates and their campaigns, it already violates laws. It is incumbent upon the Justice Department to investigate them and prosecute them if necessary.

I trust on this day while the Senate debates this issue, the Justice Department will meet its responsibilities. But if they are not coordinated, they are legal. That burden falls on us.

I regret the difficulty this causes for Senator WARNER on this very important piece of legislation. His constitutional argument may be sound regarding the reaction of the House of Representatives. But the consequences of not acting are enormous. As chairman of the Democratic Senatorial Campaign Committee, I have urged every Democratic senatorial candidate in the Nation not to engage in this practice of 527s, not to coordinate with them, because it is unethical and it is illegal—denounce them.

If we have learned anything by the soft money example and other exceptions that have been taken to the prevailing campaign finance laws, it is when a precedence is established and a campaign expenditure enters the political culture, it expands exponentially. This may be our last opportunity before the 2000 elections to close this new avenue of expression through large, unregulated, undisclosed political contributions.

Make no mistake, if we fail to do so, we do not simply invite the abuses of the last few elections, we may create a political system where we return to the type of campaigns before Watergate, where no one knew where the money was coming from, who was providing it, and what was being spent.

What little remains of this campaign finance system will collapse before our eyes, not in future years, but in future weeks. This Senate has failed to agree upon comprehensive campaign finance reform. While I regret that failure, I at least understand it. There are legitimate constitutional arguments, differences in philosophy and politics.

There can be no legitimate differences on outlawing these undisclosed, unregulated 527 organizations. This should be bipartisan and it should be a deep commitment upon which we act immediately.

I am proud to join with Senator LIEBERMAN in his amendment as a sponsor. I urge the Senate to act before it is too late. The consequences of inaction are enormous, and reconstructing this system, if indeed these organizations proliferate in the ensuing months, will be extremely difficult to impossible. I urge the Senate to act.

I thank the distinguished Senator from Wisconsin for the time and for his support for our amendment.

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

The Senator from Virginia.

Mr. WARNER. Mr. President, I yield 5 minutes to my distinguished colleague from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I regret we are doing this today. I can only speak for myself and not others, but if you wanted to do away with 527s for everybody and not leave anybody out, I would do it and do it in a heartbeat. But not on this bill. Everybody knows the consequences of putting something such as this on this bill. I hope in this very brief period of time —I was hoping to have more time—to at least address how significant this thing really is and what we are talking about.

Mr. President, I have said this since 1995. Our country is facing the greatest threat it has faced in its entire history. But it is not just me saying this. Now we have George Tenet, who is the Director of Central Intelligence and an appointee of President Clinton, agreeing, in my committee, that we as a Nation are in the most threatened position we have been in in the history of America. So we need to turn this thing around. This is the first year in 14 years we are able to start turning the corner and rebuilding a deteriorated system.

At the National Training Center-Ft Irwin, units coming to the NTC today have not had enough time to train at their home stations to allow them to maximize the training opportunities. This means that the units are leaving the NTC less proficient than those who went thru the rotations in previous years.

At Ft. Bragg, according to the base commander, O&M funds have never been so tight. Commanders are being forced to make choices and trade-offs that their predecessors never faced. Insufficient Base-Ops funding has forced commanders to rob from training accounts. Insufficient RPM funding has resulted in the degradation of facilities in which the military personnel work and live.

Maintenance on barracks is so bad that every time it rains, one building leaks into the rooms where the troops sleep, and even into the armory where their weapons are stored which damages those weapons.

At the Norfolk Naval Base, the Navy is experiencing an increase in the cross decking of equipment and munitions as less modern systems are available to outfit all the hulls. In addition, supplies and spare parts are insufficient to support the surging of the Navy to meet its 2 MTW requirements.

Insufficient steaming days and flying hours are amongst the biggest readiness concerns within some Navy units.

At the San Diego Naval Base, on average, 20 percent of the deployed planes on the carriers are grounded awaiting parts or other maintenance requirements. Furthermore, the cannibalization of aircraft has gone up by 15% over the last three carrier deployments.

There have been notable reductions in the mission capability and the full mission capability rates of Naval aircraft over the past 4 years. This is true for the deployed and the non-deployed squadrons.

At the Nellis Air Force Base, reduction in Red Flag exercises from 6 to 4 means that fewer pilots can participate each year. The new goal is to move pilots thru Nellis once every 18 months vs. once every year. The high OPTEMPO of the forces—deployments are up fourfold while the force is down by a third—has been the principle reason for the reduction in exercises.

Regarding Marine Corps Air Ground Combat Center-29 Palms, conditions at 29 Palms and the Marine Corps in general: money is low; ammo is short; and spare parts are scarce. ''The level of training and readiness has diminished, it is not what it was in Desert Storm.''

At Camp Lejuene, modernization delays have a serious readiness impact.

Equipment is more costly to maintain, less capable, and spare parts cannot always be obtained. In particular, the CH–46 is wearing thin. Some replacement parts are no longer available. One Marine officer estimated that if a Gulf War size operation erupted today, only about 50 percent of Marine units would be qualified to deploy.

I can tell you, the problems are in all these areas. We have retention problems because we do not have adequate accounts being funded. The various military installations are taking money out of one account and putting it in another account. So at Fort Bragg, for example, they have not been able to maintain their barracks. When it rains, the troops have to lie down on the equipment to keep it from rusting. We have a crisis in terms of cross-decking at Norfolk as well as on the west coast.

So we have very serious problems, and these problems can only be met with this bill. I will just quote one thing out of the DOD Quarterly Readiness Report:

> Readiness deficiencies are most readily visible in the later deploying and non-deploying forces, some forward deployed and first-fight-forces are also experiencing these difficulties.

What they are saying is, for several years we are able to take all our assets and concentrate them in areas that are behind the lines in favor of the forward deployed. Now even the forward deployed are having a problem.

I can remember in our committee, the committee I chair, the Readiness Subcommittee, we had the four chiefs in there. I asked them the question: If you were going to have to take a reduction someplace to increase your modernization or some other accounts, would it be in force strength, modernization, quality of life, and so forth?

Up until a couple years ago, the Marines would always say ''quality of life, because the Marines don't need quality of life.'' Now we are not even hearing that from them. We are facing a crisis at a time when this country is in the most vulnerable position in which it has ever been.

I think we should really be looking at the overall picture and the fact we have something very serious going on right now. We need to address it with this bill. This defense authorization bill turns the corner for the first time in 14 years. It is being held hostage right now on a matter that has nothing to do with defending America.

Mr. President, I think we need to get on with the bill and away from extraneous, nongermane amendments.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, we normally rotate and I was prepared so to do. Does the Senator wish to speak? If not, I will ask my colleague from Kentucky some technical questions on my time. I yield myself such time as I need.

There are several technical issues relating to this amendment.

I say to colleagues, 527 has been on the books since 1975 and here we are dealing with it today:

> Organizations presently exempt from tax on exempt function income, which includes contributions for political purposes.

The McCain amendment would lift this exemption for 527 organizations which do not provide certain information to the Secretary of the Treasury. Thus, a 527 organization which elects not to disclose would be taxed.

So it is a revenue measure. There is no doubt about it. It would be taxed on previously exempt income, thus raising revenue. I do not know what more clear example can be made, how this thing will be blue-slipped by the House. The Senate is invading.

I yield to the Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I say to my friend from Virginia, he is entirely correct. This is the wrong place for this amendment. But for those Senators who are not persuaded that the fact that this is the wrong place for this amendment is enough to vote against it, I think it is important to understand that this is a rather limited disclosure amendment. Among the groups that are not covered in the 527 amendment the Senator from Virginia and others have been discussing are groups such as the Sierra Club and the AFL–CIO.

Mr. WARNER. Mr. President, let's clarify this. The Senator is talking about the McCain amendment now?

Mr. MCCONNELL. I am, indeed. I am talking about the McCain amendment. The Senator from Virginia was making the point that even if it were otherwise a desirable thing to do, this is the wrong place to do it and runs the risk of having this bill blue-slipped in the House.

On the substance of the McCain issue, virtually everybody in the Senate is in favor of enhanced disclosure, greater disclosure. That is hardly a controversial subject. But to single out 527s only, I would say to my colleagues—to single out 527s only leaves out such groups as the Sierra Club and the AFL–CIO, which do not operate under section 527.

I have long believed we ought to have broad, comprehensive disclosure. I would be in favor of addressing this issue this year. But we ought to do it in a comprehensive way, I say to my friend from Virginia, not leave out some of the major players on the American political scene, many of whom are on the airwaves right now, beating up Republican candidates for the Senate.

From the more comprehensive approach, it is my understanding the Senator from Virginia may well have an alternative to offer that would give all of us an opportunity to go on record in favor of a more evenhanded, comprehensive, across-the-board disclosure provision that would not eliminate some of the principal players on the American political scene—ironically, most of whom are hostile to Republicans.

Mr. WARNER. Mr. President, I wish to inform all Senators I have submitted an amendment to the desk. I cannot bring it up as a second-degree amendment at this point in time, but I have submitted the following amendment. I represent, as manager of this bill, at the first opportunity when this bill resumes, I will put this amendment on. I read it:

(Purpose: To express the sense of the Senate that all tax-exempt organizations engaging in campaign activities, including organizations organized under section 527 of the Internal Revenue Code of 1986, should make meaningful public disclosure of their activities)

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING DISCLOSURES BY TAX-EXEMPT ORGANIZATIONS.

(a) FINDINGS.—The Senate finds that—

(1) disclosure of political campaign activities is among the most important political reforms;

(2) disclosure of political campaign activities enables citizens to make informed decisions about the political process; and

(3) certain tax-exempt organizations, including organizations organized under section 527 of the Internal Revenue Code of 1986, are not presently required to make meaningful public disclosures.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that all tax-exempt organizations engaging in political campaign activities, including organizations organized under section 527 of the Internal Revenue Code of 1986, should be held to the same standard and required to make meaningful public disclosure of their activities.

That will be before the Senate hopefully before the day is out.

Mr. MCCAIN. Will the Senator yield for a question?

Mr. WARNER. Yes.

Mr. MCCAIN. I ask what force of law that sense-of-the-Senate amendment will have and what the prospects are that these organizations that are currently engaged in these activities will be motivated by a sense-of-the-Senate amendment?

Also, will the Senator from Virginia be willing to add to that sense-of-the-Senate amendment that on the next appropriate vehicle, as deemed appropriate by the Parliamentarian, the McCain-Feingold-Lieberman amendment be made in order for a vote with no second-degree amendments?

I ask that question because we clearly know that, without the force of law, there is no way these people are going to comply with a sense-of-the-Senate amendment.

I hope the Senator, to give it any meaning whatsoever, will at least have that same sense-of-the-Senate amendment state unequivocally that we intend to enact this sense-of-the-Senate amendment into law, because that is the only way we can force these people to comply. I am sure the Senator from Virginia understands and appreciates that.

My question is, Will the Senator be willing to modify his sense-of-the-Senate amendment to make it in order

that on the next appropriate vehicle, as deemed by the Parliamentarian, there will be an up-or-down vote on the McCain-Feingold-Lieberman amendment without any intervening amendments or second-degree amendments?

Mr. WARNER. Mr. President, as my colleague knows full well, it will not have the force of law, but it is an expression by this body. I have consulted with the majority leader. He will address the issue. It is within his prerogative to determine at what time matters of this import are brought up. I yield the floor.

Mr. MCCAIN. Mr. President, I yield myself 30 seconds. The majority leader is well known for his advocacy for campaign finance reform. I doubt seriously if anyone believes that the Senator from Virginia, by propounding a sense-of-the-Senate amendment that is not binding legally in any way and will disappear in the mist of time as a myriad of other sense-of-the Senate amendments have—I think it is time the Senator from Virginia got candid with this body. The Senator from Virginia should either come on board and stop this egregious violation of everything in which we believe or state his opposition to it. Please do not think anyone—anyone—will believe that a sense-of-the-Senate amendment will have any impact on the present practices which most observers in America believe are corrupt.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I yield 4 minutes to the Senator from Michigan.

Mr. LEVIN. Mr. President, the section 527 loophole is driving elections and their financing deeper and deeper into the muck. We cannot stand by with the values we hold as Americans and watch elections driven deeper and deeper into the muck. That is what is happening with this 527 loophole. It is tearing this system to shreds. The soft money loophole has already cut a huge hole in the campaign finance system. This section 527 loophole just simply tears this system to shreds. It allows unlimited contributions and, even worse than the soft money loophole, it allows undisclosed unlimited contributions, stealth contributions, and the press reports already tens of millions of dollars of these contributions are totally off the campaign finance radar screen.

The only way people can use this is by trying to take inconsistent positions on two laws. The Internal Revenue Code defines an organization subject to tax exemption under section 527 as an organization which influences or attempts to influence the election of any individual to any Federal office.

That seems pretty clear. The Federal Election Campaign Act defines a political committee which is subject to regulation by the Federal Election Commission as an organization that spends or receives money for the purpose of influencing any election for Federal office.

People are creating these 527 organizations because, and only because, they influence or attempt to influence an election. That is why they are exempt but then ignore the FEC's requirements that people who organize for the purpose of influencing an election have to disclose.

We cannot in good conscience stand by and permit this process, this charade, which is doing so much damage to the public, to continue.

On this so-called blue-slip question, first, the Senate should not agree to a House interpretation that something like this is a revenue raiser when it is not a revenue raiser. We should not simply accede to that, No. 1. That is a broad interpretation which the House uses to have a larger prerogative than the Constitution provides.

Secondly, we do not know that there is going to be a blue slip. We do not know that. The House, I believe, has to adopt a position. This is not something which is done informally.

Thirdly, if the House does blue-slip this matter, there is plenty of precedent for the matter then coming back to the Senate and the Senate removing the language in question.

This is being used as an excuse not to adopt a critically essential amendment if we are going to even begin to restore public confidence in the elections in this country.

This last suggestion by our good friend, the chairman, that there could be, instead of a law being passed, sense-of-the-Senate language which is not law, is not binding, does not have the force of law, but even in its own language simply suggests to organizations that they adopt some meaningful disclosure of activity, is meaningless, not meaningful. We should not stand by and permit this charade to go on any longer.

While we do not know the universe of these organizations, because they do not even have to register with the Internal Revenue Service, we do know that this is a bipartisan problem that requires and deserves a bipartisan solution.

Section 527 was created by Congress in the 1970s to provide a category of tax exempt organizations for political parties and political committees. While contributions to a political party or political committee are not tax deductible, Congress did provide for a tax exemption for money contributed and spent on political activities by an organization created for the purpose of influencing elections. At the time Congress established the tax exemption, it assumed that such organizations would be filing with the FEC under the campaign finance laws for the obvious reason that the language for both coverage by the IRS and coverage by the FEC were the same—''influencing an election.'' Consequently, it was assumed that section 527 did not need to require disclosure with the IRS, since the FEC disclosure was considerably more complete.

The amendment before us would require section 527 organizations to file a tax return, something they are not required to do now, and disclose the basic information about their organization as well as their contributors over $200.

In late January of this year, the staff of the Joint Committee on Taxation released a study of the Disclosure Provisions Relating to Tax-Exempt Organizations. In that study, the bipartisan staff addressed section 527 organizations, and the JCT staff recommended adoption of an amendment to section 527 similar to the language we now have before us. The JCT staff specifically recommended:

1. That 527 organizations be required to ''disclose information relating to their activities to the public . . .''

2. And that 527 organizations ''be required to file an annual return even if the organizations do not have taxable income and that the annual return should be expanded to include more information regarding the activities of the organization.

The JCT report said, ''This recommendation is consistent with the recommendation that all tax returns relating to tax-exempt organizations should be disclosable.''

As the 2000 campaign evolves that we get closer to November, the American public is going to be seeing the consequences—the real life consequences of this loophole in our campaign finance laws. Candidates from both parties are going to be hit with ads by groups with names that sound like civic organizations but which in reality are nothing more than well-financed political opponents whose sole purpose is to influence an election. But the public will not be able to determine who the people are behind the organizational name. It could be one person, one union, one corporation, or an association of unions, interest groups, or corporations. An organization with a name like Citizens for Safety could have as its sole contributor a leader of organized crime. We would never know. The examples are endless.

I urge my colleagues to support this amendment. Unfortunately, it does not stop the unlimited aspect of these secret contributions, but it does bring these contributions out in the open.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I yield 5 minutes to the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I strongly oppose this amendment for two reasons: No. 1, on its substance. If everyone is concerned about the damage to the political system and the damage to the public and the violation of things in which we believe, of organizations running independent expenditures, then cover everybody who does it. If my colleagues are only concerned about certain political groups and not concerned about other political groups

that may happen to favor their political position, then this is all about politics and not about reform.

Let's be clear. This is a rifle shot on this bill. This does not cover labor unions, this does not cover the Sierra Club, this does not cover the trial lawyers, all of which are the major funders of the other side of the aisle.

I am one of those Senators up for reelection who is going to be at the butt end of the expenditures of those very same groups, and no one over there will be outraged by the ''damage to the public,'' these groups do. They are only concerned about the damage to the public that groups that do not favor them do.

We heard so much: We need to talk honestly with the public. Let's talk honestly with the public. We are rifle shooting here. We are killing the American political process by picking winners and losers.

At the same time, the second reason I oppose this bill is because we are killing the Defense authorization.

So we have two losers here. We have the political process—the big loser—because here we are in Congress picking winners and losers. And the second, we have the Defense authorization process, which I, as a subcommittee chairman, and like my colleague from Arkansas, a subcommittee chairman, we put a lot of time and effort into this bill because we understand, as the chairman of the Readiness Subcommittee, Jim INHOFE, said, we put in a lot of effort trying to craft a bipartisan bill.

We don't have too many coming to the floor these days. It is a bipartisan bill. I have worked with my ranking member, JOE LIEBERMAN. We have worked together in concert to put together a bill we can all support—and we all did support in committee —that really meets the needs of our military, that addresses some of the critical issues we had in our subcommittee. We had to deal with the transformation of the Army. I know everybody in this Chamber is concerned about how we transform the Army.

There are some very critical decisions we made in this bill that affect the future of our armed services, and particularly the Army, that I don't believe will be made correctly if we do not pass this bill.

There are some critical issues in the area of the Joint Strike Fighter. We made tough decisions that will not be met if we do not pass this bill.

A lot of people say we can wait. The House may not blue-slip this. The House voted on this issue. They voted it down. We know what they will do on this issue. The fact is, even if that is not the case, this is not the right amendment. This is not the right way to address this issue.

If you care about the ''corruption of the system'' that these organizations do, cover everybody. If you care about gaining political advantage, vote for this amendment because you will gain political advantage. You will put a chilling effect on some groups and ''Katie bar the door'' on the others. If that is what you want, if what you want is political advantage, you got it. Vote for it and kill both fairness in public discourse and disclosure, which I am for.

I will vote for an amendment—but not on this bill because I think it will hurt this bill—at some time. I hope the leader brings up this issue. But make sure we cover everybody. Make sure we do not pick our friends: You don't have to say anything. You don't have to disclose anything. And by the way, you guys who we really don't like, we are going to get you. We are going to chill your contributions. We are going to make you report everything.

That is what this is about, folks. If we are talking about honesty here, tell the truth. What does your amendment do? That is the truth. So I am happy to debate the truth. The truth is, I will support an amendment that is broad. I will support an amendment that provides disclosure for everybody who engages in political campaigns but not pick my friends over my enemies.

I would not vote for a bill that just picks my friends. Even you said we are not going to cover those organizations, Senator, that help you; we are just going to cover the guys who do not help you, I would vote against it. Do you know why? Because we should not be doing that. That is wrong. You want to talk about breeding cynicism? Bring up an amendment that calls for disclosure which excludes the groups that favor you and punishes the ones that don't, that brings cynicism to the process.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. MCCAIN. Can I engage the Senator for 30 seconds?

Mr. FEINGOLD. Yes.

Mr. MCCAIN. Mr. President, apparently the Senator from Pennsylvania does not agree with the Bush campaign, in which, according to an AP story, Bush says:

> Plenty of left-leaning groups led by the AFL-CIO help Democrats.

The AP goes on to say:

> So far for Gore, the Sierra Club, an environmental group and one of the first to create a 527 spin-off, is in the midst of an $8 million ad campaign aiding Democrats running for Congress and attacking Bush on the environment.

I don't know where the Senator from Pennsylvania has been, but I will be glad to show him ample testimony that this comes from both the left and right equally. So the evidence is obviously contrary to that.

I would also hope that the Senator from Pennsylvania would join the Senator from Wisconsin and me where the next amendment would be one that included all organizations.

Would the Senator from Wisconsin be willing to do that as well? The fact is, this is most egregious, because there is no reporting whatsoever in this newfound cornucopia, which would allow the Mafia, drug money, Chinese money, any other kind of money, to come into American political campaigns undisclosed. If that is what the Senator from Pennsylvania believes is honesty, then I plead guilty.

Mr. FEINGOLD. In response to the question of the Senator from Arizona, the Senator from Pennsylvania, fortunately, is plain wrong about the issue of whether this covers other groups. As the Senator from Arizona said, in my opening remarks, I say to the Senator from Pennsylvania, I pointed out that this doesn't just cover the Sierra Club. The Sierra Club has said it has a 527 organization to use very large donations from wealthy individuals totaling $4.5 million.

How can the Senator from Pennsylvania even begin to say that we have not included groups on both sides? The amendment is evenhanded.

As the Senator from Arizona has pointed out, there were reports of groups from both the right and the left using this loophole. Any group claiming this loophole would have to disclose. So it is simply false that it would not include them.

Mr. SANTORUM. Will the Senator yield for a question?

Mr. FEINGOLD. We have limited time.

I also point out that the AFL–CIO has also said it is willing to make further disclosure itself as long as business is willing to do the same. I would invite the other side to actually offer a real amendment—not a sense of the Senate, but a real amendment—to try to address this.

It is simply untrue that we are not covering groups on both sides. I specifically mentioned the Sierra Club and $4.5 million to cover that.

Mr. President, I yield the floor.

Mr. WARNER. I yield to the Senator from Pennsylvania.

Mr. SANTORUM. I ask the Senator from Kentucky, does the Sierra Club run some of their campaign expenditures through their (c)(4), not through their 527 group?

Mr. MCCONNELL. I say to my friend from Pennsylvania, if this bill passed, 527s that do only issue advocacy would have to publicly disclose their donors. But other tax-exempt groups that do exactly the same kinds of issue ads, such as 501(c)(4)s, such as the Sierra Club, and 501(c)(5)s, such as the AFL-CIO, would not have to publicly disclose their donors.

So the problem is, if the idea is to have comprehensive disclosure, we have left out a huge percentage of those who are involved in political activity. The two that I mentioned happen to almost always be in support of candidates on the other side of the aisle. It would also not include the American Trial Lawyers Association.

It would not include groups such as Public Citizen, and environmental groups. As I mentioned, organized labor, all of whom would be exempt.

As I understand, the point of the sense-of-the-Senate amendment of the distinguished chairman of the Armed Services Committee which would be offered, as I understand it, after a motion to table the McCain amendment is approved, would call for a comprehensive approach. The majority leader is going to address the issue of when to do that. It is my opinion—I know he will announce it is his opinion—we ought to do that this year in this session because disclosure is, as the Senator from Arizona has pointed out, an area where we have been largely in agreement. It is a question of making sure that this is the right kind of disclosure and not a kind of selected partial disclosure which happens to have the practical effect of leaving out, in my view, most of the major players who engage in issue advocacy in this country.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I yield 2 or 3 minutes to my distinguished colleague, the chairman of the Finance Committee.

Mr. ROTH. I thank the distinguished chairman of the Armed Services Committee for this grant of time.

I rise today to make two announcements about the proposed amendment.

The first announcement is that the Department of Defense authorization bill is not the proper vehicle for the issue raised by raised by this amendment.

The second announcement is that there will be a proper vehicle for the issue.

Let's explore my first point, that is, whether this defense bill is an appropriate vehicle for this amendment.

This amendment increases the amount of disclosure that certain tax exempt organizations that are organized under section 527 of the Internal Revenue Code have to make if they are not subject to the disclosure requirements under the Federal Election Campaign Act.

To do this, the amendment will subject these tax exempt organizations to tax on the contributions they receive if they do not follow disclosure requirements similar to the disclosure requirements set out in the Federal Election Campaign Act.

While the objective of the amendment is increased campaign finance disclosure, the amendment is framed in the context of a Tax Code change, which is a revenue measure.

Under the Constitution, all revenue measures must originate in the House of Representatives. If the revenue measure did not originate in the House, then any member could subject the bill to a ''blue slip,'' thereby voiding the entire bill, not just the part of the bill that is a revenue measure.

Make no mistake, regardless of its merits, this amendment will kill this bill. If adopted, this amendment would mean that the Senate would be originating a piece of tax legislation. This is in direct violation of the Constitution. Rest assured, the House will not accept it and will refuse the bill when we seek to send it to them. Hence, the adoption of this amendment will kill this Defense bill just as assuredly as if we voted it down.

We must not lose sight of the fact that there is no higher priority than our nation's defense. This bill provides much-needed funds for it. It gives a deserved pay raise to our armed forces—allowing them to enlist and retain the all-volunteer force that stands on perpetual watch over our nation. It provides for spare parts that will keep our Armed Services in service.

Now, I'd like to move to my second point, provision of the proper vehicle.

The House has passed a tax bill that deals with taxpayer rights and disclosure of information for tax-exempt organizations. That bill, known as the ''Taxpayer Bill of Rights 2000,'' is in the Finance Committee.

The taxpayer rights legislation will be the vehicle for proposals to curtail corporate tax shelters, which both the majority and the minority staffs of the Finance Committee have been working to draft. The taxpayer rights legislation will be the appropriate vehicles for this amendment. I support increased disclosure. Section 527 needs to be amended. It is my intention to move such legislation later this year.

Mr. WARNER. Mr. President, may we have the time allocation remaining between the proponents of the amendment and the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia has 3 minutes remaining.

Mr. WARNER. I thank the Chair.

The PRESIDING OFFICER. The Senator from Arizona has 5½ minutes remaining.

The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, this amendment is not about politics. I assure my colleagues, this amendment covers all groups regardless of their politics. Not only do we not cover the AFL-CIO, we don't cover the Chamber of Commerce. The National Right to Life, as with those aspects of the Sierra Club that are 501(c)(4), has to publicly disclose through a tax return whether they are constituted in that manner. The argument and the attempt to somehow suggest that the rules will be one way for some groups rather than others is simply false, as were the other points made by the Senator from Pennsylvania.

This is an appropriate place to raise this issue.

Let me take a moment to respond to the trumped up charge that the Senate cannot consider this amendment because the House might blue-slip the bill. I think some people are trying to use this charge as a fig leaf for voting against campaign finance disclosure. My first response to my opponent's attack is that this is not a bill for raising revenue. The McCain-Feingold-Lieberman amendment is merely a reporting requirement. It requires that those with a certain status report specified actions.

Second, the House's decision to blue-slip a bill, to refuse to consider a bill, is an act of discretion on the part of the House of Representatives. It does not happen automatically. It requires the House to pass a resolution to put this blue-slip into place, and the House can choose to consider this measure if it wants to.

Third, the Senate can and must be its own judge of what it considers to be ''bills for raising revenue'' within the meaning of the Constitution. The Senate does not have to adhere slavishly to the most wildly blown interpretation of what somehow constitutes bills for raising revenue, or else in the end the Senate would never be able to send to the House of Representatives any bill the House didn't favor. Someone in the House, anyone, could raise a charge, however baseless, that the bill was a bill for raising revenue and then just somehow stop it dead in its tracks.

In this regard, I note it is deeply ironic that some in this majority are suddenly becoming so zealous about enforcing the House's prerogatives to originate bills for raising revenue. The House has a longstanding tradition of considering all appropriation bills to be bills for raising revenue within the meaning of the Constitution. If the Senate were to send the House an S-numbered appropriations bill, the House could blue-slip that bill as well. Of late, the majority has shown a great enthusiasm for taking up S-numbered appropriation bills notwithstanding this threat. The majority cannot have it both ways on this point.

I ask unanimous consent that a listing of instances when the Senate has considered such bills that the House would have considered ''bills for raising revenue'' be printed in the RECORD at the conclusion of my remarks.

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

(See Exhibit 1.)

Mr. FEINGOLD. Finally, Mr. President, the most powerful argument against the opponents' attempt to hide behind the fig leaf of this sham constitutional objection is that their famed concern for the prerogatives of the House of Representatives will not fool anyone. This is a vote on campaign finance reform, pure and simple. In the end, when colleagues go back home and when a constituent asks them why they opposed campaign finance reform, if they answer, Well, it might have had a blue-slip problem, I don't think the explanation is going to work very well. That is not cover. The fig leaf is transparent, and the people will see right through it.

This is a vote about campaign finance reform, pure and simple. I urge my colleagues to support this commonsense amendment, and I yield the floor.

EXHIBIT 1

INSTANCES WHEN THE SENATE HAS CONSIDERED BILLS THAT THE HOUSE OF REPRESENTATIVES WOULD CONSIDER ''BILLS FOR RAISING REVENUE''

S. 2603, Legislative Branch Appropriations Act 2001, considered May 24–25, 2000.

S. 2522, Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001, motion to proceed considered May 18, 2000.

S. 2521, Military Construction Appropriations Act, 2001, considered May 11 and 15–18, 2000.

S. 625, Bankruptcy Reform Act of 1999, with amendment number 2547 proposed by Senator Domenici to increase the Federal minimum wage and protect small business considered November 8–10, 16–17, and 19, 1999, and January 26 and 31 and February 1–2, 2000.

S. 1650, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2000, considered September 29–30 and October 1 and 6–7, 1999.

S. 1283, District of Columbia Appropriations Act, 2000, considered July 1, 1999.

S. 1282, Treasury and General Government Appropriations Act, 2000, considered June 30 and July 1 and 13, 1999.

S. 1234, Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000, considered June 30, 1999.

S. 1233, Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000, considered June 21–22, 24, 28–29 and August 2–4, 1999.

S. 1217, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2000, considered July 21–22 and 26, 1999.

S. 1143, Department of Transportation and Related Agencies Appropriations Act, 2000, motion to proceed considered June 24 and 28, 1999.

S. 1206, Legislative Branch Appropriations Act, 2000, considered June 16, 1999.

S. 1205, Military Construction Appropriations Act, 2000, considered June 16, 1999.

S. 1186, Energy and Water Development Appropriations Act of 1999, considered June 14–16, 1999.

S. 1122, Department of Defense Appropriations Act, 2000, considered June 7–8, 1999.

S. 544, Emergency Supplemental Appropriations Act for Fiscal Year 1999, considered March 18–9, 22–23, 1999.

S. 2237, Department of the Interior and Related Agencies Appropriations Act, 1999, considered September 8–10 and 14–16, 1998.

S. 2334, Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999, considered September 1–2, 1998.

S. 2159, Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999, considered June 18 and July 13–16, 1998.

S. 1768, 1998 Emergency Supplemental Appropriations Act for Recovery From Natural Disasters, and for Overseas Peacekeeping Efforts, considered March 23–26, 1998.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I pick up on my distinguished colleague's statement. This is a bill about campaign finance reform. What relevance is that? What germaneness is that to the armed services? I read from the CONGRESSIONAL RECORD of May 18 of this year when the Byrd-Warner bill was put on the MILCON bill. The Senator from Arizona said:

> Its inclusion in the military construction appropriations bill is highly inappropriate.

Rather interesting.

Mr. President, I yield 1 minute to each of my colleagues, the Senator from Arkansas and the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, I am for campaign finance reform. I voted for cloture on the McCain-Feingold bill, and I would do it again.

I think this has merit, but it is the wrong time, the wrong vehicle, the wrong scope. If this is the U.S.S. Warner, this is the torpedo that could sink it. That is wrong.

There are too many important things in the bill to destroy it. There is health care for our military retirees forever. By a 96–1 vote yesterday, we put that in. There are retail and mail order pharmacy prescription benefits. I don't want to face those military retirees and say: We thought this was a good vehicle for campaign finance reform. There is the thrift savings plan, TRICARE remote, a 3.7-percent pay raise.

It is wrong to kill this bill for a nongermane campaign finance provision. There will be an opportunity. We should do it, but we should not put a nongermane provision such as this on an important DOD bill.

Mr. SESSIONS. Mr. President, I have worked with Chairman WARNER for nearly a year on this bill. It is time to pass this bill. If we put this nongermane Internal Revenue Code amendment on it, it will be blue-slipped by the House as a revenue bill. It will come back like a rubber ball off the wall.

This is not what we are here for. This is not a campaign finance vote. It is a vote involving the defense of these United States of America. That is what we need to do. I support the chairman. I believe this is a good bill.

Mr. JEFFORDS. Mr. President, I rise today to speak in support of the McCain amendment on Section 527 organizations. I would first like to thank Senator LIEBERMAN and Senator MCCAIN for their work in focusing the attention of the nation on the problems Section 527 organizations are creating in our campaign finance system.

Most people don't know what a Section 527 organization is, and that is understandable, it is a highly complex issue. But what many people do understand is that our campaign finance system is broken and that we must do something to fix it.

A recent report by Common Cause reinforces the point that there are serious loopholes in our campaign finance system.

We must close the loophole allowing so-called ''Stealth PAC's'' organized under Section 527 of the tax code, to hide their donors, activities, even their very existence from public view.

Many years ago, James Madison said, ''A popular government without popular information is but a prologue to a tragedy or a farce or perhaps both. Knowledge will forever govern ignorance and a people who mean to be their own governors must arm themselves with the power which knowledge gives.''

In clearer terms, Francis Bacon conveys the same principle in the saying, ''Knowledge is Power.''

Mr. President, the passage of this amendment would help arm the people with the knowledge they need in order to exercise their civic duty and sustain our popular government.

I have also long believed in Justice Brandeis' statement that, ''Sunlight is said to be the best of disinfectants.'' People deserve to know before they step into the voting booth which individuals or organizations are sponsoring the advertisements, mailings, and phone banks they may see or hear from during an election. We need to shine some sunlight on these secretive Section 527 organizations so that people will know who or what is trying to influence their vote.

I have watched with growing dismay the increase in the number of troubling examples of problems in our current campaign finance system. These problems have led to a perception by the public that a disconnect exists between themselves and the people that they have elected. I believe that this perception is a pivotal factor behind the disturbingly low voter turnouts that have plagued national elections in recent years.

It is time to restore the public's confidence in our political system. It is time to increase disclosure requirements and ban soft money. It is time to work together to pass meaningful campaign finance reform.

I urge my colleagues to support the McCain amendment.

Mr. WARNER. Mr. President, is there any time remaining?

The PRESIDING OFFICER. The Senator from Virginia has 30 seconds remaining, and the Senator from Arizona has 2 minutes.

Mr. WARNER. I will let the Senator from Arizona proceed.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I will quote from the Washington Post on June 4, this Sunday:

> Both parties use these section 527 committees. Failure to disclose is the insidious, ultimate corruption of a political system in which offices, if not the officeholders themselves, are increasingly bought. At least they could vote for sunshine, or is the truth too embarrassing for either donors or recipients?

Mr. President, we have heard some very interesting arguments and discussions about whether it is appropriate, as to whether it favors one side or another. There isn't an American who is well informed who does not know that this system has lurched completely out of control, when people are allowed to engage in the political system and give unlimited amounts of money and have it undisclosed.

The reason this is on this bill, I say to the chairman of the Armed Services

Committee, is that we have been unable to propose an amendment on any bill so far.

This has been the first opportunity. I regret doing so. But I was willing to enter into a time agreement to get this done. I must tell my friend we will continue on this issue until we resolve the objections that may exist concerning it. It is too important. If we are concerned about these men and women in the military—and he and I share that concern—then we should also be concerned about giving them the kind of Government and political system they can be proud of. Today, if they are informed about it, they are ashamed.

I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I thank my colleague for the courtesies he has extended me. I said clearly, given the opportunity, I would vote with him. But this time I say to my old sailor friend, man your battle station, torpedoes are on the horizon headed for the port bow of the armed services annual authorization bill.

I yield the floor.

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. REID. 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. REID. Mr. President, I ask my friend from Virginia, may we enter into a unanimous consent request that the time on the next amendment not start running until the leader, who will be here, finishes his work?

Mr. WARNER. That is in order. I ask that the time consumed by the quorum call not be borne by the next amendment coming up.

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

Mr. REID. 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.

Mr. LOTT. Mr. President, I know we are now prepared to go to the debate on the next amendment. But I do have a unanimous consent request to make and some brief comments.

For the information of all Senators, the two managers have previously exchanged amendment lists on each side of the aisle. Senator DASCHLE and I have talked about the need to get some finite list identified so that our whips and the managers can begin to work through the lists and see which can be accepted and which ones are a problem, or maybe will not be offered, and which ones will have to have debate or votes.

I ask unanimous consent that the list I now send to the desk be the only remaining first-degree amendments in order for the DOD authorization bill other than second-degree amendments which must be relevant to the first degree.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The list of amendments is as follows:

Stevens: Environmental fines.
B. Smith: Security Clearances.
B. Smith: Relevant.
Crapo: DOE Construction.
Chafee: UUV's.
Thomas: Transferring of Veterans' Memorials.
Jeffords: National Guard Education.
Brownback: NCAA gambling.
DeWine: TARS.
DeWine: Air Force Technology Institute.
DeWine: Air Force Museum.
DeWine: Air Force planning.
Stevens: Increase funding for FUDS.
Fitzgerald: overhead out of arsenal bids.
Murkowski: payment rates for doctors.
Gramm: relevant.
Gramm: export controls.
Gramm: relevant.
Bennett: transfer of Naval Oil Shale Reserve #2.
Enzi: export controls.
Helms: 3 relevant.
Gorton: relevant.
Thompson: Information Management.
Thompson: Gov. contracts.
Thompson: Export Admin. efficiencies.
Domenici: nuc. cities.
Domenici: directed energy.
K. Hutchison: uniform services health care systems.
K. Hutchison: access to health care.
K. Hutchison: Balkans.
K. Hutchison: DoD Schools.
Inhofe: DoD to review qui ram cases.
Bennett: Computer export controls.
Domenici: Melrose and Yakima ranges.
Domenici: R&D Projects (4).
Enzi: Control tower, Cheyenne, WY.
Gramm: Retransfer of former naval vessels.
Grams: Land conveyance, Winona, MN.
Grams/Sessions/et al: Military Reserve Equity.
Inhofe/Robb: Apache Readiness.
Inhofe/Nickles: Industrial Mobilization Capacity.
Kyl: NIF funding.
Lott: Concurrent Service—CNR/CTO.
Lott: Acoustic mine detection technology.
Santorum: Funding for AV–8B.
Hatch: HI–B's.
Hatch: FALN.
Hatch: Hate crimes.
Lott: 2 relevants to any amendment on list.
Warner: Marine Corps Heritage Center.
Warner: Indemnification of transferees of closing defense properties.
Warner: National Commission on Cuba.
Warner: Report on bioterrorism.
Warner: NIMA/technical.
Warner: Technology for mounted maneuver forces.
Warner: APOBS.
Warner: Agreed-to package of provisions with Govt. Affairs Committee.
Warner: MK–45 maintenance and the MUCT site.
Warner: Land conveyance, LA Air Force Base.
Warner: USMC Procurement.
Warner: Close in weapons system.
Warner: Close in weapon system modifications.
Warner: Gun mount modifications.
Warner: A–76 Study.
Warner: Anti-personnel obstacle breaching system.
Warner: Info Security Scholarship.
Warner: Future years defense budget (DOE).
Warner: 12 Relevant.
T. Hutchinson: Revise BAH.
T. Hutchinson: Uniform Resource Process.
Stevens: Alaska Territorial Guard.
Snowe: Amend Sec. 2854 to authorize interim lease.
Roberts: DOE Computer Export Controls.
Snowe: NMCI.
Inhofe: Relevant.
Inhofe: Air Logistics Technology.
Inhofe: Ammo Risk Analysis Capability Research.
Lott: Keesler Hospital Repairs.
Bennett: Altas uranium milling site.
Lott: Weather proofing.
Bennett: Critical Infrastructure Protection.
McCain: 2 Relevant.
McCain: 1 Gambling.
McCain: Internet.
McCain: 5 Campaign Finance.
McConnell: 3 Campaign Finance.
Grams: Reserve Grade Level Exemptions.
Voinovich: Workforce Realignment.
Mack: U.S. Foreign Policy.
McCain: Assistance to Service Members in Claims Process.
Johnson/Sarbanes: Export Administration.
Johnson: Genetic Pharmaceutical Access.
Johnson: Medical Prescription Drugs.
Johnson: Livestock Packers.
Kerrey: Missile Defense.
Kerrey: National Guard.
Cleland: Plaid.
Cleland: Relevant.
Feingold: National Guard/Reserve Duty Pay.
Feingold: Trident Missiles.
Feingold: McCain-Feingold CFR.
Feingold: McCain-Feingold-Lieberman 527.
Feingold: Extension of Law Enforcement Public Interest Conveyance.
Feingold: McCain-Feingold CFR.
Durbin: Missile Defense Testing.
Durbin: Registration Deadline in OPM re: Student Loan Repayments.
Murray: Abortion in the Military.
Murray: Air National Guard.
Feinstein: Relevant.
Feinstein: Relevant.
Robb: Land Conveyance for the National Guard Intel Center.
Robb: Resource Management Program.
Kennedy: School Hate Crimes.
Kennedy: Environmental UXO Detection Technology.
Kennedy: HMO.
Kennedy: Minimum Wage.
Lautenberg: Safe Streets & Schools.
Reid: Relevant.
Reid: NCAA Gambling.
Reid: NCAA Gambling.
Reid: NCAA Gambling.
Reid: NCAA Gambling.
Reid: NCAA Gambling/Civil Rights.
Reid: Date of Registry.
Daschle: Relevant.
Daschle: Relevant to Any on List.
Daschle: Immigration, Technology Job Training.
Daschle: Immigration, Technology Job Training.
Daschle: Immigration, Education Access.
Daschle: Immigration, Education Access.
Wellstone: CFR.
Wellstone: Ag. Concentration.
Wellstone: Domestic Violence.

Wellstone: Welfare Tracking.
Wellstone: States Rights to Enact Public Financing.
Wellstone: Mental Health Equitable Treatment Act.
Wellstone: Relevant.
Wellstone: Relevant.
Kerry: Environmental and Public Health Compliance.
Dorgan: SoS Air at'l Guard F 16A.
Dorgan: B 52.
Dorgan: Cuba Ag. Sanctions.
Dorgan: Relevant.
Schumer: Money Laundering.
Schumer: Critical Infrastructure.
Conrad: EB 52 Aircraft.
Conrad: Global Missile Early Warning.
Conrad: Relevant.
Bryan: National Guard.
Bryan: Relevant.
Harkin: WIC Troops Families.
Harkin: Generals Jet Procurement.
Harkin: Secrecy Policy.
Harkin: Health Care.
Boxer: Executive Planes.
Boxer: Transfer Amendments.
Boxer: Use of Pesticides on Bases.
Boxer: Privacy of DoD Medical Records.
Torricelli: Relevant.
Torricelli: Relevant.
Bingaman: Education Partnerships.
Bingaman: Labs.
Bingaman: Relevant.
Levin: Organ Transplant.
Levin: Relevant.
Levin: Relevant.
Reed: Date of Registry.
Lieberman: Campaign Finance/Criminal Enforcement.
Dodd: Veterans Gravemarkers.
Dodd: Firefighter Support.
Dodd: Cuban Commission.
Byrd: Bi-Lateral Trade.
Edwards: SoS Special Pay.
Edwards: SoS Hurricane Floyd.
Landrieu: Study of Deep Submergence Submarine System.
Landrieu: Special Assault Aircraft and Inflatable Boats.
Landrieu: Relevant.
Landrieu: Relevant.
Landrieu: Relevant.

Mr. LOTT. Mr. President, there are almost 200 amendments, I think, on this list. A large number of them are not related to the national security of our country. They are not related to the Defense authorization bill. There are two amendments now pending that are not related to national security.

I am very concerned about how long this could go on and what these amendments are. They do run the usual range, from the HMO amendment, to campaign finance amendments, to minimum wage, and a whole long list of unrelated or nongermane amendments.

I knew when we moved to this legislation this would be possible. I wanted to see how we could do, see if progress could be made, see if a little steam perhaps could be let off here. This is important legislation, so we are going to have to work through these amendments and cut them down to a reasonable number. Senator DASCHLE and I have discussed the possibility, after we get these amendments and see how we are doing, that we set the bill aside and go to the Department of Defense appropriations bill, with the understanding that when that was completed, we would come back to the authorization bill, and then we would have some idea of what amendments we would have to take time on.

This is not part of the unanimous consent request. We are not locking in on that—neither I nor Senator DASCHLE. But we have to find some way to try to work through this list and, hopefully, be able to conclude this bill. I know Senator WARNER would like to do that.

I wanted to make those observations. I ask Senators on both sides to, if you can, withhold your amendment if it is not essential. Please do that, because there is no way we can do 200, or 100, or 50 amendments and complete this work.

I yield the floor.

Mr. DASCHLE. Mr. President, let me second what the majority leader has just said. I appreciate the fact that he has taken this bill to the floor under the regular order. I have indicated a desire to work with him to complete work on this bill under regular order. Again, as I always do, I thank the assistant Democratic leader for his efforts in trying to narrow the scope and the list.

We have to start here. Now we know what the universe is. Unfortunately, I think the universe includes the ''kitchen sink'' in this case. I think it is important to try to eliminate the ''kitchen sink'' and other matters that may or may not be essential to take up. I think there are nonrelevant matters that could be taken up under very short time constraints, as we are about to do. We need to finish the bill as well. I certainly plan to work with the majority leader to see that we accomplish that over the course of the next couple of days.

Mr. WARNER. Mr. President, I thank our two distinguished leaders. No matter how diligent the managers are—there is this question, particularly historically, on this bill that Senator LEVIN and I have worked on for some 22 years—only the leadership can come down and get that list of amendments. I thank them very much for that.

We will now deal with that as expeditiously and as fairly as we can.

I thank the Chair.

The PRESIDING OFFICER. Under the previous order, the hour of 3 p.m. having arrived, the Democratic leader is recognized to offer an amendment relevant to HMOs on which there will be 2 hours of debate equally divided.

The Democratic leader.

AMENDMENT NO. 3273

(Purpose: To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage.)

Mr. DASCHLE. Mr. President, under the order, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. DASCHLE) proposes an amendment numbered 3273.

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

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

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

Mr. DASCHLE. Mr. President, it is with some reluctance that I come to the floor this afternoon—reluctance because we had hoped that this would not be necessary. We had hoped that the action taken by the Senate—now almost a year ago—would have provided us with an opportunity to have finished by now the work begun more than a year ago. The Senate acted in a way that we felt was not as acceptable as we would have liked. The House acted in a way that met the expectations of many of us. On a bipartisan basis the House passed a bill to protect patients' rights in ways that I think lives up to the expectations not only of those of us who have advocated this legislation but of the American people and many others who care deeply about these circumstances.

It was our hope that the conferees, over the course of the last 12 months, could have resolved differences and we could have sent this legislation to the President by now. That has not happened.

Under the circumstances, we are left with no choice but to come to the floor and once again have the debate and press the issue—to try to say with as much definition as we can that this legislation must pass; that this legislation must be sent to the President; that this legislation must be signed into law.

The urgency of our effort could not be better represented than by what we see on the charts immediately behind me. The first chart shows what is happening to patients day by day as this Congress fails to act. The Patients' Bill of Rights affects thousands and thousands of people on a daily basis—thousands of people who go into hospitals and clinics hoping that they might be able to get the care they so desperately need.

This chart says it all when it comes to what happens to patients as a result of our inaction.

Thirty-five thousand Americans on a daily basis fail to get the kind of care they absolutely have to have to restore their health.

Thirty-five thousand people are denied specialty care in instances when doctors have prescribed it.

Thirty-one thousand are forced on a daily basis to change doctors—we are not talking about what has happened over the course of the last 12 months. We are saying every single day in the United States of America that 31,000 people are forced to change doctors, against their will in many cases.

Eighteen-thousand are forced to change medication.

Fifty-nine thousand a day, as a result of the inaction in the Congress—a number exceeding the second largest city in

the State of South Dakota—are subjected to more pain and suffering and a worsening of their condition.

Those aren't our figures. Those are figures from the California Managed Care Improvement Task Force and other reputable organizations that have analyzed the cost of the inaction in the Congress over the course of the last year.

A second way to look at this issue is doctors' perceptions of our inaction.

The number of doctors each day who see patients with a serious decline in health as a result of health plan abuse is striking.

Fourteen-thousand people are denied coverage of recommended prescription drugs as a result of our inaction.

Ten-thousand are denied coverage of needed diagnostic tests.

Seven-thousand are denied referral to needed specialty care.

Six-thousand are denied overnight hospital stay, and 6,000 are denied referral to mental health and substance abuse treatment.

One could just sit down after that and say the Senate must act. Let's vote. I think those numbers are as compelling a reason as I have heard about the importance of this body acting on this legislation, as we should have acted now more than 12 months ago. We have not acted. And tens of thousands of people are paying a price that they shouldn't have to pay because we have not acted.

I have been encouraged by correspondence that we have been sent just in the last few hours: One from the sponsors of the legislation on the House side, Congressman CHARLIE NORWOOD, and Congressman JOHN DINGELL.

I will simply read an excerpt, and ask unanimous consent the entire letter be printed in the RECORD.

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

HOUSE OF REPRESENTATIVES,
COMMITTEE ON COMMERCE,
Washington, DC, June 8, 2000.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

Hon. TOM DASCHLE,
U.S. Senate, Washington, DC.

DEAR SENATORS KENNEDY AND DASCHLE: We are pleased that you are bringing the bipartisan compromise bill that we passed overwhelmingly in the House last October to the Senate floor today. We appreciate your willingness to fix a technical drafting error in the point of service provision.

The change we have requested is a technical correction to ensure that all individuals covered by employer-sponsored health insurance plans, including self-insured plans, would be able to choose a point of service option. This option would allow patients to choose the doctor who best met their medical needs. This change would not otherwise affect what we believe is an important provision. As you know, the point of service provision in the Norwood-Dingell bill clearly states that the patient, not the employer or the health plan, would bear any extra cost associated with this provision. Additionally, point of service is not required to be offered in instances where enrollees have a point of service option through another health insurance issuer or group health plan.

We thank you for making this technical change. We hope that this important legislation enjoys as much bipartisan success on the Senate floor today as it did on the House floor last year.

With every good wish.

Sincerely,

JOHN D. DINGELL.
CHARLIE NORWOOD.

Mr. DASCHLE. Mr. President, the letter simply calls upon the Congress to act. It says:

We are pleased that you are bringing the bipartisan compromise bill that we passed overwhelmingly in the House last October to the Senate floor today.

They want us to act.

That is from the sponsors of the House-passed legislation.

The doctors so directly involved in our critical health care needs are also asking the Senate to act today.

I ask unanimous consent that a statement released by the American Medical Association be printed in the RECORD.

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

AMERICAN MEDICAL ASSOCIATION,
June 8, 2000.

AMA CALLS ON SENATE TO PASS NORWOOD-DINGELL PATIENTS' RIGHTS BILL AS AMENDMENT TO DOD REAUTHORIZATION

''The Senate must give Americans the patient protections they want and need now.''—Thomas R. Reardon, MD, AMA President.

''The AMA strongly supports attaching the Norwood-Dingell patients' rights bill to the DoD reauthorization bill. Patients and physicians have worked for more than half a decade on a bill to protect patients—and now is the time to make that bill a law.

''Patients and their physicians have waited too long. The Senate must give Americans the patient protections they want and need now—not just a bill, but a real law that protects patients.

''Patients and physicians are frustrated with the lack of progress in the House-Senate Conference committee. We will aggressively pursue all opportunities until meaningful patients' rights legislation is signed into law.

''A Republican staff counterproposal put forward June 4 is unacceptable, making it little better than the HMO Protection Act passed by the Senate last summer. That bill was a sham. Now the Senate has a chance to make it right.

''A May NBC/WSJ poll found that patients' bill of rights was the most important health issue among registered voters. A recent Kaiser/Harvard poll found that an overwhelming 80% of Americans support patients' rights legislation, including the right to sue health plans.

''The AMA-endorsed Norwood-Dingell bill, overwhelmingly approved by the House on a bipartisan basis last fall, acknowledges the people's clear call for meaningful protections. Patient protections should not be a partisan issue. Republicans and Democrats must work together to address well-documented problems.

''Rhetoric is not enough. The Senate must do the right thing and pass the Norwood-Dingell provisions.''

Mr. DASCHLE. Mr. President, this is an excerpt from the statement:

Rhetoric is not enough. The Senate must do the right thing and pass the Norwood-Dingell provisions.

You can't say it any more directly nor any more powerfully than that—whether it is the sponsors of the House-passed bipartisan bill, or whether it is those in the trenches on a daily basis who recognize the importance and the urgency of this issue and have asked us to address it posthaste, or whether it is the thousands of people out there being denied health care on a daily basis. The commitment we must make to those who are left in the lurch must be restated and reemphasized. The only way to restate and reemphasize our commitment to their need is to pass this bipartisan bill this afternoon as part of this vehicle.

I share the view expressed by some that we don't want to slow down this bill. We just had that discussion on another amendment. I recognize that. It is for that reason that we have expressed a willingness to limit the debate on this amendment to no more than 2 hours, with an hour on each side.

We want to move this legislation. But we also want to move the defense bill. We can do that by limiting the amount of time, and we have voluntarily accommodated those who wish to move this legislation quickly by allowing the time limit on this amendment.

I think it is very clear why we are offering this amendment, when you look at what it does and why it is so important and the pressing need for it. Again, I emphasize it was passed on a strong bipartisan vote in the House of Representatives.

When you look at this chart, it lays out in a very short and succinct manner the differences between what—on a bipartisan basis the House has supported and many of us now support in the Senate—versus what our Republican colleagues in the Senate have advocated as their response to the need for a Patients' Bill of Rights for the country today.

First and foremost, protecting all patients and making sure that everybody has access to protections is a fundamental difference between the bipartisan plan and the Republican plan. We protect all patients; they don't.

Holding plans accountable is the second criteria by which we judge whether or not we are truly interested in solving this problem.

Accountability has to be the first or second priority if we are truly going to resolve these problems and address the concerns raised by millions of Americans.

The bipartisan plan holds insurance companies accountable. Unfortunately, the Republican plan does not.

Definitions of medical necessity are a very complex and increasingly disturbing way with which the insurance companies eliminate access to good quality care.

We ensure unfair definitions of ''medical necessity'' used by insurance companies don't prevent patients from getting needed care. Our bipartisan plan

addresses that issue. The Republicans do not.

Guaranteed access to specialists is also an issue that so many people believe needs to be resolved. We address it. The Republicans barely address it at all.

We can go down the list. Access to OB/GYN, access to clinical trials, access to nonphysician providers, choice of providers, point-of-service, emergency room access, prohibition of improper financial incentives. On all of these issues and many more, there is a clear choice between what the Republicans have proposed and what the bipartisan plan adopted in the House requires.

Time is running out. We have about 21 legislative days between now and the August recess. We have about 15 legislative days when we come back from the August recess. We have fewer and fewer days with which to resolve these differences. The time has come now to simply take what has been passed in theHouse, pass it in the Senate, add it to this bill, get it to the President, and send a clear message that our commitment to resolving these issues could not be stronger.

Our commitment has not eroded. We are determined to deal with this issue this year on a bipartisan basis. We join with our House colleagues in addressing the issue in a comprehensive way. That is what this amendment does. That is why we hope on a bipartisan basis we can make an unequivocal statement about our commitment for resolving this matter first and foremost in this context today.

I am deeply appreciative of the extraordinary leadership provided, once again, by the senior Senator from Massachusetts. No one has committed more time and effort and has demonstrated more leadership on an issue than he. On behalf of the entire Democratic caucus, I am extraordinarily grateful to him, appreciative of his leadership and his determination to resolve this matter in a successful way before the end of this session of Congress.

I yield the floor.

The PRESIDING OFFICER. Would yield time?

Mr. DASCHLE. I yield such time as the Senator from Massachusetts desires.

Mr. KENNEDY. Mr. President, I yield myself 12 minutes.

At the outset of this debate, I express my sincere appreciation to the leadership on both sides, particularly on our side, Senator DASCHLE, as well as to Senator LOTT, to permit an opportunity to vote on a matter which I think is of central concern and importance to families all across this country. I think the timing of this is enormously significant for the reasons we will point out in the time available this afternoon.

The American people have waited more than 3 years for Congress to send the President a Patients' Bill of Rights that protects all patients and holds all HMOs and other health plans accountable for their actions. Every day that the conference on the Patients' Bill of Rights fails to produce agreement on meaningful patient protections, 60,000 more patients endure added pain and suffering, and more than 40,000 patients report a worsening of their condition as a result of health plan abuses.

For more than 3 months, we have participated in a charade of a conference that refuses to make progress on these basic issues. We have tried to reach agreement with the Republican leadership on the specific patient protections that are critical to ending abuses by HMOs and other managed care plans. But the Congress has failed to guarantee patients even the most basic protections. This is not rocket science. It is long past time for this Congress to stop protecting HMO profits and start protecting patients' health.

The House passed a strong bipartisan bill last year to give patients the rights they need and deserve. It has the support of more than 300 leading organizations representing patients, doctors, nurses, working families, small businesses, religious organizations, and many others.

The House bill has overwhelming bipartisan support. One in three House Republicans voted for this legislation. President Clinton would sign that bill today, this afternoon. Unfortunately, the Republican leadership in Congress and the Republican conferees appear to have no intention of reaching a conference agreement that can be signed into law.

We have repeatedly asked the Republican conferees to produce an offer on the critical issues that need to be resolved such as whether all patients will be protected by the reforms and whether patients can sue for injuries caused by HMO abuses. Republican staff submitted a document on Sunday night which they claim is a starting point, but it falls far short of what is needed to start a serious discussion. That isn't only our opinion. That happens to be the opinion of the principal Republican sponsors in the House of Representatives.

We continue to hope that the conference can be productive, but so far it has been an endless road to nowhere. The clock is ticking down on the current session of Congress. It is time to take stronger action. Make no mistake, we want a bill that can be signed into law this year. There is not much time left. We need to act and act now.

The gap between the Senate Republican plan and the bipartisan legislation enacted by the House in the Norwood-Dingell bill is wide. And the intransigence of the Republican conferees is preventing quality progress. The protections in the House-passed bill are urgently needed by patients across the country, yet the Republican leadership is adopting the practice of delay and denial that HMOs so often use themselves; delay and deny patients the care they need.

It is just as wrong for Congress to delay and deny these needed reforms as it is for HMOs to delay and deny needed care. It is wrong for HMOs to say that a patient suffering a heart attack can't go to the nearest hospital emergency room. It is wrong for Congress not to take emergency action to end this abuse. It is medical malpractice for HMOs to say that children with rare cancers can't be treated by a qualified specialist. And it is legislative malpractice for Congress not to end this abuse. It is wrong for HMOs to deny access to patients to clinical trials that could save their lives. And it is wrong for Congress not to guarantee that the routine costs of participating in these lifesaving trials are covered.

The Clinton administration announced yesterday that Medicare will cover the medical costs for senior citizens participating in clinical trials. Congress should demonstrate equal leadership and do the same for all patients.

The House-Senate conference has made almost no progress on issues of vital importance to patients across America. The slow pace is unacceptable. After many weeks, despite the rhetoric from the Republican conferees, only two issues have been settled. They were virtually identical in both bills. While there seems to be conceptual agreement on a few more provisions, we have yet to reach agreement on the actual legislative language. The critical issues of holding health plans responsible for their actions and assuring that every American with private insurance is protected have not even been discussed seriously.

Staff of the Republican conferees have provided proposals that they portray as a step towards consensus. Those who support genuine patient protections on both sides of the aisle are committed to making real progress towards a successful resolution of the differences between the Senate bill and the bipartisan House bill. However, the GOP proposals fall far short of what is needed to give patients the protections they need. With a minor exception, their proposal would essentially maintain the current gaping loophole that allows so many health plans to escape responsibility when they make decisions that cause injury or death of the patient.

The Republican author pretends to indicate a sudden willingness to hold health plans accountable in some circumstances, but the American people would be shocked to see the details of this proposal. It is a sham. It is little more than a slap on the wrist for HMOs that refuse to comply with the law. It does nothing to address the vast majority of cases in which patients are injured or killed because of the health plan abuses that arbitrarily deny or delay needed care.

It is riddled with restrictions and limitations. It would protect employers

from liability when they were the ones who made the decisions that led to injury or death. In countless cases where persons were injured or even killed by the wrongful actions of their health plan, there would be no remedy.

It would force patients to go through an external appeals process, even if the disputed benefit could no longer help the patient because the injury was irreversible or because the patient has died.

Our amendment requires patients to exhaust the external appeals process before turning to the courts, but there is a key exception that allows patients who have already been harmed, or the family members of those who are killed, to go directly to the court. Few, if any, patients would ever be helped by the Republican proposal. It gives the appearance of a remedy without the reality.

The Republican proposal on the scope of the patient protections is another smokescreen. It does nothing to provide realistic guarantees for any individual not covered by the original Senate Republican bill. In fact, the proposal would reduce current protections for millions of Americans in many HMOs by explicitly preempting State laws. The result is that teachers, farmers, firefighters, police officers, small business employees, and many others would be turned into second-class citizens with second-class rights.

Here is the list: 23 million to 25 million State and local employees. These are the teachers, these are the firefighters, these are the police officials, these are the nurses, these are the doctors. They are effectively excluded from the GOP coverage. Not so under the Norwood-Dingell proposal. I don't know why they want to have second-class citizens with second-class rights for those individuals. All Americans deserve protection against HMO abuses. No patient should be denied adequate protection because of where they live or where they work.

The Republican claim that they have offered a serious compromise rings hollow for the millions of patients across this country who deserve protection for their rights, their health, and their lives. We are committed to passing a bill that protects all patients. At this point, the conference does not seem to be willing to produce a bill that will do the job, so we intend to pursue other options to enact these critical protections.

President Clinton has repeatedly urged the conference to complete work on a strong bill he can sign into law. That bill should include the key provisions of the Norwood-Dingell measure. It should not be delayed by controversial and unrelated tax or other proposals.

Our amendment contained the House-passed bipartisan consensus reforms written by Georgia Republican CHARLIE NORWOOD and Michigan Democrat JOHN DINGELL. It says we are putting patients first, not HMO profits. It says medical decisions will be made by doctors and patients, and not insurance company accountants.

The amendment establishes important protections for all patients, including coverage for emergency care at the nearest hospital, access to needed specialty care, transitional care for certain patients, direct access to obstetrical and gynecological care, coverage for routine costs of life-saving clinical trials, prohibition of improper HMO financial incentives and HMO gag clauses on physicians, and many other protections.

It establishes a fair, prompt, independent appeal process for all decisions involving medical judgments. It holds health plans accountable by holding them liable in cases where patients are injured or killed by HMO abuses. It protects employers from liability, with an exception only if they actually participate in the decision that results in injury or death in the particular case. It prohibits punitive damages if the HMO follows the recommendation of the independent reviewers.

The Senate stands, today, at a major crossroad for millions of patients across this Nation. We have an opportunity to provide long-overdue protections for all Americans in managed plans. We have an opportunity to hold HMOs accountable for their abuses. For the first time, the Senate has the opportunity to vote on the bipartisan compromise that passed the House overwhelmingly last year.

Last October, the House passed the Patients' Bill of Rights. Month after month after month, the Senate has refused to give patients across the Nation the protections they deserve. Today, at long last, the issue is out of the back rooms where it has been stalled for so long. The issue is in the open, and it is time for the Senate to vote.

I withhold the remainder of our time.

The PRESIDING OFFICER. Who yields time?

The minority has used 24 minutes.

Mr. DASCHLE. Mr. President, I designate the distinguished Senator from Massachusetts as my designee for purposes of managing the remaining time.

The PRESIDING OFFICER. Who yields time?

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. NICKLES. Mr. President, I wish to respond to my colleague, first to say I very much regret our colleague from Massachusetts is bringing this amendment to the DOD authorization bill. I heard the minority leader say we want to pass the DOD bill, but there is certainly no evidence of that when you introduce this bill, totally extraneous to DOD, campaign finance, and other unrelated matters. It appears as if defense doesn't matter. We have an unaccomplished agenda.

Have we voted on these matters before? Yes, we have. Senator KENNEDY is basically saying let's pass the House-passed bill. We are now in conference. I am somewhat resentful of some of the statements that were made by our colleagues. They said the conference was a charade. Tell that to the members of the conference who have worked, Members and staff, over 400 hours this year—probably more time spent in this conference than any other conference, maybe, in years.

They said there is intransigence on the part of the Republicans. Not so. Republicans have made significant compromises and adjustments in willingness to try to see if we cannot close the gap on two extremely different bills. The House passed a bill called the Norwood-Dingell bill. Now we have Senator KENNEDY saying, we don't care what is going on in the conference, let's just pass the House bill. He tried to pass it before in the Senate. It was not successful. I doubt he will be successful today. As a matter of fact, if he did not have this amendment on the floor today, we would probably be in conference, trying to work out some of the differences.

So we really have to ask ourselves, are the Democrats interested in an issue or political theater—and that is exactly what this is. This does not change a thing. Senator KENNEDY a couple of weeks ago said, ''I am just going to warn you, maybe I'll have to take it to the floor.'' I said, fine, you are going to find out the House can probably pass Norwood-Dingell again and it will not pass the Senate. Does that help resolve the differences? I don't think so.

We made an offer. I heard some comments made: Well, that offer was a charade; or it wasn't any good, or didn't mean anything. We made some compromises. The only thing we have heard back—we didn't get a written response. All we heard is verbally, it did not do very much.

Wait a minute, we have done a lot. If you are interested in patient protection, we have done a lot. We have agreed that everybody who has an employer-sponsored plan would have an external appeal. If they are denied health care by their HMO, they have an external appeal, an independent appeal decided by physicians, that would be binding. If for some reason the HMO would not agree to that binding decision, they could be sued.

Let me read to you Senator KENNEDY's comments in the beginning of the discussion. This is Senator KENNEDY:

> I think the overriding issue—and others have spoke about it, is really whether we are ultimately going to have the important medical decisions which affect families in this country made by the doctors and by the families and the medical professionals, or whether they will be made by a bureaucrat. That is really the heart of it. There are other provisions that are relevant to that and to making the basic and fundamental right a reality, but that is really the heart of the whole situation.

We have done that. Senator KENNEDY said we haven't agreed upon anything.

But we have agreed that doctors will have the ultimate decision.

An independent appeals process, independent of any plan? We have agreed upon that. He says that is the main thing. Now he is saying that is not good enough.

I am just very displeased, I guess, that language be used that there is intransigence, we had no choice but to bring this to the floor. If anybody wanted to pass a bill and have it become law, this is the last thing they should do. And have press conferences blasting the process. This process has been open. This process has been bipartisan. This process has tried to reach across and bridge differences and compromise. Yet they say, we don't care what you have done. As a matter of fact, did they offer the compromise, an appeals process that has been agreed to by Democrats and Republicans? No, they came back and said, we want the House bill, an inferior product compared to what we have agreed to in the appeals process, far inferior.

It is the same with some of the patient protections. We have strengthened patient protections upon which we have agreed. Did they offer that? No. They want to go back to the House. It is an insult to the Senate to say: We have a conference, but we are not going to take anything from the conference; we will disregard the Senate; we are just going to take the House position.

Any chairman of any committee should think about that: Yes, you are working on a conference; we will insist we adopt the other body's position, as if it is superior. What about the other body's position? What about the Norwood-Dingell bill? That is bipartisan; people know it has unbelievable unlimited liability.

We are criticized because we want to exempt employers.

I yield myself an additional 4 minutes.

In the Senate bill, we have liability against HMOs, but we protect employers. Senator KENNEDY says that is not good enough; we want to be able to sue employers.

As a former employer, if we make employers liable for unlimited punitive damages, class action suits, the whole works, we are going to have a lot of employers saying: I don't have to provide health care; I will drop it. Employees, here is some money; I hope you will buy health insurance.

Some employees will and, unfortunately, a lot of employees will not. We will have a dramatic, draconian increase in the uninsured.

The Norwood-Dingell bill, by CBO estimates—and I think it is grossly underestimated—increases health care costs, one estimate, by 4.1 percent; another estimate of the Democrat bill is over 6 percent. Health care costs are already going up 10, 12, 14 percent. Add another 4 or 6 percent on top of that. We are talking about a 16-, 18-percent increase in health care costs, and we will have millions more join the ranks of the uninsured.

We absolutely, positively should draw the line and say: Let's not do anything that does damage to the good health care system we have. It is not perfect, but we should not be passing legislation that is going to increase the number of uninsured. We should not be passing legislation that is going to dramatically increase the cost and make it unaffordable for a lot of Americans.

We passed legislation in this body and the House that makes health care more affordable. We passed tax provisions giving every American, not just those who work for a large corporation, tax benefits, tax deductions. That is positive. That is the reason we called our bill Patients' Bill of Rights Plus.

We want to make health care more affordable for all Americans. We want to increase the number of insured Americans. Unfortunately, the Kennedy bill, the Norwood-Dingell bill will do the opposite; it will increase the number of uninsured. We do not want to do that. We want to do the opposite. We want to help people get insurance.

The legislation before us has no provision to help finance health care costs for those people who do not have it. We did in our bill. We had it in the House bill that passed the House.

I have one other comment. The President said he would veto the bill that passed the House and he would veto the bill that passed the Senate. People say: The President will sign this bill. The President stated he would veto the bill that passed the House, and the President said he would veto the bill that passed the Senate. Unfortunately, a lot of people are more interested in politics and maybe political theater and seeing if they can scare people. Maybe they think that will be to their political advantage. I very much resent that.

I want to pass a good, constructive Patients' Bill of Rights bill this session, this year. The sooner the better. Keep out the politics. Let's see if we can pass a bill that has a good external appeals process; a bill that does keep HMOs accountable. Let's protect employers. Let's not do something that will increase the number of uninsured. Let's not do something that will damage the system. I am afraid the process our Democratic colleagues are pulling right now is going to be very disruptive to the conference.

I am going to pledge we will pass a bill out of conference this year, and I hope it is one both Houses will pass and the President will sign that will increase patient protections for all Americans and also keeps health care affordable and attainable for millions of Americans.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that of the time Senator DASCHLE used—he used 12 minutes—10 of the 12 minutes be considered leader time.

Mr. NICKLES. I object.

The PRESIDING OFFICER. Objection is heard. Who yields time?

Mr. NICKLES. I yield 7 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, under the very able leadership of Senator NICKLES we have worked on this conference report more than 400 hours with more intense effort than any conference of which I have ever been part. From time to time many of our colleagues have said to Senator NICKLES: The Democrats do not want a bill; they want a political issue. Why don't we write a bill and pass it with Republican votes?

Our dear colleague and leader, Senator NICKLES, has said: No, I want to try to do this on a bipartisan basis.

I think what Senator KENNEDY has proven today in a cynical political act is that no good deed ever goes unpunished. We are not here today because we are not making progress. We are here today because we are making too much progress. We are here today because we are on the verge of writing a bill, but it is a bill that Senator KENNEDY is not for.

Senator KENNEDY has said: If you will just let lawyers get into the patient treatment room and, if you will just let people file lawsuits, he will be happy. We want to put the focus on getting health care, and one gets that from doctors and not lawyers.

In an effort to accommodate and reach a bipartisan compromise, Senator NICKLES proposed allowing HMOs to be sued. What does Senator KENNEDY say? It is not enough. Senator KENNEDY does not just want to sue HMOs, he wants to sue employers. To that we say no, we are not going to sue employers. Health insurance is provided on a voluntary basis, and we do not want employers to drop their health insurance for their workers. We are worried about millions of Americans losing their health insurance. Senator KENNEDY is not worried about that; the Democrats are not worried about that because they have their plan.

And here it is. Do my colleagues remember this, the Clinton health care bill? Do my colleagues remember what they wanted to do? They wanted the Government to take over and run the health care system. Today, Senator KENNEDY is very worried about HMOs, but let me read something about how their health care purchasing collectives would work in his bill with President Clinton.

If a patient went to a doctor and asked for treatment for your sick child, and the doctor thought your child should have it, under the Clinton plan if the Government health board ruled no, the doctor could be fined $50,000 for providing that health care to your sick child.

If you said: My baby is sick, I want the health care but the Government will not pay for it, their health care bill said if the doctor provided it and

you paid him, he went to prison for 15 years. That is their idea of HMOs they like, one HMO run by the Government.

That is not our idea. We reject it, and we will fight it until it is dead. They will never give up on it. They do not care if they destroy the health care system of this country. They do not care if millions of people are uninsured because they know how to insure them: Insure them by having the Government take over the health care system. We say no.

In our bill, we expand coverage. We gave tax deductibility to the self-employed. We want to give tax deductibility for buying health insurance if a company does not provide it. Why should General Motors get a tax deduction for buying health care but your family does not? We try to encourage people to buy long-term care insurance, so we make it tax deductible.

We want to give people choices, so we have medical savings accounts. Yet in this legislation before us, there is not one mention of tax deductibility for health insurance, not one mention of expanding coverage, not one mention of expanding freedom by letting people use tax-free money to buy health insurance. Why not? What does Senator KENNEDY have against the self-employed getting the same treatment as General Motors, or people who do not work for an employer that can provide health insurance getting a tax deduction? We know why he has against it. He does not want people to spend their money on health care. He wants the Government to spend the money for them. That is what this issue is about.

As much as we have tried to write a bipartisan bill, unfortunately, this is an election year. We are proving it right here on the floor of the Senate. We are going to reject this amendment, and I hope we will come to our senses. I hope that we will go back into conference and write a bill and bring it to the floor, a bill that does not allow employers to be sued, a bill that holds HMOs accountable, a bill that lets people buy health insurance with tax-free dollars, and then let Senator KENNEDY vote no. But I believe that America will vote yes. And this is about choices.

Senator KENNEDY protests that we are not making progress. We are not making progress in the wrong direction. That is what Senator KENNEDY is unhappy about. We are not going to sue employers. We are going to provide tax relief to people to buy health care. We are going to hold HMOs accountable. We are not going to let the Government take over and run health care.

As for the principle of compromise, I am willing to compromise and go part way, as long as we are going in the right direction. But I do not have any interest in compromising, in going part way in the wrong direction because that means we have further to go in going in the right direction.

I congratulate the chairman of this conference. He has done a great job. He has provided the best leadership on any conference that I have seen since I have been in Congress. He deserves better treatment. I believe Republicans ought to be outraged about this. And I am outraged. I have worked hard on this conference.

We are going to produce a good product. I am happy to have people judge me at the polls on it. I believe when you ask people do they want employers to be sued, I think they are going to say no. Senator KENNEDY wants them to be sued. I say no. Let the American people decide in November.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I yield myself half a minute.

Mr. NICKLES. Will the Senator yield for a moment?

Mr. KENNEDY. Yes.

Mr. NICKLES. Mr. President, I ask unanimous consent that the minority leader's statement be charged against his leadership time, and I ask that my statement be charged against our leader's time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KENNEDY. I yield myself 30 seconds, and then 5 minutes to Senator MIKULSKI.

Mr. President, we know a stall when we see one. This conference is a stall. And we know when we are on an endless road to nowhere. That is where we are. It isn't the Senator from Massachusetts saying it. It is here. It is the Republican principal leader in the House of Representatives, CHARLIE NORWOOD, I say to the Senator. He is the one who is saying it:

> ''The Senate had eight months to develop a concise alternative to the House liability proposal,'' says NORWOOD, ''and if all they have to show is a three page staff-level letter that could mean anything and everything, it's impossible to take this conference process seriously.''

Dr. NORWOOD is trained in the right profession. He is a doctor and he is a dentist; and he knows how hard it is to pull teeth around here. That is what we have been trying to do with our Republican conferees.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. For the information of my colleague, Dr. NORWOOD is not on this conference. Dr. NORWOOD may or may not know that we worked very hard to come up with the appeals process to which we basically have agreed. Dr. NORWOOD may or may not know that we agreed basically on a lot of patient protections. He may not know we spent weeks on the appeals process. We negotiated in a bipartisan fashion.

I think to refer to somebody outside the conference trashing the conference is a little extraneous. The conferees know that we worked in a bipartisan way to come up with the appeals process.

Ask Dr. FRIST. Ask other people who participated in the conference. To have an outsider say, ''Oh, we haven't done much, it is time to pass the House bill,'' I think is disingenuous.

Mr. KENNEDY. Will the Senator yield on that point?

Mr. NICKLES. Not on my time.

The PRESIDING OFFICER. If the Chair could, just to remind the Members of the Senate, the time is controlled by the Senator from Massachusetts and the Senator from Oklahoma.

Who yields time?

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

Ms. MIKULSKI. Mr. President, I rise to support Senator KENNEDY and my colleagues in moving forward on this issue on a very strong Patients' Bill of Rights.

In the debate the question was, Do you remember the Clinton plan? I sure do. I remember it with fondness. I wish we had passed it because we would not be in this mess that we are in today.

When the Clinton plan was before the Senate, they said: We can't pass it. It is going to create a big bureaucracy. It is going to shackle the decisionmaking by physicians. And it is going to lead to rationing by proxy.

What do we have now with this mess that we are rendering in the delivery of health care? This plan, the way health care is being given in this country now, was created by a group called the Jackson Hole group. It might have been created by the Jackson Hole group, but for most patients they go through a black hole trying to get the medical treatment they need.

Where do we find ourselves? Doctors unionizing, hospitals closing, and the American people up in arms. There is a reason for this. This is because our delivery system has turned into a bureaucratic-rationing-by-proxy nightmare.

This is why we are trying to move this legislation.

This legislation we are talking about—Norwood-Dingell—passed the House in October 1999 by a vote of 275–151. That is bipartisan. The Senate moved quickly to have conferees in October. The House did it in November. But we did not have our first bipartisan meeting until February 23. The first Members' meeting wasn't until March. So I am very frustrated by the slow and stodgy pace of these deliberations.

Our progress has been minimal and meager. The snail's pace of the conference leads me to conclude that unless we act quickly, we are not going to have time in this session.

It is high time we deal with this issue. No more delays. No more parliamentary derailment. It affects the

health care of every American who is in a managed care plan. They want us to take action. They want us to take it now.

But while this is not about political posturing, this is about people in pain: the 57-year-old man with prostate cancer whose HMO denies him access to a Government-approved clinical trial; the 35-year-old mom who had a stroke and whose employer switched plans in the middle of her rehab so she cannot get back on her feet and back with her family and back on her job. Think about the woman who has to talk to three insurance gatekeepers before she gets to see her OB/GYN.

When we embarked upon this, I said I wanted to fight for patients, not profits. Health care decisions should be made in the consulting room by a doctor, not in the boardroom by insurance executives. Patients need continuity of care. They should have the right to receive treatment that is medically necessary and medically appropriate, using the best practices and, yes, holding their health insurance plans accountable with the right to sue, if necessary.

The Norwood-Dingell plan essentially gives us an external appeals process before you get into court. This would resolve this.

It has been 8 months since the Norwood-Dingell bill passed the House of Representatives. I think it is high time we move on this. I say to my colleagues on the other side of the aisle, we have worked so closely together in expanding the opportunity for medical breakthroughs. I could name names as we go around in which I worked with each and every one of you to really be able to enhance and improve NIH, and even double the funding in certain areas—certainly Dr. FRIST in his work there; Senator SUE COLLINS and her wonderful work on diabetes; and we could go around; the leadership that Senator JEFFORDS has had even in conducting hearings.

Why can't we come together to push for the breakthroughs, where we have had more scientific and medical breakthroughs in our country, so people have the health care they need, to have access to the very breakthroughs that the American people paid for and was invented in their own country?

If we are going to make the 21st century a real century of opportunity, then I think we need to start now with ensuring that every single American has access to the health care that is medically necessary or medically appropriate as mandated by their physician.

This is really a life and death decision. The clock is ticking. This session of Congress is closing. I hope when it is over that we can have a bipartisan legacy where we have passed a Patients' Bill of Rights.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. Mr. President, I yield 7 minutes to the Senator and doctor from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, I rise in opposition to the Daschle-Kennedy amendment for a number of reasons, but basically it has been already debated and defeated by this body after a week of discussion and debate. And it will be defeated today.

I do wish to make three points over the next several minutes. No. 1, the offering of this amendment today, I do believe, all of a sudden, puts it in political theater, almost in a stunt-like environment as an election issue. No. 2, this amendment is underlying, I believe, a bad bill that could very negatively influence the quality of care in this country, and for sure it will drive people to the ranks of the uninsured. No. 3, the bill is inadequate, as has already been mentioned.

It doesn't address the basic rights of patients. The right of access to care is not addressed.

First, I hope this is not just political theater, but I tend to think it is. It makes me believe some people simply don't want a bill. They want to politicize it by introducing today an amendment on a totally unrelated, underlying bill. We will see how it plays out over the next couple of hours.

To me personally, as a physician, as a Senator, as one who believes we must, can, and will, because the American people expect us to, produce a strong Patients' Bill of Rights, what is most disappointing to me is I am afraid what is happening is the good faith efforts being made by this Congress, where we are spending, as Senators, hours every day, not just over weeks but months on this bill, that this is going to destroy, poison, the good-faith efforts and progress that are being made in the conference where we take a Senate bill that has already passed through this body and a House bill that has passed that body and, in a bipartisan, bicameral way, develop a bill that can and will be passed this year by the Congress.

We are making real progress in merging a 250-page bill on this side and a 250-page bill on the House side. I am afraid today's action, the introduction of this bill, is playing politics with an issue that, to me, as a physician, translates down to affecting the care of individuals, of children, of families. By doing so, we are gambling with the lives and the health of those individuals, many of whom are barely scraping by, barely able to afford the insurance they have, much less able to afford increased premiums which this bill, the amendment, will clearly do. Our goal must be, ultimately, when someone needs care, to get the care they need and deserve in a timely way.

A second goal, a goal in the conference that we discuss in each of our meetings, is to get the HMOs out of the business of practicing medicine; with a third goal being a corollary of that, to have the decisionmaking back in the hands of physicians working with their patients. That can be achieved in the very near future if we forget this stunt, this political theater of introducing amendments to be debated over a couple of hours that we already debated with the bill already defeated 6 months ago.

Why is this bill so bad? Why is the amendment before us so disappointing to me? There are many reasons; I will address two.

No. 1, let's come back to the individual patient. It just may be that you fall into that category where your chances of getting your hypertension treated are less under this bill or your diabetes managed or your cancer diagnosed or the leukemia of your child treated. Why? Because under this amendment, under this bill which has been introduced today, probably somewhere around a million people are likely to lose their health insurance today by this single amendment. Will it be you, or will it be a constituent back home? We need to look them in the eye and say: Are you going to be one of those million people who, because of the amendment voted upon today, are going to lose their health insurance?

How can I say that so definitively? Because we know this amendment will cost four times what the Senate-passed bill will cost in terms of an increase in premiums. The estimated increase in premiums under the bill which passed this body is about 1 percent. Under the bill that was initially proposed by Senator KENNEDY, it would go up around 4 percent, four times what is provided in the underlying bill. Ask your constituent back home: How do you feel about possibly being one of those people who no longer can afford their insurance and, therefore, go without health care?

No. 2, if you think your child is getting the care he or she deserves today and if you decide that they are not, what do you really want? What you want is to be able to take that child to a doctor and have them say, yes, we will treat the child now. If they say, no, you want to go to a quick appeals process, not in some courtroom 3 years later but today, shortly. If you disagree, then you want to go to another physician unaffiliated with the plan. That is what our underlying conference bill does.

Unfortunately, the bill being introduced today by Senators DASCHLE and KENNEDY has these perverse incentives that, instead of going through that process of internal appeals and external appeals and an independent physician making a final decision, you are encouraged, through incentives, to go directly to the courtroom and file a lawsuit. We need to ask: Do you want the care you deserve when you need it or when your child needs it or would you rather spend your time in a courtroom weeks, months or years later?

In the conference bill, we have strong internal appeals, strong external appeals, an independent physician making a final decision. We address quality of care for you and your family right now. We address access to the care you need now. We address timely decision-making in the underlying conference bill. We have those disputes settled by independent physicians, doctors making the final decision. They are the ones with the best science, the best medical evidence out there deciding medical necessity, not what is in the original plan.

My third and final point is that this bill is inexcusably and embarrassingly inadequate. It does not cover the provision which will be in the conference bill, and that is access. Right now, there are 44 million people without health insurance. Since President Clinton has been in office, 8 million people have lost their health insurance net. It has gone from 36 million to 44 million while President Clinton has been in office. We must address that.

The PRESIDING OFFICER (Mr. GORTON). The Senator's time has expired.

Mr. NICKLES. I yield the Senator an additional 2 minutes.

Mr. FRIST. The underlying conference bill addresses many issues which go well beyond the amendment being introduced today. By voting for the Daschle amendment today, we are basically saying these issues, which are in the original Senate bill and are being discussed in conference today, are not important: Access; provisions such as the above-the-line deduction for health care insurance costs; accelerating the 100-percent self-employed health insurance deduction; expansion of medical savings accounts; a new above-the-line deduction for long-term care insurance; a new additional personal exemption for caretakers, all of which make those 44 million people more likely to have insurance in the future.

Genetic discrimination: The prohibition of having genetic testing be used against you when you apply for insurance, it is not in the Daschle-Kennedy bill today. It is in the conference bill, the underlying bill passed by the Senate.

We have heard over the last several months that 80,000 people a year die because of medical errors or lack of patient safety concerns. That is going to be in the conference bill because it was in the underlying Senate bill which did pass this body. A vote for the amendment today is a vote that these issues should not be part of the basic Patients' Bill of Rights.

Let us not play politics. Let us continue to do what we have been doing over the last several weeks and months; that is, advance, taking the 250-page bill passed here, the 250-page bill passed in the House of Representatives, bringing them together in a bipartisan, bicameral approach that comes back to looking that patient in the eyes and saying: We are going to improve the quality of care you receive, not decrease that quality of care.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield 3 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I say to my colleague from Tennessee, I am glad to hear him talk about increasing the number of people who are uninsured. With all due respect, I don't hear a lot from Senators on the other side about the need to have health security for all Americans. That, truly, is the unfinished agenda.

Secondly, on the playing politics of it, I don't want to turn around and say he is playing politics with it, but people in the country are wondering how long they are supposed to wait.

This is all about quality health care. All of our citizens want to be covered, not just the small number in the Republican bill. All of the citizens in our country want to make sure that the doctors are making the decision and there is independent review of their decisions. That is not in the Republican bill. All of the people in our country want to make sure that when they need to purchase prescription drugs or they need to see a specialist, a doctor who can give them and their children the best quality care possible, they will be able to do so. That is not in the Republican bill.

We have been waiting and waiting—3 months, 4 months, I don't know how many months—for the conference committee to act. With all due respect, people in Minnesota and people in the country want to bring some balance back into this health care system. They don't want it run by the big insurance companies.

They don't want it just run by the big managed care companies. They want us to be responsive to their concerns. This is a vote about who we represent. Do we represent these large insurance companies and large managed care companies, the vast majority owned by just a few large insurance companies, and increasingly corporatize, industrialize, and insensitive medicine or do we support a health care system that is responsive to the people we represent—the people back home, the mothers, fathers, and children who want good quality health care, who want to be able to go to the doctor that will help them, who want good quality treatment when they need it.

That is what this is all about—patient protection and protection for the caregivers, the providers, the doctors. Demoralized caregivers are not good caregivers. The reason the AMA and other professionals support this is they want to be able to practice the kind of medicine they thought they would be able to practice when they went to nursing school or medical school.

Really, this is a real simple proposition: Are we on the side of the consumers and people back in our homes? Or do we represent just a few large insurance companies who only control most of these big managed care companies? I think we should be on the side of the consumers and families.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. I yield 6 minutes off of the manager's time. Mr. President, I will start by commending the conferees on this legislation for their tremendous hard work. They have worked very hard to resolve many of the issues involved in this very complex bill, and they have made tremendous progress. I find it incredible that we are not allowing the conference time to complete its work when they have, indeed, made such progress.

The Senate-passed bill accomplishes three major goals: First, it would protect patients' rights and hold HMOs accountable for providing the care they promise. As Senator FRIST says, our legislation would get people the care they need when they need it. You should not have to hire a lawyer and file a lawsuit and wait years in order to get the health care you need. Instead, our bill has a quick appeals process to help people get the care they need when they need it, without resorting to an expensive lawsuit.

Second, our legislation would improve health care quality and outcomes.

Third—and this is the critical difference between the two approaches being discussed today—our legislation would expand, not contract, access to health care. The fact is that costs matter. We cannot respond to the concerns about managed care in a way that resorts to unduly burdensome Federal controls and excessive lawsuits that drive up the cost of insurance so that we cause people to lose access to health care altogether. That is the crux of this debate.

We have a growing number of uninsured Americans in this country. There are 44 million uninsured Americans—the highest number in a decade. In my home State of Maine, 200,000 Mainers are without insurance. I have met with so many employers who have told me that if the Kennedy legislation passes, they will drop their health care plans. They simply cannot afford to be exposed to endless costly lawsuits in return for providing a health care benefit.

Just yesterday, I met with a manufacturer from Maine who has 130 employees. He is a good employer. He provides an excellent health care plan. But he told me that if he is going to be exposed to endless liability and endless lawsuits, then he will no longer provide that health insurance to his employees. Many other employers will respond the same way.

So the problem is, if we pass the Kennedy bill, we will drive up the cost of health insurance that will make it further out of reach for those uninsured

Americans who already can't afford health insurance, and we will add to the number of uninsured Americans because of employers being forced to drop coverage. I can't imagine that that is a result we want. We should be seeking ways to expand access to health insurance, not imposing additional costs and new burdens that make it even more difficult for employers—particularly small businesses—to provide this important benefit.

Mr. President, let me also comment on the scope of this bill. Time and time again, I have heard our colleagues on the other side of the aisle say, oh, this bill doesn't protect millions of Americans. The fact is that every single American who is under an employer plan, under our legislation, would have the right to an appeals process as set forth in this bill. And that applies whether or not the plan is under a State regulation or in a State self-funded plan. That appeals right—which is the heart of our legislation, the single most important reform to ensure that people get the care they need when they need it—applies across the board.

Where the legislation differs is on the question of whether we should preempt—just wipe out—the good work that State governments have done in the area of patient protection. States have acted to provide specific consumer protections without any prod or mandate from Congress. In fact, 47 States have already passed legislation prohibiting gag clauses from being included in health insurance plans.

Why do we need to preempt that good work? We should recognize that it isn't a one-size-fits-all approach, that, indeed, a health insurance mandate in one State may not be appropriate in another. For example, the State of Florida, which has a high rate of skin cancer, provides for direct access to a dermatologist. That isn't a big problem in my State. Yet we have other needs. Each State has been able to tailor its health insurance plan.

Indeed, it has been States that have been responsible for the regulation of insurance for over 50 years. I daresay they have done a far better job in protecting the consumers of their States than we would have if we turned over the regulation of insurance to the Health Care Finance Administration. Do we really want to have Washington regulating health insurance in each of the 50 States? That is what the Kennedy bill would do.

There is a better way. We should enact a Patients' Protection Bill of Rights this year. We should protect a bill that is like the Senate bill. I am confident that, given time, the conferees will accomplish that goal.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield 3 minutes to the Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from Massachusetts. Mr. President, the significance of this debate, in my view, is this: The Norwood-Dingell bill—the Daschle amendment here—is a good bill. It would provide coverage for 161 million Americans, as opposed to the 48 million Americans covered by the Republican Senate bill. The beauty of what is happening here today is that if the Senate were to enact this bill, to pass this bill, we would have health care reform in the United States. The bill would go directly to the President, it would be signed, and the job would be done.

Instead, the concern of many of us is that this is simply not going to happen. And we have a chance to make it happen today. I contend that no one should go out there and say they are for health care reform and not vote for a bill that has the opportunity to become a reality. That bill is the House-passed Norwood-Dingell bill, and we have that chance today.

After the consideration of the bill on the floor last year, I went to California. California has the largest penetration of managed care in the Nation. I called together the CEOs of the big managed care companies and the California Medical Association. We proposed four things to them—four very simple things. One of them was the definition of ''medical necessity.''

The Senator from Tennessee just said: It is important to get the HMOs out of the business of practicing medicine. That is what I tried to do in the debate on the floor when the Senate bill was up—to change the medical necessity provisions to make sure doctors decide what is medically necessary, not insurance companies.

So I thought I would go to them and ask them to voluntarily make changes in how medical necessity is determined, in medically necessary drugs and in two other areas. There was a lot of discussion and several meetings. The bottom line is that they are unwilling to change. The bottom line is that they did not come forward with a plan.

The bottom line is I believe we are going to be in this situation where Americans are dissatisfied with the level of managed care provided to them by their plans until we pass a basic law.

What law could be more basic essentially than Norwood-Dingell? Let's look at what it does.

It assures nearby emergency room treatment for emergencies. That is common sense.

It provides access to specialists for patients needing specialty care.

In my view, that is a no-brainer. If you need it, you should get it.

It provides access to drugs not on the plan's formulary, if medically necessary.

It provides the ability to stay with your physician at least 90 days or until treatment is complete if a doctor terminates his/her contract with your plan and you require specialized care.

It provides coverage of the routine costs of clinical trials.

It provides access to a clear internal and external review process for denial of benefits.

It holds plans accountable in the event of death or injury.

A key issue in this debate and reflected in several parts of the Daschle amendment is who decides: Is it the doctor in consultation with the patient or is it an HMO bureaucrat, a green eyeshade? Under this amendment it is the medical expert who knows the patient and who decides, not the plan. This means that doctors decide which drug works best; doctors decide which treatment is appropriate; doctors decide when specialty care is needed; doctors decide how long someone will stay in the hospital.

For example, this amendment requires health plans that have formularies to cover drugs that are not on a plan's formulary, if the doctor believes the non-formulary drugs are medically necessary. It also requires plans to refer patients with a serious or complex illness to a specialist for care. If a patient's condition requires the use of a specialist that is not available through the health plan, this amendment requires that plans cover services, at no additional cost, through a non-participating specialist. Both provisions are essential for persons living with a life-threatening or chronic illness.

Restoring medical decision-making to those trained to make medical decisions is at the heart of this debate. Doctor after doctor in my state talks about how their decisions are challenged, countermanded, second-guessed, and undermined by HMOs, to the point that they can hardly practice medicine.

Another important provision says that patients can continue treatment with their doctors for at least 90 days if plans have terminated their contract. A plan must continue to cover treatment for pregnancy, life-threatening, degenerative or disabling diseases and diseases that require special medical care over a prolonged period of time with the terminated provider.

The amendment also requires plans to cover the routine costs of clinical trials, costs like blood work, physician charges and hospital fees. Clinical trials are research studies of new strategies for prevention, detection and treatment of diseases for which patients volunteer. These trials often involve analyzing new treatments, like promising new drugs, for diseases such as cancer. This provision is needed because a major deterrent to participation in trials is that insurers refuse to cover the day-to-day costs. For example, in the case of cancer, only 3–4 percent of adult cancer patients (40,000 people out of 1.2 million diagnosed) are enrolled in cancer trials.

Another provision of the amendment would allow patients to go to the closest emergency room during a medical emergency without having to get a

health plan's permission first. Emergency room staff could stabilize, screen and evaluate patients without fear that plans will refuse to pay the costs.

According to the University of California, Los Angeles, Health Insurance Policy Program: ''Californians are confused about where they should turn for help in resolving their problems and most are not satisfied with the resolution of their problems. There is a need for a clear grievance procedure and independent review of health plan decisions to try to prevent adverse health outcomes to the extent possible.''

The Daschle amendment requires plans to have both an internal and external review for benefit denials. The review must be conducted and completed by a medical professional within 14 days or 72 hours in the case of an emergency. For external reviews, the reviewer must have medial expertise and a determination must be made within 21 days after receiving the request for a review. In the case of an emergency, that decision must be made within 72 hours.

Senator DASCHLE's amendment would also allow patients to sue health insurance plans in state courts for denials or delays in coverage if the internal and external review process has been exhausted first, unless injury or death has occurred before the completion of the process. Plans complying with an external review decision would not be subject to punitive damages. Additionally, employers who were not involved in a claim decision would be exempt from such legal action. This provision helps patients keep their health plan accountable for the decisions made about their health.

Another key issue before us is who is covered. Under this bill, all 161 million insured Americans would be protected. This is a vast improvement over the Senate bill which only covers 48 million Americans. How can we say one group deserves protections and another does not?

The words of this Californian provide an accurate and poignant summary of the problem. Kit Costello, president of the California Nurses Association, said:

> Most Americans see a confusing, expensive, unreliable and often impersonal assembly of medical professionals and institutions. If they see any system at all, it is one devoted to maximizing profits by blocking access, reducing quality and limiting spending . . . all at the expense of the patient. . . . Who's in charge of my care? The average American believes that health insurance companies have too much influence and exert too much control over their own personal care—more than their doctor, hospital, the government or they themselves, sometimes more than all of them combined.

Mr. President, people should not have to fight for their health care. They pay for it out of their monthly paycheck. It should be there for them when they need it.

Last fall, after the Senate completed consideration of the HMO bill, I convened a group of HMO officials and health care providers in an effort to address some of the complaints we were hearing from patients and doctors in California. They met several times early this year.

I asked them to try to reach agreement on at least four issues.

One, medical necessity: Include clear language in contracts between plans and providers on medical necessity. I suggested the language like that that I proposed in the Senate which defined ''medically necessary or appropriate'' as ''a service or benefit which is consistent with generally accepted principles of professional medical practice.''

Two, payment of claims: Because at the time, 50 percent of physicians and 75 percent of California medical groups were reporting serious delays in payments by plans, I asked them to agree on a system for promptly notifying doctors when patients' leave plans and an assurance of prompt payment of claims.

Three, low premium rates: According to a 1999 Price Waterhouse Study, California has one of the lowest average per member premium rates per month in the country ($120 monthly) in the commercial managed care marketplace. Of this, doctors receive around $35 for actual patient care. Payments in California are 40% less than those in the rest of the country. Over 75% of medical groups are in serious financial trouble in my state.

I suggested that they develop payment rates to providers that are sufficient to cover the benefits provided in an enrollee's contract, rates that thus are actuarially sound.

Four, formularies: Finally, physicians were telling me that it is difficult to find out which drugs are and are not on plans' formularies and that it was difficult to get exceptions from formularies for patients when drugs not on the formulary were medically necessary and more effective than those on the formulary.

I had hoped they could work out better methods for letting doctors know which drugs are on the plans' formularies and to agree on a uniform method for allowing exceptions to formularies when nonformulary drugs are medically necessary.

There were several meetings in January and February. It is now June. Even though there were several constructive discussions, little resolution was reached.

And so, without voluntary action by the industry, legislation is all the more necessary.

I hope the Senate passes this amendment today and sends it to the President for signature.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. Mr. President, what is the time remaining?

The PRESIDING OFFICER. The Senator from Oklahoma has 37 minutes; the Senator from Massachusetts has 34.

Mr. NICKLES. Mr. President, I yield to the Senator from Vermont 7 minutes.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I have been in Congress now for 25 years. During that period of time, I have sat on dozens of conference committees. I am, as most people know, somewhat towards the middle of the political spectrum. Thus, I am trying to make sure we don't do something which I think would be so counterproductive to the progress we want to make in the health care area if we pass this amendment.

We have made substantial progress in this conference committee. We are near agreement on all of the critical issues: Access, liability, and scope. It has not been an easy process.

Under the guidance of BILL FRIST and others, we have established for the first time a principle that every American is entitled to the best medicine. That is a new standard. It is a high standard. It is guaranteed when it is most needed through the process we have set up while the patient is ill. It is not as Norwood-Dingell would provide, and that is the best lawsuit after the patient is dead or suffering from ineffective care. Ironically, that standard which they would use for that is a lower standard than certainly best medicine but one which is generally practiced in the area.

Those who are looking at it from a legal perspective should recognize that a higher standard is going to be more protective than the standard that is being advocated by the other side. Yet we reasonably establish in the present draft reasonable availability of liability through the courts, including even, under certain circumstances, punitive damages when appropriate. That is a step we have somewhat reluctantly taken, but we have done it in a way that I don't think in any way interferes with what we want to do in the bill.

Finally, which is very important before I go into some other aspects, the cost of the bill that we had will be very small relative to that which is proposed by the opponent. It would be probably less than 1 percent. For every 1 percent that we increase the cost over $300,000—this came from the AFL–CIO—people lose their health insurance. We are looking at alternatives that go up as high as 6 percent on the other side, meaning almost 2 million people would lose their health care.

I will strongly support Senator NICKLES' motion to table the amendment offered by Senator DASCHLE. Under the able leadership of our chairman, Senator NICKLES, I am committed to working with the other conferees from the Senate and the House of Representatives to find agreement on responsible legislation to regulate managed care plans. But any new protections cannot significantly increase the cost of health coverage and cause more Americans to become uninsured.

The House-passed legislation, which Senator KENNEDY is attempting to add to the Department of Defense reauthorization bill, mandates that the Health

Care Financing Administration enforce the new insurance standards in those States that decide not to adopt the Federal laws. To date, 23 States have refused to enact one or more of the provisions contained in the Health Insurance Portability and Accountability Act and its amendments. For almost half the country, HCFA is the agency that consumers must turn to for help in enforcing these new Federal insurance mandates. The House-passed bill would continue this pattern and accelerate the creation of a dual system of overlapping State and Federal health insurance regulation that will only cause confusion for consumers and inefficiency for plans.

The National Conference of State Legislatures (NCSL) agrees with me on this important point. In NCSL's action policy on managed care, they state:

[T]he Senate-passed version of the ''Patients' Bill of Rights'' generally preserves the traditional role of States as insurance regulators, and focuses most of its attention on the federally regulated, self-funded ERISA plans.

In sharp contrast to their support for the Senate bill's applicability, they believe the Norwood/Dingell bill: ''[W]ill largely preempt these important State laws and replace them with Federal laws that we submit the Federal Government is ill prepared to monitor and enforce.'' The National Conference of State Legislators goes on to say: ''[T]he Federal Government will not be able to deliver on the promise and may very well prevent States from delivering on theirs regarding patient rights.''

Mr. President, I ask unanimous consent to have the full text of the National Conference of State Legislatures policy statement be printed in the RECORD.

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

ACTION POLICY, MANAGED CARE REFORM

NCSL supports both the establishment of needed consumer protections for individuals receiving care through managed care entities. We also support the development of public and private purchasing cooperatives and other innovative ventures that permit individuals and groups to obtain affordable health coverage. We strongly oppose preemption of state insurance laws and efforts to expand the ERISA preemption. The appropriate role of the federal government is to: (1) ensure that individuals in federally-regulated plans enjoy protections similar to those already available in most states; (2) establish a floor of protections that all individuals should enjoy; and (3) to provide adequate resources for monitoring and enforcing federally-regulated provisions. The Senate-passed version of the ''Patient Bill of Rights,'' generally preserves the traditional role of states as insurance regulators, and focuses most of its attention on the federally regulated, self-funded ERISA plans. Individuals who receive their health care through these plans have not benefited from the state laws enacted to provide needed protections for individuals who receive care through managed care entities. It is appropriate and necessary for the Congress to address the needs of these individuals.

States have taken the lead in providing needed regulation of managed care entities. The reforms at the state level have enjoyed bi-partisan support and have been successful. If states had the ability to provide these protections to people who receive their health care benefits from self-funded ERISA plans, we would surely have done so. We have asked for the privilege on many occasions.

Today we see federal legislation that will largely preempt these important state laws and replace them with federal laws that we submit the federal government is ill-prepared to monitor and enforce. None of them would provide additional resources to the U.S. Department of Labor or to the U.S. Department of Health and Human Services to hire and train staff to implement the many complex provisions of these bills.

PREEMPTION OF STATE LAWS AND STATE REGULATION OF MANAGED CARE ENTITIES

It is widely believed that the pending legislation creates a federal floor and would not preempt state laws that are more protective of consumers. We are not certain that is true. Unless state legislatures adopt legislation that mirrors the federal legislation, state insurance commissioners would not be authorized to continue to regulate managed care entities under any preempted state laws. In come cases ironically, state insurance commissioners would be unable to enforce existing state law that would have afforded these same individuals needed protections. As a result, after passage of the federal legislation, the regulation of managed care entities could be largely a federal affair. Again, we believe the current federal infrastructure for the oversight and enforcement of health insurance regulations is inadequate. The federal government will not be able to deliver on the promise and may very well prevent states from delivering on theirs regarding patients rights.

ACCESS TO HEALTH INSURANCE PROPOSALS

NCSL strongly opposes proposals that exempt association health plans (AHPs), Health Marts and certain multiple employer welfare arrangements (MEWAs) from critical state insurance standards. These proposals would permit more small employers to escape state regulation and oversight through an expansion of the ERISA preemption. States have tailored their health care reforms to fit local health insurance markets and to address the concerns of local consumers.

The impact on federal insurance reforms. The federal government, through the enactment of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), made an effort to stabilize and improve consumer protections (through state regulation) of these markets. Enactment of AHP/MEWA provisions in any form would undermine these efforts. We are particularly concerned about: (1) the impact on state small group and individual insurance markets; and (2) the opportunity inadequate regulation provides for fraud and abuse. These concerns are in addition to our larger concerns about the ability of the federal government to adequately regulate an expanded health insurance market.

The impact on state insurance markets. Recent state reforms have guaranteed small employers access to health insurance and have made coverage more affordable for many small businesses by creating large insurance rating pools. These large pools assure that all small firms can obtain coverage at reasonable rates, regardless of the health of their employees. The success of these state small group reforms, however, depends on the creation of a broad base of coverage. By expanding the exemption provided in ERISA, the House-passed bill would shrink the state-regulated insurance market and threaten the viability of the markets and any reforms associated with these markets. These proposals undermine HIPAA by creating incentives for healthy groups to leave the state-regulated small group market, only to return when someone becomes ill. This incentive for adverse selection would be disastrous, compromising state reforms and raising health care costs for many small firms and individuals.

Fraud and abuse. MEWAs have become notorious for their history of fraudulent activities. The House-passed bill would undermine federal legislation that specifically gave states the authority to oversee MEWAs. A policy adopted because federal regulation had proven ineffective in preventing abuses. Under the proposed legislation, many MEWAs could become exempt from state regulation by becoming federally certified as Association Health Plans (AHPs). The proposal does not provide sufficient protections for employees and employers against victimization by unscrupulous plan sponsors.

Mr. JEFFORDS. Mr. President, Vermont has passed many of the consumer protections contained in the two bills. However, it has not enacted all. As Vermont's employers struggle with 20-percent to 30-percent premium increases, and the State adjusts to the departure of a major carrier, the Governor and the State legislature have agreed to a moratorium on the passage of additional consumer protections. Under the House approach, the Vermont legislature's decision would be overridden, and they would be forced to pass additional congressional insurance mandates. We in Congress cannot be working at cross-purposes with respect to our States, which are best positioned to understand the needs of the local health care markets. This is not an issue of States' rights—it is an issue of who is best situated to determine what's right for our States.

On Sunday, House and Senate Republican staffers offered new proposals on managed care legislation in the key areas of liability, scope, and access. The offer would provide for a new Federal cause of action in ERISA to allow for lawsuits for failure to comply with the decision of the independent medical reviewer.

On the issue of scope, the Republican conferees offer the new protections would be extended to ''all 193 million Americans covered by health insurance.'' We believe that this should be achieved through a combination of Federal and qualified State protections that takes into account a consideration of market composition and fee for services issues. We have yet to hear back from the Democrats on our offer.

I don't underestimate the difficulty of our task—especially in the three critical areas of the external appeals process, the appropriate remedies when the external appeals process fails, and the scope of the legislation.

Fortunately, we can, I believe, provide the key protections that consumers want at a minimal cost and without disruption of coverage—if we apply these protections responsibly and where they are needed—without adding significant new costs, increasing litigation, and micro-managing health plans.

Our goal is to give Americans the protections they want and need in a package that they can afford and that we can enact. This is why I hope we will be successful in our efforts to develop a conference committee report that provides a true Patients' Bill of Rights, which can be passed and signed into law by the President.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield to the Senator from West Virginia 3 minutes.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, I thank the Senator from Massachusetts. I thank the Presiding Officer.

The American Medical Association says:

> The AMA strongly supports attaching the Norwood-Dingell patients' of rights bill to the DOD reauthorization bill. Patients and physicians have worked for more than half a decade on a bill that protects patients. Now is the time to make it law.

They further say:

> The Republican counterproposal put forward on June 4 was unacceptable making it little better than the HMO protection act passed by the Senate last summer. The bill was a sham.

That is the American Medical Association.

I listened to my colleagues, all of whom I have enormous affection for, and they know I respect them. I work with them on many things. As they describe the conference process, I can't really believe what I am hearing, because I have been in that conference. What I am hearing on the floor and what I heard in the conference is two entirely different worlds.

I would like to expand on that, but I don't have the time. But we have asked for proposals. We haven't gotten proposals. We should not be in the business of suing HMOs or corporations. We said we wouldn't do that. Senator KENNEDY said it many times. Congressman DINGELL said it many times. If you want to write the language which says that corporations cannot be sued under this bill, we will accept the language. We don't want to sue corporations unless they themselves intervene in the decision which produces death or injury. What could be clearer than that?

To listen to the argument from this side, one would think it was something entirely different. This is reduced to a political discussion. As Democrats, we feel passionately about the Patients' Bill of Rights and want 161 million Americans or more to be covered by this, rather than the 48 million which would be covered by the present Senate bill. We want them, first, to have coverage if the bill passes; and second, if the bill doesn't pass, to know so that there could be created a ground swell for future action over who is accountable. It is accountability not only for HMOs, but it is accountability for Congresspeople on both sides.

Our Patients' Bill of Rights—basically, the one that has been introduced which I urge my colleague to support—is incredibly sound and sensible. It gives people the kind of protection they want.

Senator FRIST understands well that a child needs a pediatric cardiologist; an adult needs an adult cardiologist. An adult's fist is not the same as a child's fist. They require different kinds of surgery. In the bill the other side proposes, that would not be possible. They could not go out of their plan to get that kind of help. In our bill they could.

That is an example of the kind of attention we placed in this amendment.

I urge my colleagues to support the bill we have before the Senate. It is much better for the American people.

Mr. NICKLES. I yield 3 minutes to the Senator from Wyoming, a member of our conference who also has additionally been a small businessman and former mayor.

Mr. ENZI. Mr. President, I am disturbed at this attempt to derail a conference committee that has been working months on end. If this bill were easy, we would have done it in a few minutes. If this bill were easy, both versions would be the same.

We have a system of government that is based on both bodies considering, to their greatest capability, every problem. When legislation is different on one side from legislation on the other side, there is a conference committee. This conference committee has probably put more time into trying to resolve the issues, rather than to jam one side against the other, trying to get an understanding of what is trying to be achieved and reach a conclusion that incorporates both bills. There has been a lot of progress.

The amendment before the Senate does not include the compromises that have been made to date, some very important ones. This bill has a big city approach to it. Wyoming doesn't have any big cities. Our biggest city is 50,008 people. I have one city in Wyoming, the biggest city in a county the size of Connecticut, and they don't have a hospital or emergency facilities. They drive themselves in an emergency an hour to get to a doctor.

What works in Massachusetts won't work in Wyoming. The bill has to serve both areas. It has to serve the cities and the rural areas. We have to have compromises to do that. We can't force one method on everybody. That is what happens if we go to the bill that the House passed. We have been getting some things in that meet the needs of the small retailer, that meet the needs of the small communities that are isolated. We have some things in the bill that take care of the patients.

It isn't just going to effect the small businesses. My staff was talking to Pitney Bowes. Their health care person is not just an average guy. He was the personal physician to President Ford. Now he is administering one of their numerous health plans. He has said if the Norwood-Dingell version passes, they will have to eliminate the kind of health care they have. That is a big employer with a lot more capability than the small employers.

We cannot derail a process that is working, a process that worked for our country for years and years and years, one that solves difficult problems such as this, one that brings into consideration all of the parts of this vast country—not just a solution that a few people in Washington came up with. We have to get the opinions of the people of this country included in the bill.

Mr. President, I'm more than a little surprised that in response to a first-time-ever Republican offer on a Patients' Bill of Rights to expand liability and scope, the Democrats have walked away from the table. That's an incredible counter-productive reaction to a giant step towards compromise. This conference has been long and time-consuming, but it is working. There is not a single reason why we should abandon a process that is working. Yet, politics is being invited in, and I think the majority of us are here to highlight why that's such a terrible mistake. Conference committees are an important part of process—for our country. It should be. For example, the biggest town in just one Wyoming county—which is the size of Connecticut—doesn't have a hospital, doesn't have an emergency room.

Among the handful of principles that are fundamental to any true protection for health care consumers, probably the most important is allowing states to continue in their role as the primary regulator of health insurance.

This is a principle which has been recognized—and respected—for more than 50 years. In 1945, Congress passed the McCarran-Ferguson Act, a clear acknowledgment by the Federal Government that States are indeed the most appropriate regulators of health insurance. It was acknowledged that States are better able to understand their consumers' needs and concerns. It was determined that States are more responsive, more effective enforcers of consumer protections.

As recently as last year, this fact was re-affirmed by the General Accounting Office. GAO testified before the Health, Education Labor, and Pensions Committee, saying, ''In brief, we found that many states have responded to managed care consumers' concerns about access to health care and information disclosure. However, they often differ in their specific approaches, in scope and in form.''

Wyoming has its own unique set of health care needs and concerns. Every state does. For example, despite our elevation, we don't need the mandate regarding skin cancer that Florida has on the books. My favorite illustration of just how crazy a nationalized system of health care mandates would be comes from my own time in the Wyoming Legislature. It's about a mandate that I voted for and still support today. You see, unlike in Massachusetts or California, for example, in Wyoming we

have few health care providers; and their numbers virtually dry up as you head out of town. So, we passed an any willing provider law that requires health plans to contract with any provider in Wyoming who's willing to do so. While that idea may sound strange to my ears in any other context, it was the right thing to do for Wyoming. But I know it's not the right thing to do for Massachusetts or California, so I wouldn't dream of asking them to shoulder that kind of mandate for our sake when we can simply, reasonably, apply it within our borders.

As consumers, we should be downright angry at how some of our elected officials are responding to our concerns about the quality of our health care and the alarming problem of the uninsured in this country.

It is being suggested that all of our local needs will be magically met by stomping on the good work of the states through the imposition of an expanded, unenforceable federal bureaucracy. It is being suggested that the American consumer would prefer to dial a 1–800–number to nowhere versus calling their State Insurance Commissioner, a real person whom they're likely to see in the grocery store after church on Sundays.

As for the uninsured population in this country, carelessly slapping down a massive new bureaucracy on our states does nothing more than squelch their efforts to create innovative and flexible ways to get more people insured. We should be doing everything we can to encourage and support these efforts by states. We certainly shouldn't be throwing up roadblocks.

And how about enforcement of the minority's proposal?

Well, almost one year ago this body adopted an amendment that stated, ''It would be inappropriate to set federal health insurance standards that not only duplicate the responsibility of the 50 State insurance departments but that also would have to be enforced by the Health Care Financing Administration if a State fails to enact the standard.''

Yet here we are one year later where, not only is it being suggested that we trample the traditional, overwhelmingly appropriate authority of the states with a three-fold expansion of the federal reach into our nation's health care, they still insist on having HCFA be in charge. HCFA, the agency that leaves patients screaming, has doctors quitting Medicare, and, lest we not forget, the agency in charge as the Medicare program plunges towards bankruptcy.

And guess what, it looks even worse for consumers under HCFA's ''protection,'' according to a new report released by GAO on March 31st of this year. The model the Democrats are supporting for implementing the Patients Bill of Rights is the Health Insurance Portability and Accountability Act, affectionately known as HIPAA. I quote from the report: ''Nearly four years after HIPAA's enactment, HCFA continues to be in the early stages of fully identifying were federal enforcement will be required.'' Regarding HCFA's role in also enforcing additional federal benefits mandates that Congress has amended to HIPAA, the GAO states, ''HCFA is responsible for directly enforcing HIPAA and related standards for carriers in states that do not. In this role, HCFA must assume many of the responsibilities undertaken by state insurance regulators, such as responding to consumers' inquiries and complaints, reviewing carriers' policy forms and practices, and imposing civil penalties on noncomplying carriers.'' And then, the GAO report reveals that HCFA has finally managed to take a baby step: ''HCFA has assumed direct regulatory functions, such as policy reviews, in only the three states that voluntarily notified HCFA of their failure to pass HIPAA-conforming legislation more than 2 years ago.''

Is this supposed to give consumers comfort? First we should usurp their local electoral rights or their ability to influence the appointment of their state insurance commissioner and then offer up this agency as an alternative? I'm not sure I could find a single Wyomingite to clap me on the back for this kind of public service.

I could go on at length about the very real dangers of empowering HCFA to swoop into the private market, with its embarrassing record of patient protection and enforcement of quality standards. Such as how it took 10 years for HCFA to implement a 1987 law establishing new nursing home standards intended to improve the quality of care for some of our most vulnerable patients. But I think the case has already been crystallized in the minds of many constituents: ''enable us to access quality health care, but don't cripple us in the process.''

The next, equally important issue is that of exposing employers to a new cause of action under a Patients' Bill of Rights. Employers voluntarily provide coverage for 133 million people in this country. That will no longer be the case if we authorize lawsuits against them for providing such coverage. This is basic math. If you add 133 million more people to the 46 million people already uninsured, I'd say we have a crisis on our hands. In my mind, a simpler decision doesn't exist. We should not be suing employers.

Mr. President. Let me close by saying that the conference has worked in incredible good faith, logging more than 400 hours and counting. We have come to conceptual agreement on a bipartisan, bicameral basis on more than half of the common patient protections. We have come to bipartisan, bicameral conceptual agreement on the crown jewel of both bills—the independent, external medical review process. Most dramatically, the bicameral Republicans have offered a compromise on liability and scope, to which the Democrats have given no formal, substantive response, just rhetoric and political jabs in the press. It is absolutely bad faith to have done so. I think it would be regrettable if these continued public relations moves torpedo what, so far, has produced almost everything we need for a far-reaching, substantive conference product. I encourage all of my colleagues to take the high road and support the legislative process our forefathers had in mind, versus a public relations circus.

Let me share an employer story. Here's another employer ''real life'' story. Within the last hour, my staff was on a conference call with the Medical Director of Pitney Bowes, a large employer that self-insures and self administers a Cadillac-style health plan for more than 23,000 employees and retirees. All of my colleagues should take note that this is not just any private citizen. Dr. Mahoney was the personal physician to President Ford. Now he's administering one of numerous health plans that this amendment threatens to disolve.

Everything from on-site medical centers to on-site fitness centers to the educational seminars on skin cancer and stress management that Pitney Bowes currently offers would be jeopardized. They've said the worst case result would be terminate the employer plan altogether. That sentiment has been echoed from countless other employers, from IBM to caterpillar to mom-and-pop shops.

I urge my colleagues not to crush plans like Pitney Bowes over politics.

Mr. KENNEDY. I yield 5 minutes to the Senator from North Carolina.

Mr. EDWARDS. Mr. President, I thank all of my colleagues who are involved in this conference and thank them for their hard work and certainly defer to all of them about the specifics of what has occurred in the conference and the work they have done there.

There are some specific issues about which I am concerned. First, it is important for the American people to understand that the Patients' Bill of Rights means nothing unless those rights are enforceable. Under any of these bills that are being considered, there are only two enforcement mechanisms. Without those mechanisms working, without them being effective, the rights don't exist because the insurance companies can do anything they want and can never be held responsible for what they do.

There are two enforcement mechanisms. First, if we have a real and meaningful independent appeals process, that is an enforcement mechanism. Second, we do for health insurance companies the same thing we do for every single American listening to this debate—when they hurt somebody, we hold them responsible.

There has been a lot of argument about lawyers, lawsuits, and HMOs. Why in the world are HMOs and health insurance companies entitled to be treated any differently than the rest of

us? When we walk out the door and with our automobile or some other way cause injury or death to somebody, we are responsible for that. Everybody listening to this debate can be held responsible. Why is the health insurance company entitled to be treated differently? Are they a special cut above the rest of us?

We need real and meaningful enforcement mechanisms. The appeals provision that came out of the Senate was not truly independent because the insurance company had control over the people who made the appeals decision. Something has to be done about that; Otherwise, there is no independent appeal. That issue, as I understand it, has not been resolved. If it is not resolved, the appeals process means nothing. It is not independent.

The other issue I want to talk about is holding HMOs accountable for what they do or do not do, treating them as every other American citizen, every other American business. It is important to not pay too much attention to the rhetoric. There is lots of rhetoric in this debate. We are creating a cause of action, a right to sue, and we just want to exempt employers from that.

Unfortunately, the use of language makes a huge difference in whether the patient really has a right or not. Let me give an example. This is language that was proposed recently in the conference from the Republicans about creating a cause of action:

> A new Federal statutory cause of action would be created in ERISA to allow for lawsuits for failure to comply with the decision of the independent medical reviewer.

In other words, no matter what the insurance company does, as long as they do what the independent reviewer says they have to do, they can never be held responsible.

Here is the problem with that: A patient goes to the hospital. They need emergency medical care. They call the HMO. The HMO says we will not cover it; we will not pay for it. The patient dies as a result or is seriously injured for the rest of their life. Three days later, after an appeal is filed, some independent reviewer says, of course this was covered by the policy. So the insurer says: Now I will comply; I will do what the independent reviewer says.

As long as they do that, under this provision, they cannot be held responsible.

The problem is they did the damage when they made the initial decision. If they make an absolutely egregious decision, for whatever reason, no matter how bad their conduct, we are not going to cover this care. Then, if 4 or 5 days later they are reversed by an independent review, they cannot be held responsible for that original decision no matter what the damage is, no matter how irreversible it is.

It also creates a natural incentive to deny coverage, because, No. 1, if they deny coverage, the chances are the patient won't appeal; No. 2, if they deny coverage and they are reversed 4 days later, there are no consequences. There is absolutely no reason, no financial reason whatsoever, for the insurance company to do anything other than, when in doubt, deny coverage because we can never be held responsible for that decision.

Let me give a couple of very specific examples. A patient with adult onset diabetes has been on insulin, injectable insulin, his entire life. The insurance company—this is a real example, real-life example——

The PRESIDING OFFICER. The time yielded to the Senators has expired.

Mr. KENNEDY. I yield 2 more minutes.

Mr. EDWARDS. The insurance company says: You can take oral medication; you don't need insulin. He appeals. During the time the appeal is being considered, 3, 5, 7 days, he has a stroke and goes blind.

Then the independent review says: Of course, he was entitled to keep his insulin. So the insurance company says: All right, we will provide insulin now.

Now we have a 55-year-old man who has had a stroke; he is blind; he cannot work anymore; he cannot care for his family. Where does he go? Who is going to help his family? The insurance company cannot be held responsible for what they did, not under this proposal. This language matters. It is critically important, what the language says.

A young boy, Ethan Bedrick, with cerebral palsy, 5 years old, all his doctors say he needs to have physical therapy, every one of them. The insurance company says he doesn't need it. They appeal. The independent reviewer happens to be somebody who has absolutely no experience with children with cerebral palsy. This is a real-life example. So he says: The insurance company is right; we are not going to give this 5-year old child with cerebral palsy physical therapy.

Where does he go? The independent reviewer, who knows nothing about children with cerebral palsy, has denied coverage. The insurance company has denied coverage, coverage for which his parents have been paying for 20 years. So where does he go? For the rest of his life he has cerebral palsy. He is contracted, bound up, can't get the daily physical therapy he needs, and he has nowhere to go. There is absolutely no remedy for Ethan Bedrick.

I say to my colleagues in the Senate, what happens to this little 5-year-old boy when this happens? He cannot go to court, not under this proposal. He cannot go anywhere. The insurance company has cut him off, and he has been cut off from the care he needs.

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

Mr. EDWARDS. I thank the Chair.

Mr. NICKLES. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. There remain 27 minutes to the Senator from Oklahoma, 24 to the Senator from Massachusetts.

Mr. NICKLES. I yield 7 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, the Senator from North Carolina is certainly one of the finer trial lawyers who has come to this body in a long time. I simply note, on at least two of his examples, they were inaccurate. First, if it was an emergency-room situation, there could be no denial because under our bill emergency rooms have to be covered; and second, in the instance he just described about the child, which was a compelling incident, unfortunately he failed to mention in our bill we require that the reviewer be a medical person who has expertise in the discipline and in the area where the person is claiming to have received injury.

The point I do think has been made by the Senator from North Carolina, and has been made by a number of other Senators on the other side of the aisle, is that employers will be sued. Employers will be sued under the bill that is being brought forward by the Democratic membership. That is a serious problem.

We put an offer out, an offer to the other side, which was fairly substantive. It may have been two pages, but the other side understood there was a lot of documentation behind it, and in fact there were actually months of negotiation relative to the appeal process behind that offer. In that offer, we said employers cannot be sued. Why? Because when you start suing employers, employers drop out. They start creating uninsured individuals. We have already heard from a number of major employers, and testimony has been given here today by Senators who represent States where major employers have informed them that they are going to drop insurance if they start being sued. We know small employers will do that in droves because they cannot afford the risk of putting their businesses through a lawsuit over medical insurance.

So this is not about suing HMOs, I say to those on the other side of the aisle, this is about opening up lawsuits to everybody, not only against HMOs, which by the way we allow to occur in our bill which was admitted to by the sign that was put up—we allow HMOs to be sued—but, more important, it is about suing employers.

Look at this chart. This chart is a reflection of the various elements of what is essentially the bill the Democratic Party has brought to the floor today. It is so convoluted and so complex that, literally, you would have to spend probably a month just figuring it out, just to figure out what it all means.

That is one of the reasons this conference has taken so long, because we have been trying to sort through all the different complications. I point out, at almost every element in this chart, every one of these white lines, every one of these crossing lines, every

one of these agencies that is being created, every one of these decision processes being placed upon the community, there is a lawsuit waiting to happen under the Democratic bill.

This is the attorneys annuity act. The direction the trial bar is going to go is to go after the employers; they are the ones who will be at risk. As a result, you will drive many people into an uninsured status because employers will stop running their insurance programs in droves. I mean literally millions of people.

Why would you want to do that? I hate to be cynical about this, but I honestly think, if you look at the process this administration has pursued over the last 8 years, they are trying to continually raise the cost of insurance, health insurance, in this country and make it less and less affordable, so more and more people become uninsured, so at some point they can make an argument—which they have already made—that they have to nationalize the health care system in order to pick up all the people they have created as uninsured.

It is the old orphan argument. You know, the person who killed his parents goes to court and claims he should receive clemency because he is an orphan.

The fact is, what the Democratic proposal does, and what the result of the administration proposal has been consistently, is to create more and more uninsured and then claim: Oh, my goodness, look at all these uninsured. We have to nationalize the system so we can cover them all. In the context of this bill specifically, however, the game plan is to create a whole new activity for the bar association, suing employers left and right.

There is a law firm up in New England which represents Car Talk. They are called Dewey, Cheatum and Howe. Today, they have about three people working for them, according to Click and Clack, the Tappet brothers, who work at Car Talk Plaza. But I will tell you something. If this bill passes, they are going to give up automobile insurance and they are going to go into suing companies, suing businesses, suing employers who happen to supply health insurance to their people. They are going to add probably 20 or 30 or 40 new attorneys.

So Dewey, Cheatum and Howe is going to just keep on going and going and expanding, because they will have received an annuity under this bill—not an annuity to sue HMOs, because that is not really in contest anymore; we have already put that on the table. It will be an annuity to sue employers. As a result, not only will there be a heck of a lot of lawyers working at Dewey, Cheatum and Howe; there will be a lot more people in this country who don't have insurance, and then we will hear from this administration, from Vice President Gore: My goodness, look at all the uninsured—who were created by this bill we just passed—we will have to nationalize the system. And then we will end up with a system that really doesn't work.

We put on the table some fairly substantive and very good proposals which have come from months of work. I hope the other side, rather than try to politically posture during this period, will take a hard look at them, in the area of scope, the area of access, the area of appeals, and in the area of lawsuits and liability, and that we can get back to the business of negotiating this conference rather than to the politics of this debate.

Mr. President, I yield any time I have remaining back to the Republican leader.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield to the Senator from North Carolina 1 minute.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. EDWARDS. Mr. President, I say to my colleague who just argued about employers, that is another example it is so critical we look specifically to the language and not the rhetoric.

Our bill at page 245 specifically exempts employers from any liability unless they intervene in the process of making decisions about claims. Period. If all they do is buy health insurance, which is what 99 percent of certainly small employers do, they cannot be held responsible. On the other hand, if they decide they are going to engage in the business of deciding what claims are going to be denied, like General Motors or a big company that runs its own plan, then they ought to be held responsible. The majority of employers cannot be held responsible at all unless they intervene.

Second, Ethan Bedrick, a 5-year-old boy, is a real-life example. His claim was denied by the independent reviewer. If the language we have been talking about becomes law, we will not have a real Patients' Bill of Rights, and Ethan has nowhere to go. He cannot go to court. He does not have any other appeal. The reality is people make mistakes. A 5-year-old boy who has a lifetime of needed care needs a place to go.

The PRESIDING OFFICER. The time yielded to the Senator has expired. Who yields time?

Mr. KENNEDY. I yield 3 minutes to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, if this was a dance contest, I say to the majority party: You win. I have never seen a shuffle like this. We are not stalling, they say, and yet this conference committee has had more than six months to reach an agreement and there has been no movement. Do not take it from me, take it from Dr. NORWOOD, a Republican Congressman from the State of Georgia. He says:

> It is impossible to take this conference process seriously.

That is from a Republican.

While this Congress fiddles, people die. Yes, they die. Senator REID and I had a hearing in Nevada. A mother named Susan Roe spoke up at this hearing about her 16-year-old son, Christopher. Christopher is now dead. He died October 12, 1999. He had leukemia. Chris's pediatric oncologist recommended that he receive a bone marrow transplant, his only hope for long-term survival. But before Chris could receive a bone marrow transplant, his cancer needed to go into remission. Chris's oncologist felt that the only drug available that would help him achieve remission was a Phase III investigational drug known as B43–PAP. However, this treatment he needed for a chance at life was denied him.

At the hearing, Susan held up Christopher's picture and told us, through tears, how, as her son lay gravely ill, he looked at her and said: Mom, I just don't understand how they could do this to a kid.

Yes, people die while this Congress fiddles. This debate is about whether there should be a Patients' Bill of Rights. This amendment says, among other things, that every patient has a right to know all of their medical options, not just the cheapest. If you need to go to an emergency room for care, you have a right to get it.

If you stand with patients, you will support this amendment. This legislation ought to have been passed last year, but the fact is, it is locked in conference. There is a giant stall going on. The only difference between this conference and a glacier is that a glacier at least moves an inch or two a year. The Senator from South Dakota and the Senator from Massachusetts and others have every right and responsibility to bring this proposal to the floor of the Senate because we insist that this Congress take seriously the need to pass a Patients' Bill of Rights.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Oklahoma.

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

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, as a member of the Armed Services Committee, I am deeply disappointed that this nongermane amendment is being offered on this very important bill. As a member of the conference committee, I am very disappointed it has been described and depicted in the way it has by the Democrats today.

I have never seen a group of my colleagues work as hard as the members of this conference committee have for the last few months. Over 400 hours have been logged by staff and members in meetings trying to negotiate very tough and very difficult issues. These are tough issues, and there are big differences between the House and the Senate. There has been enormous

movement, and most of the movement has been on behalf of Republican Senators who have made compromises and concessions to move this bill forward. There has been no stall. One does not stall a bill by spending the kind of time and energy we have seen expended on this bill.

In reference to the Kennedy amendment that has been offered today, we spent a week debating this issue. One of the biggest problems I see with the Kennedy bill is that all of the access provisions have been removed. Even the access provisions we saw in the Dingell-Norwood bill have been removed. There are none of the means by which more people can get insurance.

The only access left in this bill is access to the lawyer, and there is plenty of access to the lawyer and plenty of access to lawsuits. That is the real purpose of why we have seen this brought forward, to provide a whole new realm of litigation for trial lawyers.

I want to give one particular example, a company in my State. I do not mention it particularly because it is from my State, but it happens to be the largest employer in America, and that is the Wal-Mart Corporation. It sounds good: Let's sue Wal-Mart, big, bad Wal-Mart; let's sue corporations.

Let's put it in practical terms. They have 900,000 employees in the United States. Forty percent of them chose voluntarily to go under the Wal-Mart health plan. There are about 10 percent in HMOs and many are insured by their spouses who are employed in other places.

Those 40 percent represent 700,000 Americans in this one company who receive their health care through Wal-Mart. The 10 percent who are in HMOs pay three to four times more in premiums. It costs three to four times more than those who are under the Wal-Mart plan.

Recently, they surveyed all the employees in the Wal-Mart plan. Ninety-five percent expressed satisfaction, but more significant, not one of them mentioned they wished they had a right to sue their employer. Not one of them.

I want to read what they said in a letter. We met with them off the floor a few moments ago. This is what they said in a letter:

> Our concern is that unavoidable litigation costs will increase health care costs and in turn increase health care premiums.

There is no doubt about that.

> Depending upon cost, we will be forced to increase health insurance premiums, reduce benefits, or shift associates in health maintenance organizations.

They are going to take care of their associates. Frankly, they said most are going to be forced into HMOs that cost three to four times more than the Wal-Mart health plan. If it costs three to four times more, literally hundreds of thousands of employees in this one company alone will be faced with making the decision they cannot pay the premiums or a portion of their premiums and will be pushed into the ranks of the uninsured. That is going to be the intended or unintended consequence of the Kennedy bill if it is adopted.

The plain truth is, Democrats want to get rid of employer-sponsored health insurance. Mr. President, 103 million Americans receive health care through their employers, and it will take one lawsuit with an egregious award to force employers to drop their health care and add their employees to the ranks of the unemployed.

Senate Republicans are dead serious about producing a bill out of this conference and one that puts patients first, not trial lawyers first.

The Kennedy amendment is in bad faith. The question is, Do you want an issue or do you want a law? We can produce a bill that can become law and protect millions of Americans, but this is too important to do it quickly instead of doing it right. We want to do it right. I reserve the remainder of our time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield 5 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, it is with mixed feelings that I stand in support of this amendment. I am a member of the conference committee on the Patients' Bill of Rights. When we began the conference, I had high and great hopes for this because my colleagues on the Republican side told us how committed they were to meaningful HMO reform. Let us look at the history and the record.

This passed the Senate almost a year ago, in July of 1999. It passed the House in October. The first meeting we had was on March 2 of this year, and we conducted no business. Then there was another meeting on March 9 that lasted a little while. Not much was done. Then we had two more reduced meetings, not of the entire conference but just a few members of the conference behind closed doors in Senator NICKLES' office off the floor. There were four meetings. We have heard about 400 hours and all this hard work. Four meetings? That is tough work.

Maybe they have been talking with each other for 400 hours. I do not know. It reminds me of a story about a car stuck in a snowbank. The guy spends 10 hours in the car spinning the wheels going nowhere. Someone shows up and he says: I spent 10 hours trying to get my car out of the snowbank. He is sitting there gunning the gas pedal, spinning the wheels, and going nowhere. If he had just gotten out of the car with a shovel, he would have been out of there.

That is what this conference committee is doing; it is spinning its wheels. Since we started meeting, we finalized agreement on two provisions—out of 22 in disagreement, 2 provisions.

These were noncontroversial provisions to which both sides easily agreed. The first was on access to pediatric care. That took about 30 seconds to decide. The next issue was provider nondiscrimination. That was identical in both the House and the Senate bills. That is what we have agreed on. That is all we have to show for 400 hours? Four hundred hours, that is what we have to show for it?

As I said, we are spinning our wheels. Slowly, over time, I have come to the reluctant conclusion that our Republican Senate colleagues are not serious. They do not truly want a Patients' Bill of Rights. But I believe it is critical that we pass meaningful, bipartisan legislation this year. They did it in the House, and they showed it can be done in a bipartisan fashion.

Mr. President, 160 million of our family members, friends, neighbors, and children are paying good money for health care with no guarantee of proper and appropriate treatment. We all know too many stories about patients who cannot see their doctor in a timely manner, who cannot get access to the specialists they need, patients who could not get the coverage for the type of care they thought was covered under their plan.

It is very simple: Insurance either fulfills its promises or it doesn't. We are hearing enough to know in too many cases it does not. Employers and patients pay good money for health care coverage, only to find that the expected coverage evaporates at the time they need it.

So we have a choice to make here, a choice between real or illusory protections, a choice between ensuring care for millions of Americans or ensuring the profit margins of the managed care industry.

The Norwood-Dingell bill, the amendment before us, passed on a bipartisan vote in the House. It is commonsense patient protections by which the managed care plans must abide. Over 300 organizations representing patients, consumers, doctors, nurses, women, children, people with disabilities, and small businesses support the Norwood-Dingell bill.

Unfortunately, I cannot help but think that if Members of Congress—Senators sitting right here in this room today—were in the same health care boat as the average American family, this bill not only would have been made law, it would have been made law years ago.

We have all the protections that are in the Patients' Bill of Rights. It is good enough for us, but it is not good enough for the American people, according to my friends on the other side of the aisle.

The Senate majority pretends their bill offers real protections. But when you read everything below the title, the bill offered by the Senate Republicans sounds more like an ''Insurers' Bill of Rights'' than a Patients' Bill of Rights.

It is my hope that this amendment will spur our colleagues on the other

side of the aisle to renew their commitment to this conference committee and to do it in a bipartisan fashion. Spinning your wheels for 400 hours is not getting the job done.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I would like to inform my colleague, he is incorrect. He said, if we gave every other employee what the Federal employees have. Federal employees cannot sue their employer. Federal employees don't have a right to appeal. Federal employees, if they appeal, they appeal to the OMB, their employer. Federal employees, including Senators, do not have the right to sue. You cannot sue. To say, if we just give everybody else what we have, is factually incorrect.

When my colleague said we have had all these meetings and we only agreed to two things, one of the reasons people say the conference did not go anywhere is that our Democratic colleagues never say yes—even if we give them a yes. We have not quite got around to agreeing.

But, frankly, in conference, I might say, we agreed to access to emergency room care, direct access to pediatricians, provider nondiscrimination, direct access to specialists, continued care from a physician. We have agreed almost entirely—maybe not to the last dotting of the ''i'' or crossing of the ''t''—to the appeals process, to an independent physician, which is really the whole crux of the bill, the most important thing.

Why did that take so long? Because we negotiated it. We negotiated with the Senator from Massachusetts. We negotiated with Congressman DINGELL. We negotiated with their staffs. We went over every single letter, every single word, every single paragraph. And then people say: Oh, we have not agreed to anything. Maybe that is the reason we don't have a conference—because you won't agree to anything.

Who is not agreeable? Who is not moving? It is a little bit frustrating, a little bit disingenuous to say: Oh, nothing is happening. Where did those 400 hours go? I will tell you, there were hundreds of hours—and 400 is conservative—time spent by staff and by Senators trying to come up with a positive agreement.

Some people do not want one. I think the very fact that we are here today means people do not want one. They would rather have theater. They would rather have an issue. I was planning on having a bipartisan, bicameral conference this afternoon—on Thursday, as we have done for the last several Thursdays—to work on these very issues.

The people say, oh, some people want to have an issue on the floor, as if they think that is going to help the progress. It is not going to help the progress. That is unfortunate.

I am going to continue to try to see if we cannot pass a positive, bipartisan, bicameral bill. But, frankly, I do not think the efforts that have been made today are helpful to the process. I think it undermines the process.

Again, I tell my colleagues, I cannot think of any other instance where you have had an ongoing conference where people said, oh, let's just adopt the House bill, even though we made significant concessions. We worked and we have negotiated. They say, oh, let's just pull out and adopt the House bill. That is a real slap on the Senate, not just the Republicans in the Senate, but that is a real slap on the entire Senate.

It is going to be interesting to see how committee chairmen vote. Two people can play this game. Maybe there will be a conference in the future where it is said: Oh, let's just adopt the House bill. We like it better. I think that undermines the whole nature, frankly, of the legislative process.

I again urge my colleagues to vote to table the Kennedy amendment.

Mr. KENNEDY. Mr. President, I yield 3 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, I rise to join my colleagues in supporting this important amendment. For months we have been bogged down in a conference without real progress, and without hope of concluding the conference and bringing this bill to the floor for a final vote in the last days of this Congress.

I think we have to move forward. I think we have to move forward, particularly when it comes to access to health care for children in this country. I know there has been some discussion that progress has been made in terms of allowing access to a pediatrician. But there are other important aspects of health care for children included in the context of the Norwood-Dingell bill that have not been agreed to yet by the conference committee.

For example, ensuring that an appeals process is sensitive to the particular needs of children, the developmental needs of children that do not exist for adults; and also ensuring that there are quality assurance provisions for outcomes that are tied to the particular concerns of children.

If we do not do these things, then we are not only missing an opportunity, we are also disregarding our obligation to aid the children of this country.

We have all heard stories today about lawyers and stories about HMOs. Let me tell you a story about one child. It is a story I heard down in Atlanta with Senator MAX CLELAND. Lamona Adams, the mother of James Adams, was concerned about her child. He had a fever. He was ill. She did what she was told to do by her HMO; that is, to call up and get advice over the phone about what she should do. She desperately pleaded for help for her child.

She was told to go 42 miles to a hospital because the HMO had a contract with the hospital to receive their patients. While driving 42 miles to a hospital on the other side of Atlanta, an area she didn't know anything about, the child became so ill that the father just saw a sign that said ''hospital,'' went there, and they treated the child. They saved the child's life. However, they could not save the child's hands or his feet. They had to be amputated. That is what HMOs have done in too many cases in this country.

We have the power to stop the practices. We have the power to do it today. We should do it today, on behalf of not just James Adams but so many children throughout this country.

The fact that we have delayed action on this issue, I think, is inexcusable. Now we have to act. In a way, this whole episode is like a popular film a few years ago called ''Ground Hog Day,'' where every day the character woke up, and it was the same day over and over again. It is not only the same day this year but, as I look at some of the charts on the Senate floor, it seems to be the same day 6 years ago. The same arguments were trotted out about health care reform 6 years ago, as were the same dire predictions about more and more Americans losing their coverage if we pass this legislation.

We didn't pass health care reform legislation years ago. Guess what. More and more Americans have lost their insurance coverage. We can do something now—limited, purposeful, appropriate—make sure that HMOs treat people as patients, not as objects of economic profit on their balance sheet. We can do it. We should do it.

Today should not be Groundhog Day. It should be D-Day. We should seize the initiative and pass this legislation.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. I yield 4 minutes to the Senator from Utah.

Mr. HATCH. Mr. President, first, I want to make it perfectly clear that I strongly support reforming the managed care system. I was an original cosponsor of S. 300, the Patients' Bill of Rights Plus Act of 1999 and voted in favor of S. 326, the Patients' Bill of Rights which was approved by the Senate last July.

The House-Senate conference committee is currently working out the differences between the managed care bills passed by the House and the Senate. I believe this conference committee is making significant progress. So, not only is it premature for us to vote today on the House-passed managed care bill in the midst of these negotiations. I also do not feel that the DOD authorization debate is the appropriate time for us to be considering such important health care legislation.

We are all aware of the public's frustration and the need for effective legislation to guarantee that those enrolled in managed care plans receive quality health care. Over the years, the Congress has held numerous hearings exposing story after story regarding people receiving insufficient medical treatment from their managed care

plans. And let me assure you that these stories are deeply troubling to me—that's why Congress is addressing this important issue. We are listening to our constituents and we are taking action.

There is one point where all of us agree—people deserve to receive the best care possible when they are sick. I believe that when the conference committee has completed its work, this important goal will become a reality. None of us think that someone should be turned away from medical treatment because his health plan won't cover it. Our legislation provides patients the ability to appeal these types of decisions, quickly, by offering both internal and external appeals processes. It is my hope that by providing these options, people will receive quality health care, in a timely fashion, when they need it the most.

All of us in this chamber know very well there are numerous competing bills that have been introduced over the years that provide a variety of legislative remedies to address this issue. In many respects, these bills have common components intertwined with similar, and, in some cases, identical provisions. Approximately 47 bills were introduced in the Senate and the House last year to provide patient protections to managed care enrollees.

So it is obvious that we all are concerned about this issue—we all want patients to receive the best care possible.

However, for Congress to pass responsible managed care legislation, we must come together and put forth the best bill for the American people. We have done this many times before on health care legislation, and there is no reason why we cannot do this again.

The Senator from Massachusetts is trying to preempt this process. He has offered an amendment that flies in the face of every effort we have made to achieve that consensus.

There can be nothing more to this amendment than its public relations value, since it surely will not pass in the Senate. We have spent hours and hours and hours on the Senate floor, in conference, and in the back rooms of the Capitol on this legislation.

The Senator knows well why the Dingell-Norwood approach will not pass. He knows it is likely to cause health insurance premiums to rise and, as a direct result, cause employers to drop their health plans. He knows this will lead to higher numbers of uninsured Americans. And, he knows that this is an unacceptable outcome.

I remain hopeful that, in the end, we will reach consensus on this bill. I commend senator NICKLES for his fine work and leadership as chairman of the House-Senate conference committee and urge my colleagues to support the conferees and let them continue their work.

The PRESIDING OFFICER (Mr. SMITH of Oregon). Who yields time?

Mr. KENNEDY. How much time do I have?

The PRESIDING OFFICER. Thirteen minutes.

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

Mr. DODD. Mr. President, in another 15 or 20 minutes we are going to be voting on this amendment. We have some 30 working days, the way I calculate, maybe 40 legislative days remaining in this session of Congress. Probably the only vote we're going to have on this issue this year will occur in just a few minutes.

I don't like to count noses at this particular juncture, but I suspect, based on what I have heard so far, that my good friends on the Republican side will probably prevail politically. I say to them with great respect and affection that while they may win politically today, there are an awful lot of people all across the country who will lose.

I have been in Congress 25 years. I have been in conferences, a lot of them. Every now and then, conferences just don't move. I am not going to engage in the debate back and forth about whether or not this conference has actually resolved some particular issue or not. Enough has been said about it. The fact is that occasionally things just don't move. There are just too many differences of opinion. That's all there is to it and that is what has happened here.

It doesn't make anyone comfortable to have to deal with this issue on the Department of Defense authorization, but we find ourselves in a situation in which it is probably the only chance we are going to have to do something about patient protections this year.

Despite the way our colleagues have portrayed this amendment, the kinds of protections that we want to provide to the American people are not radical ideas. This is not about destroying the insurance industry and enriching trial lawyers. If it were, I wouldn't be a part of it. My colleague knows that as a Senator from Connecticut I represent more insurance companies than any other Member except my colleague, JOE LIEBERMAN. And, I think I would be recognized as someone who has taken on the trial bar when it was warranted. I've worked with my friend, PHIL GRAMM, on securities litigation reform. We did uniform standards. We did Y2K legislation. I am a cosponsor of tort reform. I don't take a back seat to anyone on these issues.

But, I also happen to believe, as strongly as I feel about the good work of many of the insurance companies in my state, that when they make a medical decision or when a business makes a medical decision, just as when a doctor makes a medical decision, they ought to be held accountable. I don't think that is a radical idea. Others may think so; I don't think so. The idea that we should provide basic protections to all Americans with private health insurance, that patients should have access to emergency care, that women should have access to their Ob-Gyn, these are not groundbreaking ideas. These ideas are pretty straightforward. In fact, a third of the Republicans in the other Chamber thought so too and voted for the Norwood-Dingell bill. The author of the bill, Dr. NORWOOD, is a Republican. This is not some great partisan battle except here in the US Senate. Across the country it is not a partisan issue. When people get sick and families are hurting, they don't talk about themselves as Democrats or Republicans or conservatives or liberals or independents, they talk about themselves as individuals who need help.

I hope enough of our colleagues on the other side will join with the minority here in voting for this, voting for the very same bill that an overwhelming majority of Democrats and Republicans supported in the House almost a year ago.

Again, I respect my good friend and colleague from Oklahoma for his efforts. It has not been an easy job. It is a complicated bill and it is a complex issue. But, we have come to a point, with the few days left in this session, that if we don't try to do something about this here, I am convinced nothing will happen in this Congress on this issue. Every now and then you begin to read the tea leaves. It is like the student who didn't get the homework done. First the dog ate it. Then somehow it ended up in the garbage. Then their computer crashed. After a while, you have to say maybe the student just isn't going to get the homework done. In a sense, that is what has happened here.

In the 3½ months since conferees began working on this bill, essentially almost nothing has happened. We simply have not moved forward. So, with 40 days left, we are put in the position of asking colleagues to join us in supporting a bill that has already passed the House, that the President said he would sign, that would leave this Congress with a mark of achievement, even if we did nothing else in the next 40 days.

Can you imagine in future years how this Congress would be recognized if we were to pass a Patients' Bill of Rights that said all Americans ought to have access to basic patient protections, that doctors ought to be able to make medical decisions for their patients, that businesses and insurance companies that make health care decisions ought to be held responsible when they make a decision that affects the lives of others? There is not a single citizen in this country who, if they make a decision that causes harm to another, can avoid the responsibility of paying a price. Why should insurance companies be exempt?

That is what this bill of ours tries to do, along with ensuring access to clinical trials, providing access to emergency care, and ensuring that patients can receive needed prescription drugs. These ideas are not radical or extreme. This is what an overwhelming majority

of people in this country would like to see us achieve.

In the next 15 minutes we will have a chance to do it. I hope some brave souls on the other side will join us and make a record of this Congress, something all of us can be proud of for years to come.

I yield back to the distinguished Senator from Massachusetts whatever time remains.

Mr. NICKLES. Mr. President, how much time remains on each side?

The PRESIDING OFFICER. The Senator from Oklahoma has 9 minutes. The Senator from Massachusetts has 8 minutes.

Mr. NICKLES. I yield to the Senator from Tennessee 3 minutes.

Mr. FRIST. Mr. President, over the last hour and a half, we have been talking about the issue of the Patients' Bill of Rights. It comes down to a question of should we allow the normal course of events in this body and in the House of Representatives to proceed—the conference report, which is our challenge. It is a challenge because we are taking a 250-page bill passed in the Senate and merging it with a 250-page bill passed in the House of Representatives on issues that will affect the quality of care of millions of people. Our challenge is to allow that process to continue.

How much progress has been made? Clearly, from the other side of the aisle, an attempt has been made over the last hour and a half to say that progress is not being made, that there is a stalemate, that we won't see a bill. In 1 minute, let me review what has happened.

On July 15, the Senate passed a bill. The amendment being proposed today is looking backward because that is the very bill we defeated last year on this floor for very good reasons, and it will be defeated again today. On October 6, the House of Representatives passed a Patients' Bill of Rights which included some very important access provisions. Conferees were named and we have addressed it as conferees, and we essentially have agreement on many of the issues we have talked about. That is progress.

Access to emergency care: If you are injured, you can go to the closest emergency room.

Direct access to a pediatrician: If you have children, they have a right to have access to somebody who specializes in that care. That has been agreed to. That is progress.

Direct access to specialists: An example was given about a pediatric cardiologist, or a cardiac surgeon. You will have access to those specialists. That has been agreed to.

Continued care from a physician: In the event there is a pregnancy and there is a loss of your insurance plan, you can continue with that physician through your pregnancy, or with a terminal illness.

Direct access to obstetricians and gynecologists.

That is true progress. A Democratic offer was made to the Republican conferees on May 23. That is progress—the fact that the proposal has been made.

I should say that very few concessions were made from the original bill. That is progress, though. A Republican response was given and a Republican proposal on June 4. That is progress. Again, as has been pointed out, a number of concessions, trying to pull those two bills together, have been made. Again, that is progress.

The sponsors of the amendment today again are taking a bill that was introduced 6 or 7 months ago, debated on the floor, and they are looking backward. That bill has been debated and defeated in this body after careful deliberation. We are looking forward with the progress that we have put out.

I urge defeat of the proposed amendment so the conference can continue with the underlying business.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, as I understand it, we have 7 or 8 minutes left. Usually, the proponents have the opportunity to do the final summation. I wonder if my friend and colleague from Oklahoma is willing to do that.

I suggest the absence of a quorum and ask unanimous consent that the time not be charged to either side.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

Mr. GRAMM. Mr. President, this has been a long debate and, I think, a good debate. It has proven once again that this is an election year. I am not going to insult everybody's intelligence by telling them that I am shocked that Senator KENNEDY is engaged in partisan politics this afternoon. This is an election year. We are politicians. This is a political act to basically try to win, again, what Senator KENNEDY lost when we had the debate on the floor of the Senate.

Senator NICKLES won. We are in conference trying to work out an agreement, and Senator KENNEDY doesn't like the way the agreement is going; he is unhappy about it. But rather than get into all this ''who shot John,'' I have tried to come up with a simple example for somebody back home who is trying to figure out what this is all about, and let me try to give it to you as succinctly as I can.

Somebody goes into the treatment room and the doctor comes in there and they have their stethoscope and they tell him to take off his shirt. In comes somebody else. They say: Well, who is that in this room? And that is the gatekeeper for the HMO. Now, what the patient wants is to get that gatekeeper out of the examining room so it is them and their doctor. Senator KENNEDY says he has the answer. His answer is: Well, keep the gatekeeper but here is how we will fix it. We will bring in a lawyer to sue the HMO, the insurance company, and the employer that bought the insurance. So we have the lawyer there and he gets part of the stethoscope. And then we bring in a bureaucrat to regulate it. So Senator KENNEDY's answer is, rather than getting the HMO out of the examining room, bring in a lawyer and a bureaucrat; and here is the poor patient with his heart at the end of the stethoscope and now four people are listening to the heart.

Now, what we are trying to do here is simple. We are trying to empower the American health care consumer to fire the HMO. We give them the ability to have innovative ways of financing health care, such as medical savings accounts, so if they don't like the way the HMO is treating them, they don't go see a lawyer, or a bureaucrat, or they don't see Senator KENNEDY; they simply call up their HMO and say: You are fired. They go out through a medical savings account, and they have their credit card or their checking account through their medical savings account, and they pick up the phone and they don't say: Are you a member of our HMO? My baby is sick and needs care. Will you see him? They simply say: Will you take a check? ''Do you take MasterCard or Visa?'' If they do, they are in.

In reality, that is what this debate is about. Do you believe in bureaucrats, or do you believe in freedom?

Senator KENNEDY, in all his heart, believes—and he is sincere, and I admire him for it—that having a lawyer there and having a bureaucrat in there improves the system.

He supported a health care bill where if a doctor provided you health care that an advisory panel appointed by the Government didn't support, they could be fined $50,000. He supported the Clinton bill where if your baby is sick and the Government said this child doesn't need treatment, and you said to the doctor, treat my child and I will pay for it, if the doctor took the money he could be sent to prison for 15 years.

That is what their alternative was.

What we want to do is give people freedom. One of the freedoms under our bill is to say to your HMO: You are fired.

If you think having a lawyer and a bureaucrat is good, then you are for Senator KENNEDY. But if you believe in freedom and what is right for you and your family, what we are trying to do is the right way to go.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, my good friend from Texas—he is my good friend—talks about freedom. He has put his finger on an issue. He wants to

give freedom to the HMOs and not provide the important services to patients. That is his kind of freedom.

I always enjoy listening to the Senator from Texas. I remember listening to him in 1993 when we had President Clinton's economic program. The Senator from Texas, I remember—someone can correct me—said: If we pass President Clinton's economic bill, we are going to have unemployment all around the nation, all around the nation. If we pass President Clinton's bill, we are going to have interest rates right up through the top of the roof.

We heard that speech. PHIL GRAMM was wrong then, and he is wrong tonight.

This issue is very basic and fundamental. It is an important one. This bill should have passed and become law in the last Congress. The first HMO bill to make sure that patients' rights were going to be protected was in 1997. It took us 2 years to get this legislation out of our committee. It took months of delay to get it before the Senate. It was passed almost a year ago. We still have not been able to have an agreement that will protect patients.

That is what is at issue, when you come right down to it. As much as PHIL GRAMM might like to say it, it isn't just Senator KENNEDY saying it. It is the fact that 300 organizations—representing the doctors and nurses in this country and every other health and medical group—support our position today. Two Republican leaders on this issue in the House of Representatives stood before their constituency earlier today and said that they believed we ought to take this action this afternoon.

I ask my friends from Oklahoma and Texas: What particular rights don't you want to provide to the American people who are included in our Patients' Bill of Rights?

What about the ability to hold plans accountable? Is that unacceptable?

What about making sure that children get specialists? Is that unacceptable?

What about having clinical trials? Is that unacceptable?

What about guaranteeing women access to an OB/GYN? Is that unacceptable?

What about having the right to get prescription drugs? Is that unacceptable?

What about prohibiting gag rules? Is that unacceptable?

What about independent external appeals? Is that unacceptable?

When you cut through the rhetoric—and we welcome the opportunity to cut through the rhetoric—you tell us that you are going to vote against this this afternoon. You spell out for us those agreements made in conference. We challenge you to lay out on the floor of the Senate this afternoon these various agreements that were made. The last agreement that was made was in March of this year. That was the last one in open session. We want to know what kind of protections you are not prepared to give the American people. We stand to protect the consumers, protect the patients, protect the children, protect the women, and protect the disabled in this country. That is what this is about.

In the movie ''As Good As It Gets'' last year, that wonderful picture for which Helen Hunt won the Oscar, there was a wonderful scene that everyone remembers. Helen Hunt starred as a mother whose child was not being provided needed care by her HMO. And every parent across this Nation laughed as they commiserated and said that is the way it is.

The consumers of America understand what is going on here. The question is whether the Senate of the United States is going to understand.

We have an opportunity to do something about it. I hope the Senate will vote for the Daschle amendment.

I withhold the remainder of my time.

Mr. GRASSLEY. Mr. President, I oppose Senator KENNEDY's amendment. Introducing this amendment at this time is a clear statement that Democratic leaders want an election issue, not a Patients' Bill of Rights. It is a cynical ploy, made in bad faith, and they ought to be ashamed of themselves.

The Senate voted on this bill last year, after full debate, and rejected it in favor of a better product. Since that time, the conferees have been working on a compromise. In the past week, Republican negotiators made an offer with major new concessions. Was this greeted with a Democrat counteroffer that moved toward the middle? No, it's answered with this attempt to blow up those negotiations. If my colleagues don't want to legislate, if they just want to create election issues, they don't deserve to be here.

Let me be specific. Republican negotiators have made an offer to their Democrat counterparts that would allow lawsuits to be brought if a health plan has rejected the decision of an independent reviewer and the enrollee has fully utilized the plan's appeal mechanism. Full economic damages could be sought, and punitive damages would be available, subject to limits. Employers, however, would be expressly protected from lawsuits, addressing a key concern of those who provide coverage to workers. These are major, major concessions. That's obvious.

In my view, this offer reasonably balances the need for fairness to consumers who are wronged with the need to keep health insurance costs low so that employers continue to offer coverage. But it was dismissed without even a serious response by the other side. If no agreement is reached this year, let everyone understand who will be to blame. It is the Democrats who have decided that they're better off with no bill than with a bill.

After this stunt fails, I hope that the President and Congressional Democrats will change their obstructionist strategy so that the Patients' Bill of Rights can become a reality, this year. In the meantime, I am voting against Senator KENNEDY's attempt to short-circuit our legislative process.

Mr. MCCAIN. Mr. President, the nation has been patiently waiting for far too long for Congress to pass a Patients' Bill of Rights that will grant American families enrolled in health maintenance organizations (HMOs) the health care protections they deserve, including the right to remedy insurance disputes through the courts if all other means are exhausted.

For far too long, achievement of this vital reform has been frustrated by special interest gridlock, principally the trial lawyers who insist on the ability to sue everyone for everything, and the insurance companies who simply want to protect their bottom line, even at the expense of fairness. Both sides hope to continue affecting their agenda with the ''soft money'' contributions they hand over to the political parties, while neither represents the hopes, expectations and best interests of the American people.

Today's debate is further evidence of how politicized this issue has become. Once again this debate is being governed by special interests and partisan politics. This is no longer a debate about how we can work together in the best interest of the American people. Nor is this a debate about providing affordable access to quality health care for all Americans.

Instead it is a contest—a contest between the political parties and special interests. This is a contest between the interests of trial lawyers versus the interests of insurance companies. This is a contest that no one not Republicans, not Democrats, certainly not the American people wins, except, of course, the special interests who are only concerned about their financial well-being, rather than the physical or financial well-being of every American. It is a shame that this body is so controlled by special interests that we cannot even put the health of the American people ahead of politics.

Under today's medical system too many Americans feel powerless when faced with a health care crisis in their personal life. Many feel as if important, life-altering decisions are being micro-managed by business people rather than medical professionals, and too many Americans believe they have no access to quality care or cannot receive the necessary medical treatment recommended by their personal physician.

Many Americans work hard and live on strict budgets so they can afford health insurance coverage for their family. Then, the moment they need health care, they are confronted with obstacles limiting which services are available to them: confronted by frustrating bureaucratic hoops; and confronted by health plans that provide little, if any, opportunity for patients to redress grievances.

While I appreciate the important contributions of managed care, we must protect the rights of patients in our nation's health care system. Too many Americans feel trapped in a system which does not put their health care needs first. They believe that HMOs value a paper dollar more than they do a human life. It is time for us to finally help these fine Americans and begin working together to get safe, quality health care for Americans.

As my colleagues know, last summer I reluctantly voted for the Senate version of the Patients Bill of Rights. At that time I made it known that my vote for passage was contingent on a strong conference agreement with a higher standard for protecting the needs of patients than those contained in the Senate bill. I supported the Senate bill because it was important to move forward and send legislation for strengthening in conference with the House. It was my strong hope that the House would pass stronger, more reasonable health care reform similar to the Norwood/Dingell legislation that honestly puts the needs of patients first. Then we could work together for a practical and fair compromise during conference.

Mr. President, I am voting today in support of the proposed Norwood/Dingell amendment before the Senate because I share the frustration of millions of Americans who are waiting for the conference to begin making substantial efforts towards reaching a viable agreement providing patient protections. This conference has had more than four months to work on reaching an agreement and yet they are not even close to finding a solution. And I am concerned that once again, partisan politics and special interests are blocking us from enacting meaningful health care reform for our constituents.

It is time for all of us to finally put aside partisanship and the influence of special interests to work together for what is needed and wanted by our constituents-safe, quality, affordable health care. This is too important an issue to allow the influence of special interests to prevent us from doing what is right for all Americans.

While I am supporting this amendment I would like to make clear that I believe that there is still work that must be done in conference before it is enacted into law. I support the intentions of the Norwood/Dingell bill but there are areas that need to be strengthened and improved before it becomes law, including the liability provisions. Real patient protection must permit individuals to resolve insurance disputes through the courts but it must also place common sense limits on excessive non-economic damage awards and ban punitive judgements that make health care more costly. This must be structured in a manner that does not encourage frivolous law suits, unnecessarily make health insurance more costly or make employers vulnerable for health care decisions they are not making.

In addition, I do not support extending U.S. Customs Service user fees to pay for this proposal. Before agreeing to this amendment I was assured that the extension of the user fees was merely a tactical move to help prevent this amendment from being defeated by partisan parliamentary procedures. I have been assured that if this amendment were to pass that an alternate means of paying for it—one that does not undermine Customs operations or constrain international commerce—would be incorporated. It is important that US Customs continue having adequate funding for conducting their programs including implementing a new automation system for reducing backlogs at ports of entry to help facilitate the dramatic expansion of commerce that has helped fuel our strong economy. Let me reiterate in no way does my vote for strong patient protections in any way provide an endorsement for extending user fees and placing a further burden on businesses and our economy.

It is my strong hope that today's vote will provide the impetus for the conference to finally work together on finding a viable and real solution for providing Americans with the health care protections they deserve.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I yield to the Senator from Texas 30 seconds.

Mr. GRAMM. Mr. President, in 1992 and 1993, when Senator KENNEDY and the Democrats were trying to raise taxes, which, unfortunately, they succeeded in doing, and when they were trying to have the Government take over the health care system, which, thank God, they failed to do, I said people would lose their jobs if they were successful. And they did. Democrats lost their jobs. Not one Republican was defeated as an incumbent in 1994. We won nine seats in the Senate. And we are in the majority.

Some people did lose their jobs, because Americans did not want the Government to take over and run the health care system. I say to Senator KENNEDY that, as sad as I know it makes him, they still don't, and they never will.

Mr. KENNEDY. Mr. President, could I ask the Senator a question on my time?

Does that stethoscope show any beating hearts over there on that side of the aisle?

Mr. GRAMM. Mr. President, if I might respond on Senator KENNEDY's time, talking slowly as I do, this stethoscope picks up a strong heartbeat that believes in freedom, and that believes in the right of consumers—even health care consumers—to fire an HMO rather than call in a lawyer or a bureaucrat.

That is what we call freedom. That is what we are for.

We disagree, and that is what makes democracy work.

Mr. KENNEDY. I thank the Senator.

Mr. NICKLES. I ask the Senator: Did he conclude his remarks? I am getting ready to move to table.

Mr. KENNEDY. I am prepared to yield whatever time is going to be yielded. I am prepared to yield. If Senators reserve some time to speak, I will reserve time.

Mr. NICKLES. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has approximately 1 minute.

Mr. NICKLES. Mr. President, I thank Senators FRIST, GRAMM, HUTCHINSON, ENZI, GREGG, and JEFFORDS for serving on this conference committee, and also Senator COLLINS who worked with us on the task force. I also very much appreciate the work they have done today on the floor.

If we don't table the Kennedy amendment, there will be millions of people who will be without health insurance. That is because it will dramatically increase the price of health care. There are results from actions. If we act to open up all health care plans and all employers to unlimited liability with punitive damages and class action lawsuits, we are going to have a lot of people dropping health care plans.

Those are just the facts.

The GAO says there is going to be a 4, 5, or 6-percent increase on top of the 10 or 12 percent that is already occurring. A lot of people can't afford it. They will drop their health care—plus the fact that the Norwood-Dingell bill, and the Kennedy bill they are trying to pass right now, have unlimited punitive damages.

I have letters from Ford, Wal-Mart, from IBM, big companies with some of the best health care plans in America, saying they will cut benefits or reduce the benefits to individuals, maybe even drop coverage, if we pass that bill. We shouldn't do it. We shouldn't do things that will cause harm. We should not pass legislation that will increase costs. We should not pass legislation that will increase the number of uninsured by 2, 3, or 4 million. That will be a serious mistake.

We should give the legislative process a chance to work. It is not working by saying we will pass the House bill.

I move to table the Kennedy-Daschle amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion to table the amendment No. 3273.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Dakota (Mr. CONRAD) is necessarily absent.

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 121 Leg.]

YEAS—51

Abraham	Brownback	Collins
Allard	Bunning	Coverdell
Ashcroft	Burns	Craig
Bennett	Campbell	Crapo
Bond	Cochran	DeWine

Domenici	Hutchison	Santorum
Enzi	Inhofe	Sessions
Frist	Jeffords	Shelby
Gorton	Kyl	Smith (NH)
Gramm	Lott	Smith (OR)
Grams	Lugar	Snowe
Grassley	Mack	Stevens
Gregg	McConnell	Thomas
Hagel	Murkowski	Thompson
Hatch	Nickles	Thurmond
Helms	Roberts	Voinovich
Hutchinson	Roth	Warner

NAYS—48

Akaka	Feingold	Lieberman
Baucus	Feinstein	Lincoln
Bayh	Fitzgerald	McCain
Biden	Graham	Mikulski
Bingaman	Harkin	Moynihan
Boxer	Hollings	Murray
Breaux	Inouye	Reed
Bryan	Johnson	Reid
Byrd	Kennedy	Robb
Chafee, L.	Kerrey	Rockefeller
Cleland	Kerry	Sarbanes
Daschle	Kohl	Schumer
Dodd	Landrieu	Specter
Dorgan	Lautenberg	Torricelli
Durbin	Leahy	Wellstone
Edwards	Levin	Wyden

NOT VOTING—1

Conrad

The motion was agreed to.

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

Mr. COVERDELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I ask unanimous consent that there be 4 minutes of debate equally divided prior to the second vote in the series.

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

AMENDMENT NO. 3214

Mr. LOTT. Mr. President, I call to my colleagues' attention the fact that the McCain amendment will be a killer amendment to this Defense authorization bill. It will be blue-slipped. I have discussed this with Chairman Archer. He assured me, after reviewing the way the amendment is written, that he will have no choice but to blue-slip it. I also discussed it with Senator MOYNIHAN from New York. He has concerns about the constitutionality of this revenue amendment being added to the Defense authorization bill.

I want to make that perfectly clear and add to that, this compounds our problem. We are dealing with a very important bill, the Defense authorization bill. We are talking about national security. We need to find a way to come to a conclusion. We have 11 appropriations bills remaining, and we have to find time to act on the China PNTR and other issues.

If we continue to work in good faith trying to find a way to get votes on amendments and complete the Defense authorization bill and then we face, on top of everything else, a blue-slip problem in the House, we have done ourselves damage.

I think full disclosure is the way to go. I have been quoted to that effect. I still think that is the way to go. There is a bill that has been drafted, I understand after talking with a number of Senators, including the chairman of the Finance Committee and others, that would achieve this goal and, in fact, would be a broader bill in its application.

As this is drawn, I understand it would not apply to a number of groups, including the trial lawyers, Sierra Club, and others. We ought to make sure it is broad and applies to everybody. We ought to have full disclosure, and do it so it is not a technical problem on a bill such as the Defense authorization bill.

I urge my colleagues to think about this very carefully and support the Warner point of order that will be made with regard to the blue-slip problem. I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 2 minutes.

Mr. McCAIN. Mr. President, the Senator from Wisconsin has 1 minute.

Mr. FEINGOLD. Mr. President, very simply, this is a vote on campaign finance reform. The question is whether this body will take the opportunity, offered by this amendment, to shine some sunlight on the secret money that these 527 organizations are pouring into our elections.

Here it is on this chart, in black and white, from the web site of one of these groups. The contributions can be given in unlimited amounts. They can be from any source. And they are not political contributions and are not a matter of public record.

All this amendment does is make it a matter of public record. The American people have a right to demand this information from any organization that is given tax exemption.

The blue-slip argument is a figleaf. It is an excuse made up for those who oppose reform but have said they support disclosure.

I urge my colleagues to vote against the point of order and for the amendment.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, just to repeat, this amendment would mandate disclosure of all contributors to, and expenditures by, 527 organizations—a new phenomenon in American politics, with unlimited amounts of money from any source. China, the Mafia, and drug dealers can be part of our political campaigns, and we will never know who they are.

It affects both parties and all ideologies. For the benefit of my friends on this side of the aisle, it was the Sierra Club that first began the 527 new gimmick example of corruption in American politics.

It will not harm the defense bill. If the defense bill is blue-slipped, I will be the first to say that bill, when it comes back, should have no amendments on it, and I would work as hard as I can to get it done.

Please, do not believe that the defense bill would be harmed or blue-slipped. The fact is, every Member on both sides of the aisle of this body has said they are for full disclosure. Now we are going to find out whether we are for disclosure or we will continue to allow the corruption of American politics.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to make a constitutional point of order.

I raise a point of order that the pending MCCAIN amendment violates the U.S. Constitution in that it is clearly a revenue-raising measure that is initiating in the Senate, not the House of Representatives, as provided for in our Constitution.

The PRESIDING OFFICER. The question before the Senate is, Is the point of order well taken?

Mr. WARNER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Dakota (Mr. CONRAD) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 42, nays 57, as follows:

[Rollcall Vote No. 122 Leg.]

YEAS—42

Allard	Frist	Moynihan
Ashcroft	Gorton	Murkowski
Bennett	Gramm	Nickles
Bond	Grams	Roberts
Brownback	Grassley	Roth
Bunning	Gregg	Santorum
Campbell	Hatch	Sessions
Cochran	Helms	Shelby
Coverdell	Hutchinson	Smith (NH)
Craig	Inhofe	Stevens
Crapo	Kyl	Thomas
Domenici	Lott	Thurmond
Enzi	Mack	Voinovich
Fitzgerald	McConnell	Warner

NAYS—57

Abraham	Edwards	Lieberman
Akaka	Feingold	Lincoln
Baucus	Feinstein	Lugar
Bayh	Graham	McCain
Biden	Hagel	Mikulski
Bingaman	Harkin	Murray
Boxer	Hollings	Reed
Breaux	Hutchison	Reid
Bryan	Inouye	Robb
Burns	Jeffords	Rockefeller
Byrd	Johnson	Sarbanes
Chafee, L.	Kennedy	Schumer
Cleland	Kerrey	Smith (OR)
Collins	Kerry	Snowe
Daschle	Kohl	Specter
DeWine	Landrieu	Thompson
Dodd	Lautenberg	Torricelli
Dorgan	Leahy	Wellstone
Durbin	Levin	Wyden

NOT VOTING—1

Conrad

The PRESIDING OFFICER. The point of order is not well taken.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3214) was agreed to.

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

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, before I move to proceed to the DOD appropriations bill, let me say that we have a problem now with this amendment, the way the language is written, in terms of a blue slip, if and when it gets to the House of Representatives.

I have discussed this with Senator DASCHLE and Senator MCCAIN and others who are concerned about the underlying Defense authorization bill and those who are concerned about the disclosure amendment.

During the period of time that we are going to be working on the DOD appropriations bill, we will work to see if we can come up with some sort of agreement or some sort of procedure that would get this amendment off of the Defense authorization bill and onto some other bill—perhaps some revenue bill that we will have before us; perhaps even the repeal of the telephone tax that the House has acted on; and also give us an opportunity to work with Senator MCCAIN and others to see if we can broaden the application.

But, for now, we need to go ahead and proceed with the DOD appropriations bill. We will work together to see if we can find a way to resolve this issue.

Does the Senator from Arizona have any comment?

Mr. McCAIN. Mr. President, I thank the majority leader for pursuing this issue. I would like to broaden it as well. I think it is a fair agreement. I would like to try to move forward, meanwhile, having adopted this amendment, and the President to sign the bill.

I thank the majority leader and the Democratic leader.

Mr. ASHCROFT. Mr. President, I rise today to speak on behalf of this year's National Defense Authorization Act. Senator WARNER and Senator LEVIN, along with the entire committee, have my deepest thanks for their tremendous work with respect to this country's national defense. Their hard work and dedication on behalf of our servicemen and women is evident throughout the entire Act. Senator WARNER, in particular, has been instrumental in bringing to the floor a bill that provides our country with the national defense it desperately needs and deserves.

To the Committee's credit, this Act continues the trend, begun with last year's Authorization Bill, of providing a real increase in the authorized level of defense spending. The Committee has once again recognized that people are the most important aspect of our military and our troops must be treated accordingly. This Act authorizes, among other things, a well-deserved 3.7 percent pay raise for military personnel, important quality of life provisions, and addresses several important health care concerns to ensure our active-duty and retired personnel have the medical care they justly deserve.

Mr. President, although people make our military the best in the world, our troops must have the superior equipment to ensure continued success in every conflict. We must not send our sons and daughters into war without the right tools for victory. To this end, I would like to thank Senator WARNER specifically for his support of a very important project—the extended-range conventional air-launched cruise missile project (CALCM-ER). In addition to Senator WARNER, I would also like to thank Senator BOND, Senator CONRAD, Senator LANDRIEU, and Senator BREAUX for their work in support of this important project, in the Defense Authorization Act.

The Conventional Air-Launched Cruise Missile, or CALCM, is a converted nuclear cruise missile that is launched from a B–52. This invaluable weapon is the Air Force's only conventional air-launched, long-range, all-weather precision weapon. Fired more than 600 nautical miles from its target, this missile can strike strategic targets deep inside enemy territory without significant risk to our pilots or planes.

General Mike Ryan, the Air Force Chief of Staff, praised the CALCM's invaluable capabilities when he said in a written statement dated February 10, 2000 that ''CALCM continues to be the Commander in Chief's first strike weapon of choice during contingency operations, as demonstrated by its superb performance during Operations Desert Fox and Allied Force.''

Due to the weapon's great performance and subsequent heavy demand, the number of CALCMs in the Air Force inventory dwindled to below 70 last year. Through continued conversion of the nuclear cruise missiles, the current number is around 200, but the Air Force has concluded that this is simply not enough to meet our military's need. And due to the limited number of convertible nuclear cruise missiles, the Air Force needed to search out additional avenues of creating an extended range cruise missile with similar capabilities of the CALCM.

Mr. President, the Air Force has identified a suitable solution. In a study commissioned in last year's Defense Authorization bill to deal with this problem, a commission concluded that, and I quote, ''Of specific interest to the Air Force is the need for an extended range cruise missile in the mid-term that would be a modification to an existing cruise missile in the inventory. This option meets the Air Force's two-fold requirement of increasing the inventory of cruise missiles as quickly as possible and providing an extended range missile capability to protect our aging bomber force from current and mid-term threats while long range cruise missile requirements are studied.''

In order to see these conclusions become a reality, I, together with Senators BOND, CONRAD, LANDRIEU, and BREAUX, have worked to see the addition of $86.1 million in the Air Force's Research and Development account for the extended range conventional air-launched cruise missile program. The Armed Services Committee has graciously agreed with us and authorized this amount in the Defense Authorization Act—and I thank the Committee, and particularly Senator WARNER, for their assistance.

In the upcoming Defense Appropriations bill, Senator STEVENS has been particularly understanding of the Air Force's need of the Extended Range Cruise Missile and has worked with me to provide appropriations for this program. I want to offer him a personal thanks for his support of this vital program. I truly appreciate his efforts.

However, I have been informed that in order to start the process and see these important weapons are in the hands of our troops, additional funds will be needed. In order to rectify this problem, I plan on offering an amendment to increase the available funds for the Extended Range Cruise Missile program by $23 million so that work can begin on the new cruise missile. This will bring the total amount to $43 million, which is half of the authorized amount and enough to start development on this important missile.

Mr. President, again I want to thank Senator WARNER and Senator STEVENS for their continued and tireless service to our nation's defense.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, I ask unanimous consent the Senate now turn to H.R. 4576, the House DOD appropriations bill.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Will the majority yield? Is there a pending amendment on the DOD authorization bill?

The PRESIDING OFFICER. There is a pending amendment offered by Senator SMITH.

Mr. LOTT. That is the first-degree amendment that was amended with the second-degree amendment. But then I believe after that would be the Dodd amendment.

Mr. DODD. I wish it were a Dodd amendment. I was curious about Senator WARNER's amendment. That is what I was curious about.

Mr. WARNER. Mr. President, I thank the Senator. We have that Warner-Dodd amendment on the Cuban commission at the desk. Had we remained on this bill, it would be my intention to ask that it be the pending issue. That is now moot.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Mr. DASCHLE. Mr. President, reserving the right to object, I ask unanimous consent that we amend it to allow the Warner amendment to be the next amendment to be considered following the Smith amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Is there objection to the underlying request?

Without objection, it is so ordered.

Mr. LOTT. I yield the floor, Mr. President.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2001

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4576) making appropriations for the Department of Defense for the fiscal year ending September 30, 2001, and for other purposes.

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

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, for the information of Members, we will have opening statements, and then we will have an amendment offered by the Senator from Iowa, Mr. GRASSLEY.

On behalf of the leader, I make this statement. We are now on the DOD appropriations bill. After our opening statements, Senator GRASSLEY is prepared to talk about his accounting amendment. We expect to have a vote at 9:30 on that amendment tomorrow morning. There will no more votes for the remainder of the day.

Mr. President, I am pleased to join my great friend, Senator INOUYE, in presenting the Defense appropriations bill to the Senate. This bill is for the fiscal year 2001. It represents the twelfth bill we have jointly brought before the Senate: Six were presented by my friend from Hawaii during the period of time when he was the chairman of the subcommittee, and now this is the sixth bill presented by me during the second opportunity I have had to chair this subcommittee.

First and foremost, the bill reported by our committee, in our opinion, meets all personnel, readiness, training, and quality-of-life priorities for the armed services.

We have fully funded the pay raise and new authorized recruiting and retention benefits. All estimated costs of contingency operations for 2001 in Kosovo, Bosnia, and southwest Asia are included in our recommendation. There should not be an emergency supplemental for known contingency operations in the year 2001 for the Department of Defense.

The bill before the Senate sustains and augments the efforts to accelerate modernization of our Armed Forces.

Significantly, the recommendation provides an additional $250 million for the Army's transformation initiative.

I join my friend from Hawaii in commending General Shinseki for his foresight and leadership in moving the Army forward into a more deployable global force. These funds should accelerate the fielding of the initial transformation brigades in 2001.

Our committee, consistent with the Defense authorization bill as presented to the Senate, adds funds for several missile defense programs. Mr. President, $139 million is added for the national missile defense research and development, $92.4 million for the airborne laser, and $60 million for the Navy theaterwide missile defense efforts.

This is the crossroads year for missile defense. These funds are consistent with the recommendations and priorities of General Kadish, who manages this program, for the fiscal year 2001.

A new initiative recommended in this bill is to transfer funding for the C–17 program to a new national defense airlift fund.

Several years ago, funding for sealift acquisition was transferred to a central account. Airlift is a key strategic capability. The need for that is shared by all military services. Funding for airlift should not be borne solely by the Air Force, just as funding for sealift is not now borne by the Navy.

Full funding is provided in this new account for 12 C–17 aircraft requested for 2001, and the advance procurement and interim contract logistics support submitted in the budget.

The bill presented by the subcommittee includes report language that directs the Department to proceed with the current acquisition strategy to select a single design based upon the flight test program.

The Joint Strike Fighter might be the single most important defense program this committee will consider in the next 10 years. We must get this one right. Industrial base concerns should only be addressed after we are sure we have selected the best aircraft at the best cost for the mission and not before we even select the winner of the competition.

When the committee met to report the bill, several Members raised with me the subcommittee's recommendation to defer full funding on the two LPD–17 class vessels requested in the budget.

The bill before us includes $200 million in advance appropriations for the two ships originally planned for fiscal year 2001. Also, it includes $285 million to pay for cost overruns incurred on the first four ships.

I want to restate, as I have in both Maine and Louisiana in the past week, my personal commitment to the LPD–17 program. The focus of the adjustment we recommend is to get the program back on track with a stable design and address prior year problems. The funds provided are intended to assure that there will be no interruption in the work at the two shipyards and no additional delay in construction or delivery of the ships.

At the markup, language was added by Senator COCHRAN and Senator SNOWE to permit the Navy to sign contracts for both ships using the funds appropriated by this bill. We have approved that recommendation. So there is no reason to say this bill in any way slows up the process of procuring these new ships.

Finally, the recommendation provides $137 million for the new medical benefits included in the Senate-reported defense authorization bill. These efforts provide a new pharmacy benefit for military retirees. They are fully consistent with the objectives outlined by General Shelton, Chairman of the Joint Chiefs, in his testimony before our committee.

The new medical benefit package adopted during consideration of the defense bill does not require additional discretionary appropriations for the fiscal year 2001.

It is our intention to work closely with the authorizing committees and with the Department of Defense to ensure that any new benefits are fully funded in the years to come. If a commitment is made under our watch, it is going to be kept.

These improvements will come at considerable cost and will be an important element of future defense budget planning. This is really what the Senator from Nebraska was talking about, the oncoming important costs we must face. The definition of those costs is the problem so far.

I urge all of our colleagues to look at this bill as a whole. It is packaged together. It really is a bill we have worked on. I do commend our staffs, our joint staffs, under Steve Cortese, who is with me, and Charlie Houy is with Senator INOUYE.

This bill once again is a bill that I think, as I said in the beginning, will meet our needs with the funds that are available this year. The allocation for defense is roughly $1 billion less than the amount made available by the Senate version of the defense authorization bill. It is about $1 billion below the allocation for the House-passed bill now before the Senate.

Some of these issues have to be sorted out in conference with the House. I ask the patience of the Senate as we work to get the best possible package to the conference.

I call the attention of the Senate to the fact that we have several issues in the bill that are also pending before the conference on the military construction bill because of the supplemental that was already passed by the House.

The committee has closely followed the Senate's actions on the defense authorization bill so far this week. We intend to offer a managers' package of conforming amendments during consideration of this bill to accommodate the Senate's action on the bill.

To that concern, I ask all Members of the Senate, if you have amendments to offer, please notify Senator INOUYE or me as soon as possible. We can probably work out most of them. We hope we will be able to do so because our bill closely tracks the defense authorization bill. It tracks the priorities outlined by the military chiefs in their

testimony before the committee, and it certainly tracks fully our understanding of the House version that was passed by the other body just recently.

Mr. President, I now recognize our distinguished ranking member, the Senator from Hawaii, and once again call to the attention of the Senate the great honor that will come to him in just a few days; that is, the honor of receiving his Medal of Honor which he should have received a long time ago. It is a privilege to serve with my friend from Hawaii.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. May I first thank my chairman for his most generous remarks.

Mr. President, I begin by congratulating Chairman STEVENS for the superb manner in which he has guided this bill through the committees to the floor.

I wish to associate myself with the remarks of my dear friend and chairman of the committee, Senator STEVENS. I suggest to my colleagues that this is a good measure, worthy of support by all of us. I join my chairman in requesting that our colleagues submit their amendments in a timely fashion.

I note that this measure—a measure that includes $287.6 billion; the largest ever considered by this Senate—was unanimously approved by the Committee on Appropriations by a vote of 28–0.

It will do a great deal for both our readiness and moderniation requirements to protect our nation's security.

Highlights include:

For our military personnel and their families: It provides full funding for military pay including a 3.7 percent pay raise; an increase of $153 million for military bonuses to improve recruiting and retention; and increases for the GI bill for Reservists.

The subcommittee has fully funded readiness programs, including: $4.1 billion to support our peacekeepers overseas; an increase of $183 million for our National guard; and a total increase of $4.5 billion for readiness from the levels provided in FY 2000.

Full funding is also recommended for the new prescription drug benefit as authorized; and $275 million is recommended for breast and prostate cancer research.

Critical investment highlights include the following: Full funding for our F–22 and F/A–18 fighters; an increase of $250 million for the Army's highest priority, ''transformation''; full funding for the Navy's carrier, submarines, and destroyers; and, an increase of $411 million for ballistic missile defense programs.

However, Senators should be advised that the bill does not provide a blank check to the Pentagon.

It includes some tough reductions to programs that are being schedule, over budget, or simply not ready to proceed at this time.

I want to assure my colleagues that the No. 1 priority in this bill is to protect near-term readiness.

The men and women willing to go into harm's way to protect the rest of us simply must be provided the tools they need to defeat any threat.

At the same time, the bill provides sufficient funding for modernization programs so that future readiness will also be protected. We must continue to invest for the future to ensure we are never caught unprepared.

I would also like to point out that the Chairman has been very responsive to the wishes of the members. Many of the suggestions made by the Members of the Senate have been incorporated into bill.

This is a very good bill. I strongly encourage all my colleagues to support it.

AMENDMENT NO. 3278

Mr. STEVENS. I ask unanimous consent all after the enacting clause be stricken of the pending bill and the text of S. 2593, as reported by our committee, be inserted and that amendments then be considered as original text for the purpose of further amendments, being designated amendment No. 3278.

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

Mr. REID. Mr. President, if the Senator could withhold, we need to take a look at the unanimous consent request which was just accepted.

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. STEVENS. 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. STEVENS. I did not waive any points of order. It is my understanding that the original text of this bill is nevertheless subject to points of order under rule XVI.

AMENDMENT NO. 3279

Mr. GRASSLEY. I send my amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 3279.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104–208; 110 Stat. 3009–111, 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2001.

Mr. GRASSLEY. Mr. President, this amendment pertains to Department of Defense (DOD) disbursements.

It requires DOD to match certain disbursements with obligations prior to payment.

This policy has been incorporated in the last six appropriations acts: Fiscal years 1995, 1996, 1997, 1998, 1999, and 2000.

Each year we have ratcheted down the threshold.

The threshold is the dollar amount of the disbursement that must be matched with its corresponding obligation.

We started at the $5 million level.

Under current law, the threshold is now set at 500,000.00 dollars.

In 1999, the Senate voted to lower the threshold from $1 million to the current level.

Both the DOD Inspector General and the General Accounting Office have repeatedly stated that policy is a good idea.

It is helping the department to control the flow of money.

First, it is an important internal control procedure. It is a first-line of defense against fraudulent payments.

If a corresponding obligation cannot be identified, the payment cannot be made. It is as simple as that.

Second, it is helping the department avoid ''problem disbursements'' or unmatched disbursements.

A few years ago, the department had unmatched disbursements totaling about 50 billion dollars. This situation created gaping holes in DOD's books of account.

And these gaping holes in the books of account are one big reason why DOD consistently fails to earn a ''clean'' opinion in the annual CFO audits.

Those are the audits required by the Chief Financial Officers Act.

And third, it is helping the department avoid overobligations, that is, making payments in excess of available funding.

This year I am recommending that the threshold be retained at the current level of 500,000.00 dollars.

The General Accounting Office needs to do more audit follow-up work before the threshold is lowered any further.

I thank the chairman and the ranking minority member for supporting this policy and urge my colleagues to vote for the amendment.

I should ask the chairman of the committee if he wants to order a rollcall at this point because it is my understanding he wanted a rollcall vote on it.

Mr. STEVENS. Mr. President, if the Senator will yield, that is our intent. I want to take this time to congratulate the Senator from Iowa for once again raising the issue of proper accounting procedures for the Department of Defense. As we have in the past, I suggest it is a matter for the Senate to express their opinion about and support the endeavors of the Senator from Iowa.

Mr. President, 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.

Mr. GRASSLEY. I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

MILITARY RETIREE BENEFITS

Mr. KERREY. Mr. President, I want to take a minute, hopefully for the purpose of influencing the conferees on a vote that was taken yesterday—it passed overwhelmingly—having to do with military retiree benefits.

There are two amendments, one offered by Senator WARNER, one offered by Senator JOHNSON. I appreciate the intent of both amendments and I appreciate very much, as well, the concerns both Senators and everybody who voted for both of those amendments have for military retirees, especially as far as it might improve our capacity to recruit and retain people in the Armed Forces. I think it is a legitimate concern, and I appreciate very much that concern being expressed yesterday, especially being expressed with affirmative votes, although, as I said, I voted against both of those amendments.

I did not, during the debate yesterday, offer the reasons I voted against it, and I want to do that now. Both amendments are essentially dealing with the same situation; that is, once you reach the age of 65, you go off the TRICARE system and you go onto Medicare, as most individuals do who work for other businesses as well who end up with health care. It is not unusual today for people to leave employment to go onto Medicare after their retirement from employment.

But one amendment would allow people to buy into TRICARE; Senator JOHNSON's amendment would allow them to buy as well into the Federal Employees Health Benefits Program with a full taxpayer-paid subsidy; one was $4.5 billion a year, the other was about $5.5 billion a year. Senator WARNER's, in order to be able to get it in the budget, has it sunsetting after 2 years. It only goes for 2 years. I presume if it becomes law, we will have to extend it every couple of years.

There is a budget issue here that causes me to vote no. The budget issue has to do, first of all, with I think an inadequate amount of study given to who needs this and who does not need this. It was developed fairly quickly. It was offered fairly quickly. I think it should have been examined much more carefully, what the impact was going to be, what the real need is, what the real demand is out there; especially the second concern I have, which is that it adds to one of the biggest problems we have with our current budget, and that is the growing share of our budget that is going over to mandatory spending.

The checkpoint for Senator JOHNSON's amendment was people who were enlisted prior to 1957. In 1957, over 70 percent of our budget was appropriated; 70 percent of our budget went to such things as the GI bill and other kinds of investments. I benefited enormously from those investments, not just as a veteran myself, but it was most important for my own parents' generation. That is what they were doing. They were endowing their future. They were really investing in their future as a consequence of those appropriations.

This year, 66 percent of the budget is mandatory. This amendment that was put on the Defense authorization bill will make that problem worse. I could not in good faith vote for the amendment as a consequence of those two concerns, even though I recognize for some veterans, some employees, this is a problem.

Also, I want to comment on some of the things that were said during the debate. I want to comment, especially from the point of view of myself because I am military retired. I am one of the retirees who would benefit from this change in the law. I am service-connected disabled as a result of an injury in the war in Vietnam, and I have been receiving a military retirement check since I left the Navy in 1969.

I understand the recruiting difficulties. I understand we have to be competitive with the private sector. I understand we have a volunteer service today, and so forth. I think it has all been very well said. But focusing on money in this debate, we underestimate and underemphasize the importance of people joining our service because they are patriotic, because they love their country, because they want to serve their country in some meaningful way, because they believe service makes them better, they believe putting themselves on the line for somebody else isn't something that is just good for the other person, it is good for them as well. That was the benefit for me in my service.

Though I appreciate very much people coming and saying my country owes me something, I reject that idea. My country owes me nothing. If the Congress of this Nation wants to provide me with retirement, wants to provide me with medical assistance—they provided me with the GI bill and COLAs all these years—they have given me enormous benefits. They gave me a hospital I could go to, to get my care. I appreciate all that. I am grateful for all that. It makes me more patriotic than I was before.

But I do not believe as a consequence of my service that the people of the United States of America owe me anything. I want to make that point because I entered the service because it was my duty. I entered the service because I believed it was the right thing to do. I entered the service because I thought I was going to get something intangible out of it—and I did. I learned how to lead, learned how to take responsibility, learned how to do lots of things. And I learned as well what it is like to be injured, what it is like to be injured in a nation that takes care of its veterans, that provides care. I learned what it is to suffer a little bit and to feel compassion for other people as they go through their lives and suffer as a consequence of things that were unforeseen, unexpected, unanticipated, and unavoidable.

I have talked to a lot of colleagues on the floor during this debate. They said: Oh, gosh, we can't say no to our veterans, can't say no to our military retirees.

There are times we can. I believe, especially when we think about the budget impact that these amendments are going to have, there are times when we should. I do not believe we should fall into the trap of believing that men and women will not still join the Armed Forces of the United States of America because they love this country and they want to serve.

Yes, we need to have good pensions. Yes, we need to make certain they are not getting food stamps. Yes, we need to take care of them when they are in. But let them serve as a consequence of feeling loyal, feeling good about their country, and wanting to put themselves on the line. Let service, all by itself, be one of the motivating factors, be one of the reasons that men and women do it. And be grateful for that and reward it, applaud it, pay attention to it.

I wish, in fact, people in Hollywood as they make decisions about what they are going to put on television, what they are going to put in movie theaters, told more of the stories of the men and women who are serving today not because they are being paid well, not because there are health care benefits promised, not because of a retirement program waiting for them, but because they love their country, because they feel a patriotic desire to serve the United States of America, serve the people of the United States of America and the cause of freedom for which we stand.

It is not a cliche; it is a real thing. I am concerned, concerned with some of the debate I heard yesterday, that only the pecuniary interests were involved; that all we had to do was get the pay high enough, retirement benefits high enough, health care benefits high enough, and we would solve all of our problems.

We will not solve all of our problems if that is what we do. If we do not recognize that one of the reasons people serve is that they love their country, A, we will find ourselves falling short of recruitment and retention objectives, but, in addition to that, we will not know when the correct time is to say to that man or woman who served their country: We have to make certain we have enough money in our budget to invest in our children and their future as well.

We cannot, as we are doing, simply put more and more money in people over the age of 65. I love them. They

have served their country. They are the greatest generation ever. But this action comes on top of eliminating the earnings test, which was a $22 billion proposal over 10. I voted for that. There were 100 of us on this floor who voted for that. It was a reasonable thing to do. But if you look at the diminishing amount of money we invest every single year through our appropriations accounts, and you look at that trend continuing to go further and further down, it gets harder and harder to say we are endowing our future the way our parents endowed the future for us.

Mr. President, I did not want anybody to suffer the illusion that I do not care about our military retirees. I do. There were good fiscal reasons why not to support the amendment, but I hope as we go into conference we do not get lulled into thinking the only thing we have to do to recruit and retain people in our Armed Forces is to provide some pecuniary reimbursement that enables them to feel they are getting rewarded in some way that is competitive with what they can get in the marketplace. I yield the floor.

Mr. STEVENS. Mr. President, I am glad to hear the Senator's statement. I inform my friend, I spent a substantial portion of the day discussing how to meet the problems associated with the feelings of so many people in the military that there were, in fact, substantial commitments made that lead on into the future as enormous costs as compared to the costs of the past.

We need to have a commission of some kind. I hope after the Senator steps down from this body that he might see fit to be one who will help take on the task of defining the commitments that were made and how we fulfill them. I say that because in the past, many of those benefits were paid out of the Veterans Affairs Department from veterans benefits. They are now coming from the Defense funds, and if they grow at the rate it appears they are going to grow, they are going to seriously hamper our ability to modernize our force and our systems and defend our country as it must be in this century.

Mr. KERREY. Mr. President, I appreciate the comments. There is no question that should be a very big concern of the conferees because Senator WARNER yesterday, when we were debating this issue, expressed his understanding that this would increase the requirement to build additional military hospitals and military health care facilities. This will shift the burden of paying for health care from Medicare over to the Defense budget.

There is no question that is the case. I say to the Senator, I remember talking to my recruiter very well. I remember the day I sat in front of a Navy recruiter and he said to me: Join the Navy; see the world. He made all kinds of promises to me. I have not sued my Government because they did not give me a chance to see the world.

I believe the Senator is right. There were some legitimate written promises made, and if there were legitimate written promises that were made, then we ought to make certain we keep those commitments.

Sometimes it becomes much more a political rhetoric than it becomes reality. I do think, whether it is a veteran or whether it is some other American, one of the hardest things for us to do when somebody asks us for something is to say no. The Senator from Alaska has had to do that many times in his career in the Senate. ''I want some of the taxpayers' money to do something'' and the Senator has had to repeatedly say no.

It is not easy to do that. It is too easy for us to get caught up, when we talk about making sure we take care of our retirees, in the feeling that you just cannot say no.

I argue that the answer is you can say no, and there are times you need to say no. If you do not say no, it is going to be difficult for us to keep our force modernized and weapons systems modernized and our people who are in the services well paid.

Again, I say to my friend, the thing I fear—and I will say it directly—is we have a declining number of people who have been in the services in the Congress. I am very much aware it is easy to say: Gee, I have to do this; I wasn't in the service, I have to do this.

I had to say I did not join the Navy because they promised me health care benefits, retirement benefits, and promised me I could go to school on the GI bill. That was not the contract. It was all there.

People say: We owe you. No. I have a bigger debt to my country than my country has to me. It is a very important attitude for us to instill not just in our young people but retirees as well. We have to be very careful that in doing something we do not undercut the most important reason men and women come into the Armed Forces. We ought to praise them. We ought to recognize that and not forget it is still a very big reason people serve.

Mr. STEVENS. Mr. President, again I thank the Senator. His statement reflects the comments I made in the meetings today. I do hope we can address this subject. I find it odd that many of the people who are raising the issues and talking about the commitments that were made in the war in which Senator INOUYE and I served were not alive then, but they are telling us what the commitments were. We ought to make certain we fulfill all of those commitments, but we have to have a definition of what they really were.

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

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

MORNING BUSINESS

Mr. STEVENS. Mr. President, for the leader, I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators being permitted to speak therein for up to 10 minutes each.

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

BACKGROUND CHECKS IN 1999

Mr. LEVIN. Mr. President, last weekend, a new report was released by the Justice Department about the successes of the Brady Law. The Brady Law requires that a prospective gun purchaser undergo a criminal background check before obtaining any firearm from a federal firearms licensee. The law is intended to prevent felons, fugitives, domestic abusers, and other prohibited persons from gaining access to guns. The new information brought the number of purchase rejections up to more than half a million since enactment of the Brady Law in 1994.

According to the report, the number one reason for rejection was because the applicant either had a felony conviction or was under felony indictment. Of the approximately 200,000 purchase rejections in 1999, almost three-quarters, or 150,000 were denied for this reason. The second most common cause for rejection was a domestic violence misdemeanor conviction or restraining order, accounting for approximately 13% of rejections or 27,000 applications. Other applicants were denied the ability to purchase guns because of fugitive status, mental illness or disability, drug addiction, or state or local prohibition. In total, in 1999 alone, the Brady Law kept more than 200,000 guns off the streets and out of the hands of prohibited purchasers.

The Brady Act has been effective but its success has been undermined by a loophole in the law that allows criminals to purchase guns from non-licensed sellers. That loophole allows felons, fugitives or other prohibited persons to purchase guns at gun shows without undergoing background checks. It is a loophole often exploited by those with objectionable backgrounds, some of whose applications have already been rejected by federal, state, or local law enforcement agencies.

Congress made significant strides to reduce the level of gun violence by enacting the Brady Act, but now it's time to finish the job. Congress must close the gunshow loophole, otherwise the successes of Brady are weakened. As a reporter in my home state of Michigan said yesterday, ''the same statistics that demonstrate the usefulness of the background checks that have been in place since passage of the Brady bill cry out for closure of the loopholes that allow criminals turned away by licensed dealers to purchase guns with impunity elsewhere.''

I urge Congress to close the gun show loophole and stop undermining law enforcement's ability to keep guns off the

streets and out of the hands of dangerous criminals.

VICTIMS OF GUN VIOLENCE

Mr. REID. Mr. President, it has been more than a year since the Columbine tragedy, but still this Republican Congress refuses to act on sensible gun legislation.

Since Columbine, thousands of Americans have been killed by gunfire. Until we act, Democrats in the Senate will read some of the names of those who lost their lives to gun violence in the past year, and we will continue to do so every day that the Senate is session.

In the name of those who died, we will continue this fight. Following are the names of some of the people who were killed by gunfire one year ago today.

(These names come from a report prepared by the United States Conference of Mayors. The report includes data from 100 U.S. cities between April 20, 1999, and March 20, 2000. The 100 cities covered range in size from Chicago, Illinois, which has a population of more than 2.7 million to Bedford Heights, Ohio, with a population of about 11,800)

June 8, 1999

Clarence Dorsey, 31, Oakland, CA

Daniel Estrada, 18, Houston, TX

James Holston, 32, Dallas, TX

Cesaley Howard, 25, Philadelphia, PA

Artis Ingram, 24, Seattle, WA

Larone Jackson, Pine Bluff, AR

Michael A. Jones, 25, Memphis, TN

Corwin Mathews, San Francisco, CA

Bennie McRae, 59, Miami-Dade County, FL

Cornelius McCurry, 19, Chicago, IL

Edwin Medina, 21, Miami-Dade County, FL

Bayardo Monterrey, 38, Miami-Dade County, FL

Rowland Patrick, 25, Nashville, TN

John Sandifer, 20, Chicago, IL

Patricia Whitfield, 50, Seattle, WA

Champagne Younger, 6, Seattle, WA

Unidentified male, 74, Bellingham, WA

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, June 7, 2000, the Federal debt stood at $5,645,678,929,300.91 (Five trillion, six hundred forty-five billion, six hundred seventy-eight million, nine hundred twenty-nine thousand, three hundred dollars and ninety-one cents).

One year ago, June 7, 1999, the Federal debt stood at $5,606,739,000,000 (Five trillion, six hundred six billion, seven hundred thirty-nine million).

Five years ago, June 7, 1995, the Federal debt stood at $4,902,044,000,000 (Four trillion, nine hundred two billion, forty-four million).

Ten years ago, June 7, 1990, the Federal debt stood at $3,124,978,000,000 (Three trillion, one hundred twenty-four billion, nine hundred seventy-eight million).

Fifteen years ago, June 7, 1985, the Federal debt stood at $1,769,118,000,000 (One trillion, seven hundred sixty-nine billion, one hundred eighteen million) which reflects a debt increase of almost $4 trillion—$3,876,560,929,300.91 (Three trillion, eight hundred seventy-six billion, five hundred sixty million, nine hundred twenty-nine thousand, three hundred dollars and ninety-one cents) during the past 15 years.

ADDITIONAL STATEMENTS

PRUDENTIAL SPIRIT OF COMMUNITY AWARDS

• Ms. COLLINS. Mr. President, I recently had the honor to serve as national co-chair, along with Senator Byron Dorgan, of the National Selection Committee for the Prudential Spirit of Community Awards. This wonderful program, sponsored in partnership by The Prudential Insurance Company of America and the National Association of Secondary School Principals, recognizes outstanding young volunteers at the state and national level. Two state winners, one high school student and one middle school student, receive a $1,000 scholarship, a silver medallion, and a 4-day all expense paid trip to Washington, D.C. for themselves and their parents.

Chairing the National Selection Committee was both an eye-opening and a heart-warming experience. Reading about these young people's volunteer efforts, the remarkable sacrifices they made for the benefit of their communities, and the lessons they learned reaffirmed my faith in the generosity of the American spirit and in our future. I would like to commend Maine's two Spirit of Community award winners, Desirae Plourde of Fort Kent and Zachary Growe of Hampden, for being real American heroes.

Desirae, a senior at Fort Kent Community High School, has spent over 1,500 hours serving as a sign language interpreter for a hearing-impaired classmate who plays on her school's basketball, baseball, and soccer teams. Desirae, the only other student who knows sign language, attended a game one day and noticed how her friend struggled to understand her coach and fellow players, and how frustrated the team became when trying to communicate. She offered to interpret for him so that he could continue to play sports, and the school could benefit from his athletic talent. ''I was inspired to help because I saw my friend was in need and how much he loved playing the game,'' Desirae said. ''I share in his joy when he makes a great play and when the team wins.''

Zachary, an eighth grader at Reeds Brook Middle School in Hampden, helped coordinate a campaign that collected 800 used books for needy children. Zach says he enjoys reading so much that he can't imagine not owning a book. When his class decided to plan a service project, he pushed for a book drive. Zach and his fellow students wrote a plan and a time line, contacted school officials, designed promotional signs, and decorated book drop boxes. In the end, the drive yielded more than four times its original goal of 200 books. Zach and the group delivered the books to many area organizations including a local pediatric ward, and the local chapter of United Cerebral Palsy.

I am very proud of Maine's two honorees, Desirae and Zach, and congratulate them for answering the call of service and making a real difference in their communities.•

• Mr. DORGAN. Mr. President, I'd like to take a moment to tell you about some wonderful kids. Recently, two youth volunteers from each state, including the District of Columbia and Puerto Rico, came to Washington, D.C. with their parents. They were being recognized at the Fifth Annual Prudential Spirit of Community Awards for their outstanding acts of community service.

These kids are heroes. They set the example of selflessness and caring for others to follow and it was truly inspiring to hear their stories of service to the public and their communities. I was honored to serve as co-chair of the National Selection Committee along with Senator SUSAN COLLINS.

Ten students were chosen as National Honorees—five high school and five middle school students—and each received $5,000, a gold medallion and a crystal trophy for their school. The ten honorees will also have a total of $250,000 in toys and clothing dedicated to needy children in their names.

I'd especially like to congratulate the two volunteers chosen as finalists from my state of North Dakota: Jason Koth of Grand Forks and Scot Miller of Fargo.

Jason, a senior at Grand Forks Red River High School, wrote, produced and directed a play to raise funds for the Make-A-Wish Foundation. It was called ''The Sun in My Eyes'' and he wrote this play in memory of his handicapped brother. Jason said, ''I wanted to tell people to stop fighting over unimportant things and start opening their eyes to the beautiful people that surround them.'' His play raised over $1,300 for the foundation and helped send a terminally ill child on his dream trip to Disney World.

Scot, a ninth grader at Discovery Junior High in Fargo, became involved in several volunteer projects to help his community. When he learned that the public library needed donations to complete its expansion plan, Scot led a recycling drive to raise money and created an ongoing recycling program in his neighborhood. He is also president of his school's Builder's Club, a student organization dedicated to promoting volunteer efforts within his community. During his summer months, Scot spends four hours a day volunteering as a junior recreation leader for the local parks department.

I'm so proud of Jason and Scot. They should feel great pride for their hard work and the impact they have made in their communities and the lives of others. Their efforts are truly inspiring.

Mr. President, Senator COLLINS and I would like to honor all 104 Prudential Spirit of Community Honorees by reading their names in the RECORD.

The ten students selected as National Honorees are:

Linda Arnade, 17, of Palm Bay, Florida, who discovered that septic tanks in her community were causing groundwater contamination after testing more than 400 residential wells. She then launched an education and monitoring program to alert the public of this important health and environment risk.

Brett Byrd, 13, of Camas, Washington, who helped raise more than $100,000 in his mother's memory for breast cancer prevention by performing concerts along with his brother and their rock band.

Megan Doherty, 16, of Lemont, Illinois, who raised more than $56,000 to bring 29 young cancer victims of the 1986 Chernobyl nuclear disaster to her town for life-saving medical treatment.

Marcus Houston, 18 of Denver, Colorado, who developed an educational program called ''Just Say Know'' that teaches middle level students what it takes to achieve academic, social and athletic success in high school.

Andrew Leary, 17, of Vernon, New Jersey, who led a two-and-a-half year effort to establish the first permanent soup kitchen in the northern part of his rural county. He also helped raise $35,000 to operate the facility.

Joshua Marcus, 13, of Boca Raton, Florida, who created ''Sack It To You,'' a non-profit corporation that has provided backpacks filled with school supplies to more than 2,500 needy children.

Jarrett Mynear, 11, of Nicholasville, Kentucky, who raised more than $18,000 to distribute new toys each week to young patients at a children's hospital. Since the program started, Jarrett has been featured on many local television shows, as well as the nationally syndicated ''Rosie O'Donnell Show,'' to promote his cause.

Shelarese Ruffin, 17, of Atlanta, Georgia, who developed an intervention program that enables middle and high school students to confront and overcome drug abuse and other discipline problems instead of being expelled from school.

Danielle Shimotakahara, 13, of North Bend, Oregon, who waged a high-profile campaign to remove violent coin-operated games from places where children congregate in her town. She also testified at a U.S. Senate hearing on the effects of violent games on children.

Sagen Woolery, 12, of Warner Robins, Georgia, who started a summer meal service called ''The Kid's Kitchen'' for needy children and their families. The service, operated completely by 8-to-12 year-olds, has served more than 3,200 people in her community and also provides toiletries and school supplies for needy children who come to the kitchen.

The state honorees are:

Jose Alvarez—Puerto Rico.
Sarah Anderson—South Dakota.
Meredith Arensman—Kentucky.
Linda Arnade—Florida.
Sarah Austin—Maryland.
Shannon Babb—Utah.
Beau Ballinger—Wyoming.
Jason Blau—Illinois.
Katie Bolenbaugh—Minnesota.
Milton Boyd—District of Columbia.
Alsion Brown—Colorado.
James Buck—Maryland.
Sara Bulaga—Vermont.
Brett Byrd—Washington.
Kevin Cable—Tennessee.
Jonathan Cheek—Virginia.
Reid Coggins—South Carolina.
John Coiner—West Virginia.
Kendyl Collins—New Mexico.
Dennis Cordova—New Mexico.
Maria Cruz—Puerto Rico.
Kalila Dalton—Kansas.
Dana Davis—Tennessee.
Danielle Devlin—New Jersey.
Kimberly Dickard—Mississippi.
Katherine Dillon—Kansas.
Megan Doherty—Ilinois.
Tanya Ewing—Alaska.
Caroline Faflak—South Dakota.
D. Ashley Feldman—Pennsylvania.
Toni Fowler—Alabama.
David Frayser—Nebraska.
Shawn Garner—North Carolina.
Christopher Gardner—Nevada.
Benjamin Geisinger—Massachusetts.
Tiffany Georges—Nebraska.
Paul Gordon—Washington.
Zachary Growe—Maine
Aracely Gurrola—Arizona.
Jesse Hanna—Montana.
Brittany Heath—Texas.
Robin Hill—Montana.
Marcus Houston—Colorado.
Jacob Kaskey—Ohio.
Jason Koth—North Dakota.
Amy Lavicky—Oklahoma.
Andrew Leary—New Jersey.
Christi Lockwood—Connecticut.
Joshua Marcus—Florida.
Natalie Mason—Indiana.
Sarah McClintock—Wisconsin.
Caithlin McGee—Delaware.
Ann McGinnity—Wisconsin.
Meghan McGinty—New York.
Scot Miller—North Dakota.
Shifra Mincer—New York.
Elizabeth Moss—Nevada.
Alison Mostrom—Iowa.
Jarrett Mynear—Kentucky.
Leanne Nakamura—Hawaii.
Kendra Neilson—Oklahoma.
Chavis Newman-Keane—Alaska.
Matthew Nonnemacher—Pennsylvania.
Blaire Nuzem—West Virginia.
Ryan Olson—Virginia.
Catherine Oswald—Rhode Island.
Gustav Owen—New Hampshire.
Jennifer Parker—Arkansas
Monica Pasternak—Connecticut.
Audrey Ells Payne—Vermont.
Allan Peetz—Indiana.
Michael Perez—Arkansas.
Desirae Plourde—Maine.
Taryn Pream—Minnesota.
Jonathan Quarles—Michigan.
Tiffany Ringold—Idaho.
Stephanie Rochel—Massachusetts.
Hannah Rogers—Alabama.
Shelarese Ruffin—Georgia.
Erica Rymer—South Carolina.
Amy Schlueter—Missouri.
Eleanor Sherman—California.
Gregory Shilling—Louisiana.
Danielle Shimotakahara—Oregon.
Sandy Short—Idaho.
Adam Smith—Louisiana.
Jennifer Stanton—Oregon.
Robyn Strumpf—California.
Kristen Stryker—Ohio.
Meredith Swain—North Carolina.
Mackenzie Sweeney—Missouri.
Matthew Ternus—Iowa.
Daniel Tessier—Rhode Island.
Jennifer Thornhill—Texas.
Julia Tobias—New Hampshire.
Lisa Torres—Wyoming.
Ryan Tripp—Utah.
Gopalkrishna Trivedi—Michigan.
Paul Varnado—Mississippi.
Lakeshia Wallace—District of Columbia
Aubrie Weedling—Hawaii.
Sagan Woolery—Georgia.
Mia Yocopis—Arizona.
Christopher Zeigler—Delaware●

TRIBUTE TO JYNELL HARRIS

● Mr. LAUTENBERG. Mr. President, it is an honor to pay tribute to Jynell Harris as she retires after nearly 40 years of continuous and dedicated service to the Vineland School District in my home state of New Jersey.

Mr. President, Ms. Harris' achievements extend back to Clayton High School, where she graduated with honors. She later received her B.A. in Elementary Education from Glassboro State College. Ms. Harris began teaching in the Vineland school system in 1963. She taught pre-school children at the Micro-Social Learning Center, served as a Special Education teacher for the mentally handicapped, implemented seminar programs for gifted and talented 7th and 8th graders and led remedial reading and writing classes for 9th and 10th grades at Vineland High School.

In addition to her contributions as a teacher, Ms. Harris has served as Grade-Level Chairperson, Teacher-in-Charge of the Gifted and Talented Magnet School and coordinator of the Cumberland County College Summer Youth Program.

Ms. Harris has been honored repeatedly for her achievements. Her honors include the 1989 Martin Luther King Academy's Harriet Tubman Award, the 1992 Delsea Regional High School Black Student Association Outstanding Community Service Award and recognition as an outstanding educator by the Zeta Phi Beta Sorority.

Ms. Harris also has been effective in the political arena. She coordinated Jesse Jackson's 1988 presidential campaign in Cumberland County and

served as the county's NAACP Education Chairperson.

Ms. Harris actively participates in many community organizations and is a member of New Jersey Education Association and the National Education Association.

Mr. President, Ms. Harris has shown extraordinary dedication to improving her community and clearly deserves recognition on the occasion of her retirement.●

TRIBUTE TO LINDSEY WILSON COLLEGE

● Mr. MCCONNELL. Mr. President, I rise today to pay tribute to the faculty, staff, and students at Lindsey Wilson College in Columbia, Kentucky.

First, I extend sincere thanks for the graciousness and hospitality shown during my visit to Lindsey Wilson College for the May 13, 2000 Commencement. It was an honor to address the faculty and graduating students at such a fine Kentucky institution, and I sincerely appreciate the opportunity.

Located on a southcentral Kentucky hilltop, Lindsey Wilson College is a four-year liberal arts college affiliated with the Kentucky Conference of the United Methodist Church. It began in 1903, as a training school for Vanderbilt University, then became a two-year college in 1923, and started offering a four-year degree program in 1986. Lindsey Wilson's diverse student body is comprised of individuals from 89 Kentucky counties, 23 states, and 26 foreign countries.

Since its four-year degree program began, enrollment has grown a whopping 160 percent and they have expanded to offer 16 undergraduate degree programs and two master's programs. Over the last 13 years, several new buildings have been constructed, the budget has more than doubled, assets now total $49 million, and Lindsey Wilson College's endowment is valued at more than $28 million. Congratulations on these tremendous accomplishments.

I would like to recognize President William T. Luckey and Chancellor John B. Begley. Students, faculty, and staff at Lindsey Wilson are all fortunate to have such committed individuals serving the mission of the school and facilitating its growth.

Another name that is important to Lindsey Wilson is Ruby McKinney Roach. Ms. Roach grew up in Adair County, Kentucky, and is a proud Lindsey Wilson College Alumnus of 1954. From Lindsey Wilson, she went to Berea College and earned a Bachelor of Arts in home economics and a Master of Education at Western Kentucky University. After a brief time teaching in Barren County, Ms. Roach went home to Adair County and served as a teacher and guidance counselor for 30 years.

According to the many people touched by her kindness and generosity, Ruby Roach became deeply involved in the lives of her students. As a home economics teacher, she had the opportunity to share her skills and knowledge with thousands of students over the years. As a guidance counselor, she had the unique experience of talking with students both about their educational and personal goals, and helped them develop a plan to accomplish those goals.

Ms. Roach has been an active member of the educational community outside her school as well, having held positions in the Kentucky Association of School Administrators, the Kentucky Counselors Association, the National Education Association, and Iota chapter of The Delta Kappa Gamma Society International, the honorary society of professional women educators.

Ruby Roach also served on numerous civic boards and organizations in the Adair community. She is a former member of the Columbia Women's Club and is an active member of Beulah Chapel. Ruby Roach has made her alma mater proud, and I commend her for what she has contributed to the College, the surrounding community, and to Kentucky.

In the same way, Lindsey Wilson College is an institution of which the Commonwealth of Kentucky can be proud. On behalf of myself and my colleagues in the Senate, congratulations Lindsey Wilson College, on your many achievements, and best wishes for continued success.●

TRIBUTE TO WALTER AND RUTH MCCANN ON THEIR 50TH WEDDING ANNIVERSARY

● Mr. KENNEDY. Mr. President it is a privilege to take this opportunity to honor Mr. and Mrs. J. Walter McCann of Burlington, Massachusetts. On Saturday, June 10, they will celebrate their golden wedding anniversary of 50 years together. They have been proud residents of Burlington since 1959, successfully raising 7 children, 16 grandchildren and one great granddaughter.

These two distinguished Americans have seen extraordinary advances in our state and our country in their lifetime. They are part of the great generation that saw the nation through the Depression and World War II, and their strong values give us all a deep and enduring sense of what it means to be an American.

Ruth Gertrude McCann is the youngest of eight sisters and one brother. She was born in her parents' home at 58 Warren Street in Arlington, Massachusetts on June 29, 1921, the beautiful daughter of Annie and Charles Dennen. Over the next three decades, ''Ma'' or ''Mom'' became an accomplished athlete and opera singer. She made a recording of her own, and gave a distinguished performance at Radio City Music Hall in New York City. There, she met and fell in love with Walter McCann, and they've had a wonderful marriage ever since. As she likes to say, ''Walter, why did you lead me to the altar?'' The answer is obvious to all.

In their neighborhood in Burlington, Ruth was every child's mom, especially when making jelly from the grapes picked on the hill behind her home, or ringing the metal triangle on the porch to call the children home each night for dinner. She loved her children's activities, and was often at Glee Club or Athletic Booster events, at bingo or bowling, or in the grandstand even on cold days at Pop Warner games. Her husband often traveled, and she became the ''Little Birdie in the Window'' who guided her family as it grew.

Joseph Walter McCann was born on January 21, 1920 in Lowell, Massachusetts in his family home, the second son of four children raised by Alma and William Francis McCann. An energetic young man, ''JW'' or ''Walter'' was an avid skier at Tuckerman's Ravine in New Hampshire each winter. He loved to ''walk uphill in the snow'' for the love of the sport with his cousin Jackie Stowell, his childhood best friend.

His wife and children have warm and vivid memories of his enormous trust and faith in the federal and state governments, whose actions were often eloquently and vigorously debated at the dinner table. His ''stand up and be counted'' philosophy of life was always challenging to those around him, and his quick wit entertained all who came to know him.

As a father, he would often take the family camping and nourish them with ''Campers Delight'' for dinner. Returning home from business trips, he was always well informed by the ''Little Birdie in the Window'' about his children's activities—and even about their mischievous behavior. His children were in awe that he knew so much. But most of all, each of his children and grandchildren will always remember listening to him read stories, especially at Christmas, and the loving phone calls made by Santa to each one of them every year.

Mr. President, on this special occasion, I congratulate Walter and Ruth McCann as they enjoy and celebrate their golden anniversary together. Their commitment to the principles and values of their marriage, their family, and their country deserve to be recognized and saluted. I wish them a very happy 50th wedding anniversary, and continuing wonderful times together in the years to come.●

TRIBUTE TO COL. CRAIG F. BROTCHIE

● Mr. HUTCHINSON. Mr. President, I rise today to honor Col. Craig F. Brotchie of the United States Special Operations Command who is retiring from the United States Air Force after 26 years of active duty. Colonel Brotchie is an exceptional leader, and has served this great country with honor and dignity. He understands leadership and selfless service. He is known for his dedication and integrity. Colonel Brotchie has tackled the tough issues that our Air Force and Special

Forces Units have had to face over the past three decades, and this wonderful American deserves tremendous praise and thanks from a nation he loves and for which he has given so much.

Colonel Brotchie was born January 27, 1952, in San Bernardino, California. In 1974, he received a Bachelor of Arts degree in business administration from Southern Utah State College, and earned distinguished graduate honors in the Air Force Reserve Officer Training Corps prior to commissioning. He completed Squadron Officer School at Maxwell AFB, Alabama, in 1978; the U.S. Army Command and General Staff Officer course at Fort Leavenworth, Kansas, in 1983; and the U.S. Army War College at Carlisle Barracks, Pennsylvania, in 1987. While at Fort Leavenworth, Colonel Brotchie earned a master's degree in human relations from Webster University.

Colonel Brotchie completed various operational, staff and command assignments in his career. He served as a personnel officer for the 777th Radar Squadron, Klamath Air Force Station, California; and in various personnel offices in the 1606th Air Base Wing, Kirtland AFB, New Mexico, prior to entering the combat control career field. Since 1979, Colonel Brotchie served as officer in charge, Combat Control Team, 62nd Military Airlift Wing, McChord AFB, Washington; Special Tactics Team Leader and Operations Officer, Detachment 1, Military Airlift Command Operation Staff, Fort Bragg, North Carolina; and as the Combat Control Staff Officer, Joint Special Operations Command. In 1984, Colonel Brotchie took command of Detachment 2, 1723rd Combat Control Squadron, Clark AB, Republic of the Philippines. After Intermediate Service School, he took command of the 1723rd Combat Control Squadron, Hurlburt Field, Florida, and in 1989, became the commander of the 24th Special Tactics Squadron, Pope AFB, North Carolina. Upon completion of War College, he was assigned as the Deputy Chief, Special Operations Division, Directorate of Forces, Headquarters United States Air Force, Washington, D.C. In 1995, he returned to Hurlburt Field as Commander of the 720th Special Tactics Group.

Colonel Brotchie is a master parachutist, military free fall parachutist, combat diver, and air traffic controller. His military decorations include the Defense Superior Service Medal, the Legion of Merit, the Bronze Star Medal, the Defense Meritorious Service Medal, the Meritorious Service Medal with two oak leaf clusters, the Air Force Commendation Medal with one oak leaf cluster, and the Joint Service Achievement Medal.

Colonel Brotchie shares his devotion to our Nation through military service with his wife, Col. Ann E. Dunwoody, who was recently selected for promotion and designated to command a major unit at Fort Bragg, North Carolina. They have two sons: Bryan and Scott.

It is with great pride and honor that I wish CRAIG and his family the best as he retires from the United States Air Force. He has set an inspiring example of dedication to the defense of freedom and to the protection of the basic liberties that the citizens of our country enjoy.●

TRUMBULL STUDENTS' SUCCESS IN COMPETITION

● Mr. LIEBERMAN. Mr. President, I would like to acknowledge and congratulate the recent success of the students of Trumbull High School of Trumbull, Connecticut.

On May 6–8 these students competed in the ''We the People . . . The Citizen and the Constitution'' national finals in Washington, D.C. This competition, administered by the Center for Civic Education, tests elementary, middle and high school students in their knowledge of the American constitutional government. In the finals, in which Trumbull High School matched wits against 50 other classes from across the country, students acted as constitutional experts and testified before a panel of judges in a congressional hearing.

The Trumbull class was taught by Peter Sullivan and included Rachel Bochinno, Alison Brand, Joanna Bruckman, Melissa Budahazy, Lindsey Cahill, Kelly Chapple, Andrew Conway, Jessica Cotter, Shannon Cusello, Jon Draskovic, Timothy Drummond, Michael Dusiewicz, Kim Ferguson, Kathryn Graf, Juli Griek, Amy Hatzis, Lauren Hellthaler, Christine Jelliffe, Dawn Liscinsky, James Lucia, John Manchisi, Saya Nagori, Ryan O'Neill, Julian Ross, Alison Schary, David Schub, Neerali Shah, Lauren Slade, Paul Strelka, Varun Vasudeva, and Robert Ward.

I am pleased to recognize the accomplishments of these outstanding students. The ''We the People . . .'' competition is the largest program testing knowledge of the Constitution in the United States, extending to over 26 million students across the country. Advancing to the national finals represents a significant achievement, and demonstrates an impressive interest in and understanding of the structure and processes of our constitutional government. Trumbull High School and all of Connecticut can take great pride in these students' success in a subject that is of fundamental importance to the vitality of our democracy.●

TRIBUTE TO JOHN COOLIDGE

● Mr. JEFFORDS. Mr. President, my home town of Shrewsbury, Vermont, can be a good way farther from Plymouth than it looks, at first glance, on a map. Though the towns' borders touch, Plymouth is on the east side of the Green Mountains in Windsor Country, Shrewsbury's in Rutland County high on the mountains' west side. In the winter the drive is about 25 miles, though it shortens to seven in the summer, when the old CCC Road is open. But the two old Vermont mountain towns are, in reality, close in spirit, due in considerable part to the ''Coolidge connection''.

I thought about this last week on receiving the sad news of the death of John Coolidge, at 93, the son of President Calvin Coolidge. I had seldom been to The Notch without seeing John, and his greeting was always warm and I usually heard another fascinating story about his father, Calvin, or his mother, Grace. Though father and son shared reputations for being men of few words as Calvin's autobiography shows, he was capable of true eloquence, as was John. Read his introduction to the book ''Your Son Calvin Coolidge'', if you doubt it.

But as I was saying, the Coolidges helped make Plymouth and Shrewsbury close. Calvin's sister Abbie taught school in Northam, before her early death. Aurora Pierce, the long-time housekeeper at the Coolidge homestead was a product of Shrewsbury. Her cousin Marjorie Pierce, of Shrewsbury, recalls that John Coolidge often stopped by on his annual summer visit to Aurora's grave in the Northam Cemetery. Aurora lived at the homestead long after Calvin Coolidge's death and jealously guarded its historic contents. We owe much to her for preserving, virtually intact, the contents of the house. She was, in her own unique way, a preservationist. So, too, was John.

John once told me that his grandfather, Col. John Coolidge said that to keep the Notch looking as it was would be the best memorial to President Coolidge. The Notch today remains virtually as it was when Calvin Coolidge was president. John Coolidge, working closely with the State of Vermont and through the wonderful Calvin Coolidge Memorial Foundation, which he and his wife Florence, were instrumental in founding, saw to that. It is comforting to know that a Vermonter like myself can always drop in on The Notch and see the Vermont of olden times, of open fields, farm homes, barns in good repair, all living on, and to know what a remarkable event in our nation's history happened in that remote setting-the 1923 homestead inaugural.

I was happy three years ago to be able to deliver a federal appropriation to the Coolidge Foundation and I know it is being well used, continuing the legacy of Calvin Coolidge, a legacy so well carried on by his son.

John Coolidge left many legacies. He nobly and eloquently bore the mantle of first son, which came so suddenly upon him with his father's early death. He had a successful career in business, including the restarting of the Cheese Factory at the Notch. Time and again through countless interviews he showed the world what a true Vermonter was all about. And he made sure that the world ''let Plymouth be'' as it was in his father's time.

John Coolidge had always lived in Plymouth from spring until after the

autumn leaves were gone. Then, two years ago, he came home to Plymouth Notch to live full time. One paper said he'd come home to die, but he really came home to live. He was proud that he spent his first two winters at The Notch and was added to the Plymouth checklist.

Now he will rest at the Notch Cemetery, besides his father and mother, his wife, his brother Calvin Jr., who died during the Coolidge presidency, and long generations of Coolidges. He will rest in a green and peaceful setting, in a valley he did so much to preserve. Vermont needs to forge on preserving its wondrous landscape, for it is too precious and rare to lose. John Coolidge knew that well and his beloved Notch will long serve as an example for coming generations of Vermonters, indeed, for all Americans.●

THE UNIVERSITY OF NORTH DAKOTA WIND THE INTERCOLLEGIATE FLYING ASSOCIATION NATIONAL CONFERENCE

● Mr. DORGAN. Mr President, I rise to recognize a recent achievement of the University of North Dakota's flying team. At the end of May, UND won the National Intercollegiate Flying Association national championship. This is the eleventh such title for our University.

This national championship team placed first in the flight and ground events by scoring 162 points in the 10 different events—32 points more than its closest competitor. Erich Hess won first place in Top Pilot honors and secured the Craig Morrison award by receiving the top combined scores in Computer Accuracy, Simulated Comprehensive Aircraft Navigation and Preflight. Brain Visocky received second place in Top Pilot honors and took first place honors in the Short Field Landing event. Ten other committed students at the John D. Odegard School of Aerospace Sciences helped lead UND to its first place victory.

I commend Coach Al Skramstad and Assistant Coach Eric Brusven for their work in helping these students rigorously prepare for this annual event. Winning the national championship is a significant achievement that could not have been realized if it were not for an enormous commitment on the part of both the students and their instructors.

The University of North Dakota is located in Grand Forks, ND, and I'm honored to have graduated from this great university. The John D. Odegard School of Aerospace Sciences has always played a significant role at the University as an international leader in collegiate and contract aviation education and training services. With more than 1,500 students, the School of Aerospace Science is the second largest college at UND.

And so today I salute the University of North Dakota and its extraordinary championship flying team.●

TRIBUTE TO FRED CAPPS

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to the late Fred Capps and to offer condolences to his wife, Cathy, and their two young children, John and Lydia.

Commonwealth's Attorney Fred Capps lost his life fighting for the people he represented each day in the courtroom. Kentucky Senate President David Williams, a longtime friend of Mr. Capps, said it best: ''He died a hero, protecting his family. He was defending his home and his children, and he didn't go down easy.'' As a prosecutor for Adair, Casey, Cumberland and Monroe counties, Mr. Capps was devoted to bringing criminals to justice. He gave his time and energy to protect the victims who needed his help and, in the end, he gave his life for their sake as well. I have a tremendous amount of respect for the sacrifices Mr. Capps made, and I am deeply saddened that such a fine Kentuckian has been lost.

Since this tragedy occurred, people across the State of Kentucky have spoken out in fond remembrance of Mr. Capps. Many have spoken about his reputation as a skilled prosecutor, and about his genuine concern for finding justice for innocent victims. But Mr. Capps also is remembered for the many hours he served as a volunteer and coach for the Burkesville Little League, and for his example as a committed family man. He was a devoted husband and father, loyal friend, community leader, and gifted attorney.

At times such as this, I am reminded of the fragility of life and the importance of family. From all accounts, Mr. Capps understood and valued these things while he was alive and has left a legacy of excellence for his children to remember. Hopefully it will be a comfort to the family and friends Mr. Capps leaves behind to know that he was loved and admired by so many in his community and throughout the entire State. On behalf of myself and my colleagues, we offer our deepest condolences to his loved ones, and express our gratitude for all Mr. Capps contributed to the counties he served, the State of Kentucky, and to our great Nation.●

VALANOS' 50TH ANNIVERSARY

● Mr. HOLLINGS. Mr. President, I rise today to recognize the couple behind one of the U.S. Senate's longstanding unofficial institutions—The Monocle on Capitol Hill. Connie and Helen Valanos opened The Monocle back in 1960 and served as impeccable hosts to generations of Senators, their staffs, friends and family. Now, their son, John, is carrying on that proud tradition. Peatsy and I will not be able to attend Connie and Helen's 50th wedding anniversary celebration. However, we send them our heartfelt congratulations and gratitude for their many years of service to the Senate.●

STALL H.S. STUDENTS EXCEL IN COMPETITION

● Mr. HOLLINGS. Mr. President, I would like to recognize a group of students from R.B. Stall High School in Charleston, S.C. who recently participated in the We the People . . . The Citizen and the Constitution national finals in Washington, D.C. They tested their knowledge of American constitutional government against 50 other student groups from across the country in a familiar format to those of us in the Senate—a congressional hearing. During the simulated hearing, students testified as constitutional experts before a panel of judges. Nineteen students, led by their teacher Karen Cabe Gibson, represented Stall High School at the competition. They were: Prerna Bihari, Amy Boller, Philip Brooks, Michael Brown, Adam D'Alessandro, Chad Gleaton, Mario King, Morwen Mansfield, Sharon Martin, Jackie Mixon, Katie Mixon, Thang Nguyen, James Nick, C.J. Parks, Shirkerah Robinson, Tamiko Robinson, Johnathan Tufts, Paula Weinreich and Toni Wiser. I commend these students for their impressive performance in the We the People . . The Citizen and the Constitution program administered by the Center for Civic Education. Their interest in the foundation of our government is refreshing and will prepare them to become active, responsible citizens and community leaders.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ENTITLED ''SCIENCE AND ENGINEERING INDICATORS—2000''—MESSAGE FROM THE PRESIDENT—PM 112

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 Commerce, Science, and Transportation.

To the Congress of the United States:

As required by 42 U.S.C. 1863(j)(1), I am pleased to submit to the Congress a report of the National Science Board entitled, ''Science and Engineering indicators—2000.'' This report represents the fourteenth in a series examining key aspects of the status of American

science and engineering in a global environment.

WILLIAM J. CLINTON.
THE WHITE HOUSE, *June 8, 2000.*

MESSAGES FROM THE HOUSE

At 11:15 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3176. An act to direct the Secretary of the Interior to conduct a study to determine ways of restoring the natural wetlands conditions in the Kealia Pond National Wildlife Refuge, Hawaii.

H.R. 4435. An act to clarify certain boundaries on the map relating to Unit NC01 of the Coastal Barriers Resources System.

H.R. 4576. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 2001, and for other purposes.

The message also announced that the House has passed the following bills, without amendment:

S. 291. An act to convey certain real property within the Carlsbad Project in New Mexico to the Carlsbad Irrigation District.

S. 356. An act to authorize the Secretary of the Interior to convey certain works, facilities, and titles of the Gila Project, and designated lands within or adjacent to the Gila Project, to the Wellton-Mohawk Irrigation and Drainage District, and for other purposes.

ENROLLED BILLS SIGNED

At 12:02 p.m. a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 777. An act to require the Secretary of Agriculture to establish an electronic filing and retrieval system to enable farmers and other persons to file paperwork electronically with selected agencies of the Department of Agriculture and to access public information regarding the programs administered by these agencies.

H.R. 2559. An act to amend the Federal Crop Insurance Act to strengthen the safety net for agricultural producers by providing greater access to more affordable risk management tools and improved protection from production and income loss, to improve the efficiency and integrity of the Federal crop insurance program, and for other purposes.

H.R. 3642. An act to authorize the President to award posthumously a gold medal on behalf of the Congress to Charles M. Schulz in recognition of his lasting artistic contributions to the Nation and the world, and for other purposes.

At 3:15 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its readings clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4542. An act to designate the Washington Opera in Washington, D.C., as the National Opera.

The enrolled bills were signed subsequently by the President pro tempore (Mr. THURMOND).

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3176. An act to direct the Secretary of the Interior to conduct a study to determine ways of restoring the natural wetlands conditions in the Kealia Pond National Wildlife Refuge, Hawaii, to the Committee on Environment and Public Works.

H.R. 4435. An act to clarify certain boundaries on the map relating to Unit NC01 of the Coastal Barrier Resources System; to the Committee on Environment and Public Works.

MEASURE PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar.

H.R 4576. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 2001, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today June 8, 2000, he had presented to the President of the United States the following enrolled bill:

S. 777. An act to require the Secretary of Agriculture to establish an electronic filing and retrieval system to enable farmers and other persons to file paperwork electronically with selected agencies of the Department of Agriculture and to access public information regarding the programs administered by these agencies.

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–9157. A communication from the Administrator, U.S. Agency For International Development, transmitting, pursuant to law, the report of the Development Assistance and Child Survival/Diseases Program allocation for fiscal year 2000; to the Committee on Foreign Relations.

EC–9158. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC–9159. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of determinations on Export-Import Bank financing in support of the sale of helicopters to Colombia; to the Committee on Foreign Relations.

EC–9160. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of transmittal of the certification of the proposed issuance of an export license relative to Israel; to the Committee on Foreign Relations.

EC–9162. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the fiscal year 1999 report entitled ''Support for European Democracy''; to the Committee on Foreign Relations.

EC–9163. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the Model Comprehensive Program for the Treatment of Substance Abuse Metropolitan Area Treatment Enhancement System for fiscal years 1994 through 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–9164. A communication from the Deputy Secretary of Education, transmitting, a draft of proposed legislation entitled ''The Higher Education Technical Amendments Act of 2000''; to the Committee on Health, Education, Labor, and Pensions.

EC–9165. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation entitled ''FDA Review Fee Act of 2000''; to the Committee on Health, Education, Labor, and Pensions.

EC–9166. A communication from the Acting Commissioner for Education Statistics, Office of Educational Research and Improvement, Department of Education, transmitting, pursuant to law, a report entitled ''The Condition of Education''; to the Committee on Health, Education, Labor, and Pensions.

EC–9167. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report relative to combating terrorism; to the Committee on Armed Services.

EC–9168. A communication from the Acting General Counsel of the Department of Defense, transmitting, a draft of proposed legislation entitled ''The Social Security Military Wage Credits Act''; to the Committee on Armed Services.

EC–9169. A communication from the , transmitting, pursuant to law, the report on the response to recommendations concerning improvements to the DOD Joint Manpower Process; to the Committee on Armed Services.

EC–9170. A communication from the Secretary of Energy and the Secretary of the Interior, transmitting jointly, a draft of proposed legislation entitled ''The Oil Shale Reserve Transfer Act''; to the Committee on Armed Services.

EC–9171. A communication from the Assistant Secretary of Defense for Health Affairs, transmitting, pursuant to law, a report relative to Tricare access to health care; to the Committee on Armed Services.

EC–9172. A communication from the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, a report entitled ''The Plan for Improved Demilitarization of Excess and Surplus Defense Property''; to the Committee on Armed Services.

EC–9173. A communication from the Chairman of the Federal Energy Regulatory Commission, transmitting, pursuant to law, the annual report for fiscal year 1999; to the Committee on Energy and Natural Resources.

EC–9174. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report entitled ''Uranium Industry Annual 1999''; to the Committee on Energy and Natural Resources.

EC–9175. A communication from the Assistant Secretary of the Interior for Policy, Management, and Budget, transmitting, pursuant to law, the annual report for fiscal year 1999 entitled ''Outer Continental Shelf Lease Sales: Evaluation of Bidding Results''; to the Committee on Energy and Natural Resources.

EC–9176. A communication from the Deputy Secretary of the Interior, transmitting, a draft of proposed legislation entitled ''The Northern Mariana Islands Covenant Implementation Act''; to the Committee on Energy and Natural Resources.

EC–9177. A communication from the Secretary of the Interior, transmitting, a draft of proposed legislation entitled ''The Hardrock Mining Production Payments Act''; to the Committee on Energy and Natural Resources.

EC–9178. A communication from the Assistant Secretary of the Interior for Policy, Management, and Budget and the Under Secretary for Natural Resources and Environment, Department of Agriculture, transmitting jointly, a draft of proposed legislation entitled ''The Recreational Fee Authority Act of 2000''; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 2406: A bill to amend the Immigration and Nationality Act to provide permanent authority for entry into the United States of certain religious workers.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. MURKOWSKI (for himself and Mrs. STEVENS):

S. 2693. A bill to amend title XIX of the Social Security Act to provide a more equitable Federal medical assistance percentage for Alaska; to the Committee on Finance.

By Mr. MURKOWSKI:

S. 2694. A bill to amend section 313 of the Tariff Act of 1930 to make certain products eligible for drawback and to simplify and clarify certain drawback provisions; to the Committee on Finance.

By Mr. BOND:

S. 2695. A bill to convert a temporary Federal judgeship in the eastern district of Missouri to a permanent judgeship, and for other purposes; to the Committee on the Judiciary.

By Mr. CONRAD (for himself, Ms. COLLINS, and Mr. ROBB):

S. 2696. A bill to prevent evasion of United States excise taxes on cigarettes, and for other purposes; to the Committee on Finance.

By Mr. LUGAR (for himself, Mr. GRAMM, and Mr. FITZGERALD):

S. 2697. A bill to reauthorize and amend the Commodity Exchange Act to promote legal certainty, enhance competition, and reduce systemic risk in markets for futures and over-the-counter derivatives, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MOYNIHAN (for himself, Mr. KERRY, Mr. ROCKEFELLER, Ms. SNOWE, Mr. ALLARD, Mr. BAUCUS, Mr. BREAUX, Mr. BROWNBACK, Mr. BRYAN, Mr. BUNNING, Mr. BURNS, Mr. DASCHLE, Mr. DURBIN, Mr. HOLLINGS, Mr. HUTCHINSON, Mr. JOHNSON, Mr. KENNEDY, Mr. KERREY, Ms. LANDRIEU, Mrs. LINCOLN, Ms. MIKULSKI, Mr. REID, Mr. ROBB, Mr. ROBERTS, Mr. SCHUMER, Mr. THURMOND, Mr. ENZI, Mrs. BOXER, and Mr. DEWINE):

S. 2698. A bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 2699. A bill to strengthen the authority of the Federal Government to protect individuals from certain acts and practices in the sale and purchase of social security numbers and social security account numbers, and for other purposes; to the Committee on Finance.

By Mr. L. CHAFEE (for himself, Mr. LAUTENBERG, Mr. SMITH of New Hampshire, and Mr. BAUCUS):

S. 2700. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to promote the cleanup and reuse of brownfields, to provide financial assistance for brownfields revitalization, to enhance State response programs, and for other purposes; to the Committee on Environment and Public Works.

By Mr. WYDEN (for himself, Mr. DEWINE, and Mr. ROCKEFELLER):

S. 2701. A bill to amend the Internal Revenue Code of 1986 to allow a tax credit for donations of computers to senior centers, to require a pilot program to enhance the availability of Internet access for older Americans, and for other purposes; to the Committee on Finance.

By Mr. BENNETT (for himself and Mr. SCHUMER):

S. 2702. A bill to require reports on the progress of the Federal Government in implementing Presidential Decision Directive No. 63 (PDD–63); to the Committee on Armed Services.

By Mr. AKAKA (for himself, Mr. DURBIN, Mr. SARBANES, Ms. MIKULSKI, Mr. EDWARDS, and Mr. BAUCUS):

S. 2703. A bill to amend the provisions of title 39, United States Code, relating to the manner in which pay policies and schedules and fringe benefit programs for postmasters are established; to the Committee on Governmental Affairs.

By Mr. KERREY (for himself, Mr BOND, Mr. DASCHLE, Mr. JOHNSON, Mr. BROWNBACK, and Mr. ROBERTS):

S. 2704. A bill to provide additional authority to the Army Corps of Engineers to protect, enhance, and restore fish and wildlife habitat on the Missouri River and to improve the environmental quality and public use and appreciation of the Missouri River; to the Committee on Environment and Public Works.

By Mr. THOMPSON (for himself, Mr. LIEBERMAN, Mr. AKAKA, Ms. COLLINS, Mr. DURBIN, Mr. LEVIN, and Mr. VOINOVICH):

S. 2705. A bill to provide for the training of individuals, during a Presidential transition, who the President intends to appoint to certain key positions, to provide for a study and report on improving the financial disclosure process for certain Presidential nominees, and for other purposes; to the Committee on Governmental Affairs.

By Mr. SANTORUM (for himself and Mr. KOHL):

S. 2706. A bill to amend the Agricultural Market Transition Act to establish a program to provide dairy farmers a price safety net for small- and medium-sized dairy producers; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CRAPO (for himself, Mr. CRAIG, and Mr. BURNS):

S. 2707. A bill to help ensure general aviation aircraft access to Federal land and the airspace over that land; to the Committee on Energy and Natural Resources.

By Mr. ASHCROFT:

S. 2708. A bill to establish a Patients Before Paperwork Medicare Red Tape Reduction Commission to study the proliferation of paperwork under the Medicare program; to the Committee on Finance.

By Mr. BAUCUS (for himself, Mr. BOND, Mr. BINGAMAN, Mr. DORGAN, Mr. DASCHLE, and Mr. KERREY):

S. 2709. To establish a Beef Industry Compensation Trust Fund with the duties imposed on products of countries that fail to comply with certain WTO dispute resolution decisions; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CAMPBELL (for himself, Mrs. HUTCHISON, Mr. LAUTENBERG, Mr. ABRAHAM, Mr. BROWNBACK, Mr. HUTCHINSON, Mr. GRAHAM, Mr. DODD, and Mr. FEINGOLD):

S.J. Res. 48. A joint resolution calling upon the President to issue a proclamation recognizing the 25th anniversary of the Helsinki Final Act; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 2693. A bill to amend title XIX of the Social Security Act to provide a more equitable Federal medical assistance percentage for Alaska; to the Committee on Finance.

THE ALASKA MEDICAID EQUITY ACT OF 2000

● Mr. MURKOWSKI. Mr. President, for more than 30 years, the State of Alaska was subjected to an economic inequity in the administration of the national Medicaid program.

With a poverty level 25 percent above the national average, and over one-sixth of the state's population Medicaid-eligible, Alaska delivers health care to many needy children, pregnant women, disabled and elderly poor Americans. These people deserve quality medical care, and Alaska delivers.

But three years ago, Congress recognized that the federal government was not paying its fair share of Alaska's Medicaid program. The one-size-fits-all formula that is used to calculate the federal Medicaid match is based upon the per capita income of individual states as it relates to the national per capita income. Simply put, states with higher per capita income pay a higher percentage of Medicaid costs. This formula works well for states that are near national norms for most economic indicators. But it certainly doesn't work in the State of Alaska, where most economic measurements are atypical compared with national averages.

The reason is fairly simple. It just costs more to live and do business in Alaska. Per capita income isn't a fair indicator unless it takes into account the cost of delivering care in that area. Somehow, however, the Medicaid formula forgot this.

In 1997, when Congress recognized this issue, it adopted legislation that reflected the state's higher costs and increased the federal Medicaid match. Instead of receiving a 50–50 match rate, as the formula would dictate, a 59.8–40.2 percent match rate was established.

Unfortunately, this legislation was a short term fix. It only allowed the formula change to remain in effect for

three years. As a result, unless we change the law, the formula will revert to the same inequitable standard that was used previously. And unless we extend the formula change, vital health care services to Alaska's neediest patients will be compromised.

For this reason, I am introducing legislation that will extend the federal government's commitment to the health and well-being of Alaska's Medicaid beneficiaries. The ''Alaska Medicaid Equity Act of 2000,'' which is cosponsored by Senator STEVENS, simply continues the spirit and intent of Congress by adjusting federal medical assistance percentage calculations to account for Alaska's unusually high delivery costs.

Three years after we first passed this legislation, the reasons and justifications for the adjustment still exist. The formula is still fundamentally unfair to Alaska.

Let me explain why. Alaska's per capita income is $28,523, the 17th highest in the country. In fact, it's right near the national average, which is $28,518. Although Alaska's per capita income suggests it is one of the richer states, it fails to take into account the high cost of living and the high cost of delivering health care.

Some studies show that it costs 71 percent more to deliver health care in Alaska. But let's look at some real numbers. From coast to coast, the U.S. dollar buys more goods and services than it does in Alaska.

In Portland, Oregon, it costs $66.00 to feed a family of four for one week. In Anchorage it costs $84.15. In Kodiak, that number jumps to $105.88. And out in Dillingham, that number rises to $144.57! We're comparing apples and oranges when we compare Alaska's per capita income to another state's average.

And how about electricity? In Portland, 1000 kilowatt hours costs $60.88. Anchorage residents are paying $92.83. Out in Bethel, Alaska, residents are paying $202.68.

When focusing solely on the delivery of health care services, the differences stand out even more. In Florida, a hospital room for one day costs, on average, $361. This is in line with lower 48 costs, which run between $350 and $450. In Alaska, that same room costs $748—more than twice as much! A physician office visit is $53 in Florida. That visit costs $80 in Alaska—an increase of 66%!

You can look at virtually any good or service and see a comparable difference. A dollar simply doesn't buy the same thing in Alaska that it does in the lower 48. The numbers prove this. The federal government has admitted this. Federal government employees receive a salary adjustment in Alaska—a 25% cost of living adjustment. Military personnel receive a similar increase. Medicare pays higher as well. Even the Federal Poverty Level is adjusted to reflect the unique costs in Alaska. So why doesn't Medicaid?

Our bill merely continues the commitment Congress made to Alaska's Medicaid population three years ago. It's fair, and it makes sense. I ask my colleagues to assist me in rectifying this clear inequity for the state of Alaska; I ask my colleagues to support this bill.

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. 2693

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Alaska Medicaid Equity Act of 2000''.

SEC. 2. AMENDMENT TO THE SOCIAL SECURITY ACT.

(a) IN GENERAL.—The first sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended—

(1) by striking ''and (3)'' and inserting ''(3)''; and

(2) by striking the period and inserting '', and (4) for purposes of this title and title XXI, with respect to Alaska, the State percentage used to determine the Federal medical assistance percentage shall be that percentage which bears the same ratio to 45 percent as the square of the adjusted per capita income of Alaska (determined by dividing the State's 3-year average per capita income by 1.25) bears to the square of the per capita income of the 50 States.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect October 1, 2000.●

By Mr. CONRAD (for himself, Ms. COLLINS, and Mr. ROBB):

S. 2696. A bill to prevent evasion of United States excise taxes on cigarettes, and for other purposes; to the Committee on Finance.

GRAY MARKET CIGARETTE COMPLIANCE ACT OF 2000

Mr. CONRAD. Mr. President, I am pleased today to join my good friends from Maine and Virginia, Ms. COLLINS and Mr. ROBB, in introducing the Gray Market Cigarette Compliance Act of 2000. The growth in this gray market in cigarettes represents not only an economic threat, but a significant public health menace as well. This legislation will provide law enforcement with better and more effective tools to fight this dangerous intrusion into our marketplace.

This bill concerns itself with cigarettes manufactured for overseas markets that nevertheless find their way into our domestic stream of commerce. Even if they have been manufactured in the United States, they are not required to comply with U.S. content disclosure and health labeling requirements. Thus, when they are brought back into the U.S. by gray market profiteers, they represent a serious public health concern. And because they are often sold at prices below those of products manufactured to comply with our tough cigarette marketing laws, they become more attractive and available to children.

The gray market is unfair competition, plain and simple. Consumers often purchase gray market products thinking they are the same as the legitimate products manufactured for sale in the U.S. When gray marketers bring in cigarettes that are not manufactured in full compliance with U.S. law, they mislead unwitting consumers.

Consumers are not the only ones affected. Gray marketers also harm the legitimate wholesalers and retailers who work hard and play by the rules by exploiting gray areas in the law in order to gain this unfair competitive advantage.

It is important to stress as well the implications of the gray market in cigarettes for states under the tobacco Master Settlement Agreement (MSA). One of the major components of the MSA provides that payments to states are based on a formula that takes into account the annual volume of tobacco sold in each state. Gray market cigarettes are not counted under that volume adjustment formula. Therefore, to the extent that gray market sales displace sales of cigarettes that are counted in the volume adjustment, states could lose a portion of the amounts they would otherwise receive under the MSA.

The Gray Market Cigarette Compliance Act will help consumers, retailers, wholesalers, and federal and state governments. It will strengthen the hand of law enforcement to combat the sale of gray market cigarettes and close loopholes that gray markets have been able to exploit. But most importantly, it will help keep cheap cigarettes out of the hands of children.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2696

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Gray Market Cigarette Compliance Act of 2000''.

SEC. 2. FINDINGS.

Congress finds that additional legislation is necessary to prevent evasion of United States taxes on cigarettes, to ensure that the packages of all cigarettes sold or distributed in the United States bear the health warnings required by Federal law, to ensure compliance with applicable Federal ingredient reporting requirements, and to improve the enforcement of existing United States trademark laws so as to prevent consumer confusion and deception. In support of this finding, Congress has determined that:

(1) PREVENTION OF FEDERAL TAX EVASION.—

(A) Cigarettes manufactured in the United States that are labeled and shipped for export are not subject to the excise taxes that otherwise would be payable with respect to such products when removed from the premises of the manufacturer.

(B) Enforcement difficulties are created for the authorities charged with ensuring that proper taxes are paid whenever export-labeled cigarettes are sold or distributed in the United States.

(C) The Balanced Budget Act of 1997 imposed restrictions on the domestic sale or distribution of export-labeled cigarettes, but such provisions have not been adequate to prevent continued evasion of United States taxes on cigarettes.

(D) Enforcement of Federal cigarette tax laws will be enhanced substantially if cigarettes manufactured in the United States and labeled for export are not sold or distributed in the United States.

(2) ENSURING COMPLIANCE WITH FEDERAL HEALTH WARNINGS AND INGREDIENT REPORTING REQUIREMENTS.—

(A) Congress has required that specified warnings appear on the packages of all cigarettes manufactured, packaged, or imported for sale or distribution in the United States.

(B) Congress has required that each person who manufactures, packages, or imports cigarettes for sale or distribution in the United States annually provide the Secretary of Health and Human Services with a list of the ingredients added to tobacco in the manufacture of such cigarettes.

(C) The public health objectives of the foregoing requirements will be advanced by adopting additional mechanisms for ensuring that these requirements are met with respect to all cigarettes for sale or distribution in the United States.

(3) ENFORCEMENT OF FEDERAL TRADEMARK LAWS.—

(A) Cigarettes manufactured for sale abroad have characteristics that differentiate them in material respects from cigarettes that bear the same trademarks but that are manufactured for sale in the United States.

(B) Such material differences may include tar and nicotine yields, incentive programs, and quality assurances with respect to distribution and storage.

(C) When cigarettes bearing trademarks registered in the United States are manufactured for sale or distribution outside the United States but are diverted or reimported for sale or distribution in the United States, there is a substantial risk of consumer confusion and deception. Stickers and other similar devices are inadequate to prevent such confusion and deception.

(D) In order to effectuate the purposes of the United States trademark laws, including the prevention of consumer confusion and deception, additional legislation is necessary to allow United States trademark holders to enforce fully their rights against infringing cigarettes whether such cigarettes were manufactured in the United States or abroad.

SEC. 3. RESTRICTIONS ON TOBACCO PRODUCTS INTENDED FOR EXPORT.

(a) RESTRICTIONS ON TOBACCO PRODUCTS INTENDED FOR EXPORT.—Section 5754 of the Internal Revenue Code of 1986 is amended to read as follows:

"SEC. 5754. RESTRICTIONS ON TOBACCO PRODUCTS INTENDED FOR EXPORT.

''(a) EXPORT-LABELED TOBACCO PRODUCTS.—Tobacco products and cigarette papers and tubes manufactured in the United States and labeled or shipped for exportation under this chapter—

''(1) may be transferred to or removed from the premises of a manufacturer or an export warehouse proprietor only if such articles are being transferred or removed without tax in accordance with section 5704;

''(2) except as provided in subsection (b), may be imported or brought into the United States, after their exportation, only if—

''(A) the requirements of section 4 of the Gray Market Cigarette Compliance Act of 2000 are satisfied; and

''(B) such articles either are eligible to be released from customs custody with the partial duty exemption provided in section 5704(d) or are returned to the original manufacturer of such article as provided in section 5704(c); and

''(3) may be sold or held for sale for domestic consumption in the United States only if such articles are removed from their export packaging and repackaged by the original manufacturer or its authorized agent into new packaging that does not contain the mark, label, or notice required by section 5704(b) and complies with all other domestic law applicable to such article.

This section shall apply to articles labeled for export by the original manufacturer even if the packaging or the appearance of such packaging to the consumer of such articles has been modified or altered by a person other than the original manufacturer or its authorized agent so as to remove or conceal or attempt to remove or conceal (including by the placement of a sticker over) any mark, label, or notice required by section 5704(b). For purposes of this section, sections 5704(d) and 5761, and such other provisions as the Secretary may specify by regulations, references to exportation shall be treated as including a reference to shipment to the Commonwealth of Puerto Rico.

''(b) EXCEPTIONS FOR EXPORT-LABELED TOBACCO PRODUCTS FOR PERSONAL USE.—The restrictions of subsection (a)(2) and the penalty and forfeiture provisions in section 5761(c) shall not apply to personal use quantities of tobacco products and cigarette papers and tubes, as defined in section 555(b)(8)(G) of the Tariff Act of 1930 (19 U.S.C 1555(b)(8)(G)).

''(c) CROSS REFERENCE.—Section 5761(c) contains civil penalties related to violations of this section. Section 5762(b) contains a criminal penalty applicable to any violation of this section. Section 5763(a)(3) contains forfeiture provisions related to violations of this section.''.

(b) CLARIFICATION OF REIMPORTATION RULES.—Section 5704(d) of the Internal Revenue Code of 1986 (relating to tobacco products and cigarette papers and tubes exported and returned) is amended by—

(1) striking ''a manufacturer of'' and inserting ''the original manufacturer, or its authorized agent, of such''; and

(2) inserting ''authorized by such manufacturer to receive such articles'' after ''proprietor of an export warehouse''.

(c) CONFORMING AMENDMENTS.—

(1) Section 5761(e) is amended by adding at the end the following: ''For an exception to the application of the penalty under subsection (c), see section 5754(b).''.

(2) Section 5763(a) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(3) EXPORT-LABELED TOBACCO PRODUCTS OR CIGARETTE PAPERS OR TUBES.—Any tobacco product, cigarette paper, or tube that was imported or brought into the United States, or is sought to be imported or brought into the United States in violation of section 5754(a)(2), or that is sold or being held for sale in violation of section 5754(a)(3), shall be forfeited to the United States. Notwithstanding any other provision of law, any product forfeited to the United States pursuant to this section shall be destroyed.''.

(d) CLERICAL AMENDMENT.—The item relating to section 5754 in the table of sections for subchapter F of chapter 52 of the Internal Revenue Code of 1986 is amended to read as follows:

Sec. 5754. Restrictions on tobacco products intended for export.

SEC. 4. REQUIREMENTS APPLICABLE TO CIGARETTE IMPORTS.

(a) DEFINITIONS.—As used in this section:

(1) SECRETARY.—Except as otherwise indicated, the term ''Secretary'' means the Secretary of the Treasury.

(2) PRIMARY PACKAGING.—The term ''primary packaging'' refers to the permanent packaging inside of the innermost cellophane or other transparent wrapping and labels, if any. Warnings or other statements shall be deemed ''permanently imprinted'' only if printed directly on such primary packaging and not by way of stickers or other similar devices.

(b) REQUIREMENTS FOR ENTRY OF CIGARETTES.—

(1) GENERAL RULE.—Except as provided in paragraph (2), cigarettes (whether originally manufactured in the United States or in a foreign country) may be imported or brought into the United States only if—

(A) the manufacturer of those cigarettes has timely submitted, or has certified that it will timely submit to the Secretary of Health and Human Services the lists of the ingredients added to the tobacco in the manufacture of such cigarettes as described in section 7 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1335a);

(B) the precise warning statements in the precise format specified in section 4 of such Act (15 U.S.C. 1333) are permanently imprinted on both—

(i) the primary packaging of all those cigarettes; and

(ii) any other pack, box, carton, or container of any kind in which those cigarettes are to be offered for sale or otherwise distributed to consumers;

(C) the manufacturer or importer of those cigarettes is in compliance as to those cigarettes being imported or brought into the United States with a rotation plan approved by the Federal Trade Commission pursuant to section 4(c) of such Act (15 U.S.C. 1333(c));

(D) those cigarettes do not bear a trademark registered in the United States for cigarettes, or if those cigarettes do bear a trademark registered in the United States for cigarettes, the owner of such United States trademark registration for cigarettes (or a person authorized to act on behalf of such owner) has consented to the importation of such cigarettes into the United States; and

(E) the importer has submitted at the time of entry all of the certificates described in paragraph (3).

(2) EXEMPTIONS.—Cigarettes satisfying the conditions of any of the following subparagraphs shall not be subject to the requirements of paragraph (1):

(A) PERSONAL-USE CIGARETTES.—Cigarettes that are imported or brought into the United States in personal use quantities as defined in section 555(b)(8)(G) of the Tariff Act of 1930 (19 U.S.C 1555(b)(8)(G)).

(B) CIGARETTES BROUGHT INTO THE UNITED STATES FOR ANALYSIS.—Cigarettes that are imported or brought into the United States solely for the purpose of analysis in quantities suitable for such purpose, but only if the importer submits at the time of entry a certificate signed, under penalties of perjury, by the consignee (or a person authorized by such consignee) providing such facts as may be required by the Secretary to establish that such consignee is a manufacturer of cigarettes, a Federal or State government agency, a university, or is otherwise engaged in bona fide research and stating that such cigarettes will be used solely for analysis and will not be sold in domestic commerce in the United States.

(C) CIGARETTES INTENDED FOR NONCOMMERCIAL USE, REEXPORT, OR REPACKAGING.—Cigarettes—

(i) that are being imported or brought into the United States for delivery to the original

manufacturer of such cigarettes, or to a cigarette manufacturer or an export warehouse authorized by such original manufacturer;

(ii) that do not bear a trademark registered in the United States for cigarettes, or if those cigarettes do bear a trademark registered in the United States for cigarettes, cigarettes for which the owner of such United States trademark registration for cigarettes (or a person authorized to act on behalf of such owner) has consented to the importation of such cigarettes into the United States; and

(iii) for which the importer submits a certificate signed by the manufacturer or export warehouse (or a person authorized by such manufacturer or export warehouse) to which such cigarettes are to be delivered (as provided in clause (i)) stating, under penalties of perjury, with respect to those cigarettes, that it will not distribute those cigarettes into domestic commerce unless prior to such distribution all steps have been taken to comply with subparagraphs (A), (B), and (C) of paragraph (1), and, to the extent applicable, section 5754(a)(3) of the Internal Revenue Code of 1986.

For purposes of this subsection, a trademark is registered in the United States if it is registered in the Patent and Trademark Office under the provisions of title I of the Act of July 5, 1946 (popularly known as the Trademark Act of 1946), and a copy of the certificate of registration of such mark has been filed with the Secretary. The Secretary shall make available to interested parties a current list of the marks so filed.

(3) CUSTOMS CERTIFICATIONS REQUIRED FOR CIGARETTE IMPORTS.—The certificates that must be submitted by the importer of cigarettes at the time of entry in order to comply with paragraph (1)(E) are—

(A) a certificate signed by the manufacturer of such cigarettes or an authorized official of such manufacturer stating under penalties of perjury with respect to those cigarettes, that such manufacturer has timely submitted, and will continue to submit timely, to the Secretary of Health and Human Services the ingredient reporting information required by section 7 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1335a);

(B) a certificate signed by such importer or an authorized official of such importer stating under penalties of perjury that—

(i) the precise warning statements in the precise format required by section 4 of the such Act (15 U.S.C. 1333) are permanently imprinted on both—

(I) the primary packaging of all those cigarettes; and

(II) any other pack, box, carton, or container of any kind in which those cigarettes are to be offered for sale or otherwise distributed to consumers; and

(ii) with respect to those cigarettes being imported or brought into the United States, such importer has complied, and will continue to comply, with a rotation plan approved by the Federal Trade Commission pursuant to section 4(c) of such Act (15 U.S.C. 1333(c)); and

(C) either—

(i) a certificate signed by such importer or an authorized official of such importer stating under penalties of perjury that those cigarettes and the packages containing those cigarettes do not bear a trademark registered in the United States for cigarettes; or

(ii) if those cigarettes do bear a trademark registered in the United States for cigarettes—

(I) a certificate signed by the owner of such United States trademark registration for cigarettes (or a person authorized to act on behalf of such owner) stating under penalties of perjury that such owner (or authorized person) consents to the importation of such cigarettes into the United States; and

(II) a certificate signed by such importer or an authorized official of such importer stating under penalties of perjury that the consent referred to in clause (i) is accurate, remains in effect, and has not been withdrawn.

The Secretary may provide by regulation for the submission of certifications under this subsection in electronic form if prior to the entry of any cigarettes into the United States, the person required to provide such certifications submits to the Secretary a written statement, signed under penalties of perjury, verifying the accuracy and completeness of all information contained in such electronic submissions.

(c) ENFORCEMENT.—

(1) CIVIL PENALTY.—Any person who violates a provision of subsection (b) shall, in addition to the tax and any other penalty provided by law, be liable for a civil penalty for each violation equal to the greater of $1,000 or 5 times the amount of the tax imposed by chapter 52 of the Internal Revenue Code of 1986 on all cigarettes that are the subject of such violation.

(2) FORFEITURES.—Any tobacco product, cigarette papers, or tube that was imported or brought into the United States or is sought to be imported or brought into the United States in violation of, or without meeting the requirements of, subsection (b) shall be forfeited to the United States. Notwithstanding any other provision of law, any product forfeited to the United States pursuant to this section shall be destroyed.

(3) CROSS REFERENCE.—Section 1621 of title 18, United States Code, contains criminal penalties applicable to the commission of perjury under this section.

SEC. 5. PENALTIES APPLICABLE TO THE SALE OF CIGARETTES NOT IN COMPLIANCE WITH LABELING REQUIREMENTS.

(a) CIVIL PENALTY.—Any person who sells or holds for sale for domestic consumption any cigarettes for which the precise warning statements in the precise format required by section 4 of the Cigarette Labeling and Advertising Act (15 U.S.C. 1333) are not permanently imprinted on both—

(1) the primary packaging of all those cigarettes; and

(2) any other pack, box, carton, or container of any kind in which those cigarettes are offered for sale, sold, or otherwise distributed to consumers,

shall, in addition to the tax and any other penalty provided in this title, be liable for a penalty for each violation equal to the greater of $1,000 or 5 times the amount of the tax imposed by chapter 52 of the Internal Revenue Code of 1986 on all cigarettes that are the subject of such violation.

(b) FORFEITURES.—Cigarettes that are sold, or are being held for domestic sale, in the United States (and not for export or duty-free sale) shall be forfeited to the United States if the precise warning statements in the precise format required by section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) are not permanently imprinted on both—

(1) the primary packaging of all those cigarettes; and

(2) any other pack, box, carton, or container of any kind in which those cigarettes are offered for sale, sold, or otherwise distributed to consumers.

(c) ENFORCEMENT.—The provisions of this section shall be enforced by the Secretary of the Treasury through the Bureau of Alcohol, Tobacco, and Firearms and such other agencies within the Department of the Treasury as the Secretary may determine.

(d) TREATMENT OF TRANSFERS.—Transfers of cigarettes that meet the requirements for transfer or removal free of tax under section 5704 of the Internal Revenue Code of 1986 and transfers of cigarettes pursuant to section 4(b) of this Act shall not be treated as sales for domestic consumption under this section.

(e) DESTRUCTION OF FORFEITED ARTICLES.—Notwithstanding any other provision of law, any article forfeited to the United States pursuant to this section shall be destroyed.

(f) DEFINITIONS.—For purposes of this section, the term ''primary packaging'' shall refer to the permanent packaging inside of the innermost cellophane or other transparent wrapping and labels, if any. Warnings or other statements shall be deemed ''permanently imprinted'' only if printed directly on such primary packaging and not by way of stickers or other similar devices.

SEC. 6. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), this Act, and the amendments made by this Act, shall take effect upon the date of enactment of this Act. Nothing in this subsection shall be construed to affect the effective date of the provisions of section 9302 of the Balanced Budget Act of 1997 (Public Law 105–33).

(b) EXCEPTIONS.—The amendments to sections 5754(a)(3) and 5763(a)(3) of the Internal Revenue Code of 1986, and the provisions of sections 4 and 5 of this Act shall take effect after the date which is 60 days after the date of enactment of this Act.

SEC. 7. STUDY.

The Director of the Bureau of Alcohol, Tobacco, and Firearms shall study whether the penalties imposed under sections 5761, 5762, and 5763 of the Internal Revenue Code of 1986 are adequate to enforce the provisions of sections 5704(d) and 5754 of such Code and report the results of such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate within 1 year of the date of enactment of this Act.

SEC. 8. SEVERABILITY.

If any provision of this section is held to be invalid as it relates to any particular circumstance, such provision shall remain valid under all other circumstances, and all other provisions of this section shall remain in full force and effect. If any provision of this section is held to be invalid in its entirety, all other provisions of this section shall remain in full force and effect.

SEC. 9. SAVINGS.

The civil or criminal penalties and remedies provided by this Act and any other civil or criminal penalty and remedy provided by chapter 52 of the Internal Revenue Code of 1986 and section 4 of this Act that are applicable to any violation shall not be exclusive, but shall be in addition to any other remedy provided by law.

By Mr. LUGAR (for himself, Mr. GRAMM, and Mr. FITZGERALD):

S. 2697. A bill to reauthorize and amend the Commodity Exchange Act to promote legal certainty, enhance competition, and reduce systemic risk in markets for futures and over-the-counter derivatives, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE COMMODITY FUTURES MODERNIZATION ACT OF 2000

• Mr. LUGAR. Mr. President, I rise today with Senator GRAMM, distinguished Chairman of the Senate Banking Committee, and Senator FITZGERALD, distinguished Chairman of the Subcommittee on Research, Nutrition and General Legislation of the Senate Agriculture Committee, to introduce

legislation to reauthorize the Commodity Exchange Act (CEA), which lapses on September 30th of this year. The Commodity Futures Modernization Act of 2000 would reauthorize the Commodity Exchange Act (CEA) for five additional years and would reform the Commodity Exchange Act in three primary ways. First, it would incorporate the unanimous recommendations of the President's Working Group (PWG) on the proper legal and regulatory treatment of over-the-counter (OTC) derivatives. Second, it would codify the regulatory relief proposal of the Commodity Futures Trading Commission (CFTC) to ensure that futures exchanges are appropriately regulated and remain competitive. Lastly, this legislation would reform the Shad-Johnson jurisdictional accord, which banned single stock futures 18 years ago.

Derivative instruments, both exchange-traded and over-the-counter (OTC), have played a significant role in our economy's current expansion due to their innovative nature and their risk-transferring attributes. According to the International Swaps and Derivatives Association, the global derivatives market has a notional value that exceeds $58 trillion and it has grown at a rate exceeding 20 percent since 1990. Identified by Alan Greenspan as the ''most significant event in finance of the past decade,'' the development of the derivatives market has substantially added to the productivity and wealth of our nation.

Derivatives enable companies to unbundle and transfer risk to those entities who are willing and able to accept it. By doing so, efficiency is enhanced as firms are able to concentrate on their core business objective. A farmer can purchase a futures contract, one type of derivative, in order to lock in a price for his crop at harvest. Automobile manufacturers, whose profits earned overseas can fluctuate with changes in currency values, can minimize this uncertainty through derivatives, allowing them to focus on the business of building cars. Banks significantly lessen their exposure to interest rate movements by entering into derivatives contracts known as swaps, which enable these institutions to hedge their risk by exchanging variable and fixed rates of interests.

Signed into law in 1974, the Commodity Exchange Act requires that futures contracts be traded on a regulated exchange. As a result, a futures contract that is traded off an exchange is illegal and unenforceable. When Congress enacted the CEA and the Commodity Futures Trading Commission (CFTC) to enforce it, this was not a concern. The meanings of 'futures' and 'exchange' were relatively apparent. Furthermore, the over-the-counter derivatives business was in its infancy. However, in the 26 years since the statute's creation, the OTC swaps and derivatives market, sparked by innovation and technology, has significantly outpaced the exchange-traded futures markets. And along with this expansion, the definitions of a swap and a future began to blur.

In 1998, the CFTC released a concept release on OTC derivatives, which was perceived by many as a precursor to regulating these instruments as futures. Just the threat of reaching this conclusion could have had considerable ramifications, given the size and importance of the OTC market. The legal uncertainty interjected by this dispute jeopardized the entirety of the OTC market and threatened to move significant portions of the business overseas. If we were to lose this market, most likely to London, it would take years to bring it back to U.S. soil. The resulting loss of business and jobs would be immeasurable.

This threat led the Treasury Department, the Federal Reserve, and the SEC to oppose the concept release and request that Congress enact a moratorium on the CFTC's ability to regulate these instruments until after the President's Working Group (PWG) could complete a study on the issue. As a result, Congress passed a six-month moratorium on the CFTC's ability to regulate over-the-counter derivatives. Despite reservations, I supported this moratorium because it brought legal assurance to this skittish market and it allowed the President's Working Group time to develop recommendations on the most appropriate legal treatment of OTC derivatives. In November 1999, the President's Working Group completed its unanimous recommendations on OTC derivatives and presented Congress with these findings.

This legislation adopts much of the recommendations of the PWG report. Our bill contains three mechanisms for ensuring that legal certainty is attained and that certain transactions remain outside the Commodity Exchange Act. The first, the electronic trading facility exclusion, would exclude transactions in financial and energy commodities from the Act if conducted: (1) on a principal to principal basis; (2) between institutions or sophisticated persons with high net worth; and (3) on an electronic trading facility. The second would exclude these transactions if (1) they are conducted between institutions or sophisticated persons with high net worth; and (2) they are not on a trading facility. The third exclusion clarifies the Treasury Amendment language already contained in the CEA. It would exclude all transactions in foreign currency and government securities from the Act unless those transactions are futures contracts and traded on an organized exchange. As recommended by the PWG, the bill would give the CFTC jurisdiction over non-regulated off-exchange retail futures transactions in foreign currency. Another important recommendation of the PWG was to authorize futures clearing facilities to clear OTC derivatives in an effort to lessen systemic risk and this bill incorporates this finding.

As part of this legal certainty section, our legislation also addresses the concern that excluding OTC derivatives from the futures laws will invite the SEC to regulate these products as securities. With Senator GRAMM's leadership, this legislation would adopt language that would ensure that these products maintain their current regulatory status and remain healthy and competitive.

The second major section of this legislation addresses regulatory relief. In February of this year, the CFTC issued a regulatory relief proposal that would provide relief to futures exchanges and their customers. Instead of listing specific requirements for complying with the CEA, the proposal would require exchanges to meet internationally agreed-upon core principals. The CFTC proposal creates tiers of regulation for exchanges based on whether the underlying commodities being traded are susceptible to manipulation or whether the users of the exchange are limited to institutional customers.

The legislation incorporates this framework. A board of trade that is designated as a contract market would receive the highest level of regulation due to the fact that these products are susceptible to manipulation or are offered to retail customers. Futures on agricultural commodities would fall into this category. This bill also sets out that in lieu of contract market designation, a board of trade may register as a Derivatives Transaction Execution Facility (DTEF) if the products being offered are not susceptible to manipulation and are traded among institutional customers or retail customers who use large Futures Commission Merchants (FCMs) who are members of a clearing facility. Lastly, a board of trade may choose to be an Exempt Board of Trade (XBOT) and not be subject to the Act (except for the CFTC's anti-manipulation authority) if the products being offered are traded among institutional customers only (absolutely no retail) and the instruments are not susceptible to manipulation. Our bill would allow a board of trade that is a DTEF or an XBOT to opt to trade derivatives that are otherwise excluded from the Act on these facilities and to the extent that these products are traded on these facilities, the CFTC would have exclusive jurisdiction over them. With this provision, the intent is to provide these facilities that trade derivatives with a choice—if regulation is beneficial, the facility may choose to be regulated. If not, the facility may choose to be excluded or exempted from the Act.

The bill's last section addresses the Shad-Johnson jurisdictional accord. In 1982, SEC Chairman John Shad and CFTC Chairman Phil Johnson reached an agreement on dividing jurisdiction between the agencies for those products that had characteristics of both securities and futures. Known as the Shad-Johnson Accord, this agreement prohibited single stock futures and delineated jurisdiction between the SEC

and the CFTC on stock index futures and other options.

Meant as a temporary agreement, many have suggested that the Shad-Johnson accord should be repealed. The President's Working Group unanimously agreed that the Accord can be repealed if regulatory disparities are resolved between the regulation of futures and securities. Recently, the General Accounting Office (GAO) released a report that found that there is no legitimate policy reasons for maintaining the ban on single stock futures since they are being traded in foreign markets, in the OTC market, and synthetically in the options markets. Senator GRAMM, chairman of the Senate Banking Committee, and I sent a letter in December requesting the CFTC and the SEC to make recommendations on reforming the Shad-Johnson. On March 2, the SEC and CFTC responded that, although progress had been made, the agencies could not resolve these issues before October. Disappointment with this answer led Senator GRAMM and I to once again ask SEC Chairman Arthur Levitt and CFTC Chairman Bill Rainer to attempt to resolve the problems surrounding lifting the ban. Unfortunately, the agencies were not able to reach an agreement within our timeframe.

This legislation would repeal the prohibition on single stock futures and narrow-based stock index futures. It would allow these products, termed designated futures on securities, to trade on either a CFTC-regulated contract market or a SEC-regulated national securities exchange or association. The SEC would maintain its insider trading and antifraud enforcement authority over these products traded on a contract market and the CFTC would maintain its anti-manipulation authority, including large trader reporting, over these products traded on a national securities exchange or association. Margin levels on these products would be harmonized with the options markets. The bill would provide the regulators with one year after enactment to resolve any remaining issues.

The goal of this legislation is to ensure that the United States remains a global leader in the derivatives marketplace and that these markets are appropriately and effectively regulated. Due to the shortened legislative calendar in this election year, it will be difficult to pass this bill without momentum and a strong base of support. If Congress fails to enact a bill, we will begin the debate again next year. However, in this technology-driven economy, a one year delay is an eternity. Legal uncertainty for OTC derivatives will remain and our futures markets will continue to lose market share due in part to an outdated regulatory structure. For this reason, it is imperative that Congress enact thoughtful legislation this year when it has a golden opportunity to do so.

I ask unanimous consent that a section by section analysis of this bill be included in the RECORD immediately after my statement.

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

SECTION-BY-SECTION ANALYSIS—COMMODITY FUTURES MODERNIZATION ACT OF 2000

SEC. 1. SHORT TITLE AND TABLE OF CONTENTS. The Act is entitled the Commodity Futures Modernization Act of 2000

SEC. 2. PURPOSES. The section lists 8 purposes for the bill including reauthorizing and streamlining the Commodity Exchange Act (CEA); eliminating unnecessary regulation for the futures exchanges; clarifying the jurisdiction of the CFTC over certain retail foreign currency transactions; transforming the role of the Commodities Futures Trading Commission (CFTC); providing a legislative and regulatory framework for the trading of futures on securities; promoting innovation and reducing systemic risk for futures and over-the-counter (OTC) derivatives; allowing clearing of OTC derivatives and enhancing the competitive position of the U.S. financial institutions and markets.

SEC. 3. DEFINITIONS. Adds definitions to section 1(a) of the CEA for the following terms: derivatives clearing organizations; designated future on a security; electronic trading facility; eligible contract participant; energy commodity; exclusion-eligible commodity; exempted security; financial commodity; financial institution, hybrid instrument; national securities exchange; option organized exchange; registered entity; security and trading facility.

SEC. 4. AGREEMENTS, CONTRACTS, AND TRANSACTIONS IN FOREIGN CURRENCY, GOVERNMENT SECURITIES AND CERTAIN OTHER COMMODITIES. Strikes 2(a)(1)(A)(ii) (the current law Treasury Amendment) and replaces it with a new subsection 2(c), which states that nothing in the CEA applies to transactions in foreign currency, government securities and other similar instruments unless these instruments are futures traded on an organized exchange. The bill defines ''organized exchange'' as a trading facility that either allows retail customers, permits agency trades, or has a self regulatory role. Subparagraph (2)(B) provides the CFTC with jurisdiction over retail foreign currency transactions that are not traded on an organized exchange and that are not regulated by another federal regulator.

SEC. 5. LEGAL CERTAINTY FOR OVER-THE-COUNTER TRANSACTIONS. Amends section 2 of the CEA to create a new subsection 2(d), which provides two exclusions from the CEA for over-the-counter derivatives. Section 2(d)(1) provides that nothing in the CEA applies to transactions in an exclusive-eligible commodity if the transaction: (1) is between eligible contract participants (large, institutional entities) and (2) is not executed on a trading facility. The second exclusion in paragraph (d)(2) provides that nothing in the CEA shall apply to a transaction in exclusion-eligible commodity if the transaction: (1) is entered into on a principal to principal basis between parties trading for their own accounts; (2) is between eligible contract participants (large, institutional entities) and (3) is executed on an electronic trading facility. Paragraph (d)(3) provides that derivatives on energy commodities (i.e., energy swaps) that have been excluded from the CEA would be subject to anti-manipulation provisions of the CEA.

SEC. 6. EXCLUDED ELECTRONIC TRADING FACILITIES. Amends section 2 of the CEA to create a new subsection 2(e) that provides that trading instruments that are otherwise excluded from the CEA on an electronic trading facility does not subject the transactions to the CEA. Paragraph (c)(2) states that nothing in the DEA shall prohibit a contract market or derivatives transaction execution facility from establishing and operating an excluded electronic trading facility.

SEC. 7. HYBRID INSTRUMENTS. Amends section 2 of the CEA to create a new subsection 2(f) that provides that nothing in the CEA applies to a hybrid instrument that is predominantly a security to mean any hybrid instrument in which (1) the issuer of the instrument receives payment in full of the purchase price at the time the instrument is delivered; (2) the purchaser is not required to make additional payments; (3) the issuer of the instrument is not subject to mark-to-market margining requirements; and (4) the instrument is not marketed as a futures contract. Paragraph (f)(3) clarifies that mark-to-market requirements do not include the obligation of an issuer of a secured debt instrument to increase the amount of collateral for the instrument.

SEC. 8. FUTURES ON SECURITIES. Amends section 2 of the CEA by adding a new subsection 2(g) that repeals the Shad Johnson jurisdictional accord. The new section 2(g)(1) is a savings clause to ensure that excluded OTC equity derivatives remain outside the CEA and the jurisdiction of the CFTC. This paragraph also prohibits the CFTC from designating a board of trade as a contract market in options on securities (as in current law).

Paragraph (2) allows the trading of futures on security indexes on contract markets. Gives the CETC exclusive jurisdiction in regulating these futures. In order for these products to be designated as a contract market, the contracts must be cash settled and must not be susceptible to manipulation (applies to both the price of the contract or the underlying securities (or an option on such securities)).

Paragraph (3) allows the trading of designated futures on securities (defined in the bill as a contract for future delivery on a single non-exempted security, an index based on fewer than 5 non-exempted securities or an index in which a single stock predominates by its value accounting for more than 30 percent of the index's total value). The Act authorizes these products to be traded on designated contract markets and national securities exchanges or associations.

Paragraph (4) provides criteria for contract market designation of these products including: cash settlement; real-time audit trails; insusceptibility to price manipulation (both of the contract and the underlying stock or an option on that stock); eligibility for listing on a national securities exchange; margin requirements; conflict of interest rules; and making information available to the regulators.

Paragraph (5) authorizes the SEC to enforce the securities laws related to insider trading and fraud with respect to designated futures on securities listed on a contract market. This paragraph also requires the SEC and the CFTC, beginning three years from the date of enactment, to jointly compile a report on the implementation of this new authority and, four years after the date of enactment, to submit the report to Congress.

Paragraph (6) authorizes the CFTC to enforce its large trader reporting and other antifraud and antimanipulation authorities for designated futures on securities listed on a national securities exchange. It requires national securities exchanges to provide the CFTC information to enforce these provisions.

Paragraph (7) provides the process for listing a designated future on security on either a futures exchange or national securities exchange.

As in current law, paragraph (8) provides the Federal Reserve with the authority to

set margin and delegate this authority. The paragraph would allow the Federal Reserve to create a three member board consisting of members of the CFTC, SEC and the Federal Reserve to set and maintain margin levels on designated futures on securities.

SEC. 9. PROTECTION OF THE PUBLIC INTEREST. Replaces section 3 of the CEA with a new section listing the responsibilities of the CFTC in protecting the public interest. These include: ensuring the financial integrity of all transactions subject to the Act; protecting market participants from fraud and manipulation; preventing market manipulation and minimizing the risk of systemic failure; and promoting financial innovation and fair competition.

SEC. 10. PROHIBITED TRANSACTIONS. Rewrites the current section 4c for clarity and adds a new provision (sec. 4c(a)(3)(B)) to allow futures commission merchants to trade futures off the floor of a futures exchange as long as the board of trade allows such transactions and the FCMs report, record and clear the transactions in accordance with the rules of the contract market or derivatives trading execution facility.

SEC. 11. DESIGNATION OF BOARDS OF TRADE AS CONTRACT MARKETS. Strikes current law sections 5 and 5a and adds a new section 5 providing for the designation of boards of trade as contract markets. Subsection (b) contains criteria that boards of trade must meet in order to be designated as a contract market. These include establishing and enforcing rules preventing market manipulation; ensuring fair and equitable trading; specifying how the trade execution facility operates—including any electronic matching systems; ensuring the financial integrity of transactions; disciplining members or market participants who violate the rules; allowing for public access to the board of trade rules and enabling the board of trade to obtain information in order to enforce its rules. Existing contract markets are grand fathered in.

The 17 core principles that must be met to maintain designation as a contract market are contained in (d) and provide that the board of trade must: monitor and enforce compliance with the contract market rules; list only contracts that are not susceptible to manipulation; monitor trading to prevent manipulation, price distortion and delivery or settlement disruptions; adopt position limits for speculators; adopt rules to provide for the exercise of emergency authority, including the authority to liquidate or transfer open positions, suspend trading and make margin calls; make available the terms and conditions of the contracts and the mechanisms for executing transactions; publish daily information on prices, bids, offers, volume, open interest, and opening and closing ranges; provide a competitive, open and efficient market and mechanism for executing transactions; provide for the safe storage of all trade information in a readily usable manner to assist in fraud prevention; provide for the financial integrity of the contracts, the futures commission merchants and customer funds; protect market participants from abusive practices; provide for alternative dispute resolutions for market participants and intermediaries; establish and enforce rules regarding fitness standards for those involved in market governance; ensure that the governing board reflects the composition of the market participants (in the case of mutually owned exchanges); maintain records and make them available at any time for inspection by the Attorney General; and avoid taking any action that restrains trade or imposes anticompetitive burdens on the markets.

SEC. 12. DERIVATIVES TRANSACTION EXECUTION FACILITIES. Amends the CEA by adding a new section 5a authorizing a new trading designation, derivatives transaction execution facility (DTEF). Under (b), a board of trade may elect to operate as a DTEF rather than a contract market if they meet the DTEF designation requirements. A registered DTEF may trade any non-designated futures contract if the commodity underlying the contract has a nearly inexhaustible supply, is not susceptible to manipulation and does not have a cash market in commercial practice. Eligible DTEF traders include authorized contract market participants and persons trading through registered futures commission merchants with capital of at least $20,000,000 that are members of a futures self-regulatory organization (SRO) and a clearing organization. Boards of trade that have been designated as contract markets may operate as DTEFs if they provide a separate location for DTEF trading or, in the case of an electronic system, identify whether the trading is on a DTEF or contract market.

Subsection (c) provides requirements for boards of trade that wish to register as DTEFs, including: establishing and enforcing trading rules that will deter abuses and provide market participants impartial access to the markets and capture information that may be used in rule enforcement; define trading procedures to be used; and provide for the financial integrity of DTEF transactions.

To maintain registration as a DTEF, the board of trade must comply with 8 core principles listed in (d): maintain and enforce rules; ensure orderly trading and provide trading information to the CFTC; publicly disclose information regarding contract terms, trading practices, and financial integrity protections; provide information on prices, bids and offers to market participants as well as daily information in volume and open interest for the actively traded contracts; establish and enforce rules regarding fitness standards for those involved in DTEF governance; maintain records and make them available at any time for inspection by the Attorney General; and avoid taking any action that restrains trade or imposes anticompetitive burdens on the markets.

Subsection (e) allows a broker-dealer or a bank in good standing to act as an intermediary on behalf of its customers and to receive customer funds serving as margin or security for the customer's transactions. If the broker-dealer holds the DTEF customer funds or accounts for more than 1 business day, the broker-dealer must be a registered FCM and a member of a registered futures association. The CFTC and SEC are to coordinate in adopting rules to implement this subsection.

Under (f), the CFTC may adopt regulations to allow FCMs to give their customers the right to not segregate customer funds for purposes of trading on the DTEF.

Subsection (g) clarifies that a DTEF may trade derivatives that otherwise would be excluded from the CEA and the CFTC has exclusive jurisdiction only when these instruments are traded on a DTEF.

SEC. 13. DERIVATIVES CLEARING ORGANIZATIONS. Amends the CEA to create a new section 5b regarding derivatives clearing organizations. Under subsection (a), these clearing entities, which are allowed to clear derivatives (that are not a security), must register with the CFTC and meet a set of 14 core principals set out in subsection (d), including principals on financial resources of the clearing facility, participant eligibility, risk management systems, settlement procedures, treatment of client funds, default rules, rule enforcement, system safeguards, reporting, record keeping, public information disclosure, information sharing, and minimizing competitive restraints.

Under subsection (b), a derivatives clearing organization will not have to register with the CFTC if it is registered with another federal financial regulator and it does not clear futures. Under subsection (c), a derivatives clearing organization that is exempt from registration may opt to register with the CFTC. Subsection (e) provides that existing clearing entities that clear futures contracts on a designated contract market will be grand fathered in as a derivatives clearing organization.

SEC. 14. COMMON PROVISIONS APPLICABLE TO REGISTERED ENTITIES. Amends the CEA to create a new section 5c that contains provisions affecting all registered entities (contract markets, derivatives transaction execution facilities and derivatives clearing organizations).

Subsection (a) would allow the CFTC to issue or approve interpretations to describe what would constitute an acceptable business practice under the core principals for registered entities.

Subsection (b) would allow a registered entity to delegate its self regulatory functions to a registered futures association, while specifying that responsibility for carrying out these functions remain with the registered entity.

Subsection (c) would enable the registered entity to trade new products or adopt or amend rules by providing the CFTC a written certification that the new contract or new rule or amendment complies with the CEA. This subsection would allow a registered entity to request that the CFTC grant prior approval of a new contract, new rule or rule amendment. This subsection would require the CFTC to pre-approve rule changes to open agricultural contracts.

Subsection (d) grants the CFTC the authority to informally resolve potential violations of the core principals for registered entities.

SEC. 15. EXEMPT BOARDS OF TRADE. Amends the CEA to create a new section 5d regarding exempt boards of trade. Under subsections (a) and (b), futures contracts traded on an exempt board of trade would be exempt from the CEA (except section 2(g) regarding equity futures) if (1) participants are eligible contract participants (large institutional investors) and (2) the commodity underlying the futures contract has an inexhaustible deliverable supply, is not subject to manipulation, or has no cash market. Subsection (c) subjects futures contracts traded on an exempt board of trade to the anti-fraud and anti-manipulation provisions of the CEA. Under subsection (d), if the CFTC finds that an exempt board of trade is a significant source of price discovery for the underlying commodity, the board of trade shall disseminate publicly on a daily basis trading volume, opening and closing price ranges, open interest, and other trading data as appropriate to the market.

SEC. 16. SUSPENSION OR REVOCATION OF DESIGNATION AS CONTRACT MARKET. Designates current section 5b as 5d and amends it to authorize the CFTC to suspend the registration of a registered entity for 180 days for any violation of the CEA.

SEC. 17. AUTHORIZATION OF APPROPRIATIONS. Amends section 12(d) of the CEA by striking 2000 and reauthorizing appropriations through fiscal year 2005.

SEC. 18. PREEMPTION. Rewrites paragraph 12(e)(2) of the CEA for clarity and to conform with changes made in the bill. Re-states the current provisions that the CEA supercedes and preempts other laws in the case of transactions conducted on a registered entity or subject to regulation by the CFTC (even if outside the United States), and adds that in the case of excluded electronic trading facilities, and any agreements, contracts or transactions that are excluded or covered by a 4(c)

exemption, the CEA supercedes and preempts state gaming and bucket shop laws (except for the anti-fraud provisions of those laws that are generally applicable).

SEC. 19. PREDISPUTE RESOLUTION AGREEMENTS FOR INSTITUTIONAL CUSTOMERS. Amends section 14 of the CEA to clarify that futures commission merchants, as a condition of doing business, may require customers, that are eligible contract participants, to waive their right to file a reparations claim with the CFTC.

SEC. 20. CONSIDERATION OF COSTS AND BENEFITS AND ANTITRUST LAWS. Amends section 15 of the CEA to add a new subsection (a) requiring the CFTC, before promulgating regulations and issuing orders, to consider the costs and benefits of their action. This does not apply to orders associated with an adjudicatory or investigative process, emergency actions or findings of fact regarding compliance with CFTC rules.

SEC. 21. CONTRACT ENFORCEMENT BETWEEN ELIGIBLE COUNTERPARTIES. Amends section 22 of the CEA to provide a safe harbor so that transactions will not be voidable based solely on the failure of the transaction to comply with the terms or conditions of an exclusion or exemption from the Act or CFTC regulations.

SEC. 22. LEGAL CERTAINTY FOR SWAPS. Provides that the SEC does not have jurisdiction over swap agreements. Places a one year moratorium on banks being able to market swaps to the retail public. Requests the President's Working Group to conduct a study on the regulatory treatment of swaps offered to retail customers.

SEC. 23. TECHNICAL AND CONFORMING AMENDMENTS. Makes technical and conforming amendments throughout the CEA to reflect changes made by the bill.

SEC. 24. EFFECTIVE DATE. The Act takes effect on the date of enactment, except section 8 (dealing with futures on securities), which takes effect one year after enactment.●

Mr. GRAMM. Mr. President, today I join with Senator LUGAR, chairman of the Senate Agriculture Committee, to introduce the Commodity Futures Modernization Act of 2000. The formal purpose of this legislation is to reauthorize the Commodity Exchange Act, the legal authority for the Commodity Futures Trading Commission. As important as that is, this legislation does far more.

This is a landmark bill, that addresses four chief goals that Senator LUGAR and I set out to achieve when we first began discussing this legislation. First of all, this bill would repeal the so-called Shad-Johnson Accord, the 18-year-old temporary prohibition on the trading of futures based on individual stocks. Second, the bill eliminates the legal uncertainly that today hangs as an ominous cloud over the $7 trillion financial swaps markets. Third, the bill addresses the need to harmonize the treatment of margins among the futures, stock, and options markets. Fourth, the bill provides important and necessary regulatory relief to the futures and securities markets.

One of the most notable aspects of this bill is that it brings together the chairmen of the two committees with jurisdiction over these issues, the Agriculture Committee and the Banking Committee. To start out with such cooperation speaks well, I believe, for the prospects for this legislation. While the Commodity Exchange Act is clearly within the jurisdiction of the Agriculture Committee, stocks, options, and swaps are within the jurisdiction of the Banking Committee.

The next step for this bill will be joint hearings of our two committees to consider it. Few bills are in a perfected form when first introduced, and I fully expect that additional changes will be made to this one before it becomes law. For example, I hope to see additional measures of regulatory relief for the securities markets included.

But this bill is a fine beginning, introduced in the best way. We bring together two committees that could choose to argue over turf but instead are choosing to cooperate to make changes in law that are needed to ensure that our financial market places continue to lead the world. At the same time, we will be providing the widest choice of investment opportunities for American businesses and families.

By Mr. MOYNIHAN (for himself, Mr. KERRY, Mr. ROCKEFELLER, Ms. SNOWE, Mr. ALLARD, Mr. BAUCUS, Mr. BREAUX, Mr. BROWNBACK, Mr. BRYAN, Mr. BUNNING, Mr. BURNS, Mr. DASCHLE, Mr. HOLLINGS, Mr. HUTCHINSON, Mr. JOHNSON, Mr. KENNEDY, Mr. KERREY, Ms. LANDRIEU, Mrs. LINCOLN, Ms. MIKULSKI, Mr. REID, Mr. ROBB, Mr. ROBERTS, Mr. SCHUMER, Mr. THURMOND, Mr. ENZI, Mrs. BOXER, and Mr. DEWINE):

S. 2698. A bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability; to the Committee on Finance.

BROADBAND INTERNET ACCESS ACT OF 2000

Mr. MOYNIHAN. Mr. President, today, joined by my colleagues Senators KERRY, ROCKEFELLER, SNOWE, ALLARD, BAUCUS, BREAUX, BROWNBACK, BRYAN, BUNNING, BURNS, DASCHLE, DURBIN, ENZI, HOLLINGS, HUTCHINSON, JOHNSON, KENNEDY, KERREY, LANDRIEU, LINCOLN, MIKULSKI, REID, ROBB, ROBERTS, SCHUMER, and THURMOND, I am introducing the Broadband Internet Access Act of 2000. This legislation provides a tax incentive to stimulate rapid deployment of high-speed communication services to residential, rural, and low-income areas.

A term of art often used for high-speed communication service is ''broadband.'' The term is a remnant from the era of analog systems. It refers to the size of spectral bandwidth over which signals can be transmitted. Even though it is not essential to have wide spectra in the digital world to transmit vast amounts of data, ''broadband'' remains in our digital society's lexicon for high-speed communication or throughput.

In common use, broadband connotes fast Internet access, and that is certainly part of the goal of this legislation. The grander goal, however, extends beyond simply expediting traditional Internet use. It is to deliver, in the near future, a wide array of voice, video, and data communication services, at extremely fast speeds, to all Americans.

The Broadband Internet Access Act of 2000 provides graduated tax credits for deployment of high-speed communications to residential and rural communities. It gives a 10-percent credit for the deployment of at least 1.5 million bits per second downstream and 200,000 bits per second upstream to all subscribers—residential, business, and institutions—in rural and low income areas. This is essentially ''current generation'' broadband. The bill gives a 20-percent credit for the deployment of at least 22 million bits per second downstream and 10 million bits per second upstream to all subscribers in rural and low income areas, and to all residential customers in other areas. This is what we are calling ''next generation'' broadband.

The bill does not dictate the technological means by which these broadband services are to be delivered. Today, the possibilities include telephone lines, cable modems, fiber optics, terrestrial wireless, and satellite wireless. In the future there may be others. Whether high-speed communications are delivered by electrons or by photons, with wires or without wires, by copper or by glass, by terrestrial or by extraterrestrial means, is immaterial. With a temporary tax credit, it is economically feasible to push national communication capabilities forward by ten or perhaps twenty years. The bill permits a variety of technological approaches to make under-served areas more economically attractive to broadband providers. Yesterday we had electronics. Today we have photonics. Tomorrow we will have some ''future-onics.''

Mr. President, as I stand before you today, the streets of Washington, D.C. and of many other major cities in this country are being torn-up to lay cables for high-speed communication. Line-of-sight communication ''dishes'' are being installed on office buildings permitting business-to-business voice, video, and data transmissions. The problem is, market forces are driving deployment of high-speed communication capabilities almost exclusively to urban businesses and wealthy households. Low-income families, exurban communities, rural businesses, and rural families are relegated to the back of the queue. The bill gives private industry economic incentives to accelerate high-speed communication capabilities to Americans who are at the end-of-the-line.

Why is this important? Let me offer examples of this technology's power and importance. I start with two historical cases.

During the 1950's the National Institute of Mental Health funded a 1,278-

mile closed-circuit telephone system between seven state hospitals in Nebraska, Iowa, North Dakota, and South Dakota. Health care providers at the hospitals held weekly teleconferencing lectures via this system. By 1961, the system included both audio and video, and psychiatrists successfully used it to care for patients under a program called ''telepsychiatry.''

At about the same time, radiologists in Montreal had a coaxial cable laid between two hospitals three miles apart, thus connecting them for audio and video communications. Doctors were regularly transmitting radiographic images to each other to consult on difficult cases and to conduct educational conferences.

As a result of these two projects, patients were treated by physicians who were, in some cases, hundreds of miles away. The medical profession was able to share information and ideas, which improved healthcare in this country and Canada.

Unfortunately, such ''telemedicine'' links are very few, even though our ability to transmit data has increased. Why? Because there is no nationwide high-speed data-transfer infrastructure. Instead, the standard business Internet speed in rural areas is 56,000 bits per second. What can be done at that speed? Printed matter can be sent and received reasonably quickly. But photographs or graphics, require long waits, and then often with poor image quality. More advanced uses, such as video conferencing, are out of the question. At faster Internet speeds of, say, 200,000 to 300,000 bits per second, information can be sent much faster. Photographs and graphics leap to the screen, instead of crawling. Video conferencing also is possible, although jittery images and low image resolution make it impractical. Music and movies can be downloaded slowly to a compact disk.

At higher data transfer speeds—about 1.5 million bits per second—the amount and quality of information that can be transmitted becomes quite good. Very good video conferencing is possible. Two or more people in different places can see and talk to each other as if in the same room, at a crisp image resolution and without image jitter.

And at even higher speeds, extraordinarily rich images of movement, color, and detail can be transmitted as if one were looking at them in person. Complex medical images can be sent and received. At twenty million bits per second, a digitized mammography image can be transmitted in about fifteen seconds, and a standard chest x-ray in about four seconds.

Twenty million bits per second is about 360 times faster than the fastest speeds available on a conventional modem attached to a Plain Old Telephone Service, or, as I am told, POTS. Is it really possible to do this? Indeed, it is. The technology exists now. Over ordinary copper wire, some of our communication companies are now offering data speeds of 26 million bits per second.

Imagine the tremendous personal and economic benefits our nation will reap with universal high-speed communication access, including telemedicine; telecommuting; distance learning at all education levels; electronic commerce in low-income and rural communities; digital photography; and entertainment video. As a result, we will enjoy greater educational opportunities, greater geographic freedom, increased wealth in low-income areas, and even decreased urban congestion.

So if the benefits are so great and the capability exists, why are these technologies not widely available? Simple economics. It is much more lucrative to provide services to business customers. Although a few affluent individuals in urban areas have high speed Internet access, the great majority of Americans are limited to extremely slow communication or to none at all.

That is why it is appropriate for government to step in at this time and provide an incentive to stimulate deployment of high-speed communication service to residential areas and small businesses, especially in rural and low-income areas of the country. Our country has a proud history of supporting critical services in rural and underserved communities.

Three major examples are utilities, interstate highways, and the airline industries.

The Rural Utilities Service is a federal credit agency within the Department of Agriculture that helps rural areas finance electric, telecommunications, water, and waste water projects. Its lending creates public-private partnerships to finance the construction of infrastructure in rural areas. Working in partnership with rural telephone cooperatives and companies, the Department of Agriculture helped boost the number of rural Americans with telephone service from 38 percent in 1950 to more than 95 percent in 1999.

The federal government funded 90 to 100 percent of the cost of building the interstate highway system. The Federal Aid Highway Act of 1956 initiated a nationwide program that aimed to be completed within 20 years. The bulk of the program was completed within this time period, although full implementation was not achieved until the early 1990s.

In the 1930s, the airline industry—much like today's Internet start-ups—was operating at a loss. Believing airline service to be both unique and necessary, the federal government stepped-in with an airmail subsidy in 1938, and this federal funding made the industry instantly profitable. The airline industry then flourished, and the subsidy was removed in the mid 1950s.

In a 1979 speech titled, ''Technology and Human Freedom,'' I stated, ''I believe that government can and should seek to advance technology—as a condition of social progress.'' I still believe that. In 1979, I went on to say, ''In my view, only a person of what St. Augustine would have termed 'indomitable ignorance' could deny that technology has greatly enhanced human freedom. . . . Freedom is choice, and technology vastly enhances choice. . . . The relation between technology and democracy is intimate. . . . Experimentation, variety, optimism: these are the ingredients of both technology and democracy.''

In 1978, the late Mancur Olson, an esteemed economist, cautioned that the very liberty of societies such as ours may be the source of developments that make innovation considerably more difficult. We should guard against the prospect of our government retarding technology as Professor Olson hypothesized. The bill I introduce today encourages technology, and extends its range to those residential and business areas it otherwise would not reach until much later.

We need this legislation now to maintain our technological leadership. As the press has recently reported, Sweden, Japan, Singapore, and Canada are deploying broadband at levels higher than those called for in this bill. We cannot afford to fall behind in this critical area. History indicates that, if we do not act aggressively, it will take a very long time to deploy broadband services on a widespread basis. The first regular, sustained commercial telephone services were offered in 1876, but it took more than 90 years to make the service available to 90 percent of residences in the United States. It would be deplorable if it takes even half as long to bring existing broadband technology to the same number of Americans.

If the Internet is the information superhighway, broadband communication is the information super sonic transport. I want to encourage the communications industry to accelerate deployment of the this super sonic transport to every community in the country.

I want to thank my colleagues for their support and collaboration on this bill. Senator JOHN KERRY and his staff have been involved in every aspect of this legislation, and we could not have formulated the bill without their detailed knowledge of the communications industry. And Senators ROCKEFELLER and SNOWE recently introduced a similar bill focusing on the deployment of broadband in rural areas, and the legislation we introduce today incorporates and expands upon their work.

This bill is meant to be a proposal. As we consider this measure, Congress may decide to modify it. Moreover, we have not yet received a revenue estimate on the bill, and if it proves to be too expensive, we will have to scale it back. It is time, however, to focus on this issue. Let us begin the discussion of how we can provide the stimulus necessary to ensure the availability of high-speed communication to every

American. I urge the Senate to support this important legislation.

Mr. President, I ask unanimous consent that a copy of the bill and letters of support from a number of organizations appear in the RECORD.●

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

S. 2698

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Broadband Internet Access Act of 2000''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The Internet has been the single greatest contributor to the unprecedented economic expansion experienced by the United States over the last 8 years.

(2) Increasing the speed that Americans can access the Internet is necessary to ensure the continued expansion.

(3) Today, most residential Internet users, especially those located in low income and rural areas, are extremely limited in the type of information they can send and receive over the Internet because their means of access is limited to ''narrowband'' communications media, typically conventional phone lines at a maximum speed of 56,000 bits per second.

(4) Similarly, small businesses in low income and rural areas are also deprived of full information access because of their dependence on narrowband facilities.

(5) By contrast, many residential users located in higher income urban and suburban areas and urban business users can access the Internet from a variety of carriers at current generation broadband speeds in excess of 1,500,000 bits per second, giving them a choice among carriers and high-speed access to a wide array of audio and data applications.

(6) The result is a growing disparity in the speed of access to the Internet and the opportunities it creates between subscribers located in low income and rural areas and subscribers located in higher income urban and suburban areas.

(7) At the same time, experts project that, under current financial and regulatory conditions, the facilities needed to transmit next generation broadband services over the Internet to residential users at speeds in excess of 10,000,000 bits per second will not be as ubiquitously available as is telephone service until sometime between the years 2030 and 2040.

(8) Experts also believe that, under current financial and regulatory conditions, the disparity in access will be exacerbated with the deployment of next generation broadband capability.

(9) The disparity in current broadband access to the Internet, the slow pace of deployment of next generation broadband capability, and the projected disparity in access to such capability will likely prove detrimental to the on-going economic expansion.

(10) It is, therefore, appropriate for Congress to take action to narrow the current and future disparity in the level of broadband access to the Internet, and to accelerate deployment of next generation broadband capability.

(b) PURPOSE.—The purpose of this Act is to accelerate deployment of current generation broadband access to the Internet for users located in certain low income and rural areas and to accelerate deployment of next generation broadband access for all Americans.

SEC. 3. BROADBAND CREDIT.

(a) IN GENERAL.—Subpart E of part IV of chapter 1 of the Internal Revenue Code of 1986 (relating to rules for computing investment credit) is amended by inserting after section 48 the following new section:

''SEC. 48A. BROADBAND CREDIT.

''(a) GENERAL RULE.—For purposes of section 46, the broadband credit for any taxable year is the sum of—

''(1) the current generation broadband credit, plus

''(2) the next generation broadband credit.

''(b) CURRENT GENERATION BROADBAND CREDIT; NEXT GENERATION BROADBAND CREDIT.—For purposes of this section—

''(1) CURRENT GENERATION BROADBAND CREDIT.—The current generation broadband credit for any taxable year is equal to 10 percent of the qualified expenditures incurred with respect to qualified equipment offering current generation broadband services to rural subscribers or underserved subscribers and taken into account with respect to such taxable year.

''(2) NEXT GENERATION BROADBAND CREDIT.—The next generation broadband credit for any taxable year is equal to 20 percent of the qualified expenditures incurred with respect to qualified equipment offering next generation broadband services to all rural subscribers, all underserved subscribers, or any other residential subscribers and taken into account with respect to such taxable year.

''(c) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—For purposes of this section—

''(1) IN GENERAL.—Qualified expenditures with respect to qualified equipment shall be taken into account with respect to the first taxable year in which current generation broadband services or next generation broadband services are offered by the taxpayer through such equipment to subscribers.

''(2) OFFER OF SERVICES.—For purposes of paragraph (1), the offer of current generation broadband services or next generation broadband services through qualified equipment occurs when such class of service is purchased by and provided to at least 10 percent of the subscribers described in subsection (b) which such equipment is capable of serving through the legal or contractual area access rights or obligations of the taxpayer.

''(d) SPECIAL ALLOCATION RULES.—

''(1) CURRENT GENERATION BROADBAND SERVICES.—For purposes of determining the current generation broadband credit under subsection (a)(1), if the qualified equipment is capable of serving both the subscribers described under subsection (b)(1) and other subscribers, the qualified expenditures shall be multiplied by a fraction—

''(A) the numerator of which is the sum of the total potential subscriber populations within the rural areas and the underserved areas which the equipment is capable of serving, and

''(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving.

''(2) NEXT GENERATION BROADBAND SERVICES.—For purposes of determining the next generation broadband credit under subsection (a)(2), if the qualified equipment is capable of serving both the subscribers described under subsection (b)(2) and other subscribers, the qualified expenditures shall be multiplied by a fraction—

''(A) the numerator of which is the sum of—

''(i) the total potential subscriber populations within the rural areas and underserved areas, plus

''(ii) the total potential subscriber population of the area consisting only of residential subscribers not described in clause (i), which the equipment is capable of serving, and

''(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving.

''(e) DEFINITIONS.—For purposes of this section—

''(1) ANTENNA.—The term 'antenna' means any device used to transmit or receive signals through the electromagnetic spectrum, including satellite equipment.

''(2) CABLE OPERATOR.—The term 'cable operator' has the meaning given such term by section 602(5) of the Communications Act of 1934 (47 U.S.C. 522(5)).

''(3) COMMERCIAL MOBILE SERVICE CARRIER.—The term 'commercial mobile service carrier' means any person authorized to provide commercial mobile radio service as defined in section 20.3 of title 47, Code of Federal Regulations.

''(4) CURRENT GENERATION BROADBAND SERVICE.—The term 'current generation broadband service' means the transmission of signals at a rate of at least 1,500,000 bits per second to the subscriber and at least 200,000 bits per second from the subscriber.

''(5) NEXT GENERATION BROADBAND SERVICE.—The term 'next generation broadband service' means the transmission of signals at a rate of at least 22,000,000 bits per second to the subscriber and at least 10,000,000 bits per second from the subscriber.

''(6) NONRESIDENTIAL SUBSCRIBER.—The term 'nonresidential subscriber' means a person or entity who purchases broadband services which are delivered to the permanent place of business of such person or entity.

''(7) OPEN VIDEO SYSTEM OPERATOR.—The term 'open video system operator' means any person authorized to provide service under section 653 of the Communications Act of 1934 (47 U.S.C. 573).

''(8) OTHER WIRELESS CARRIER.—The term 'other wireless carrier' means any person (other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video system operator, or satellite carrier) providing current generation broadband services or next generation broadband service to subscribers through the radio transmission of energy.

''(9) PACKET SWITCHING.—The term 'packet switching' means controlling or routing the path of a digitized transmission signal which is assembled into packets or cells.

''(10) QUALIFIED EQUIPMENT.—

''(A) IN GENERAL.—The term 'qualified equipment' means equipment capable of providing current generation broadband services or next generation broadband services at any time to each subscriber who is utilizing such services.

''(B) ONLY CERTAIN INVESTMENT TAKEN INTO ACCOUNT.—Except as provided in subparagraph (C), equipment shall be taken into account under subparagraph (A) only to the extent it—

''(i) extends from the last point of switching to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a telecommunications carrier,

''(ii) extends from the customer side of the mobile telephone switching office to a transmission/receive antenna (including such antenna) on the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a commercial mobile service carrier,

''(iii) extends from the customer side of the headend to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a cable operator or open video system operator, or

''(iv) extends from a transmission/receive antenna (including such antenna) which transmits and receives signals to or from

multiple subscribers to a transmission/receive antenna (including such antenna) on the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a satellite carrier or other wireless carrier, unless such other wireless carrier is also a telecommunications carrier.

''(C) PACKET SWITCHING EQUIPMENT.—Packet switching equipment, regardless of location, shall be taken into account under subparagraph (A) only if it is deployed in connection with equipment described in subparagraph (B) and it is uniquely designed to perform the function of packet switching for current generation broadband services or next generation broadband services, but only if such packet switching is the last in a series of such functions performed in the transmission of a signal to a subscriber or the first in a series of such functions performed in the transmission of a signal from a subscriber.

''(11) QUALIFIED EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified expenditure' means any amount chargeable to capital account with respect to the purchase and installation of qualified equipment (including any upgrades thereto) for which depreciation is allowable under section 168.

''(B) CERTAIN SATELLITE EXPENDITURES EXCLUDED.—Such term shall not include any expenditure with respect to the launching of any satellite equipment.

''(12) RESIDENTIAL SUBSCRIBER.—The term 'residential subscriber' means an individual who purchases broadband services which are delivered to such individual's dwelling.

''(13) RURAL SUBSCRIBER.—

''(A) IN GENERAL.—The term 'rural subscriber' means a residential subscriber residing in a dwelling located in a rural area or nonresidential subscriber maintaining a permanent place of business located in a rural area.

''(B) RURAL AREA.—The term 'rural area' means any census tract which—

''(i) is not within 10 miles of any incorporated or census designated place containing more than 25,000 people, and

''(ii) is not within a county or county equivalent which has an overall population density of more than 500 people per square mile of land.

''(14) SATELLITE CARRIER.—The term 'satellite carrier' means any person using the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operating in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of such Code to establish and operate a channel of communications for point-to-multipoint distribution of signals, and owning or leasing a capacity or service on a satellite in order to provide such point-to-multipoint distribution.

''(15) SUBSCRIBER.—The term 'subscriber' means a person who purchases current generation broadband services or next generation broadband services.

''(16) TELECOMMUNICATIONS CARRIER.—The term 'telecommunications carrier' has the meaning given such term by section 3(44) of the Communications Act of 1934 (47 U.S.C. 153 (44)), but—

''(A) includes all members of an affiliated group of which a telecommunications carrier is a member, and

''(B) does not include a commercial mobile service carrier.

''(17) TOTAL POTENTIAL SUBSCRIBER POPULATION.—The term 'total potential subscriber population' means, with respect to any area and based on the most recent census data, the total number of potential residential subscribers residing in dwellings located in such area and potential nonresidential subscribers maintaining permanent places of business located in such area.

''(18) UNDERSERVED SUBSCRIBER.—

''(A) IN GENERAL.—The term 'underserved subscriber' means a residential subscriber residing in a dwelling located in an underserved area or nonresidential subscriber maintaining a permanent place of business located in an underserved area.

''(B) UNDERSERVED AREA.—The term 'underserved area' means any census tract—

''(i) the poverty level of which is at least 30 percent (based on the most recent census data),

''(ii) the median family income of which does not exceed—

''(I) in the case of a census tract located in a metropolitan statistical area, 70 percent of the greater of the metropolitan area median family income or the statewide median family income, and

''(II) in the case of a census tract located in a nonmetropolitan statistical area, 70 percent of the nonmetropolitan statewide median family income, or

''(iii) which is located in an empowerment zone or enterprise community designated under section 1391.

''(f) DESIGNATION OF CENSUS TRACTS.—The Secretary shall, not later than 90 days after the date of the enactment of this section, designate and publish those census tracts meeting the criteria described in paragraphs (13)(B) and (18)(B) of subsection (e), and such tracts shall remain so designated for the period ending with the termination date described in subsection (g).

''(g) TERMINATION.—This section shall not apply to expenditures incurred after December 31, 2005.''

(b) CREDIT TO BE PART OF INVESTMENT CREDIT.—Section 46 of the Internal Revenue Code of 1986 (relating to the amount of investment credit) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end the following new paragraph:

''(4) the broadband credit.''

(c) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—Section 501(c)(12)(B) of the Internal Revenue Code of 1986 (relating to list of exempt organizations) is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', or'', and by adding at the end the following new clause:

''(v) from sources not described in subparagraph (A), but only to the extent such income does not in any year exceed an amount equal to the credit for qualified expenditures which would be determined under section 48A for such year if the mutual or cooperative telephone company was not exempt from taxation.''

(d) CONFORMING AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 48 the following new item:

''Sec. 48A. Broadband credit.''

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to expenditures incurred after December 31, 2000.

(2) SPECIAL RULE.—The amendments made by subsection (c) shall apply to amounts received after December 31, 2000.

SEC. 4. REGULATORY MATTERS.

No Federal or State agency or instrumentality shall adopt regulations or ratemaking procedures that would have the effect of confiscating any credit or portion thereof allowed under section 48A of the Internal Revenue Code of 1986 (as added by section 3) or otherwise subverting the purpose of this Act.

SEC. 5. STUDY AND REPORT.

(a) SENSE OF CONGRESS.—It is the sense of Congress that in order to maintain competitive neutrality, the credit allowed under section 48A of the Internal Revenue Code of 1986 (as added by section 3) should be administered in such a manner so as to ensure that each class of carrier receives the same level of financial incentive to deploy current generation broadband services and next generation broadband services.

(b) STUDY AND REPORT.—The Secretary of the Treasury shall, within 180 days after the effective date of section 3, study the impact of the credit allowed under section 48A of the Internal Revenue Code of 1986 (as added by section 3) on the relative competitiveness of potential classes of carriers of current generation broadband services and next generation broadband services, and shall report to Congress the findings of such study, together with any legislative or regulatory proposals determined to be necessary to ensure that the purposes of such credit can be furthered without impacting competitive neutrality among such classes of carriers.

MCI WORLDCOM,
Washington, DC, June 8, 2000.

Hon. DANIEL PATRICK MOYNIHAN,
Senate Finance Committee,
Washington, DC.

DEAR SENATOR MOYNIHAN: Thank you for your leadership in advancing the deployment of broadband technology to rural and underserved areas of the country. WorldCom, a leading Internet backbone provider, believes broadband technology will improve the quality of life for millions of Americans and assist in maintaining this country's leadership in the worldwide information technology marketplace. Your support of our efforts to modernize communications infrastructure dates at least to the Tax Reform Act of 1986, when you supported legislation designed to enhance advanced telecommunications investment.

Electronic commerce and its Internet medium is a thriving environment. More jobs, more gross domestic product, and more wealth have been created by the Internet than any other single innovation in recent memory. Electronic commerce continues to grow apace, creating increased need for continuing development and deployment of communications technology.

Your proposal, Senator Moynihan, is designed to support that deployment and development at an advanced level. It is designed not only to accelerate deployment of existing technology, but also to encourage development and deployment of next generation broadband technologies as well. Acceleration is important. Persons needing distance education cannot wait while job opportunities pass them by; businesses facing competitive pressure cannot wait to engage in the latest Internet based inventory planning; rural residents with a great idea for a new dot.com need high speed connectivity now; and persons suffering from serious disease far from the right medical experts cannot wait for a telemedicine connection.

WorldCom appreciates your effort to support this critical technology and supports your efforts through the Broadband Internet Access Act of 2000. While we would like to see a proposal broader than the ''last mile'', your bill initiates this all-important process.

Sincerely,

CATHERINE R. SLOAN,
Chief Legislative Counsel.

BELL ATLANTIC,
Washington, DC, June 5, 2000.

Re: Broadband Internet Access Act of 2000

Hon. DANIEL PATRICK MOYNIHAN,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR MOYNIHAN: Congratulations on your leadership in developing and introducing the ''Broadband Internet Access Act of 2000.'' I am writing to provide you with Bell Atlantic's support and views regarding this important tax legislation.

As you know, Bell Atlantic is a leader in the deployment of broadband capability, particularly in the state of New York. As such, we are extremely familiar with the regulatory and financial hurdles associated with deploying broadband to all our business and residential customers. We believe that rapid deployment of this capability will provide the basis for sustained long-run economic growth in the economy. Our experience with the Internet has taught us that the convergence of communications and computing yields tremendous benefits for the economy in terms of productivity growth.

Unfortunately, other carriers and we face tremendous government hurdles as we roll out this capability. These hurdles arise from the unintended adverse effects of regulation on investment that, in turn, increase the degree of financial uncertainty associated with such investments. In other words, we face a regulatory problem and a financial problem in deploying broadband capability to our customers. The Broadband Internet Access Act helps to overcome these problems by encouraging Bell Atlantic and other carriers through financial incentives to proceed with these investments. More importantly, the targeted nature of the incentives will help us reach customers in rural areas and low-income areas that are otherwise difficult to serve because of the high cost of deployment and other factors.

The bill does not address the overwhelming regulatory issues, which Bell Atlantic continues to face. We encourage you to support legislation to address these problems as well as the financial issues that are addressed in the Broadband Act.

We encourage you to enact the Broadband Internet Access Act this year. We appreciate your leadership on this important issue.

Sincerely,

THOMAS J. TAUKE,
Senior Vice President—
Government Relations.

NTCA,
Arlington, VA, June 5, 2000.

Re Broadband Internet Access Act of 2000.

Hon. DANIEL PATRICK MOYNIHAN,
Ranking Minority Member, Senate Committee on Finance, Washington, DC.

DEAR SENATOR MOYNIHAN: During the course of the past year, the term ''digital divide'' has quickly become the buzzword of choice among policymakers. Coined ostensibly to describe the absence of communications availability to certain segments of the nation's population, the term has been twisted to imply the issue of communications ''haves'' and ''have-nots'' is merely a rural vs. urban matter.

NTCA has vigorously moved to redirect the discussion to fully recognize the achievements of small rural incumbent local exchange carriers (ILECs) in deploying advanced communications infrastructure and services. The facts bear witness to the success of small rural ILECs in stepping up to what we feel is better described as the ''Digital Challenge.'' Recent surveys show that in many cases, markets served by such entities are more technologically advanced than their larger, urban counterparts. Likewise, they are significantly more advanced than the rural markets served by the nation's large ILECs. Other reports show that urban areas in general are not the ''digital Mecca'' many would have us believe. The reality is that the markets of the nation's small rural ILECs are anything but communications technology wastelands as many are portraying them to be.

Nevertheless, there remains a substantial amount of costly work to be done for all markets to be fully advanced service-capable. For this reason, we commend your effort, vis-a-vis the Broadband Internet Access Act of 2000, to further stimulate deployment of broadband services by granting tax credits to telecommunications providers deploying advanced technologies. Furthermore, we sincerely appreciate your effort to recognize the special circumstances, with regard to tax credits, of the nation's rural telecommunications cooperatives by the inclusion of the Special Rule for Mutual or Cooperative Telephone Companies.

In addition, there are several existing tools such as the universal service support program that, if allowed to function appropriately, could help offset the tremendous costs associated with the deployment of advanced services. We continue to work with several of your colleagues to advance legislation that will ensure the universal service program is allowed to function as the Congress envisioned in helping lead the deployment of new communications technologies and services.

It must be reiterated that small rural ILECs have long led the way in meeting the Digitial Challenge by deploying new technologies—not just to their most profitable customers, but to every individual within their market that wishes to receive service. With your assistance, the rural ILEC industry will continue to maintain its unparalleled record of service.

Sincerely,

SHIRLEY BLOOMFIELD,
Vice President, Government
Affairs & Association Services.

BRISTOL BAY AREA
HEALTH CORPORATION,
Dillingham, AK, May 31, 2000.

Re Broadband Internet Access Act of 2000.

Hon. PATRICK DANIEL MOYNIHAN,
Ranking Minority Member, Committee on Finance, U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: We are writing to indicate our support for your continued effort to pass the Broadband Internet Access Act of 2000. If passed, this legislation could significantly improve access of millions of Americans to the Internet and its valuable resources, including residents of rural Alaska communities.

We provide health care services to 34 remote Alaska communities, most of which can only be reached by small airplane. The availability of affordable advanced telecommunications including telemedicine and improved Internet access would be beneficial in providing health education to villagers; would help reduce feelings of isolation of health care providers, teachers and other professionals; and provide access to health care resources for everyone. It would also provide faster and less expensive access to all communication mediums.

We believe that remote, rural areas such as those that make up a large part of Alaska need and deserve the availability of affordable high-speed Internet services like urban communities currently enjoy. Without this availability, rural communities will continue to be left behind and technologically outdated as the rest of the U.S. moves forward.

Thank you for the opportunity to comment on this important legislation. Please contact me at (907) 842–5201 if I can be of further assistance.

Sincerely,

ROBERT J. CLARK,
President/CEO.

GEORGETOWN UNIVERSITY
MEDICAL CENTER,
May 25, 2000.

Re Broadband Internet Access Act of 2000.

Hon. PATRICK DANIEL MOYNIHAN,
Ranking Minority Member, Committee on Finance, U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: We are writing to encourage you in your effort to pass the Broadband Internet Access Act of 2000. If passed, this important legislation could significantly improve the way millions of Americans gain access to health information and receive health care.

For many years the Imaging Sciences and Information Systems (ISIS) Center at Georgetown University has been a successful innovator of technologies that are used to improve the quality and lower the cost of health care. This contribution, however, accounts for only two-thirds of the receipt for successful health care reform in America. The third element, improved access to health services, has been one of the most challenging, especially to health care providers and consumers in rural America.

Access to quality health care cannot be improved through development of more efficient technologies, alone. We, and with us many of our colleagues throughout America, believe financial incentives are necessary to correct current regulatory and market insufficiencies that inhibit assess to emerging health services that increasingly rely on telecommunications and Internet connectivity to reach consumers. The creation of these incentives is outside the purview of the health sector and that is why we look to you and your Senate colleagues. You can help remedy the economic conditions that contribute to the growing ''digital divide'', that made second class citizens out of underserved people throughout the country.

Specifically, we look to you for a remedy that will improve access and availability of telephone, cable, fiber optic, terrestrial, wireless, and satellite telecommunications services at bandwidth capacities sufficient to carry high resolution images, video and voice over the Internet, increasingly the preferred mode of delivery. We believe your proposed legislation addressed these problems through its 10% tax credit for deployment of ''last-mile'' current generation broadband capability to rural and underserved areas, and its 20% credit for ''next generation'' service.

Therefore we applaud your sponsorship of the Broadband Internet Access Act of 2000. We appreciate your vision and look to you and your colleagues in the Senate to rapidly pass this important legislation so that we can move on to a next generation of health care with improved quality, cost and access.

Thank you for an opportunity to express our support for your initiative. If you need any additional information, please call us at 202–687–7955 or at *Mun@isis.imac.georgetown.edu.*

Sincerely,

DUKWOO RO, PHD,
Associate Professor.
SEONG K. MUN, PHD,
Professor, Director of
ISIS Center.

UNITED STATES DISTANCE LEARNING ASSOCIATION,
Watertown, MA, May 19, 2000.

Re Broadband Internet Access Act of 2000.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN:

The United States Distance Learning Association supports the Broadband Internet Access Act of 2000 to be introduced by you.

As Executive Director of the association I want to assure you that our association applauds the initiative. The Congress of the United States has the opportunity to help deliver long needed Telecommunication Services to all Americans. This act will serve two purposes—increasing bandwidth availability and decreasing the well-documented Digital Divide.

Sincerely,

DR. JOHN G. FLORES,
Executive Director.

CORNING INCORPORATED,
Corning, NY, May 19, 2000.

Hon. DANIEL PATRICK MOYNIHAN,
Ranking Minority Member, Committee on Finance, U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: I am writing to endorse with enthusiasm the Broadband Internet Access Act of 2000 and to congratulate you for your leadership for introducing this important legislation.

As you may know, Corning is a leader in optical communications systems. As such, we have great confidence in the benefits that deployment of broadband to all Americans can confer on the economy and society as a whole. As Alan Greenspan has said many times, the Internet has contributed significantly to the on-going economic expansion. The rapid deployment of broadband access can extend the benefits of the Internet well into the future.

Unfortunately, broadband is being deployed very slowly in this country. Two specific problems have arisen. First, subscribers in rural and underserved low-income areas are unlikely to gain access to the current generation broadband capability any time soon, giving rise to a ''digital divide'' between information haves and have-nots. Secondly, the deployment of next generation broadband capability will take 30 to 40 years in the current regulatory and financial environment. We think America can do better for its citizens by immediate enactment of the Broadband Internet Access Act of 2000.

We believe your legislation addresses these problems through its 10% tax credit for deployment of last-mile current generation broadband capability to rural and underserved areas, and its 20% credit of next generation technology more generally. These incentives will correct current regulatory and market failures that are inhibiting the investment. Moreover, the credits are temporary, lasting only five years, a sufficient time to kick-start the deployment of the technology and to reduce costs in this very dynamic sector.

It is important to note that broadband infrastructure is a common good. As such, we believe that a well-designed initiative such as the Broadband Internet Access Act can cost effectively enhance the national welfare.

Again, I congratulate you for taking the leadership and for developing a creative initiative that will benefit the country for decades to come.

All the best,

ROGER ACKERMAN.

ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES,
Washington, DC, June 7, 2000.

Senator DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: The Association for Local Telecommunications Services (ALTS) thanks you for your leadership in drafting legislation to create financial incentives for telecommunications companies to offer high-speed Internet broadband services. The legislation that you introduce today will help companies expand their businesses into rural and urban communities and will also provide them with incentives to offer broadband service at even higher speeds.

We are especially grateful of your continuing efforts to support competitive telecommunications companies in local markets. While competitors have made enormous progress in rolling out advanced telecommunications services to consumers across the country, many markets remain uneconomic to serve. Your legislation will help to accelerate the deployment of these broadband services in rural, inner city and other underserved areas. We have seen that the best way to encourage deployment of advanced broadband technologies is to encourage competition for local telecommunications services. ALTS believes your legislation will provide significant financial incentives to competitive companies to roll out high speed broadband services for every consumer who wants to receive the service.

Your legislation is a realistic effort to close the ''digital divide'' between rural and urban communities and to ensure that all Americans have the fastest and best telecommunications service in the world. We look forward to continuing to work with you on this legislation in the coming weeks.

Thank you again for your support of competition and the rapid deployment of advanced, broadband services to all Americans.

Sincerely yours,

JOHN WINDHAUSEN, Jr.,
President.

QUEENS COLLEGE,
DEPARTMENT OF ECONOMICS,
New York, NY, June 1, 2000.

Re The Broadband Internet Access Act of 2000.

Hon. DANIEL PATRICK MOYNIHAN,
Ranking Minority Leader, Committee on Finance, U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: I am aware that you and other Senators are co-sponsors of ''The Broadband Internet Access Act of 2000,'' a bill that is intended to alleviate the disparity in high-speed access to the Internet. Preliminary research undertaken by Florence Kwan and myself shows that discrepancies in high-speed access do exist at this time. Further, the study demonstrates the need for policy-makers to examine the degree to which all members of society have high-speed access to the Internet.

The study was based upon a sampling of residential lines in the United States. The results suggest that income and population density are significant predictors of access to cable-modem or DSL service. High-speed access is less likely to be available to Americans in rural and low-income neighborhoods. As preliminary research, the study underscores the need for further research that is comprehensive in scope and that can serve as the basis for regulatory policy.

I commend your efforts to address an issue that is critical to the ability of all Americans to be part of the Information Society and to participate in our system of democracy.

Very truly yours,

DAVID GABEL,
Professor.

Mr. KERRY. Mr. President, I am very pleased to join Senator MOYNIHAN in introducing the Broadband Internet Access Act of 2000. I commend the Senator from New York for his leadership on this issue, and I look forward to working with Senator MOYNIHAN, Senator ROCKEFELLER and others in this critical effort to ensure the rapid deployment of high-speed telecommunications services to all Americans.

Mr. President, throughout the course of history, prosperity has flowed to those economies that had ready access to avenues of commerce. Throughout the middle ages and up until the mid-19th century, that meant ready proximity to a waterway. The great cities of Italy, England and France all lay on oceans or rivers. In North America, the early trading points on or near the Atlantic thrived and became New York, Boston, Philadelphia and Baltimore. Throughout this time, the primary way to ship goods was over water, and economies prospered along oceans or major inland waterways because of the paramount importance of access to commerce. With the industrial revolution came the advent of the railroad and this new way of getting goods to market. If your town was fortunate to be along one of many rail lines, then good economic times often lay ahead. If your town was not along the railroad, then you were at a serious economic disadvantage. We read today about the ''ghost towns'' of the old West—these were the towns left behind because the railroad passed them by. And even then, one hundred seventy years ago, we know that Americans did all they could to connect themselves to the networks—waterways, railroads—that delivered goods to market: along the Panhandle, the entire town of Ivanhoe, Oklahoma literally uprooted itself—picked up the church, the school, the buildings—and moved across the Texas border to be closer to the railroad lines.

In many ways, that is precisely the challenge facing thousands of communities across the nation today: communities are rushing and hurrying—and too many are struggling and finding it enormously difficult—to get connected to the networks on which we conduct business in the New Economy. And, Mr. President, unless we are willing to countenance thousands of ghost towns across the landscape of the 21st century—ghost towns of inner city and rural America—we must work together to empower every community to meet that challenge.

Mr. President, today, the major product in the United States is information. The ability to send and receive vast amounts of information, quickly and efficiently, often determines the success or failure of a company in our new information age. For this reason, companies are locating where they have high-speed access to this new avenue of commerce, and they are shying away from areas where such excess is either prohibitively expensive or unavailable. High-speed access is also

providing new opportunities in terms of educating our children and caring for the sick. However, those opportunities are available only to those communities with efficient and affordable access to high-speed lines.

Herein lies the problem. As would be expected, telecommunications companies are deploying advanced networks initially in areas where there are lots of attractive consumers, but are often taking their time to build-out elsewhere, such as in low-income urban and rural areas. That's why a downtown business consumer has a myriad of choices for high-speed access. And most residential consumers living in reasonable well-off urban and suburban areas also have a choice. However, many, many regions of our country still have little or no ability to obtain high-speed access to the Internet.

According to the Massachusetts Technology Collaborative, of the 351 towns in Massachusetts, only 164 are wired to receive high-speed DSL Internet service, and only 145 are wired to receive high-speed cable modem service. Significantly, 151 towns have no DSL or cable modem option, only 56 kilobit dial-up Internet service. Moreover, this situation is not expected to change anytime soon. The Legg Mason Precursor groups estimates that even three or fours years down the road, half of America will have either one or zero broadband providers to choose from.

We need to address this problem in order to ensure that no area is left behind—to ensure that all Americans are able to benefit from our new high-tech economy. Many telecommunications companies legitimately argue that deploying in certain areas makes little sense because the opportunity to recoup the investment is so small. It's time we listened and offered an economic incentive to change the equation. To this end, our bill establishes a generous 10 percent tax credit to all companies willing to deploy and offer 1.5 megabit high-speed Internet service in rural and low-income urban areas. We are advocating such an approach because we have heard from industry that this will provide a needed incentive to deploy in areas that are presently neglected. Significantly, this credit is open to all companies be they telephone or cable, wireline or wireless, MMDS or satellite. The bill is concerned only with encouraging widespread deployment, and is absolutely technology neutral.

Mr. President, our legislation addresses not only the digital divide that exists today, but also looks to the future and to the next generation of high-speed services. The next generation of advanced services will require substantially higher transmission speeds like 4 megabits for one channel of standard television, 20 megabits for one channel of HDTV, and 10 to 100 megabits for Ethernet data. These transmission speeds can only be achieved with more advanced technology such as fiber optics, very high speed digital subscriber line, 50-home-node cable modems, and next-generation wireless.

The services available at such speeds will truly revolutionize and improve our daily lives. However, according to economists from the American Enterprise Institute, at the current rate of deployment, such advanced technology will not achieve universal penetration until somewhere between 2030 and 2040. Furthermore, such delay may seriously undermine our global leadership in technology. Indeed, according to a recent report in the Wall Street Journal, the Japanese company NTT will start bringing optical fiber lines directly to homes in Tokyo and Osaka by the end of this year. Such networks will have capabilities of up to 10 megabits downstream—several times faster than most of the high-speed services offered today in America.

Such Internet capability will transform American life in ways we can only imagine today. Children can download educational video in real time on nearly any subject. Adults can train for new jobs from their homes. Complex medical images such as MRIs and x-rays that today take several minutes to download can be transmitted in a matter of seconds. Telecommuting, business teleconferencing and personal communication will all rise to new levels.

To accelerate the roll-out of such next-generation systems in the US, we propose to establish a 20 percent tax credit for companies that deploy systems capable of providing 22 megabit downstream/10 megabit upstream service to residential consumers everywhere and business consumers in low-income urban and rural areas. Such bits speeds will allow for different users in a home to simultaneously watch 3 different channels of digital television and utilize high-speed Ethernet-comparable Internet access.

Mr. President, this measure is intended to begin the debate in the Senate on how best to address the growing digital divide and to accelerate the deployment of next-generation technologies across our nation. I want to thank Senator MOYNIHAN for his extraordinary leadership on this issue and his staff for their continued hard work in crafting this bill. I also wish to commend Senators ROCKEFELLER and SNOWE for their work on tax credit legislation which we incorporate and expand on in this bill. Finally, I wish to extend my gratitude to all the members of industry who worked with us over these past few months in crafting this bill. Clearly, this is a very complex topic and we are continuing to work to find the right solution. I look forward to continuing our partnership and to passing meaningful legislation this year.

The challenge today is extraordinary—its implications absolutely unmistakable for our country. Too often we talk about a digital divide in the United States as if it were unchangeable, as if it were a simple fact of life in this nation that some communities will be empowered by technology while others will be left behind. But this is a false choice—and we ought to be doing everything in our power as policy makers, working harmoniously with industry, to offer a new choice: every community connected to the new technology, every citizen provided with the tools to make the most of their own talents in the New Economy.

Mr. President, The Broadband Internet Access Act of 2000 is not a panacea for every challenge before us in the New Economy; significant questions of education reform workforce development, and technology training must be resolved and reinvented before mere access to technology will allow full participation for every citizen in the Information Age. But Mr. President, I ask that—as we work in a bipartisan way to address those other vital areas of public policy— we remember the lessons of our nation's economic history and take this absolutely critical first step towards meeting the most basic needs of any community—a connection to the New Economy.

Mr. BAUCUS. Mr. President, I am very pleased today to join with Senator MOYNIHAN in introducing the Broadband Internet Access Act of 2000. This legislation provides a tax incentive to stimulate rapid deployment of high-speed communication services to residential, rural, and low-income areas.

Although our nation continues to experience a period of unprecedented economic growth, it is important to remember that this growth is not shared evenly throughout the country. My State, Montana, is unfortunately an example of areas in which the economy continues to lag behind the rest of the nation. Montana is ranked last in per-capita earned income and first in the number of people holding multiple jobs. Our children and grandchildren are constantly faced with a difficult dilemma—will they be able to find jobs in Montana, where they can continue to enjoy living in ''the last great place'', or will they be forced to move elsewhere just to be able to earn a decent wage. More and more of them are choosing to leave, costing Montana some of her best and brightest young people, and along with them much of our hope for the future.

One of the keys to turning our State's economy around is to make sure the appropriate infrastructure is in place so that we can attract the kinds of businesses that will provide jobs for ourselves and our children. I have worked for years as ranking Member of the Environment and Public Works Committee to ensure that Montana and other rural states receive our fair share of highway construction funds, so that the transportation infrastructure of our great State can support economic growth.

But today's economy is not just about bricks and mortar. Technology is

transforming traditional ways of doing business, as it is creating entirely new forms of business that never existed before. And high-speed Internet access is the key to advancing technological growth.

The Broadband Internet Access Act of 2000 provides graduated tax credits for deployment of high-speed communications to residential and rural communities. It gives a 10 percent credit for the deployment of at least 1.5 million bits per second downstream and 200,000 bits per second upstream to all subscribers—residential, business, and institutions—in rural and low income areas. This is what we call the ''current generation'' broadband. The bill also gives a 20 percent credit for the deployment of at least 22 million bits per second downstream and 10 million bits per second upstream to all subscribers in rural and low income areas, and to all residential customers in other areas. This is what we are calling ''next generation'' broadband.

Mr. President, as we look around us today and see the many streets that are being torn-up to lay cables for high-speed communication, and the communication dishes that are constantly ''sprouting'' from our buildings, we may wonder why we need a tax credit to advance an industry that is already growing by leaps and bounds. The reason, again, is that this growth is most extensive in selected areas. Market forces are driving deployment of high-speed communication capabilities almost exclusively to urban businesses and wealthy households. Rural businesses and rural families like those in Montana again find themselves at the back of the line. And by the time our turn comes for this technology, the rest of the country will already be well into the next technological generation. The Digital Divide, which is already a wedge between our citizens, will be perpetuated and grow into a chasm.

This bill is designed to even the playing field. By giving private industry economic incentives to accelerate high-speed communication capabilities to Americans who are at the end of the line, we will help people like my constituents in Montana share in our nation's economic growth.

As a member of the Senate Broadband Caucus, which was established to develop solutions to the problem of bringing high-speed Internet access to rural and underserved areas, I have worked hard on initiatives which would help rural areas bridge the Digital Divide. These initiatives include: the Rural Broadband Enhancement Act, which provides $5 billion in low interest loans for broadband development; the Rural Telework Act of 2000, to provide grants to develop National Centers for Distance Working which would provide access to technology and training for rural residents; the Universal Service Support Act, which lifts the cap on the universal service support fund for rural telecommunications providers; and the amendment I offered to the Rural Television Bill, to give consideration to projects which offer high speed Internet access in addition to television programming.

I believe these initiatives, along with the Broadband Internet Access Act we are introducing today, will go a long way toward finally bridging the growing Digital Divide and help rural areas grow and flourish. With this legislation, I hope to create an economic environment that will make sure Montana's children and grandchildren will no longer have to sacrifice enjoying the beauty of the ''last great place'' in order to earn a living wage.

By Mrs. FEINSTEIN:

S. 2699. A bill to strengthen the authority of the Federal Government to protect individuals from certain acts and practices in the sale and purchase of social security numbers and social security account numbers, and for other purposes; to the Committee on Finance.

SOCIAL SECURITY NUMBER PROTECTION ACT OF 2000

Mrs. FEINSTEIN. Mr. President, I am pleased today to join the administration and, particularly the Vice President, in introducing the Social Security Number Protection Act of 2000.

This legislation is designed to curb the unregulated sale and purchase of Social Security numbers, which have contributed significantly to a growing range of illegal activities, including fraud, identity theft, and, in some cases, stalking and other violent crimes.

Mr. President, in 1997, I introduced S. 600, the Personal Privacy Information Act, with Senator GRASSLEY after watching in dismay as one of my staff downloaded my own Social Security number off of the Internet in less than three minutes.

Nothing much has changed. For a mere $45, one can go online and purchase a person's Social Security number from a whole host of web businesses—no questions asked.

Why is it so important to stop the commercial sale of individuals' personal Social Security numbers? Once a criminal has a potential victim's Social Security number, that person becomes extremely vulnerable to having his or her whereabouts tracked and his or her identity stolen.

The Social Security number is the Nation's de facto national identifier. It is a key to one's public identity. The Federal Government uses it as a taxpayer identification number, the Medicare number, and as a soldier's serial number. States use the Social Security number as the identification number on drivers' licenses, fishing licenses, and other official records. Banks use it to establish personal identification for credit. The number is requested by telephone companies, gas companies, and even by brokerages when consumers set-up personal accounts.

Thus, a criminal who purchases a Social Security number is well on his way to fraudulently obtaining numerous services in the name of an unsuspecting American.

Partly due to this unrestricted traffic in Social Security numbers, our country is facing an explosion in identity theft crimes. The Social Security Administration recently reported that it had received more than 30,000 complaints about the misuse of Social Security numbers, last year, most of which had to do with identity theft. This is an increase of 350% from 1997, when there were 7,868 complaints. In total, Treasury Department officials estimate that identity theft causes between $2 and $3 billion in losses each year—just from credit cards.

According to a recent survey of identity theft victims published jointly by the Privacy Rights Clearinghouse and CALPIRG, the average identity theft victim has fraudulent charges of $18,000 made in his name. Typically, an identity theft victim spends approximately 175 hours of personal time over a two-year period to clean-up his credit record.

Sometimes, this unrestricted sale of personal information can have tragic results. Amy Boyer, a twenty-year old dental assistant in New Hampshire, was killed last year by a stalker who bought her Social Security number off an Internet web site for $45. Armed with this critical information, he tracked her down to her work address.

Here are some other examples of Social Security number misuse. Kim Brady, a constituent from Castro Valley, California, wrote to me that an identity thief obtained a credit card in her name on the Internet. The application ''was approved in 10 seconds even though the application only had [her] name, Social Security number, and birth date correct.'' When Ms. Bradbury contacted credit card companies and asked how a credit card was issued in her name despite false information on the application, the companies said they only look to ''see that the name and the Social Security number match.''

Another California constituent, Michelle Brown of Hermosa Beach, informed me that a criminal used her Social Security number to fraudulently assume her identity. The perpetrator rang up a total of $50,000 in charges including a $32,000 truck and $5,000 worth of liposuction. In addition, the perpetrator used Michelle's identity to establish wireless and residential telephone service, utilities service, and to obtain a year-long residential lease.

Michelle notes that she has spent hundreds of hours trying to restore her good name and has endured ''weeks of sleepless nights, suffering from nearly no appetite, and nerve-shattering moments of my life spinning out of control.''

In another case, a retired air force officer was falsely billed for $113,000 on 33 different credit accounts after identity

thieves stole his Social Security number. He and his wife have dealt with over a dozen third party collection agencies. They are also being sued by a furniture store in Texas and have had five automobiles purchased in their name.

I am pleased to work with the Administration on this bill because no one should seek to profit from the sale of Social Security numbers in circumstances that create a substantial risk of physical, emotional, or financial harm to the person to whom these numbers are assigned.

What would this bill do? The Social Security Number Protection Act would impose criminal and civil penalties for the sale and purchase of Social Security numbers. Specifically, it would direct the Federal Trade Commission to issue regulations prohibiting this sale.

The legislation would direct the FTC to permit exceptions to this ban in a very narrow range of circumstances, including where an individual has consented to the sale, for law enforcement or national security reasons, in emergency situations to protect an individual's health and safety, for research or public health purposes, and where the use of the Social Security number is for a lawful purpose and is unlikely to result in serious bodily, emotional, or financial harm of a Social Security number holder.

Mr. President, I think this is a very important step forward. The bill is carefully drawn. It simply prevents the sale of Social Security numbers for profit, which can result in enormous wrongdoing to the individual Social Security number holder.

I yield the floor.

By Mr. L. CHAFEE (for himself, Mr. LAUTENBERG, Mr. SMITH of New Hampshire, and Mr. BAUCUS):

S. 2700. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to promote the cleanup and reuse of brownfields, to provide financial assistance for brownfields revitalization, to enhance State response programs, and for other purposes; to the Committee on Environment and Public Works.

BROWNFIELDS REVITALIZATION AND ENVIRONMENTAL RESTORATION ACT OF 2000

Mr. L. CHAFEE. I rise today to introduce the Brownfields Revitalization and Environmental Restoration Act of 2000 together with Senator LAUTENBERG, Senator SMITH of New Hampshire, and Senator BAUCUS. We are introducing this bill today because we support legislation that will expedite cleanup of our nation's hazardous waste sites. We support economic development in our neighborhoods and job creation in our cities. We also support invigorating our urban cores and bolstering local governments. Mr. President, we are introducing this legislation today because, if enacted, it has the potential to fulfill these objectives, which are important to me and I believe to every Senator.

Brownfields are typically older commercial or industrial properties at which development is hindered by the presence—or even the potential presence—of hazardous substances. Countless numbers of brownfield sites blight our communities, pose health and environmental hazards, erode our cities' tax base, and contribute to urban sprawl. In fact, the U.S. Conference of Mayors has estimated that more than 450,000 brownfield sites exist nationwide. But, we stand to reap enormous economic, environmental, and social benefits with the successful redevelopment of brownfield sites. The redevelopment of brownfields capitalizes on existing infrastructure, creates a robust tax base for local governments, attracts new businesses and jobs, reduces the environmental and health risks to communities, and preserves community character. This can truly be a victory for everyone.

While everyone agrees that brownfield sites should be cleaned up, presently there are many problems that prevent us from cleaning up these sites. Let me address the problems and how our legislation poses solutions.

Problem: There is not enough funding to address the large number of brownfield sites that exist.

Solution: The bill authorizes $150 million per year to state and local governments to perform assessments and cleanup at brownfield sites. It also authorizes $50 million per year to establish and enhance State brownfield programs.

Problem: Communities that strive to clean up sites, such as Riverside Mills alongside the Woonasquatucket River in Providence, in order to turn them into greenspace, cannot since there will be no future income stream to repay a loan.

Solution: The bill will allow EPA to issue grants to state and local governments to clean up sites that will be converted into parks or open space.

Problem: People who bought brownfield sites and did not cause the contamination could be liable under Superfund.

Solution: The bill clarifies that innocent landowners, that act appropriately, are not responsible for paying cleanup costs.

Problem: Developers that want to purchase brownfield sites may be liable for future cleanup costs.

Solution: The bill encourages developers to purchase and develop brownfield sites by exempting from liability prospective purchasers that do not cause or worsen the contamination at a site.

Problem: Superfund liability issues prevent development of areas near contaminated sites.

Solution: The bill includes an exemption from Superfund liability for contiguous property owners.

Problem: Investors do not clean up brownfield sites because for fear that EPA will ''second-guess'' their actions.

Solution: The bill offers finality by precluding EPA from taking an action at a site being addressed under a state cleanup program unless there is an ''imminent and substantial endangerment'' to public health or the environment, and additional work needs to be done.

I am proud to introduce this bill with my esteemed colleagues from the Environment and Public Works Committee. The fact that this bill is sponsored by the Chairman and Ranking Minority Member of the Superfund Subcommittee and the Environment and Public Works Committee speaks very highly for the bipartisan efforts to achieve consensus on this issue. A factor critical to the success of this legislation, will be continued bipartisanship. We must continue to reach across the aisle; we must continue to find common ground; and we must continue to work cooperatively to move this legislation. I urge all Senators to support this legislation, which can—and should—be enacted this year.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2700

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Brownfields Revitalization and Environmental Restoration Act of 2000''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—BROWNFIELDS REVITALIZATION FUNDING

Sec. 101. Brownfields revitalization funding.

TITLE II—BROWNFIELDS LIABILITY CLARIFICATIONS

Sec. 201. Contiguous properties.
Sec. 202. Prospective purchasers and windfall liens.
Sec. 203. Innocent landowners.

TITLE III—STATE RESPONSE PROGRAMS

Sec. 301. State response programs.
Sec. 302. Additions to National Priorities List.

TITLE I—BROWNFIELDS REVITALIZATION FUNDING

SEC. 101. BROWNFIELDS REVITALIZATION FUNDING.

(a) DEFINITION OF BROWNFIELD SITE.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) is amended by adding at the end the following:

''(39) BROWNFIELD SITE.—

''(A) IN GENERAL.—The term 'brownfield site' means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

''(B) EXCLUSIONS.—The term 'brownfield site' does not include—

''(i) a facility that is the subject of a planned or ongoing removal action under this title;

''(ii) a facility that is listed on the National Priorities List or is proposed for listing;

''(iii) a facility that is the subject of a unilateral administrative order, a court order, an administrative order on consent or judicial consent decree that has been issued to or entered into by the parties under this Act;

''(iv) a facility that is the subject of a unilateral administrative order, a court order, an administrative order on consent or judicial consent decree that has been issued to or entered into by the parties, or a facility to which a permit has been issued by the United States or an authorized State under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1321), the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), or the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

''(v) a facility that—

''(I) is subject to corrective action under section 3004(u) or 3008(h) of the Solid Waste Disposal Act (42 U.S.C. 6924(u), 6928(h)); and

''(II) to which a corrective action permit or order has been issued or modified to require the implementation of corrective measures;

''(vi) a land disposal unit with respect to which—

''(I) a closure notification under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) has been submitted; and

''(II) closure requirements have been specified in a closure plan or permit;

''(vii) a facility that is subject to the jurisdiction, custody, or control of a department, agency, or instrumentality of the United States, except for land held in trust by the United States for an Indian tribe;

''(viii) a portion of a facility—

''(I) at which there has been a release of polychlorinated biphenyls; and

''(II) that is subject to remediation under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); or

''(ix) a portion of a facility, for which portion, assistance for response activity has been obtained under subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage Tank Trust Fund established under section 9508 of the Internal Revenue Code of 1986.

''(C) SITE-BY-SITE DETERMINATIONS.—Notwithstanding subparagraph (B) and on a site-by-site basis, the President may authorize financial assistance under section 128 to an eligible entity at a site included in clause (i), (iv), (v), (vi), (viii), or (ix) of subparagraph (B) if the President finds that financial assistance will protect human health and the environment, and either promote economic development or enable the creation of, preservation of, or addition to parks, greenways, undeveloped property, other recreational property, or other property used for nonprofit purposes.

''(D) ADDITIONAL AREAS.—For the purposes of section 128, the term 'brownfield site' includes—

''(i) a site that is contaminated by a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); and

''(ii) mine-scarred land.''.

(b) BROWNFIELDS REVITALIZATION FUNDING.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding at the end the following:

''SEC. 128. BROWNFIELDS REVITALIZATION FUNDING.

''(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

''(1) a general purpose unit of local government;

''(2) a land clearance authority or other quasi-governmental entity that operates under the supervision and control of or as an agent of a general purpose unit of local government;

''(3) a government entity created by a State legislature;

''(4) a regional council or group of general purpose units of local government;

''(5) a redevelopment agency that is chartered or otherwise sanctioned by a State;

''(6) a State; or

''(7) an Indian Tribe.

''(b) BROWNFIELD SITE CHARACTERIZATION AND ASSESSMENT GRANT PROGRAM.—

''(1) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a program to—

''(A) provide grants to inventory, characterize, assess, and conduct planning related to brownfield sites under paragraph (2); and

''(B) perform targeted site assessments at brownfield sites.

''(2) ASSISTANCE FOR SITE CHARACTERIZATION AND ASSESSMENT.—

''(A) IN GENERAL.—On approval of an application made by an eligible entity, the Administrator may make a grant to the eligible entity to be used for programs to inventory, characterize, assess, and conduct planning related to 1 or more brownfield sites.

''(B) SITE CHARACTERIZATION AND ASSESSMENT.—A site characterization and assessment carried out with the use of a grant under subparagraph (A) shall be performed in accordance with section 101(35)(B).

''(c) GRANTS AND LOANS FOR BROWNFIELD REMEDIATION.—

''(1) GRANTS PROVIDED BY THE PRESIDENT.—Subject to subsections (d) and (e), the President shall establish a program to provide grants to—

''(A) eligible entities, to be used for capitalization of revolving loan funds; and

''(B) eligible entities or nonprofit organizations, where warranted, as determined by the President based on considerations under paragraph (3), to be used directly for remediation of 1 or more brownfield sites that is owned by the entity or organization that receives the grant and in amounts not to exceed $200,000 for each site to be remediated.

''(2) LOANS AND GRANTS PROVIDED BY ELIGIBLE ENTITIES.—An eligible entity that receives a grant under paragraph (1)(A) shall use the grant funds to provide assistance for the remediation of brownfield sites in the form of—

''(A) 1 or more loans to an eligible entity, a site owner, a site developer, or another person; or

''(B) 1 or more grants to an eligible entity or other nonprofit organization, where warranted, as determined by the eligible entity that is providing the assistance, based on considerations under paragraph (3), to remediate sites owned by the eligible entity or nonprofit organization that receives the grant.

''(3) CONSIDERATIONS.—In determining whether a grant under paragraph (1)(B) or (2)(B) is warranted, the President or the eligible entity, as the case may be, shall take into consideration—

''(A) the extent to which a grant will facilitate the creation of, preservation of, or addition to a park, a greenway, undeveloped property, recreational property, or other property used for nonprofit purposes;

''(B) the extent to which a grant will meet the needs of a community that has an inability to draw on other sources of funding for environmental remediation and subsequent redevelopment of the area in which a brownfield site is located because of the small population or low income of the community;

''(C) the extent to which a grant will facilitate the use or reuse of existing infrastructure;

''(D) the benefit of promoting the long-term availability of funds from a revolving loan fund for brownfield remediation; and

''(E) such other factors as the Administrator considers appropriate to consider for the purposes of this section.

''(4) COMPLIANCE WITH APPLICABLE LAWS.—An eligible entity that provides assistance under paragraph (2) shall include in all loan and grant agreements a requirement that the loan or grant recipient shall comply with all laws applicable to the cleanup for which grant funds will be used and ensure that the cleanup protects human health and the environment.

''(5) TRANSITION.—Revolving loan funds that have been established before the date of enactment of this section may be used in accordance with this subsection.

''(d) GENERAL PROVISIONS.—

''(1) MAXIMUM GRANT AMOUNT.—

''(A) BROWNFIELD SITE CHARACTERIZATION AND ASSESSMENT.—

''(i) IN GENERAL.—A grant under subsection (b)—

''(I) may be awarded to an eligible entity on a community-wide or site-by-site basis; and

''(II) shall not exceed, for any individual brownfield site covered by the grant, $200,000.

''(ii) WAIVER.—The Administrator may waive the $200,000 limitation under clause (i)(II) to permit the brownfield site to receive a grant of not to exceed $350,000, based on the anticipated level of contamination, size, or status of ownership of the site.

''(B) BROWNFIELD REMEDIATION.—

''(i) GRANT AMOUNT.—A grant under subsection (c)(1)(A) may be awarded to an eligible entity on a community-wide or site-by-site basis, not to exceed $1,000,000 per eligible entity.

''(ii) ADDITIONAL GRANT AMOUNT.—The Administrator may make an additional grant to an eligible entity described in clause (i) for any year after the year for which the initial grant is made, taking into consideration—

''(I) the number of sites and number of communities that are addressed by the revolving loan fund;

''(II) the demand for funding by eligible entities that have not previously received a grant under this section;

''(III) the demonstrated ability of the eligible entity to use the revolving loan fund to enhance remediation and provide funds on a continuing basis; and

''(IV) any other factors that the Administrator considers appropriate to carry out this section.

''(2) PROHIBITION.—

''(A) IN GENERAL.—No part of a grant or loan under this section may be used for the payment of—

''(i) a penalty or fine;

''(ii) a Federal cost-share requirement;

''(iii) an administrative cost;

''(iv) a response cost at a brownfield site for which the recipient of the grant or loan is potentially liable under section 107; or

''(v) a cost of compliance with any Federal law (including a Federal law specified in section 101(39)(B)).

''(B) EXCLUSIONS.—For the purposes of subparagraph (A)(iii), the term 'administrative cost' does not include the cost of—

''(i) investigation and identification of the extent of contamination;

''(ii) design and performance of a response action; or

''(iii) monitoring of a natural resource.

''(3) ASSISTANCE FOR DEVELOPMENT OF LOCAL GOVERNMENT SITE REMEDIATION PROGRAMS.—A local government that receives a grant under this section may use not to exceed 10 percent of the grant funds to develop

and implement a brownfields program that may include—

''(A) monitoring the health of populations exposed to 1 or more hazardous substances from a brownfield site; and

''(B) monitoring and enforcement of any institutional control used to prevent human exposure to any hazardous substance from a brownfield site.

''(e) GRANT APPLICATIONS.—

''(1) SUBMISSION.—

''(A) IN GENERAL.—

''(i) APPLICATION.—An eligible entity may submit to the Administrator, through a regional office of the Environmental Protection Agency and in such form as the Administrator may require, an application for a grant under this section for 1 or more brownfield sites (including information on the criteria used by the Administrator to rank applications under paragraph (3), to the extent that the information is available).

''(ii) NCP REQUIREMENTS.—The Administrator may include in any requirement for submission of an application under clause (i) a requirement of the National Contingency Plan only to the extent that the requirement is relevant and appropriate to the program under this section.

''(B) COORDINATION.—The Administrator shall coordinate with other Federal agencies to assist in making eligible entities aware of other available Federal resources.

''(C) GUIDANCE.—The Administrator shall publish guidance to assist eligible entities in applying for grants under this section.

''(2) APPROVAL.—The Administrator shall—

''(A) complete an annual review of applications for grants that are received from eligible entities under this section; and

''(B) award grants under this section to eligible entities that the Administrator determines have the highest rankings under the ranking criteria established under paragraph (3).

''(3) RANKING CRITERIA.—The Administrator shall establish a system for ranking grant applications received under this subsection that includes the following criteria:

''(A) The extent to which a grant will stimulate the availability of other funds for environmental assessment or remediation, and subsequent reuse, of an area in which 1 or more brownfield sites are located.

''(B) The potential of the proposed project or the development plan for an area in which 1 or more brownfield sites are located to stimulate economic development of the area on completion of the cleanup.

''(C) The extent to which a grant would address or facilitate the identification and reduction of threats to human health and the environment.

''(D) The extent to which a grant would facilitate the use or reuse of existing infrastructure.

''(E) The extent to which a grant would facilitate the creation of, preservation of, or addition to a park, a greenway, undeveloped property, recreational property, or other property used for nonprofit purposes.

''(F) The extent to which a grant would meet the needs of a community that has an inability to draw on other sources of funding for environmental remediation and subsequent redevelopment of the area in which a brownfield site is located because of the small population or low income of the community.

''(G) The extent to which the applicant is eligible for funding from other sources.

''(H) The extent to which a grant will further the fair distribution of funding between urban and nonurban areas.

''(I) The extent to which the grant provides for involvement of the local community in the process of making decisions relating to cleanup and future use of a brownfield site.

''(f) IMPLEMENTATION OF BROWNFIELDS PROGRAMS.—

''(1) ESTABLISHMENT OF PROGRAM.—The Administrator may provide, or fund eligible entities to provide, training, research, and technical assistance to individuals and organizations, as appropriate, to facilitate the inventory of brownfield sites, site assessments, remediation of brownfield sites, community involvement, or site preparation.

''(2) FUNDING RESTRICTIONS.—The total Federal funds to be expended by the Administrator under this subsection shall not exceed 15 percent of the total amount appropriated to carry out this section in any fiscal year.

''(g) AUDITS.—

''(1) IN GENERAL.—The Inspector General of the Environmental Protection Agency shall conduct such reviews or audits of grants and loans under this section as the Inspector General considers necessary to carry out this section.

''(2) PROCEDURE.—An audit under this paragraph shall be conducted in accordance with the auditing procedures of the General Accounting Office, including chapter 75 of title 31, United States Code.

''(3) VIOLATIONS.—If the Administrator determines that a person that receives a grant or loan under this section has violated or is in violation of a condition of the grant, loan, or applicable Federal law, the Administrator may—

''(A) terminate the grant or loan;

''(B) require the person to repay any funds received; and

''(C) seek any other legal remedies available to the Administrator.

''(h) LEVERAGING.—An eligible entity that receives a grant under this section may use the grant funds for a portion of a project at a brownfield site for which funding is received from other sources if the grant funds are used only for the purposes described in subsection (b) or (c).

''(i) AGREEMENTS.—Each grant or loan made under this section shall be subject to an agreement that—

''(1) requires the recipient to comply with all applicable Federal and State laws;

''(2) requires that the recipient use the grant or loan exclusively for purposes specified in subsection (b) or (c), as applicable;

''(3) in the case of an application by an eligible entity under subsection (c)(1), requires the eligible entity to pay a matching share (which may be in the form of a contribution of labor, material, or services) of at least 20 percent, from non-Federal sources of funding, unless the Administrator determines that the matching share would place an undue hardship on the eligible entity; and

''(4) contains such other terms and conditions as the Administrator determines to be necessary to carry out this section.

''(j) FACILITY OTHER THAN BROWNFIELD SITE.—The fact that a facility may not be a brownfield site within the meaning of section 101(39)(A) has no effect on the eligibility of the facility for assistance under any other provision of Federal law.

''(k) FUNDING.—There is authorized to be appropriated to carry out this section $150,000,000 for each of fiscal years 2001 through 2005.''.

TITLE II—BROWNFIELDS LIABILITY CLARIFICATIONS

SEC. 201. CONTIGUOUS PROPERTIES.

Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by adding at the end the following:

''(o) CONTIGUOUS PROPERTIES.—

''(1) NOT CONSIDERED TO BE AN OWNER OR OPERATOR.—

''(A) IN GENERAL.—A person that owns real property that is contiguous to or otherwise similarly situated with respect to, and that is or may be contaminated by a release or threatened release of a hazardous substance from, real property that is not owned by that person shall not be considered to be an owner or operator of a vessel or facility under paragraph (1) or (2) of subsection (a) solely by reason of the contamination if—

''(i) the person did not cause, contribute, or consent to the release or threatened release;

''(ii) the person is not—

''(I) potentially liable, or affiliated with any other person that is potentially liable, for response costs at a facility through any direct or indirect familial relationship or any contractual, corporate, or financial relationship (other than a contractual, corporate, or financial relationship that is created by a contract for the sale of goods or services); or

''(II) the result of a reorganization of a business entity that was potentially liable;

''(iii) the person takes reasonable steps to—

''(I) stop any continuing release;

''(II) prevent any threatened future release; and

''(III) prevent or limit human, environmental, or natural resource exposure to any hazardous substance released on or from property owned by that person;

''(iv) the person provides full cooperation, assistance, and access to persons that are authorized to conduct response actions or natural resource restoration at the vessel or facility from which there has been a release or threatened release (including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the vessel or facility);

''(v) the person—

''(I) is in compliance with any land use restrictions established or relied on in connection with the response action at a facility; and

''(II) does not impede the effectiveness or integrity of any institutional control employed in connection with a response action;

''(vi) the person is in compliance with any request for information or administrative subpoena issued by the President under this Act;

''(vii) the person provides all legally required notices with respect to the discovery or release of any hazardous substances at the facility; and

''(viii) at the time at which the person acquired the property, the person—

''(I) conducted all appropriate inquiry within the meaning of section 101(35)(B) with respect to the property; and

''(II) did not know or have reason to know that the property was or could be contaminated by a release or threatened release of 1 or more hazardous substances from other real property not owned or operated by the person.

''(B) DEMONSTRATION.—To qualify as a person described in subparagraph (A), a person must establish by a preponderance of the evidence that the conditions in clauses (i) through (viii) of subparagraph (A) have been met.

''(C) BONA FIDE PROSPECTIVE PURCHASER.—Any person that does not qualify as a person described in this paragraph because the person had knowledge specified in subparagraph (A)(viii) at the time of acquisition of the real property may qualify as a bona fide prospective purchaser under section 101(40) if the person is otherwise described in that section.

''(D) GROUND WATER.—If a hazardous substance from 1 or more sources that are not on the property of a person enters ground water beneath the property of the person solely as a result of subsurface migration in

an aquifer, subparagraph (A)(iii) shall not require the person to conduct ground water investigations or to install ground water remediation systems, except in accordance with the policy of the Environmental Protection Agency concerning owners of property containing contaminated aquifers, dated May 24, 1995.

''(2) EFFECT OF LAW.—With respect to a person described in this subsection, nothing in this subsection—

''(A) limits any defense to liability that may be available to the person under any other provision of law; or

''(B) imposes liability on the person that is not otherwise imposed by subsection (a).

''(3) ASSURANCES.—The Administrator may—

''(A) issue an assurance that no enforcement action under this Act will be initiated against a person described in paragraph (1); and

''(B) grant a person described in paragraph (1) protection against a cost recovery or contribution action under section 113(f).''.

SEC. 202. PROSPECTIVE PURCHASERS AND WINDFALL LIENS.

(a) DEFINITION OF BONA FIDE PROSPECTIVE PURCHASER.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) (as amended by section 101(a)) is amended by adding at the end the following:

''(40) BONA FIDE PROSPECTIVE PURCHASER.—The term 'bona fide prospective purchaser' means a person (or a tenant of a person) that acquires ownership of a facility after the date of enactment of this paragraph and that establishes each of the following by a preponderance of the evidence:

''(A) DISPOSAL PRIOR TO ACQUISITION.—All disposal of hazardous substances at the facility occurred before the person acquired the facility.

''(B) INQUIRIES.—

''(i) IN GENERAL.—The person made all appropriate inquiries into the previous ownership and uses of the facility in accordance with generally accepted good commercial and customary standards and practices in accordance with clauses (ii) and (iii).

''(ii) STANDARDS AND PRACTICES.—The standards and practices referred to in clauses (ii) and (iv) of paragraph (35)(B) shall be considered to satisfy the requirements of this subparagraph.

''(iii) RESIDENTIAL USE.—In the case of property in residential or other similar use at the time of purchase by a nongovernmental or noncommercial entity, a facility inspection and title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph.

''(C) NOTICES.—The person provides all legally required notices with respect to the discovery or release of any hazardous substances at the facility.

''(D) CARE.—The person exercises appropriate care with respect to hazardous substances found at the facility by taking reasonable steps to—

''(i) stop any continuing release;

''(ii) prevent any threatened future release; and

''(iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous substance.

''(E) COOPERATION, ASSISTANCE, AND ACCESS.—The person provides full cooperation, assistance, and access to persons that are authorized to conduct response actions at a vessel or facility (including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response actions at the vessel or facility).

''(F) INSTITUTIONAL CONTROL.—The person—

''(i) is in compliance with any land use restrictions established or relied on in connection with the response action at a vessel or facility; and

''(ii) does not impede the effectiveness or integrity of any institutional control employed at the vessel or facility in connection with a response action.

''(G) REQUESTS; SUBPOENAS.—The person complies with any request for information or administrative subpoena issued by the President under this Act.

''(H) NO AFFILIATION.—The person is not—

''(i) potentially liable, or affiliated with any other person that is potentially liable, for response costs at a facility through—

''(I) any direct or indirect familial relationship; or

''(II) any contractual, corporate, or financial relationship (other than a contractual, corporate, or financial relationship that is created by the instruments by which title to the facility is conveyed or financed or by a contract for the sale of goods or services); or

''(ii) the result of a reorganization of a business entity that was potentially liable.''.

(b) PROSPECTIVE PURCHASER AND WINDFALL LIEN.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) (as amended by section 201) is amended by adding at the end the following:

''(p) PROSPECTIVE PURCHASER AND WINDFALL LIEN.—

''(1) LIMITATION ON LIABILITY.—Notwithstanding subsection (a)(1), a bona fide prospective purchaser whose potential liability for a release or threatened release is based solely on the purchaser's being considered to be an owner or operator of a facility shall not be liable as long as the bona fide prospective purchaser does not impede the performance of a response action or natural resource restoration.

''(2) LIEN.—If there are unrecovered response costs incurred by the United States at a facility for which an owner of the facility is not liable by reason of paragraph (1), and if each of the conditions described in paragraph (3) is met, the United States shall have a lien on the facility, or may by agreement with the party obtain from an appropriate party a lien on any other property or other assurance of payment satisfactory to the Administrator, for the unrecovered response costs.

''(3) CONDITIONS.—The conditions referred to in paragraph (2) are the following:

''(A) RESPONSE ACTION.—A response action for which there are unrecovered costs of the United States is carried out at the facility.

''(B) FAIR MARKET VALUE.—The response action increases the fair market value of the facility above the fair market value of the facility that existed before the response action was initiated.

''(4) AMOUNT; DURATION.—A lien under paragraph (2)—

''(A) shall be in an amount not to exceed the increase in fair market value of the property attributable to the response action at the time of a sale or other disposition of the property;

''(B) shall arise at the time at which costs are first incurred by the United States with respect to a response action at the facility;

''(C) shall be subject to the requirements of subsection (l)(3); and

''(D) shall continue until the earlier of—

''(i) satisfaction of the lien by sale or other means; or

''(ii) notwithstanding any statute of limitations under section 113, recovery of all response costs incurred at the facility.''.

SEC. 203. INNOCENT LANDOWNERS.

Section 101(35) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(35)) is amended—

(1) in subparagraph (A)—

(A) in the first sentence, in the matter preceding clause (i), by striking ''deeds or'' and inserting ''deeds, easements, leases, or''; and

(B) in the second sentence—

(i) by striking ''he'' and inserting ''the defendant''; and

(ii) by striking the period at the end and inserting '', provides full cooperation, assistance, and facility access to the persons that are authorized to conduct response actions at the facility (including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility), and is in compliance with any land use restrictions established or relied on in connection with the response action at a facility, and does not impede the effectiveness or integrity of any institutional control employed at the facility in connection with a response action.''; and

(2) by striking subparagraph (B) and inserting the following:

''(B) REASON TO KNOW.—

''(i) ALL APPROPRIATE INQUIRIES.—To establish that the defendant had no reason to know of the matter described in subparagraph (A)(i), the defendant must demonstrate to a court that—

''(I) on or before the date on which the defendant acquired the facility, the defendant carried out all appropriate inquiries, as provided in clauses (ii) and (iv), into the previous ownership and uses of the facility in accordance with generally accepted good commercial and customary standards and practices; and

''(II) the defendant took reasonable steps to—

''(aa) stop any continuing release;

''(bb) prevent any threatened future release; and

''(cc) prevent or limit any human, environmental, or natural resource exposure to any previously released hazardous substance.

''(ii) STANDARDS AND PRACTICES.—Not later than 2 years after the date of enactment of the Brownfields Revitalization and Environmental Restoration Act of 2000, the Administrator shall by regulation establish standards and practices for the purpose of satisfying the requirement to carry out all appropriate inquiries under clause (i).

''(iii) CRITERIA.—In promulgating regulations that establish the standards and practices referred to in clause (ii), the Administrator shall include each of the following:

''(I) The results of an inquiry by an environmental professional.

''(II) Interviews with past and present owners, operators, and occupants of the facility for the purpose of gathering information regarding the potential for contamination at the facility.

''(III) Reviews of historical sources, such as chain of title documents, aerial photographs, building department records, and land use records, to determine previous uses and occupancies of the real property since the property was first developed.

''(IV) Searches for recorded environmental cleanup liens against the facility that are filed under Federal, State, or local law.

''(V) Reviews of Federal, State, and local government records, waste disposal records, underground storage tank records, and hazardous waste handling, generation, treatment, disposal, and spill records, concerning contamination at or near the facility.

''(VI) Visual inspections of the facility and of adjoining properties.

''(VII) Specialized knowledge or experience on the part of the defendant.

''(VIII) The relationship of the purchase price to the value of the property, if the property was not contaminated.

''(IX) Commonly known or reasonably ascertainable information about the property.

''(X) The degree of obviousness of the presence or likely presence of contamination at the property, and the ability to detect the contamination by appropriate investigation.

''(iv) INTERIM STANDARDS AND PRACTICES.—

''(I) PROPERTY PURCHASED BEFORE MAY 31, 1997.—With respect to property purchased before May 31, 1997, in making a determination with respect to a defendant described of clause (i), a court shall take into account—

''(aa) any specialized knowledge or experience on the part of the defendant;

''(bb) the relationship of the purchase price to the value of the property, if the property was not contaminated;

''(cc) commonly known or reasonably ascertainable information about the property;

''(dd) the obviousness of the presence or likely presence of contamination at the property; and

''(ee) the ability of the defendant to detect the contamination by appropriate inspection.

''(II) PROPERTY PURCHASED ON OR AFTER MAY 31, 1997.—With respect to property purchased on or after May 31, 1997, and until the Administrator promulgates the regulations described in clause (ii), the procedures of the American Society for Testing and Materials, including the document known as 'Standard E1527–97', entitled 'Standard Practice for Environmental Site Assessment: Phase 1 Environmental Site Assessment Process', shall satisfy the requirements in clause (i).

''(v) SITE INSPECTION AND TITLE SEARCH.—In the case of property for residential use or other similar use purchased by a nongovernmental or noncommercial entity, a facility inspection and title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph.''.

TITLE III—STATE RESPONSE PROGRAMS

SEC. 301. STATE RESPONSE PROGRAMS.

(a) DEFINITIONS.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) (as amended by section 202) is amended by adding at the end the following:

''(41) ELIGIBLE RESPONSE SITE.—

''(A) IN GENERAL.—The term 'eligible response site' means a site that meets the definition of a brownfield site in subparagraphs (A) and (B) of paragraph (39), as modified by subparagraphs (B) and (C) of this paragraph.

''(B) INCLUSIONS.—The term 'eligible response site' includes—

''(i) notwithstanding paragraph (39)(B)(ix), a portion of a facility, for which portion assistance for response activity has been obtained under subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage Tank Trust Fund established under section 9508 of the Internal Revenue Code of 1986; or

''(ii) a site for which, notwithstanding the exclusions provided in subparagraph (C) or paragraph (39)(B), the President determines, on a site-by-site basis and after consultation with the State, that limitations on enforcement under section 129 at sites specified in clause (iv), (v), (vi) or (viii) of paragraph (39)(B) would be appropriate and will—

''(I) protect human health and the environment; and

''(II) promote economic development or facilitate the creation of, preservation of, or addition to a park, a greenway, undeveloped property, recreational property, or other property used for nonprofit purposes.

''(C) EXCLUSIONS.—The term 'eligible response site' does not include—

''(i) a facility for which the President—

''(I) conducts or has conducted a remedial site investigation; and

''(II) after consultation with the State, determines or has determined that the site qualifies for listing on the National Priorities List;

unless the President has made a determination that no further Federal action will be taken; or

''(ii) facilities that the President determines warrant particular consideration as identified by regulation, such as sites posing a threat to a sole-source drinking water aquifer or a sensitive ecosystem.''.

(b) STATE RESPONSE PROGRAMS.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 101(b)) is amended by adding at the end the following:

''SEC. 129. STATE RESPONSE PROGRAMS.

''(a) ASSISTANCE TO STATES.—

''(1) IN GENERAL.—

''(A) STATES.—The Administrator may award a grant to a State or Indian tribe that—

''(i) has a response program that includes each of the elements, or is taking reasonable steps to include each of the elements, listed in paragraph (2); or

''(ii) is a party to a memorandum of agreement with the Administrator for voluntary response programs.

''(B) USE OF GRANTS BY STATES.—

''(i) IN GENERAL.—A State or Indian tribe may use a grant under this subsection to establish or enhance the response program of the State or Indian tribe.

''(ii) ADDITIONAL USES.—In addition to the uses under clause (i), a State or Indian tribe may use a grant under this subsection to—

''(I) capitalize a revolving loan fund for brownfield remediation under section 128(c); or

''(II) develop a risk sharing pool, an indemnity pool, or insurance mechanism to provide financing for response actions under a State response program.

''(2) ELEMENTS.—The elements of a State or Indian tribe response program referred to in paragraph (1)(A)(i) are the following:

''(A) Timely survey and inventory of brownfield sites in the State.

''(B) Oversight and enforcement authorities or other mechanisms, and resources, that are adequate to ensure that—

''(i) a response action will—

''(I) protect human health and the environment; and

''(II) be conducted in accordance with applicable Federal and State law; and

''(ii) if the person conducting the response action fails to complete the necessary response activities, including operation and maintenance or long-term monitoring activities, the necessary response activities are completed.

''(C) Mechanisms and resources to provide meaningful opportunities for public participation, including—

''(i) public access to documents that the State, Indian tribe, or party conducting the cleanup is relying on or developing in making cleanup decisions or conducting site activities; and

''(ii) prior notice and opportunity for comment on proposed cleanup plans and site activities.

''(D) Mechanisms for approval of a cleanup plan, and a requirement for verification by and certification or similar documentation from the State, an Indian tribe, or a licensed site professional to the person conducting a response action indicating that the response is complete.

''(3) FUNDING.—There is authorized to be appropriated to carry out this subsection $50,000,000 for each of fiscal years 2001 through 2005.

''(b) ENFORCEMENT IN CASES OF A RELEASE SUBJECT TO STATE PROGRAM.—

''(1) ENFORCEMENT.—

''(A) IN GENERAL.— Except as provided in subparagraph (B) and subject to subparagraph (C), in the case of an eligible response site at which—

''(i) there is a release or threatened release of a hazardous substance, pollutant, or contaminant; and

''(ii) a person is conducting or has completed a response action regarding the specific release that is addressed by the response action that is in compliance with the State program that specifically governs response actions for the protection of public health and the environment;

the President may not use authority under this Act to take an administrative or judicial enforcement action under section 106(a) or to take a judicial enforcement action to recover response costs under section 107(a) against the person regarding the specific release that is addressed by the response action.

''(B) EXCEPTIONS.—The President may bring an enforcement action under this Act during or after completion of a response action described in subparagraph (A) with respect to a release or threatened release at an eligible response site described in that subparagraph if—

''(i) the State requests that the President provide assistance in the performance of a response action;

''(ii) the Administrator determines that contamination has migrated or will migrate across a State line, resulting in the need for further response action to protect human health or the environment, or the President determines that contamination has migrated or is likely to migrate onto property subject to the jurisdiction, custody, or control of a department, agency, or instrumentality of the United States and may impact the authorized purposes of the Federal property;

''(iii) after taking into consideration the response activities already taken, the Administrator determines that—

''(I) a release or threatened release may present an imminent and substantial endangerment to public health or welfare or the environment; and

''(II) additional response actions are likely to be necessary to address, prevent, limit, or mitigate the release or threatened release; or

''(iv) the Administrator determines that information, that on the earlier of the date on which cleanup was approved or completed, was not known by the State, as recorded in documents prepared or relied on in selecting or conducting the cleanup, has been discovered regarding the contamination or conditions at a facility such that the contamination or conditions at the facility present a threat requiring further remediation to protect public health or welfare or the environment.

''(C) PUBLIC RECORD.—The limitations on the authority of the President under subparagraph (A) apply only at sites in States that maintain, update not less than annually, and make available to the public a record of sites, by name and location, at which response actions have been completed in the previous year and are planned to be addressed under the State program that specifically governs response actions for the protection of public health and the environment in the upcoming year. The public record shall identify whether or not the site, on completion of the response action, will be suitable for unrestricted use and, if not, shall identify the institutional controls relied on in the remedy. Each State and tribe

receiving financial assistance under subsection (a) shall maintain and make available to the public a record of sites as provided in this paragraph.

''(D) EPA NOTIFICATION.—

''(i) IN GENERAL.—In the case of an eligible response site at which there is a release or threatened release of a hazardous substance, pollutant, or contaminant and for which the Administrator intends to carry out an action that may be barred under subparagraph (A), the Administrator shall—

''(I) notify the State of the action the Administrator intends to take; and

''(II)(aa) wait 48 hours for a reply from the State under clause (ii); or

''(bb) if the State fails to reply to the notification or if the Administrator makes a determination under clause (iii), take immediate action under that clause.

''(ii) STATE REPLY.—Not later than 48 hours after a State receives notice from the Administrator under clause (i), the State shall notify the Administrator if—

''(I) the release at the eligible response site is or has been subject to a cleanup conducted under a State program; and

''(II) the State is planning to abate the release or threatened release, any actions that are planned.

''(iii) IMMEDIATE FEDERAL ACTION.—The Administrator may take action immediately after giving notification under clause (i) without waiting for a State reply under clause (ii) if the Administrator determines that 1 or more exceptions under subparagraph (B) are met.

''(E) REPORT TO CONGRESS.—Not later than 90 days after the date of initiation of any enforcement action by the President under clause (ii), (iii), or (iv) of subparagraph (B), the President shall submit to Congress a report describing the basis for the enforcement action, including specific references to the facts demonstrating that enforcement action is permitted under subparagraph (B).

''(2) SAVINGS PROVISION.—

''(A) COSTS INCURRED PRIOR TO LIMITATIONS.—Nothing in paragraph (1) precludes the President from seeking to recover costs incurred prior to the date of enactment of this section or during a period in which the limitations of paragraph (1)(A) were not applicable.

''(B) EFFECT ON AGREEMENTS BETWEEN STATES AND EPA.—Nothing in paragraph (1)—

''(i) modifies or otherwise affects a memorandum of agreement, memorandum of understanding, or any similar agreement relating to this Act between a State agency or an Indian tribe and the Administrator that is in effect on or before the date of enactment of this section (which agreement shall remain in effect, subject to the terms of the agreement); or

''(ii) limits the discretionary authority of the President to enter into or modify an agreement with a State, an Indian tribe, or any other person relating to the implementation by the President of statutory authorities.

''(3) EFFECTIVE DATE.—This subsection applies only to response actions conducted after June 8, 2000.

''(c) EFFECT ON FEDERAL LAWS.—Nothing in this section affects any liability or response authority under any Federal law, including—

''(1) this Act, except as provided in subsection (b);

''(2) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

''(3) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

''(4) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); and

''(5) the Safe Drinking Water Act (42 U.S.C. 300f et seq.).''.

SEC. 302. ADDITIONS TO NATIONAL PRIORITIES LIST.

Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605) is amended by adding at the end the following:

''(h) NPL DEFERRAL.—

''(1) DEFERRAL TO STATE VOLUNTARY CLEANUPS.—At the request of a State and subject to paragraphs (2) and (3), the President generally shall defer final listing of an eligible response site on the National Priorities List if the President determines that—

''(A) the State, or another party under an agreement with or order from the State, is conducting a response action at the eligible response site—

''(i) in compliance with a State program that specifically governs response actions for the protection of public health and the environment; and

''(ii) that will provide long-term protection of human health and the environment; or

''(B) the State is actively pursuing an agreement to perform a response action described in subparagraph (A) at the site with a person that the State has reason to believe is capable of conducting a response action that meets the requirements of subparagraph (A).

''(2) PROGRESS TOWARD CLEANUP.—If, after the last day of the 1-year period beginning on the date on which the President proposes to list an eligible response site on the National Priorities List, the President determines that the State or other party is not making reasonable progress toward completing a response action at the eligible response site, the President may list the eligible response site on the National Priorities List.

''(3) CLEANUP AGREEMENTS.—With respect to an eligible response site under paragraph (1)(B), if, after the last day of the 1-year period beginning on the date on which the President proposes to list the eligible response site on the National Priorities List, an agreement described in paragraph (1)(B) has not been reached, the President may defer the listing of the eligible response site on the National Priorities List for an additional period of not to exceed 180 days if the President determines deferring the listing would be appropriate based on—

''(A) the complexity of the site;

''(B) substantial progress made in negotiations; and

''(C) other appropriate factors, as determined by the President.

''(4) EXCEPTIONS.—The President may decline to defer, or elect to discontinue a deferral of, a listing of an eligible response site on the National Priorities List if the President determines that—

''(A) deferral would not be appropriate because the State, as an owner or operator or a significant contributor of hazardous substances to the facility, is a potentially responsible party;

''(B) the criteria under the National Contingency Plan for issuance of a health advisory have been met; or

''(C) the conditions in paragraphs (1) through (3), as applicable, are no longer being met.''.

Mr. LAUTENBERG. Mr. President, I'm very pleased to announce that, after months of very hard work, we have bipartisan legislation which will clean up and redevelop the abandoned industrial sites known as Brownfields—S. 2700, the Brownfields Revitalization and Environmental Restoration Act of 2000.

I first introduced Brownfields legislation in the Senate in 1993, in the hopes of both protecting public health, and addressing the problems of blighted areas. Since that time, it has become clear that there are even more reasons to address Brownfields than we originally thought. In fact, there are few environmental issues which cut across so many problems and offer so many solutions.

Mr. President, Brownfields threaten the health of our citizens—and the economic health of communities across the country, by leading to abandoned inner cities, increased crime, loss of jobs and declining tax revenues. Brownfields also lead to urban sprawl, loss of farmland, increased traffic and air pollution and loss of historic districts in older urban centers.

But once they're cleaned up and made useful again, they also represent tremendous potential in new jobs and a cleaner environment. Now, finally, we have a bipartisan plan to achieve those goals.

The legislation we're introducing today provides federal money to investigate and clean up Brownfields sites. State and local governments would use this money to determine which sites pose environmental problems, to decide which redevelopment options hold the greatest promise, and most important, to get these sites cleaned up.

Second, the legislation promises important private investments in the cleanup effort—by providing liability protection for people interested in buying and cleaning up these sites and for people who bought a Brownfields site without knowing it was contaminated. It also removes potential liability for parties who own property which becomes contaminated through no fault of their own, from hazardous substances from an adjacent site. These liability limitations and clarifications will help innocent parties and provide incentives to get these properties cleaned up and back into use.

Third, this bill does several new and positive things for communities and for the environment. For the first time, it creates a public record of Brownfield sites handled under state programs, because the public has a right to know what's happening at the sites near their homes. And it is the first Brownfields bill to provide funding not just to assist in redevelopment projects, but also to provide assistance to state and local governments to create and preserve open space, parklands and other recreational areas in former Brownfields sites.

Finally, the bill gives states incentives and funding to develop state programs to clean up their Brownfield sites quickly and safely. It has provisions to encourage cooperation and coordination between the federal and state governments, both of whom play an active role in cleaning up these sites and protecting the citizens. The bill strikes a delicate balance. It provides deference to state cleanup programs but still ensures that the federal superfund program will be able to come in

and address problems when a site poses a serious problem.

The Brownfields cleanup and redevelopment strategy in this legislation is comprehensive. It's fiscally responsible. And it will improve the quality of life for people throughout the country. It promises thousands of new jobs and millions in new tax revenue. It promises increased momentum for smart growth, which means cleaner air and less congested roads.

It promises a new focus on revitalizing downtown areas, which will reduce urban sprawl, lower rates and protect parkland and open space. I come from the most densely populated state in this country, and I understand the importance of protecting open space.

Mr. President, the nation's mayors estimate that Brownfields cost between $200 million and $500 million a year in lost tax revenues. Returning these sites to productive use could create some 236,000 new jobs.

Just look at the progress we've made even over the last few years. Grants from the EPA to aid in cleaning up Brownfields sites have helped generate more than 5,800 jobs and about $1.8 billion in revenues. In New Jersey alone, we've rescued more than 1,000 Brownfields sites, replacing polluted lagoons with office centers and covering abandoned rail yards with condominium complexes.

These successes benefit everyone—both environmentally and economically. Which is why this legislation has strong support from both Democrats and Republicans.

Mr. President, in the 1960s, this country turned its attention away from downtown areas and started focusing on the suburbs. We see now what that got us: clogged highways, overcrowded airports, and increased pollution.

It's time to turn that trend around. And that's exactly what this legislation will do. I also want to thank my three colleagues for their determination and hard work in hammering out this compromise. Senator SMITH, our new Chairman, has really reached out to all members of the Committee to try to craft good environmental legislation.

Senator BAUCUS, the Democratic leader on our Committee, has been a stalwart advocate for a good Superfund program and a compromise Brownfields bill. We have fought many battles together over the years. Finally, Senator CHAFEE has shown great courage and energy, bringing us together to do what was once unthinkable, a Superfund related bill that has bipartisan support. I look forward to working with all of them to ensure that this bill is signed into law. Thank you. Following is a summary of the bill.

BROWNFIELDS REVITALIZATION AND ENVIRONMENTAL RESTORATION ACT OF 2000 (S. 2700)—KEY PROVISIONS

Provides critically needed funds to assess and clean up abandoned and underutilized brownfield sites, which will create jobs, increase tax revenues, preserve and create open space and parks;

Provides legal protections for innocent parties, such as contiguous property owners, prospective purchasers, and innocent landowners;

Provides for funding and enhancement of state cleanup programs, including limits where appropriate on enforcement by the federal government at sites cleaned up under a State response program. Provides a balance of certainty for prospective purchasers, developers and others while ensuring protection of the public health.

Creates a public record of brownfield sites and enhances community involvement in site cleanup and reuse.

Provides for deferral of listing sites on the National Priorities List if the state is taking action at the site.

TITLE I: BROWNFIELD REVITALIZATION FUNDING

Authorizes $150 million per year, for fiscal years 2001–2005, for grants to local governments, States and Indian tribes to inventory, assess and cleanup contaminated brownfield sites, either through establishing a Revolving Loan Fund or, in some circumstances, by giving a grant. Provides criteria to be used in awarding these funds, including the extent to which the money will protect human health, spur redevelopment and create jobs, preserve open space and parks, and represent a fair distribution of money between urban and rural areas.

TITLE II: BROWNFIELD LIABILITY CLARIFICATIONS

Contiguous Property Owners—Generally provides Superfund liability relief for innocent persons who own property that is contaminated solely due to a release from another property, so long as the person did not cause or contribute to the release, and provide cooperation and access for the cleanup.

Prospective Purchases—Generally provides Superfund liability relief for innocent future buyers of brownfields who are responsible for contamination and do not impede the cleanup of the site, make all appropriate inquiry prior to purchase, exercise appropriate care with respect to hazardous substances, and provide cooperation and access to persons cleaning up the site. The bill also provides for ''windfall liens'' at sites where the government pays for the cleanup, and the fair market value was enhanced by that effort.

Innocent Landowners—Clarifies relief from Superfund liability for landowners who had no reason to know of contamination at the time of purchase, despite having made all appropriate inquiry into prior ownership and use of the facility. Provides certainty to parties by clarifying what needs to be done to satisfy the ''appropriate inquiry'' requirement in the current statute.

TITLE III: STATE RESPONSE PROGRAMS

Authorizes $50 million per year in fiscal years 2001–2005 for grants to states and Indian tribes to establish and enhance their cleanup programs, when the programs meet are making progress toward meeting general criteria, such as protection of human health and providing public involvement.

Provides deference to state programs and provides additional ''certainty'' to persons who conduct cleanups under state programs by placing restrictions on the authority of the Administrator to take an enforcement action under the federal Superfield law, while preserving the President's ability to address serious problems.

Provides for states to keep a public record of sites, in the state program to be eligible for the bar on federal enforcement. This record will provide the public with critical information about the sites in their neighborhoods.

Provides a deferral for listing sites on the federal Superfund list if the site is being adequately handled by the state program.

Mr. SMITH of New Hampshire. Today, the chairman of the Committee on Environment and Public Works, ranking minority member of the committee, chairman of the Subcommittee on Superfund, and ranking minority member of the subcommittee, have come together to introduce a bill that protects the environment, encourages community involvement, promotes economic redevelopment, encourages the preservation of green spaces, and sets the stage for future efforts of comprehensive Superfund reform.

As a nation, our industrial heritage has left us with numerous contaminated abandoned or underutilized ''brownfield'' sites. Although the level of contamination at many of these sites is relatively low, and the potential value of the property may be quite high, developers often shy away from developing these sites. One reason for this is uncertainty regarding the extent of contamination, the extent of potential liability, or the potential costs of cleanup.

With the introduction of the Brownfield Revitalization and Environmental Restoration Act of 2000, we focus on the uncertainty facing developers, property owners, and communities as to the status of low-risk contaminated sites.

At the beginning of this Congress, Administrator Browner and Assistant Administrator of Office of Solid Waste and Emergency Response, Tim Fields, testified that EPA was interested in pursuing legislative reform only in some narrow property owner areas and in brownfields. We have worked to address their suggestions and hope that in the future they can work with us to address a broader comprehensive Superfund effort.

Concerns exist for some Committee members that taking brownfields out of a comprehensive Superfund reform package will jeopardize future Superfund reform. Although I agree with my colleagues that comprehensive reform is needed, I feel that we can move forward with brownfield legislation without compromising comprehensive reform. 450,000 brownfield sites exist in the United States. These sites are low risk sites and are not the traditional Superfund sites that would be affected by comprehensive Superfund reform. If States and citizens are discouraged from cleaning up these sites, continuing the barriers to redevelopment, these sites may someday become Superfund sites.

As brownfield sites are outside of the scope of Superfund, I believe that liability carve-outs are outside of the scope of any brownfields legislation. As I have in the past, I continue to oppose narrow carve-outs. Carveouts weaken attempts at overhauling the remedy selection and liability allocation provisions in the current Superfund statute and, frankly, make a bad system worse. This brownfield legislation does not affect the allocation of liability at Superfund sites, instead, it provides

needed resources to address sites, provides certainty to those who voluntarily cleanup, and prevents brownfields from being included in the Superfund web. Brownfield legislation presents a win-win for all involved and should jumpstart action on substantive Superfund reform in the next Congress.

This is a new era of environmental and infrastructure legislation. Since we have been paying down the debt, we are now able to return money to local communities to help them solve environmental problems and are encouraging partnerships are between federal entities, States, and local communities. It is an exciting time to be working and investing in our environment.

Mr. BAUCUS. Mr. President, I am pleased to join Senators CHAFEE, LAUTENBERG, and SMITH in introducing the Brownfields Revitalization and Environmental Restoration Act. This bill is a ''win-win.'' It is good for the environment. It is good for communities. And it is good for the economy. More hazardous waste sites will be cleaned up. We'll have more parks and open space, more economic redevelopment, and more jobs.

I'd like to emphasize that this is not just an east-coast, big city bill. Montana may not have as many brownfields as some of our more industrialized and densely-populated states, but our economic history has left us with our share. Wood treatment facilities. Railroad yards. Sawmills. Getting these sites remediated and back in use makes good sense in Montana and throughout the country.

The Brewery Flats site outside Lewistown is a perfect example of a place where this bill can really make a difference in Montana. This 57 acre site is located on the Big Spring Creek flood plain, two miles south of Lewistown. It is a railroad site, consisting of a former branch line, railroad switching yard, and roundhouse locomotive service facility. Chicago-Milwaukee railroad operated the site, then sold it to Burlington Northern. The city would like to acquire the site and convert it to recreational and educational uses. The owner is willing to transfer the land to the city, but the city needs to have a more complete understanding of the extent of the contamination before moving acquiring the land and undertaking a cleanup.

The site has outstanding potential to enhance the community. It is adjacent to land on the Big Spring Creek that is owned by Montana Fish and Wildlife, so cleaning it up will allow the expansion of existing open space. Big Spring Creek itself is a blue-ribbon trout stream, and the Brewery Flats site boasts several wetland areas. Local students have planted trees in the area, and the educational and recreational potential of these adjacent sites is excellent.

Lewistown has worked hard to utilize existing programs and resources. Montana DEQ performed some initial sampling on the site several years ago. More recently, EPA conducted a targeted site assessment, which revealed light contamination on half of the site, and more extensive contamination near the roundhouse. Although EPA did not find anything alarming, the assessment is a first cut, and the city does not feel comfortable taking ownership of the property before more extensive sampling is done. Lacking the resources to do this work, Lewistown has applied for an EPA brownfields ''showcase communities'' grant. This process is still pending. In addition, the city has applied to the Montana DNRC for a cleanup grant.

The brownfields bill could greatly help Lewistown acquire and clean up Brewery Flats. And it could do the same for hundreds of sites in Montana and thousands around the country, by providing funding for brownfields revitalization programs, by giving liability protection in certain cases, and by providing funding and increased authority to state brownfields cleanup programs.

Let me explain each of these provisions.

Title I of the bill authorizes funding to states, tribes and local government to inventory, assess, and remediate brownfield sites. Funding is particularly critical for sites that will be used for non-profit purposes, such as parks. In some cases, it is also needed to fill gaps in private financing at sites that will be redeveloped for commercial use. To make the funding as effective as possible, it is structured to provide states, tribes and local governments the flexibility to utilize the brownfields money and EPA's capacity in the way that best suits their particular needs.

For site assessment, states, tribes and local governments can seek grants from EPA. For remediation, governments that wish to establish a program can seek grants to capitalize revolving loan funds for remediation. Out of these revolving loan funds, they can then provide loans, and grants to public and nonprofit entities, for remediation. Governments that do not wish to establish revolving loan funds, on the other hand, can seek grants from EPA for specific remediation projects. In addition, Title I authorizes EPA to conduct brownfields-related technical assistance and job training and facilitate community participation.

This package of funding and EPA authority builds on the successes of EPA's existing brownfields program, and strengthens it by adding increased flexibility. To serve all of these purposes, Title I authorizes $150 million per year for five years. I note that, at my urging, the bill includes mine-scarred lands in the definition of brownfields and contains a provision that will ensure that funds are distributed fairly between urban and rural areas.

Turning to Title II of the bill, Superfund's critics have long argued that the threat of Superfund liability has been a drag on the redevelopment of brownfields sites. Title II addresses this problem by protecting several classes of persons from Superfund liability. It protects contiguous property owners, whose property has been contaminated solely by migration of contamination from contiguous property. It protects bona fide prospective purchasers, who exercise appropriate care when purchasing property and did not contribute to any existing contamination. And it protects innocent landowners, who did not have reason to know of and did not contribute to contamination of property they already own.

These provisions make Superfund more fair, and will promote brownfields redevelopment by providing certainty to property owners and developers about what they need to do to avoid Superfund liability.

Title III clarifies the relationship between state cleanup programs and EPA's Superfund program. Superfund critics have long argued that the possibility that EPA could second-guess state-approved cleanups has discouraged brownfields remediation. At the same time, I and other have argued that we need to preserve the federal government's ability to use Superfund authorities to deal with dangerous situations at sites cleaned up under state programs in the rare case in which the cleanup is inadequate and there is a threat to human health or the environment.

The tension between these two views has been one of the major obstacles to moving brownfields legislation in the past. This bill forges a new compromise on this issue, one that should appeal to both sides in the debate. On the one hand, it gives more certainty to those who clean up brownfield sites under state programs. On the other hand, it preserves EPA's ability to use Superfund authorities to address serious problems.

Mr. President, putting these changes all together, the bill will expedite cleanups at Brewery Flats and all across the country. That, again, is good for the environment, good for communities, and good for the country.

One final point. This bill reflects a moderate, bipartisan, compromise. It shows that we can roll up our sleeves and resolve our differences.

For that, I complement the new chairman of the Environment and Public Works Committee, Senator SMITH, and the chairman of the Superfund Subcommittee, Senator CHAFEE. They've done a great job.

I'd also like to pay a special complement to the ranking member of the Subcommittee, Senator LAUTENBERG. He has accomplished many things during his 18 years in the Senate. One of the most important has been his leadership on environmental issues. More than anyone else, he has protected, and improved, the Superfund program.

If we enact the Chafee-Lautenberg bill this year, and I believe we can, it

will be a fitting capstone to his Senate career.

By Mr. WYDEN (for himself, Mr. DEWINE and Mr. ROCKEFELLER):

S. 2701. A bill to amend the Internal Revenue Code of 1986 to allow a tax credit for donations of computers to senior centers, to require a pilot program to enhance the availability of Internet access for older Americans, and for other purposes; to the Committee on Finance.

INTERNET ACCESS FOR SENIORS ACT OF 2000

Mr. WYDEN. Mr. President, today, the opportunity to live a healthy and productive life can be enriched by something new: access to the Internet. But according to a 1999 Forrester Research report, only 8 percent of seniors age 65 and above have Internet access compared to 40 percent of the population under age 65. According to an unpublished Department of Commerce study, the percentage of low-income seniors with Internet access is even less: only 1.5 percent. My bill, the Internet Access for Seniors Act of 2000, will help narrow this digital divide between seniors and the rest of the population. I am pleased to be joined by Senators DEWINE and ROCKEFELLER in introducing this bill.

A recent study by Stanford's Institute for the Quantitative Study of Society shows the digital divide among different demographic groups. The variables are age, education, gender, race, ethnicity, and income. It shows that by far the most important factors facilitating or inhibiting Internet access are age and education—not income, not race, not ethnicity, and not gender. According to the study's authors, these variables account for less than 5 percent of the change in the rates of Internet access and are statistically insignificant. In contrast, and I quote, ''a college education boosts rates of Internet access by well over 40 percentage points compared to the less educated group, while people over 65 show a more than 40 percentage point drop in their rates of Internet access compared to those under 25.''

Ironically, seniors, who have more limited access to the Internet, can benefit more from Internet access than others because, in addition to a digital divide, they suffer from a transportation divide. The ability to travel from one place to another is vital to our daily lives. In fact, good transportation access is vital for many of the same reasons as good Internet access. But seniors are the least mobile demographic segment of our adult population. One way that people cope with poor access to telecommunications is to rely on transportation. But seniors lack this coping mechanism. In other words, if any demographic group in our society actually needs superior access to the Internet, it is seniors.

Our society has long recognized that access to certain kinds of information is a public good. That is why we have schools and libraries, and it is why we have the E-rate, which provides Internet access to schools and libraries. Until now, however, senior centers have been left out of the mix. Some may say, ''Why don't seniors go to the library to get Internet access?'' Many seniors prefer to go to senior centers because they are specifically designed to serve their needs. For example, senior centers routinely provide some type of special transportation for seniors to get to and from the senior centers. Asking libraries to take on the added cost of providing such transportation is clearly less desirable from a cost—not to mention logistical—standpoint. When a senior makes the effort to get to a senior center, he can take advantage of a half dozen services specifically designed to serve his needs, and it seems wasteful to ask libraries to take on those additional services.

There are many ways seniors can benefit from Internet access: taking courses, finding a job, becoming better-informed citizens, and shopping for essential goods and services. One application, access to health information, is obviously essential to seniors and is also an area of great interest to me.

Mr. President, there is an explosion of useful health information being made available over the Internet. According to a recent front page New York Times story, there are now more than 100,000 healthcare websites available on the Internet. Health information is being made available on the Internet because consumers demand it.

There are many reasons seniors may prefer to get health information over the Internet rather than in person.

Some seniors may not want to wait until their next doctor appointment before finding out more about their ailment. For example, if a senior gets a diagnosis of cancer, she may not want to wait to find out more about the seriousness of her condition and the options available.

Some seniors may find a trip to the clinician's office an onerous and often all-day activity. Clearly the ability to communicate with a clinician without making a special trip—and at odd hours—would be of great benefit. Recognizing these needs, some HMOs already allow seniors to communicate with their caregiver via the Internet to request relatively routine services such as a dosage change. This also saves on Medicare costs.

Some seniors may want to talk to other people who share their condition. For example, most medical websites now have chat rooms where fellow sufferers can get together to share information about new treatment options and day-to-day tips for coping with specific conditions. These sites also provide advice and support to the spouses and other caregivers who must care for victims of Alzheimer's, heart disease, cancer, and other afflictions of the elderly.

My legislation is designed to bring senior centers, particularly those in low-income or rural areas, into the digital age. I chose senior centers as a vehicle to alleviate the digital divide for seniors because these centers serve large numbers of seniors, especially the disadvantaged seniors targeted by this bill. Unfortunately, there are no national statistics regarding how many senior centers have computers with Internet access accessible to seniors. However, my office did a survey of Oregon senior centers. We found that 52 percent lacked access to computers and that 71 percent lacked access to the Internet. In many cases, the quality of computers and Internet access was low. Many computers were at least five years old. Some were ten or more years old. Internet connections were often made with older versions of browsers that could not access contemporary web sites.

My bill has two major components. The first provides a tax credit for individuals and organizations that contribute computer equipment to senior centers. The second creates a pilot program, called the S-rate, to provide subsidies for qualified low-income or rural senior centers to access the Internet.

The tax credit, essentially identical to the tax credit for computer equipment donated to schools passed March 1 of this year in the New Millennium Classrooms Act, is equal to 30 percent of the fair market value of the donated computer equipment. To receive the tax deduction, the computer equipment must be three years old or less. For donations to senior centers located within empowerment zones, enterprise communities, and Indian reservations, the tax credit is increased to 50 percent. The tax deduction is terminated for taxable years beginning three years after the date of enactment of this act, and we impose a limit of 10 computers per senior center.

The S-rate covers up to 90 percent of the costs associated with Internet access to senior centers. Covered costs include computers, software, training, and maintenance. Our bill seeks to narrow the increasingly important divide between information haves and have-nots in our society. Our bill is only a pilot program that will invest $10 million a year in getting our seniors online. The program sunsets after 3 years.

The Secretary of the Department of Commerce will administer the S-rate. In selecting among eligible senior centers, the Secretary will consider the senior center's need and proposed applications. Need includes the number of seniors served by the senior center, the extent to which the senior center already provides Internet access, and the extent to which the senior center serves an area with a high percentage of low-income or rural individuals. Applications include health information, job training, lifelong education, and any other applications that fulfill an important social need.

One of the Secretary's tasks is to develop enabling tools for the senior centers. For example, the Secretary could offer an array of fill-in-the-blank web

templates to make it easy for senior centers to post information on the web and create their own home pages. The Secretary could provide information to senior centers about privacy concerns, especially regarding sensitive matters such as health information. The Secretary could suggest minimum standards for web hosting services seeking to serve senior centers.

One of the wonderful things about the Internet is the ability of one site to learn from another. The Secretary could create a web-based clearinghouse of all the senior centers funded under the pilot program. Innovative and outstanding web-based services could be specially marked so that other senior centers could quickly learn from the best practices of others. The Secretary could set up a technical chat room so that senior center administrators, in their role as webmasters, could share concerns and ideas. The Secretary could set up an Internet hotline for oversight; that is, to be alerted if an administrator doesn't use the S-rate for its stated purpose. And because the Internet can be used for distance education and online help, the Secretary could fund some senior centers to train other senior citizens.

Let me close with one further thought. Closing the digital divide for seniors is not just about social justice; it's also about basic dollars and cents. Consider this: according to the National Institute of Aging, more than two-thirds of every healthcare dollar—much of it government funded—goes to seniors. If we can empower seniors to be wise health consumers, we can use market mechanisms, rather than government red tape, to make sure that seniors get the healthcare they need. The Internet now offers that opportunity. Let's not squander it.

I ask unanimous consent that my statement and a copy of the bill be printed in the RECORD.

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

S. 2701

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Internet Access for Seniors Act of 2000''.

SEC. 2. CREDIT FOR COMPUTER DONATIONS TO SENIOR CENTERS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following:

''SEC. 45D. CREDIT FOR COMPUTER DONATIONS TO SENIOR CENTERS.

''(a) GENERAL RULE.—For purposes of section 38, the computer donation credit determined under this section is an amount equal to 30 percent of the qualified computer contributions made by the taxpayer during the taxable year as determined after the application of section 170(e)(6)(A).

''(b) QUALIFIED COMPUTER CONTRIBUTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified computer contribution' has the meaning given the term 'qualified elementary or secondary educational contribution' by section 170(e)(6)(B), except that—

''(A) clause (ii) of such section shall be applied by substituting '3 years' for '2 years',

''(B) clause (iii) of such section shall be applied by inserting ', the person from whom the donor reacquires the property,' after 'the donor', and

''(C) notwithstanding clauses (i) and (iv) of such section, such term shall include the contribution of computer technology or equipment to eligible senior centers to be used by individuals who have attained 60 years of age to improve job skills in computers.

''(2) ELIGIBLE SENIOR CENTER.—

''(A) IN GENERAL.—The term 'eligible senior center' means any facility which is eligible—

''(i) to receive funding as a senior center under title III of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.), and

''(ii) to receive the qualified computer contribution as determined under subparagraph (B).

''(B) ELIGIBILITY TO RECEIVE CONTRIBUTION.—For purposes of subparagraph (A)(ii), a senior center is eligible to receive a qualified computer contribution in any calendar year if such contribution when added to all preceding qualified computer contributions for such year does not result in such center receiving more than 10 computers through such contributions.

''(c) INCREASED PERCENTAGE FOR CONTRIBUTIONS TO ENTITIES IN EMPOWERMENT ZONES, ENTERPRISE COMMUNITIES, AND INDIAN RESERVATIONS.—In the case of a qualified computer contribution to an entity located in an empowerment zone or enterprise community designated under section 1391 or an Indian reservation (as defined in section 168(j)(6)), subsection (a) shall be applied by substituting '50 percent' for '30 percent'.

''(d) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of paragraphs (1) and (2) of section 41(f) shall apply.

''(e) TERMINATION.—This section shall not apply to taxable years beginning on or after the date which is 3 years after the date of the enactment of the Internet Access for Seniors Act of 2000.''.

(b) CURRENT YEAR BUSINESS CREDIT CALCULATION.—Section 38(b) of the Internal Revenue Code of 1986 (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', plus'', and by adding at the end the following:

''(13) the computer donation credit determined under section 45D(a).''.

(c) DISALLOWANCE OF DEDUCTION BY AMOUNT OF CREDIT.—Section 280C of the Internal Revenue Code of 1986 (relating to certain expenses for which credits are allowable) is amended by adding at the end the following:

''(d) CREDIT FOR COMPUTER DONATIONS.—No deduction shall be allowed for that portion of the qualified computer contributions (as defined in section 45D(b)) made during the taxable year that is equal to the amount of credit determined for the taxable year under section 45D(a). In the case of a corporation which is a member of a controlled group of corporations (within the meaning of section 52(a)) or a trade or business which is treated as being under common control with other trades or businesses (within the meaning of section 52(b)), this subsection shall be applied under rules prescribed by the Secretary similar to the rules applicable under subsections (a) and (b) of section 52.''.

(d) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 of the Internal Revenue Code of 1986 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following:

''(9) NO CARRYBACK OF COMPUTER DONATION CREDIT BEFORE EFFECTIVE DATE.—No amount of unused business credit available under section 45D may be carried back to a taxable year beginning on or before the date of the enactment of this paragraph.''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 45C the following:

''Sec. 45D. Credit for computer donations to senior centers.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after the date of the enactment of this Act.

SEC. 3. PILOT PROGRAM FOR ENHANCED INTERNET ACCESS FOR OLDER AMERICANS.

(a) REQUIREMENT.—

(1) IN GENERAL.—The Secretary of Commerce shall, in consultation with the Secretary of Health and Human Services, carry out a pilot program to enhance the availability of Internet access for older Americans. The pilot program shall meet the requirements of this section.

(2) DISCHARGE OF RESPONSIBILITIES.—The Secretary of Commerce shall carry out the pilot program through the Assistant Secretary of Commerce for Communications and Information, and the Secretary of Health and Human Services shall consult with the Secretary of Commerce under the pilot program through the Assistant Secretary for Aging of the Department of Health and Human Services.

(b) PARTICIPATION OF SENIOR CENTERS.—

(1) IN GENERAL.—The Secretary of Commerce shall select senior centers for participation in the pilot program under this section from among senior centers.

(2) APPLICATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), each senior center seeking to participate in the pilot program shall submit to the Secretary an application for participation in the pilot program containing such information as the Secretary shall require.

(B) APPLICATIONS FOR SEVERAL CENTERS.—An entity consisting of or operating two or more senior centers may submit a single application under this paragraph on behalf of such senior centers that seek to participate in the pilot program.

(3) SELECTION OF SENIOR CENTERS.—In selecting a senior center for participation in the pilot program, the Secretary take into account the following:

(A) The extent to which the senior center already provides Internet access for older individuals.

(B) The extent to which the senior center serves an area with a high percentage of low-income older individuals, a rural area, or both such areas.

(C) The number of older individuals who will be provided Internet access as a result of the participation of the senior center in the pilot program.

(D) The extent to which the participation of the senior center in the pilot program will result in the receipt by older individuals of health or education information or job training through the Internet.

(c) GRANTS.—

(1) IN GENERAL.—

(A) IN GENERAL.—The Secretary of Commerce shall make grants to senior centers selected by the Secretary under subsection (b) for participation in the pilot program under this section.

(B) RECIPIENT OF CERTAIN GRANTS.—If the senior centers selected by the Secretary include senior centers covered by an application under subsection (b)(2)(B), the Secretary shall make the grant to such centers as a single grant through the entity submitting the application under that subsection.

(2) AMOUNT OF GRANTS.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Secretary shall determine the amount of the grant to be made to each senior center selected to participate in the pilot program.

(B) LARGER AMOUNTS FOR CERTAIN CENTERS.—The Secretary shall, to the maximum extent practicable, make grants in larger amounts to senior centers selected to participate in the pilot program that serve areas with a high percentage of low-income older individuals, rural areas, or both such areas.

(C) ANNUAL LIMIT.—The amount of the grant made to a given senior center in any year may not exceed $25,000.

(d) USE OF GRANT AMOUNTS.—

(1) IN GENERAL.—A senior center receiving a grant under the pilot program under this section shall use the amount of the grant to cover or defray the costs of the senior center in making available Internet access to or for older individuals at or through the facilities of the senior center, including costs relating to telecommunications services, Internet access, internal connections, computers, input and output devices, software, training, and operations and maintenance.

(2) LIMITATION ON PERCENTAGE OF COSTS COVERED BY GRANT.—

(A) IN GENERAL.—The Secretary shall specify in each grant to a senior center selected to participate in the pilot program the maximum percentage of the costs of the senior center that may be covered or defrayed by such grant.

(B) HIGHER PERCENTAGE FOR CERTAIN CENTERS.—In specifying maximum percentages under this paragraph, the Secretary shall, to the maximum extent practicable, specify higher percentages for senior centers serving areas with a high percentage of low-income older individuals, rural areas, or both such areas.

(C) MAXIMUM PERCENTAGE.—The highest maximum percentage that may be specified by the Secretary under this paragraph shall be 90 percent.

(3) ADDITIONAL LIMITATION ON USE OF FUNDS.—Amounts received by a senior center under a grant under subsection (c) may not be used for any administrative purpose unless such purpose relates directly to the participation of the senior center in the pilot program under this section.

(e) DURATION.—

(1) COMMENCEMENT.—The Secretary of Commerce shall commence the pilot program under this section as soon as practicable after the date of the enactment of this Act.

(2) TERMINATION.—The Secretary may not make any grant under the pilot program after the date that is three years after the commencement of the pilot program under paragraph (1).

(f) REPORT.—

(1) REQUIREMENT.—Not later than two years after the commencement of the pilot program under subsection (e)(1), the Secretary of Commerce shall submit to Congress a report on the pilot program.

(2) ELEMENTS.—The report under paragraph (1) shall set forth the following:

(A) An estimate of the cost per senior center of making available Internet access to or for older individuals at or through senior centers in rural areas and in non-rural areas, including a separate estimate of the cost of—

(i) purchasing computers and associated hardware;

(ii) purchasing software;

(iii) purchasing and installing internal connections;

(iv) subscribing to Internet and telecommunications services at narrowband data rates; and

(v) operating and maintaining the systems which provide such access.

(B) An assessment of the extent to which computers and Internet access are currently available to or for older individuals at or through senior centers in the United States, including—

(i) a comparison of the availability of computers and Internet access at or though senior centers in rural areas with the availability of computers and Internet access at or through senior centers in non-rural areas; and

(ii) a comparison of the availability of computers and Internet access at or through senior centers that serve a high percentage of low-income older individuals with the availability of computers and Internet access at or through senior centers that do not serve a high percentage of low-income older individuals.

(C) A proposal for a program to provide additional subsidies or assistance to enhance the availability of Internet access to or for older individuals, under which program—

(i) all senior centers would be eligible for such subsidies or assistance; and

(ii) priority would be given in the provision of such subsidies or assistance to senior centers that serve a high percentage of low-income older individuals or are located in rural areas.

(D) An estimate of the annual cost of the program proposed under subparagraph (C).

(g) DEFINITIONS.—In this section:

(1) LOW-INCOME OLDER INDIVIDUAL.—The term ''low-income older individual'' means an older individual whose income level is at or below the poverty line (as that term is defined in section 102(41) of the Older Americans Act of 1965 (42 U.S.C. 3002(41)).

(2) OLDER INDIVIDUAL.—The term ''older individual'' has the meaning given that term in section 102(38) of the Older Americans Act of 1965 (42 U.S.C. 3002(38)).

(3) SENIOR CENTER.—The term ''senior center'' means any facility that is eligible to receive funding as a senior center under title III of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.).

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated $30,000,000 for purposes of the pilot program required by this section.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until expended.●

By Mr. BENNETT (for himself and Mr. SCHUMER):

S. 2702. A bill to require reports on the progress of the Federal Government in implementing Presidential Decision Directive No. 63 (PDD–63); to the Committee on Armed Services.

REPORTING PROGRESS ON IMPLEMENTING PRESIDENTIAL DECISION DIRECTIVE NO. 63 (PDD–63)

● Mr. BENNETT. Mr. President, I rise today to introduce legislation with Senator SCHUMER. I wanted to thank my colleague and his staff for their hard work and full partnership in arriving at what I believe is a critical first step to insuring this nation's security in a world of growing cyber threats. I have been concerned for some time now that Presidential Decision Directive 63 (PDD 63) does not clearly define a role for the Department of Defense (DOD). In one sentence, PDD 63 states that the DOD is assigned the role of ''defense'' but does not elaborate on how it will accomplish this vague assignment. Our legislation will require that the DOD begin the thinking process of how it is integrating its different capabilities and assets into an ''indications and warning architecture.'' Each of the Services is developing its individual information warfare capabilities at this moment, and it is not clear how they are being integrated or coordinated. The DOD was supposed to report on the future of the National Communications System (NCS) in 1996 and 1997, but as far as I know that report was never completed. NCS has been identified as a unique public-private partnership with major telephone carriers and information systems providers and could be a useful entity to defend against a widespread attack.

This bill will require the DOD to describe how it is working with the intelligence community to identify, detect and counter the threat of information warfare programs of hostile states and potentially hostile sub-national organizations. One thing my Y2K experience has made very clear to me is that the coordination of intelligence and the proper identification of threat and intention is increasingly difficult. We often lack the human intelligence, just plain people on the ground, to meet the growing need for reconnaissance, and that makes coordinated and integrated technology all the more important.

We must begin to work from a position of having a consistent understanding of the terms we use. It is central to this idea that we define the terms: nationally ''significant cyber event'' and ''cyber reconstitution.'' PDD 63 and the National Plan do not define what these are and the lack of definition causes confusion and impedes program development.

Also, during Y2K we found that the DOD has a large dependency on foreign infrastructure and that we must develop a way to assure and defend that infrastructure electronically. Any collapse of an infrastructure would hurt our force projection capabilities.

Our offensive and defensive information operations need to evolve together in an integrated fashion. We need to identify elements of a defense against an information warfare attack, including how the capability of the U.S. Space Command's Computer Network Attack Capability will be integrated into the overall cyber defense of the U.S.

Mr. President, in closing I cannot overemphasis my concern for a thoughtful approach to cyber-defense. As many of us have become painfully aware, the threats are increasing at unheard of rates and our defenses, even in the government, have not kept pace.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2702

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPORTS ON FEDERAL GOVERNMENT PROGRESS IN IMPLEMENTING PRESIDENTIAL DECISION DIRECTIVE NO. 63 (PDD–63)

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

(1) The protection of our Nation's critical infrastructure is of paramount importance to the security of the United States.

(2) The vulnerability of our Nation's critical sectors—such as financial services, transportation, communications, and energy and water supply—has increased dramatically in recent years as our economy and society have become ever more dependent on interconnected computer systems.

(3) Threats to our Nation's critical infrastructure will continue to grow as foreign governments, terrorist groups, and cyber-criminals increasingly focus on information warfare as a method of achieving their aims.

(4) Addressing the computer-based risks to our Nation's critical infrastructure requires extensive coordination and cooperation within and between Federal agencies and the private sector.

(5) Presidential Decision Directive No. 63 (PDD–63) identifies 12 areas critical to the functioning of the United States and requires certain Federal agencies, and encourages private sector industries, to develop and comply with strategies intended to enhance the Nation's ability to protect its critical infrastructure.

(6) PDD–63 requires lead Federal agencies to work with their counterparts in the private sector to create early warning information sharing systems and other cyber-security strategies.

(7) PDD–63 further requires that key Federal agencies develop their own internal information assurance plans, and that these plans be fully operational not later than May 2003.

(b) REPORT REQUIREMENTS.—(1) Not later than July 1, 2001, the President shall submit to Congress a comprehensive report detailing the specific steps taken by the Federal Government as of the date of the report to develop infrastructure assurance strategies and the timetable of the Federal Government for operationalizing and fully implementing critical information systems defense by May, 2003. The report shall include the following:

(A) A detailed summary of the progress of each Federal agency in developing an internal information assurance plan.

(B) The progress of Federal agencies in establishing partnerships with relevant private sector industries.

(C) The status of cyber-security and information assurance capabilities in the private sector industries at the forefront of critical infrastructure protection.

(2)(A) Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a detailed report on Department of Defense plans and programs to organize a coordinated defense against attacks on critical infrastructure and critical information-based systems in both the Federal Government and the private sector. The report shall be provided in both classified and unclassified formats.

(B) The report shall include the following:

(i) A description of the current role of the Department of Defense in implementing Presidential Decision Directive No. 63 (PDD–63).

(ii) A description of the manner in which the Department is integrating its various capabilities and assets (including the Army Land Information Warfare Activity (LIWA), the Joint Task Force on Computer Network Defense (JTF–CND), and the National Communications System) into an indications and warning architecture.

(iii) A description of Department work with the intelligence community to identify, detect, and counter the threat of information warfare programs by potentially hostile foreign national governments and sub-national groups.

(iv) A definitions of the terms ''nationally significant cyber event'' and ''cyber reconstitution''.

(v) A description of the organization of Department to protect its foreign-based infrastructure and networks.

(vi) An identification of the elements of a defense against an information warfare attack, including the integration of the Computer Network Attack Capability of the United States Space Command into the overall cyber-defense of the United States.●

By Mr. AKAKA (for himself, Mr. DURBIN, Mr. SARBANES, Ms. MIKULSKI, Mr. EDWARDS, and Mr. BAUCUS):

S. 2703. A bill to amend the provisions of title 39, United States Code, relating to the manner in which pay policies and schedules and fringe benefit programs for postmasters are established; to the Committee on Governmental Affairs.

THE POSTMASTERS FAIRNESS AND RIGHTS ACT

● Mr. AKAKA. Mr. President, I rise today to introduce the Postmasters Fairness and Rights Act, which will allow our nation's postmasters to take an active and constructive role in managing their post offices and discussing compensation issues. I am joined by Senators DURBIN, SARBANES, MIKULSKI, EDWARDS, and BAUCUS in offering this legislation.

Currently, Postmasters lack an equitable process for discussing pay and benefits and have seen an erosion of their role in improving the quality of mail services to postal patrons and managing their local post offices. These inequities have contributed to the decline in the number of Postmasters since the reorganization of the Postal Service 30 years ago.

Our bill would create a positive and fair procedure to address the inequalities that have resulted from the present ''consultative process.'' This would foster better mail services by investing Postmasters with greater input in operational decision-making, improving Postmasters' morale, and helping attract and retain qualified Postmasters. The measure would also define ''Postmaster'' for the first time.

Mr. President, the Postal Service estimates that seven million customers a day transact business at post offices. We expect timely delivery of the mail 6 days a week, and the Postal Service does not disappoint us. Given the regularity of mail delivery and the number of Americans visiting post offices daily, it is no wonder that we have come to view our neighborhood post offices as cornerstones of our communities. In fact, many of our towns and cities have developed around a post office where the postmaster served as the town's only link to the federal government.

Our nation's postmasters are on the front line to ensure that the mail gets delivered in a timely manner, and they have helped fuel the infrastructure that boosted the performance ratings of the Postal Service to an all-time high in 1999.

Despite these successes, there remains the question of pay and compensation, which this bill addresses. I would also like to note that a House companion bill, H.R. 3842, introduced on March 8, 2000, enjoys bipartisan support from 23 cosponsors. I urge my colleagues to support this legislation. Thank you Mr. President. I ask unanimous consent that the bill be printed in full in the RECORD.

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

S. 2703

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Postmasters Fairness and Rights Act''.

SEC. 2. POSTMASTERS TO BE COVERED BY AGREEMENTS RELATING TO PAY POLICIES AND SCHEDULES AND FRINGE BENEFIT PROGRAMS.

Section 1004 of title 39, United States Code, is amended by redesignating subsections (g) and (h) as subsections (i) and (j), respectively, and by inserting after subsection (f) the following:

''(g)(1) The Postal Service shall, within 45 days of each date on which an agreement is reached on a collective bargaining agreement between the Postal Service and the bargaining representative recognized under section 1203 which represents the largest number of employees, make a proposal for any changes in pay policies and schedules and fringe benefit programs for postmasters which are to be in effect during the same period as covered by such agreement.

''(2) The Postal Service and the postmasters' organization (or, if more than 1, all postmasters' organizations) shall strive to resolve any differences concerning the proposal described in paragraph (1).

''(3) If, within 60 days following the submission of the proposal, the Postal Service and the postmasters' organization (or organizations) are unable to reach agreement, either the Postal Service or the postmasters' organization (or organizations jointly) shall have the right to refer the dispute to an arbitration board established under paragraph (4).

''(4) An arbitration board shall be established to consider and decide a dispute arising under paragraph (3) and shall consist of 3 members, 1 of whom shall be selected by the Postal Service, 1 by the postmasters' organization (or organizations jointly), and the third by the 2 thus selected. If either the Postal Service or the postmasters' organization (or organizations) fail to select a member within 30 days after the dispute is referred to an arbitration board under this subsection, or if the members chosen fail to agree on the third person within 5 days after their first meeting, the selection shall be made by the Director of the Federal Mediation and Conciliation Service.

''(5) The arbitration board shall give the parties a full and fair hearing, including an opportunity for each party to present evidence in support of its claims and an opportunity to present its case in person, by counsel, or by such other representative as such party may elect. Decisions by the arbitration board shall be conclusive and binding upon the parties. The arbitration board shall render its decision within 45 days after its appointment.

''(6) Costs of the arbitration board shall be shared equally by the Postal Service and the postmasters' organization (or organizations), with the Postal Service to be responsible for one-half of those costs and the postmasters' organization (or organizations) to be responsible for the remainder.

''(7) Nothing in this subsection shall be considered to affect the application of section 1005.''.

SEC. 3. RIGHT OF POSTMASTERS' ORGANIZATIONS TO PARTICIPATE IN PLANNING AND DEVELOPMENT OF PROGRAMS.

The second sentence of section 1004(b) of title 39, United States Code, is amended by striking ''or that a managerial organization (other than an organization representing supervisors) represents a substantial percentage of managerial employees,'' and inserting ''or that a managerial organization (other than an organization representing supervisors or postmasters) represents a substantial percentage of managerial employees, or that an organization qualifies as a postmasters' organization,''.

SEC. 4. POSTMASTERS AND POSTMASTERS' ORGANIZATION DEFINED.

Subsection (i) of section 1004 of title 39, United States Code, as so redesignated by section 2, is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting a semicolon, and by adding at the end the following:

''(3) 'postmaster' means an individual who manages, with or without the assistance of subordinate managers or supervisors, the operations of a post office; and

''(4) 'postmasters' organization' means, with respect to a year, any organization of postmasters whose membership as of June 30th of the preceding year included not less than 20 percent of all individuals employed as postmasters as of that date.''.

SEC. 5. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 1001(e) of title 39, United States Code, is amended (in the matter before paragraph (1)) by inserting ''agreements under section 1004(g),'' after ''regulations,''.

(b) Section 1003(a) of title 39, United States Code, is amended in the first sentence by inserting ''section 1004(g) of this title,'' before ''section 8G''.

SEC. 6. EFFECTIVE DATE.

The amendments made by this Act shall take effect after the end of the 90-day period beginning on the date of enactment of this Act.●

By Mr. KERREY (for himself, Mr. BOND, Mr. DASCHLE, Mr. JOHNSON, Mr. BROWNBACK, and Mr. ROBERTS):

S. 2704. A bill to provide additional authority to the Army Corps of Engineers to protect, enhance, and restore fish and wildlife habitat on the Missouri River and to improve the environmental quality and public use and appreciation of the Missouri River; to the Committee on Environment and Public Works.

THE MISSOURI RIVER VALLEY IMPROVEMENT ACT

● Mr. KERREY. Mr. President, one year ago I came to the floor of the United States Senate to introduce legislation designed to improve the environmental quality and public use and appreciation of the Missouri River. The Missouri River Valley Improvement Act of 1999, sought to also mark the upcoming bicentennial anniversary of the Lewis and Clark expeditions of this great river. At that time I asked my colleagues who represent the states and communities along the Missouri River to look closely at the bill and join me as cosponsors in support of the legislation.

Through the hard work of state officials, river organizations and citizens throughout the Missouri River basin, many important improvements have been made to this bill. I believe these improvements strengthens our commitment to protecting the Missouri River. I am pleased, therefore, to introduce today, along with my Colleague's Senator DASCHLE, Senator BOND, Senator JOHNSON, Senator BROWNBACK and Senator ROBERTS, the Missouri River Valley Improvement Act of 2000.

This legislation maintains the commitment made in last year's bill to aid native river fish and wildlife, reduce flood loss, and enhance recreation and tourism throughout the basin. Additionally, this bill provides authorities for the revitalization of historic riverfronts, similar to the ongoing 'Back to the River' revitalization project currently underway in my home state of Nebraska. The new legislation also recognizes the commitment Congress made last year to habitat restoration efforts along the Missouri River by authorizing resources for these projects.

I am proud of the bipartisan support garnered for this legislation. This bill demonstrates that common ground exists when it comes to strengthening the health of the Missouri River. Those who use the river whether it be for recreational, commercial, or environmental purposes recognize the benefits of preserving this National treasure. Protecting native habitat along the Missouri River and enhancing environmental understanding through riverfront restoration and scientific monitoring is a legacy we should all want to leave our children and grandchildren.

Mr. President, it is my hope that this bill becomes part of the growing recognition that the environmental revitalization of the Missouri River is in all of our interests. The Missouri River Valley Improvement Act of 2000 will help to restore and improve our access and enjoyment of the river, and will provide vital economic, recreational and education opportunities for everyone who lives along and visits this great river, the Crown Jewel of the Midwest.

By Mr. THOMPSON (for himself, Mr. LIEBERMAN, Mr. AKAKA, Ms. COLLINS, Mr. DURBIN, Mr. LEVIN, and Mr. VOINOVICH):

S. 2705. A bill to provide for the training of individuals, during a Presidential transition, who the President intends to appoint to certain key positions, to provide for a study and report on improving the financial disclosure process for certain Presidential nominees, and for other purposes; to the Committee on Governmental Affairs.

THE PRESIDENTIAL TRANSITION ACT OF 2000

● Mr. THOMPSON. Mr. President, Senator LIEBERMAN and I are today introducing the Presidential Transition Act of 2000 on behalf of ourselves and Senators AKAKA, DURBIN, LEVIN, and VOINOVICH. The ability of a President-elect to effectively transition from campaigning to governing is obviously of critical importance and this legislation is designed to initiate much needed improvements in the process.

A President-elect must face the management challenge of transitioning from leading a successful campaign operation to leading the nation. There are only 73 days from election day to inauguration day. Transition planning should begin prior to election day. The President-elect should have the ability to move immediately to put a new team in place. That team should receive the critical information it needs to be prepared to take over the management of the federal government on inauguration day. Potential nominees should be able to move through the nomination and confirmation process without unnecessary barriers.

The magnitude of the need for an effective presidential transition and the recognized problems with past ones have led a number of private sector organizations to focus on the problem and solutions to it. Several, including the Presidential Appointee Initiative of the Brookings Institution, Transition to Governing of the American Enterprise Institute and Brookings, and the Heritage Foundation's Mandate for Leadership 2000, have contributed to our consideration of this problem. These groups and others are independently preparing a body of knowledge which will assist the new administration to get an effective, timely start. I ask unanimous consent that an article by Carl Cannon in National Journal and one by David Broder in the Washington Post, which describe the significant work which is underway, be printed at the conclusion of my remarks, followed by the text of our legislation.

The legislation encompasses and expands on H.R. 3137, legislation sponsored by Representative STEVE HORN, Chairman of the Committee on Government Reform Subcommittee on Government Management, Information and Technology and passed by the House of Representatives. Representative HORN's bill provides for the payment of expenses during the transition for briefings and other activities designed to transfer key policy and administrative information to prospective presidential staff in order to ensure a

smooth transition from one administration to another. The current Administration has recognized the importance of these activities by including additional funds for it in its FY 2001 budget request for the General Services Administration.

Our bill supplements the framework established by H.R. 3137. Our bill includes the authorization of federal funds to be spent to provide for the training and orientation of officials a President intends to nominate to key positions. This important provision allows political appointees to hit the ground running by preparing for the job before they are nominated.

Additionally, our bill requires the preparation of a ''transition directory.'' This valuable tool will be a compilation of materials that provide information to prospective appointees about the organization of federal departments and agencies, as well as the statutory and administrative authorities, functions, duties, and responsibilities of each federal department and agency. With this tool, prospective appointees can better manage the new, important positions they are preparing to undertake.

Finally, the bill requires the Office of Government Ethics conduct a study and submit a report to Congress on potential improvements to the current financial disclosure process Presidential nominees are currently required to undergo. Certainly, nothing the Office of Government Ethics recommends should in any way lessen the requirement that potential nominees disclose possible conflicts of interest. But, the Office of Government Ethics should recommend ways to improve the process of obtaining, reviewing, and disclosing such information in order to reduce the burden the current process places on potential appointees and the people who review the information.

Mr. President, we believe this legislation will help improve and smooth the process by which elected Presidents and their political appointees transition to power and assume their responsibilities. We hope the incentives provided in this legislation will encourage and enable presidential candidates, presidents-elect and newly sworn presidents to be up and running on the day after the inauguration.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

[From National Journal, May 13, 2000]

IMPROVING THE WHITE HOUSE MEMORY

(By Carl M. Cannon)

White House Chief of Staff John Podesta recalls being jazzed his first day in the Clinton Administration—until he saw his workstation. There wasn't a single piece of paper on his desk, and not so much as a diagram telling him where the men's room was. There was a computer monitor and processor, but the monitor was blank and the processor had wires poking out of it—someone had removed the hard drive. This was no crime of vandalism. It was the law, at work.

While the Constitution sets clear rules on how the country goes about electing a President, there has always been a haphazard quality to the transition. One reason is that both long-standing custom and the Presidential Records Act of 1978 dictate that almost all White House offices be swept clean of all records, including basic information that would help a new President get off to a good start.

''By law, there's no institutional memory,'' says political scientist Martha Joynt Kumar of Towson State University, the author of two books on White House operations. ''A new Administration, especially when there's a change of party, begins without a written record compiled by the previous occupants. Those who have worked there almost uniformly describe this as a handicap.''

The absence of a record can be an issue even in what ought to be the least partisan of transitions—the ascendancy of a Vice President to the Oval Office in midterm. When President Franklin D. Roosevelt died in April 1945, Harry S. Truman's incoming staff lacked access to key information, including the fact that the United States was close to developing the atomic bomb. As Vice President, Truman had not known the weapon existed, and it was not until 13 days after he became President that Secretary of War Henry L. Stimpson informed him of the project.

''I felt,'' Truman explained of his sudden thrust into the Oval Office. ''like the moon, the stars, and all the planets had fallen on me.''

Even when the nation is at peace, the lack of a written record in the White House National Security Council is a continuing problem. ''The new NSC staff spends months recreating them or negotiating with the archivists to get access to them,'' says John Fortier, a researcher at the American Enterprise Institute. ''There has to be a better way.''

In other words, Podesta was hardly the first appointee to wonder about this process. Michael Jackson, who held a powerful post as the White House's Cabinet secretary, recalls a scramble for furniture on the first day of the Bush Administration more appropriate for the movie Animal House than the White House.

''The first day what they did is, they pulled out a lot of the furniture from the offices and into the halls, where there were piles of credenzas, desks, wing chairs,'' Jackson told Kumar. ''The people who were smart and knew the drill got there early and went and just took stuff.

Commentator David Gergen, who has served in two Republican Administrations and one Democratic (Clinton's), maintains that this early confusion in a cleaned-out, clueless White House comes at a price for the new President—and the country. ''The early months are so important because that's when you have the most authority,'' Gergen said. But that's when you also have the least capacity for making the right decisions.''

Other White House veterans assert that the lack of institutional memory helps explain why incoming Administrations seem to stubbornly repeat the mistakes of their predecessors, especially in their first days. Jimmy Carter, Ronald Regan, and Bill Clinton, for instance, all vowed during their campaigns to cut the size of White House staff, but their efforts to follow through on this ill-considered promise produced results ranging from poor to disastrous.

''Cicero said that he who does not know history would forever remain a child,'' says David M. Abshire, who heads the Center for the Study of the Presidency and who assisted in the Reagan transition. ''Believe it or not, some Presidents have done childish things.''

But such scholars as Abshir and Kumar insist that this is hardly all presidential fault: Imagine a $1.8 trillion company—that's the approximate size of the federal budget—in which the corporate headquarters is vacated every four or eight years. Moreover, hardly any of the support staff stays on, all the files vanish, and the shareholders are given only two months' notice about the identity of the incoming CEO.

''The White House is not simply a spoil of victory,'' says former Carter White House aide Harrison Wellford, an attorney who now handles corporate mergers. ''It's the nerve center of the greatest government in the world, and we ought to at least give it the same respect that you do when you take over a second-rate corporation.''

A slew of presidential scholars and good-government organizations are spending this year trying to do just that. They have undertaken a series of projects designed to help the new President hit the ground running when he takes office on Jan. 22, 2001:

Abshire's Center for the Study of the Presidency is working on a special report intended to reach the President-elect on the day after the election. The package will include several case studies illustrating past Presidents' successes and failures in policy-making, and an analysis of ''the art of presidential leadership.''

The Heritage Foundation is undertaking a project called Mandate for Leadership 2000. Obviously, the conservative Heritage folks are pulling for Republican Gov. George W. Bush over Democratic Vice President Al Gore. Just as obviously, some of the Heritage material, such as a proposed federal spending blueprint, is geared for a GOP President. But Heritage is also in the midst of a bipartisan effort consisting of a series of seminars and publications designed to guide the next Administration. Later this year, Heritage plans to publish what it promises will be a nonpartisan report drawing on the accumulated wisdom of a cast of former White House aides, ranging from former Clinton Chief of Staff Leon E. Panetta to Reagan confidant and Deputy White House Chief of Staff Michael K. Deaver.

Paul C. Light of the Brookings Institution has launched his Presidential Appointee Initiative with the goal of helping a new President get the best and the brightest Americans into his Administration. This project, funded to the tune of $3.6 million for three years by the Pew Charitable Trusts, will propose reforms that streamline and depoliticize the appointment and confirmation process. ''The premise . . . is that effective governance is impossible if the nation's most talented citizens are reluctant to accept the President's call to government service.'' Light says.

At the American Enterprise Institute, Norman J. Ornstein has teamed with Thomas E. Mann of the Brookings Institution on a wide-ranging three-year mission called Transition to Governing. Also funded by Pew, the $3.35 million project targets the ''permanent campaign,'' which has made stars of political consultants while reducing policy-makers to slaves of the daily tracking polls.

In the works at AEI are two conferences; a published set of benchmarks by which to judge successful transitions; recommendations for improving the confirmation process; a book on the danger of the permanent campaign; and the publication of transition memos written by Harvard scholar Richard Neustadt for Presidents Kennedy, Reagan, and Clinton. In addition, AEI intends to supplement Light's work by developing ideas for accelerating the appointment process, which

took an average of two months in Kennedy's day but now consumes more than nine months.

One tool being created is a CD–ROM modeled on TurboTax software that consolidates all of the questions asked on the various government disclosure forms and in FBI background checks. ''The purpose of it is to make it easy for nominees to complete the blizzard of paperwork they have to negotiate,'' says Terry Sullivan, the University of North Carolina political scientist overseeing the project. ''One of the things we know from interviews Paul Light's organization has been conducting with these people is that they find all this paperwork to be odious and repetitious. It discourages some nominees. . . .''

Finally, there is the White House interview program, the brainchild of Martha Kumar and several of her fellow presidential scholars. Also funded by Pew, but at only $250,000 for three years, it may offer the biggest bang for the buck. Kumar has conducted nearly 75 in-depth interviews with former White House officials from seven key offices, including chief of staff and communications, going back as far as the Nixon Administration. ''The idea of these interviews is to get into the workings of the White House'' Kumar said, ''and to pass along their insights to those who need it—when they need it most.''

Her interviews will be made available, along with a 15-page analysis on the office in question, to those hired during the transition for positions such as White House chief of staff and press secretary. Next year, they will be turned over to the National Archives.

The scholars themselves are aware that the reports they are producing will compete with each other and with a thousand other demands on the new appointees' time. For that reason, there has been a good deal of cross-pollination of ideas and cooperation among the scholars, many of whom are being tapped for more than one of these projects. In the process, a loose consensus has formed among them, one that David Abshire puts succinctly: ''The most important decision a President makes is whom he picks to make up that presidency.''

[From the Washington Post, June 4, 2000]

START THINKING TRANSITION

(By David S. Broder)

If you call the Bush or Gore campaigns, as I did last week and ask if anyone is planning the transition to the presidency, the answer is an astonished ''No!'' It's months until the conventions and the focus is entirely on the fall campaign, they say. First things first. It would be presumptuous to think otherwise.

But the strongly held view of those who have been through this sequence before is that George W. Bush and Al Gore ought to be thinking about the takeover of government now, and starting to plan the process very soon, well before they know which of them will be successful on Election Day.

''Remember you have only 73 days'' from election to inauguration, Theodore C. Sorensen, the counsel in the Kennedy White House, said last week at a conference sponsored by the Heritage Foundation. ''You better begin planning before Election Day.''

That advice was echoed by veterans of the Johnson, Carter, Reagan and Bush White Houses—and by a trio of scholars who have been plumbing the records of past transitions.

In fact, such advance planning has been done in many past campaigns—but covertly, to avoid conveying a sense of smug overconfidence to the voters. Jack Watson, who became Jimmy Carter's chief of staff, told the Heritage audience that he had retrieved a memo from the Carter archives he had written the former Georgia governor on May 11, 1976, soon after Carter won the Pennsylvania primary and established himself as the favorite for the nomination. It suggested that as outsiders to Washington, they needed to start organizing themselves soon for the possibility of taking over the executive branch. Carter gave him the go-ahead on May 27—just about this point in the cycle—but ordered secrecy.

Why the need for such a long head start? Mainly because the process of identifying the key officials and getting them in place can be so agonizing. C. Boyden Gray, counsel in the Bush White House, said the president-elect should be ready to give the FBI the names of 100 to 150 people ''immediately after the election,'' so the clearance procedures can begin. ''Do it, even if you don't know what their jobs will be,'' Gray said, ''because there will always be a glitch.''

Who are those key officials? Richard E. Neustadt, the Harvard professor whose work on the presidency has been a handbook for several administrations, was unequivocal in his answer. ''Choose the White House staff before you pick the Cabinet,'' he said, ''so they can begin to relate to each other in the process of Cabinet selection. Don't do the Cabinet first.''

President Clinton famously did the opposite and dallied so long in Cabinet-making that he barely got his White House aides named before he moved from Little Rock to Washington. He paid a price; many of those last-minute White House appointees turned out to be ill suited for their jobs and had to be replaced.

The Reagan transition is considered by scholars the best of recent times. Planning began well before Election Day and was aided by the outgoing administration, said Edwin Meese III, the transition director who later became attorney general. Carter and Watson were so grateful for the help they had received four years before from defeated President Ford, through his top aides Richard Cheney and John O. Marsh, that they went out of their way to help the Reagan people.

No one can predict how much help the retiring Clintonities will give their successors, though it presumably would be extended automatically to Gore's people. But plenty of guidance will be available to the incoming president from outside government.

Four think tanks—Heritage, the American Enterprise Institute, the Brookings Institution and the Center for the Study of the Presidency—all have major transition studies underway and will be ready with briefing papers for the winners.

In addition, the American Political Science Association with a Few Charitable Trusts grant, has a White House 2001 project. Martha Kumar, a professor at Towson University, and her colleagues have interviewed 75 officials from the past six White Houses and are building what Kumar calls ''the first institutional memory'' of seven key White House offices, which together make up the nerve center of the presidency.

They will present the president-elect's team with seven short essays, drawn from the interviews, on ''how the place should work,'' plus something that never before existed—a Rolodex of past officials in those offices and their phone numbers.

This may sound elementary, but the reality is that when a new president moves in, his top aides find bare desks, empty filing cabinets and disconnected computers. They need help.

And it will be there, especially if Gore and Bush don't procrastinate in starting their transition planning.

● Mr. LIEBERMAN. Mr. President, I am pleased to join with Senators THOMPSON, LEVIN, DURBIN, VOINOVICH, COLLINS and AKAKA to introduce this legislation, which will help improve the transition from one Presidential Administration to the next by providing training and other assistance.

Each newly elected President has the power to bring into government, with the advice and consent of the Senate, his or her own selection of political appointees to manage key agencies and offices within the Executive Branch. However, new administrations face a series of hurdles they must overcome to accomplish this essential task before they can begin to govern. For example, new administrations often lack critical information about the jobs they must fill. Individuals without prior government experience who are selected for key positions may be unfamiliar with how to work with Congress and the media and may run the risk of missteps early in their tenure. But perhaps most importantly, the process by which these individuals are nominated and confirmed has fallen into increasing disarray in recent years. Knowledgeable observers have warned that it could take until November 2001 before all the senior members of the new Administration are vetted and confirmed, due to factors such as lengthier background checks, burdensome and duplicative financial disclosure forms, and a more contentious Senate confirmation process.

The bill we are introducing today is a first step in responding to these problems. It provides for training and orientation of high-level Presidential appointees, to better prepare them for the challenges of their new positions. It provides for the preparation of a ''transition directory'' containing essential information about the agency structure and responsibilities these new appointees will face. Our bill directs the Office of Government Ethics to study ways to streamline the current financial disclosure process, while still ensuring disclosure of possible conflicts of interest.

More may need to be done. Several studies are underway to look at how we can further improve the transition process, including the Presidential Appointee Initiative and the Transition to Governing Project. I commend those undertaking these studies and their efforts to provide assistance to the upcoming crop of nominees, and I look forward to recommendations for future action.●

By Mr. SANTORUM (for himself and Mr. KOHL):

S. 2706. A bill to amend the Agricultural Market Transition Act to establish a program to provide dairy farmers a price safety net for small- and medium-sized dairy producers; to the Committee on Agriculture, Nutrition, and Forestry.

NATIONAL DAIRY FARMERS FAIRNESS ACT OF 2000

● Mr. SANTORUM. Mr. President, I rise today to introduce legislation that

will assist our nation's dairy farmers at a time when the dairy industry is facing tremendous difficulty. This legislation proposes a regionally equitable plan that will bring some predictability to a business that is otherwise challenged by inherent variability that accompanies dairy farming.

I am pleased to have Senator HERB KOHL of Wisconsin join with me today in this effort. Given the importance of the dairy industry to our respective states, Senator KOHL and I worked together over the past few months to forge a consensus plan that addresses the concerns of dairy farmers nationwide. For far too long, regional politics has plagued efforts to achieve a fair and equitable national dairy policy. As a result, milk pricing has become increasingly complex and overly prescriptive. Given that dairy farmers are receiving the lowest price for their milk in more than twenty years, I feel strongly that Congress needed to step to the plate and offer a fair and responsible solution—the very reason for this action.

The National Dairy Farmers Fairness Act has two major goals: 1. create a dairy policy that is equitable for farmers in all regions of the country; 2. provide more certainty for farmers in the prices they receive for their milk. To accomplish these goals, this legislation creates a safety net for farmers by providing supplemental assistance when milk prices are low. Specifically, a sliding scale payment is made based upon the previous year's price for the national average of Class III milk. In short, the payment rate to farmers is highest when the prices they received were the lowest. In order to be eligible, a farmer must have produced milk for commercial sale in the previous year, and would be compensated on the first 26,000 hundredweight of production. All dairy producers would be eligible to participate under this scenario.

Without a doubt, our dairy pricing policy is flawed. Many solutions—modest to sweeping—have been proposed, discussed, and debated on the Senate floor yet final agreement among interested parties has so far eluded us. As a member of the Senate Agriculture Committee who represents the fourth largest dairy producing state in the nation, I am committed to preserving the viability of Pennsylvania's dairy farmers. This legislative proposal represents the strong concern and interest of mine to find a middle ground in the often heated debate on dairy policy. I am pleased to join with Senator KOHL in this effort, and I believe it sends a strong signal that compromise can be achieved even on the most contentious of issues.●

Mr. KOHL. Mr. President, I rise today and join my colleague Senator RICK SANTORUM of Pennsylvania to introduce legislation to provide much needed assistance to our nation's dairy producers who are facing the lowest milk prices in over two decades.

Due to the failure of the federal order reform process and the Administration's failure to include a meaningful dairy price safety net in its Fiscal Year 2001 budget, this legislation is an appropriate and necessary response to the ongoing regional milk pricing inequities and the dairy income crisis affecting all producers. In the past, the divisive and controversial dairy compact system has hindered Congress's efforts to achieve a fair and equitable national dairy policy. I am pleased to join with Senator SANTORUM to introduce this legislation to create a regionally equitable plan will provide a price safety net for small and medium sized dairy producers throughout the country.

The National Dairy Farmers Fairness Act of 2000 has two major goals: (1) to create a dairy policy that is equitable for farmers in all regions of the country; (2) provide stability for dairy producers in the prices they receive for their milk. To accomplish these goals, this legislation creates a price safety net for farmers by providing supplemental income payments when milk prices are low. A ''sliding-scale'' payment is made based upon the previous year's price for the national average for Class III milk. In essence, the payment rate to farmers is highest when the national Class III average is the lowest. To participate in this program, a farmer must have produced milk for commercial sale in the previous year. Payments under the program are also capped for the first 26,000 hundredweight of production. Again, all dairy producers would be eligible to participate under this scenario.

The fiscal year 2001 Agriculture Appropriations bill includes $443 million in emergency direct payments to dairy producers for losses incurred this year. While this action is absolutely necessary to respond to the current crisis, it is time that an on-going program providing supplemental income payments to farmers when milk prices decline be established. This important legislation represents a bipartisan and national approach in providing predictability and price stability in this otherwise volatile industry. Again, I am pleased to join with Senator SANTORUM in introducing this legislation and look forward to working with him in passing this important legislation.

By Mr. CRAPO (for himself, Mr. CRAIG, and Mr. BURNS):

S. 2707. A bill to help ensure general aviation aircraft access to Federal land and the airspace over that land; to the Committee on Energy and Natural Resources.

THE BACKCOUNTRY LANDING STRIP ACCESS ACT

● Mr. CRAPO. Mr. President, I am pleased to be joined today by my colleagues, Senator CRAIG and Senator BURNS, to introduce the Backcountry Landing Strip Access Act. This bill will preserve our nation's backcountry airstrips and require a public review and comment period before airstrips are temporarily or permanently closed.

Idaho is home to more than fifty backcountry airstrips and the state is known nationwide for its air access to wilderness and primitive areas. In testimony before Congress on the importance of preserving backcountry airstrips, Bart Welsh, Aeronautics Administrator for the Idaho Department of Transportation, stated that these airstrips are, ''an irreplaceable state and national treasure.'' Unfortunately, the reality today is that many airstrips have been closed or rendered unserviceable through neglect by federal agencies responsible for land management. Even more troubling is that these closures occur without providing the public with a justification for such action or an opportunity to comment on them.

Our bill would address this situation by preventing the Secretary of Interior and the Secretary of Agriculture from permanently closing airstrips without first consulting with state aviation agencies and users. The legislation would also require that proposed closures would be published in the Federal Register with a ninety-day public comment period. The bill directs the Secretary of Interior and the Secretary of Agriculture, after consultation with the FAA, to adopt a nationwide policy governing backcountry aviation. Finally, I would be remiss if I did not mention that this bill is a result of Congressman JIM HANSEN's tireless efforts in promoting backcountry aviation access in the other body.

Backcountry airstrips are disappearing and, because of existing statutes, they are irreplaceable. When the Frank Church Wilderness Act was established in Idaho, it incorporated a provision to provide for the continued operation of all existing landing strips. The Act states that existing landing strips cannot be closed permanently or rendered unserviceable without the written consent of the State of Idaho. This has created an effective partnership between personnel from the U.S. Forest Service and staff from the Idaho Division of Aeronautics along with other interested parties. My bill extends the success of the Frank Church Wilderness Act provision nationwide to preserve airstrips in Idaho as well as other states.

I have heard from general aviation users and state aviation officials that pilots often discover that an airstrip is closed only when they attempt to use it. This represents a grave danger to those who have not been made aware of an airstrip's closure. The public process in this bill would rectify this problem by ensuring that everyone with an interest in backcountry aviation remains informed of a proposed closure and is allowed to comment on it.

Backcountry airstrips are active and essential to citizens who depend on wilderness access. These airstrips are utilized by pilots and outdoor enthusiasts. In addition, access to the strips ensures a fundamental American service—universal postal delivery. Without access to backcountry airstrips, citizens who live and work in remote areas would not receive their mails.

Among the other vital functions of backcountry airstrips is their use for firefighting, search and rescue, and especially their availability to pilots in emergencies. Backcountry airstrips are analogous to fire engines in a firehouse. Although the airstrip may not used daily, it is always available in an emergency. Likewise, backcountry airstrips are available as a safe haven for public flying in remote mountainous areas. Without the airstrips, these pilots would have little chance of survival while attempting an emergency landing.

Let me be clear, the Backcountry Landing Strip Access Act does not harm our forests or our wilderness areas, as some might suggest. Moreover, backcountry airstrips are regularly used by forest officials to maintain forests and trails, conduct ecological management projects, and aerial mapping. This bill is simply about access. It does not reopen airstrips that have already been closed, nor does it burden federal officials with maintenance requirements. In fact, pilots themselves regularly maintain backcountry strips.

The Backcounty Landing Strip Access Act is commonsense legislation that allows those who used and benefit from the airstrips to be involved in the decision-making process. I have always found that decisions on the use of public land are best handled by those who are impacted the most, rather than federal bureaucrats in Washington, DC. In Idaho, we have evolved into a cooperative relationship with federal land managers. It makes sense that the rest of the country should benefit from this philosophy of cooperation. One we lose an airstrip it is gone forever. I urge my colleagues to join with us in an effort to preserve the remaining backcountry airstrips.●

By Mr. ASHCROFT:

S. 2708. A bill to establish a Patients Before Paperwork Medicare Red Tape Reduction Commission to study the proliferation of paperwork under the medicare program; to the Committee on Finance.

THE PATIENTS BEFORE PAPERWORK MEDICARE RED TAPE REDUCTION ACT OF 2000

Mr. ASHCROFT. Mr. President, Medicare paperwork requirements burden America's seniors, health care providers, and federal government staff that manage Medicare.

In 1998, the average processing time for appeals of claims denied under Medicare Part A was 310 days. For Medicare Part B, the average appeal time was 524 days. Waiting periods of a year or longer are too long for America's seniors to wait. These lengthy waiting periods tell me that there must be room for us to improve the way we administer Medicare.

HCFA regulations governing Medicare consist of 110,000 pages—six times as long as the Tax Code, which is 17,000 pages. In addition, HCFA uses 23 different forms to administer the Medicare program.

According to Dr. Nancy Dickey, Immediate Past President of the American Medical Association, for most doctors, ''the biggest challenge is getting through mountains of Medicare paperwork.''

Let me give you some examples of how paperwork burdens and related regulations are affecting the Medicare program. Recently Dr. Joseph Marshall, a Washington, DC., gynecologist, became so frustrated with HCFA regulations that he chose to give his Medicare patients free visits, so that he would avoid sending a bill to Medicare. HCFA would not allow it. HCFA told him that if he did not bill HCFA, he could be fined and imprisoned.

A nonprofit Minnesota organization, Allina, which serves 35,000 seniors, expects to spend $2 million annually in paperwork related burdens. And Medicare paperwork burdens have forced increasing numbers of seniors to resort to ''insurance claim service'' firms to help them complete Medicare paperwork. These firms charge $20 to $75 an hour.

This is not the tax code I am referring to. This is Medicare, the program that is supposed to bring health care to elderly Americans, not bury them and their doctors under mountains of paperwork.

During the Clinton Administration, more than a quarter of the 110,000 pages of Medicare regulations and paperwork have been added. In April of last year, HCFA proposed 93 new regulations based on the Balanced Budget Act alone.

Mr. President, drowning doctors and patients alike in a morass of paperwork must end. The seniors who have been promised Medicare coverage throughout their working lives deserve the best possible coverage. The doctors who treat them deserve our gratitude, not bureaucratic burdens and indifference.

Therefore, today I am introducing the ''Patients Before Paperwork Medicare Red Tape Reduction Act of 2000.'' This legislation would establish a Commission to examine inefficient and superfluous Medicare paperwork requirements and related regulations. The Commission will include physicians, hospital administrators, senior citizens, nursing home and long term care administrators, and health care plan representatives, the very people best able to determine which forms are necessary to ensure quality coverage, and which forms create unfair burdens and time-wasting mandates from Washington.

The Commission will be responsible for reviewing existing paperwork burdens, with the goal of reducing those burdens. It will streamline and simplify the coding method for Medicare services, facilitate electronic filing and the elimination of paperwork, and demonstrate that existing and proposed paperwork requirements and related regulations have proven benefits, including a positive health benefit for consumers.

The Commission will also explore the important issue of how patient-doctor relationships have been impacted by onerous paperwork requirements that force doctors to spend more time examining forms than examining patients.

This legislation would alleviate the burden that Medicare paperwork imposes on millions of Medicare beneficiaries, health care providers, and our own federal government. By establishing this Commission, we would create the opportunity to decrease Medicare paperwork burdens on seniors and promote efficiency within the health care industry and within the federal government.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

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

S. 2708

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Patients Before Paperwork Medicare Red Tape Reduction Act of 2000''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Regulations promulgated by the Health Care Financing Administration to administer the medicare program under title XVIII of the Social Security Act are 3 times as long as the regulations relating to the Internal Revenue Code of 1986.

(2) During the Administration of President Clinton, more than a quarter of the 110,000 pages of medicare regulations and paperwork have been added.

(3) According to American Medical Association Immediate Past President Dr. Nancy W. Dickey, for most doctors, ''the biggest challenge is getting through mountains of medicare paperwork''.

(4) According to the Wall Street Journal, Allina, a nonprofit Minnesota organization serving 35,000 medicare beneficiaries, expects to spend $2,000,000 annually in paperwork-related burdens.

(5) Medicare paperwork burdens have forced increasing numbers of medicare beneficiaries to resort to the use of ''insurance claim service'' firms that charge from $20 to $75 an hour.

(6) The Health Care Financing Administration uses 23 different forms in the administration of the medicare program.

(7) In 1998, the average processing time for appeals of claims denied under part A of the medicare program was 310 days and the average appeal time was 524 days under part B of such program.

SEC. 3. PATIENTS BEFORE PAPERWORK MEDICARE RED TAPE REDUCTION COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Patients Before Paperwork Medicare Red Tape Reduction Commission (in this section referred to as the ''Commission'').

(b) DUTIES OF THE COMMISSION.—The Commission shall—

(1) review existing paperwork burdens and related regulations under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), with the goal

of reducing the paperwork burdens under such program;

(2) analyze whether existing and proposed paperwork requirements and related regulations have proven benefits, including a positive health benefit for medicare beneficiaries;

(3) make recommendations regarding methods to streamline and to simplify the coding method for items and services for which reimbursement is provided under the medicare program;

(4) make recommendations regarding the facilitation of electronic filing of claims for reimbursement and the elimination of paperwork under the medicare program;

(5) develop a standard form that will minimize any duplication of data and that facilitates the creation of an electronic system that relies on less paperwork than the current system;

(6) determine the effect of the paperwork requirements under the medicare program on relationships between doctors and patients; and

(7) review and analyze such other matters relating to paperwork reduction under the medicare program as the Commission deems appropriate.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—

(A) IN GENERAL.—Subject to subparagraph (B), the Commission shall be composed of 11 members, of whom—

(i) 3 shall be appointed by the President, of whom not more than 2 shall be of the same political party;

(ii) 3 shall be appointed by the Majority Leader of the Senate, in consultation with the Minority Leader of the Senate, of whom not more than 2 shall be of the same political party;

(iii) 3 shall be appointed by the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives, of whom not more than 2 shall be of the same political party;

(iv) 1, who shall serve as Chairperson of the Commission, appointed jointly by the President, Majority Leader of the Senate, and the Speaker of the House of Representatives; and

(v) 1, who shall be the Secretary of Health and Human Services or the Administrator of the Health Care Financing Administration, as determined by the President.

(B) MEMBERSHIP.—

(i) IN GENERAL.—Each member appointed under this paragraph, except for the member described in subparagraph (A)(v), shall be—

(I) a health care provider, insurer, or expert familiar with the medicare program; or

(II) a medicare beneficiary.

(ii) INCLUSION OF PRACTICING PHYSICIANS.—At least 1 member appointed under this paragraph shall be a practicing physician.

(2) DEADLINE FOR APPOINTMENT.—Members of the Commission shall be appointed by not later than August 1, 2000.

(3) TERMS OF APPOINTMENT.—The term of any appointment under paragraph (1) to the Commission shall be for the life of the Commission.

(4) MEETINGS.—The Commission shall meet at the call of its Chairperson or a majority of its members.

(5) QUORUM.—A quorum shall consist of a majority of the members of the Commission, except that 3 members may conduct a hearing under subsection (e)(1).

(6) VACANCIES.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made not later than 30 days after the Commission is given notice of the vacancy and shall not affect the power of the remaining members to execute the duties of the Commission.

(7) COMPENSATION.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(8) EXPENSES.—Each member of the Commission shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

(d) STAFF AND SUPPORT SERVICES.—

(1) EXECUTIVE DIRECTOR.—

(A) APPOINTMENT.—The Chairperson shall appoint an executive director of the Commission.

(B) COMPENSATION.—The executive director shall be paid the rate of basic pay for level V of the Executive Schedule.

(2) STAFF.—With the approval of the Commission, the executive director may appoint such personnel as the executive director considers appropriate.

(3) APPLICABILITY OF CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

(4) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the executive director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(5) PHYSICAL FACILITIES.—The Administrator of General Services shall locate suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for the proper functioning of the Commission.

(e) POWERS OF COMMISSION.—

(1) HEARINGS AND OTHER ACTIVITIES.—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties.

(2) STUDIES BY GAO.—Upon the request of the Commission, the Comptroller General of the United States shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

(3) COST ESTIMATES BY CONGRESSIONAL BUDGET OFFICE AND OFFICE OF THE CHIEF ACTUARY OF HCFA.—

(A) The Director of the Congressional Budget Office or the Chief Actuary of the Health Care Financing Administration shall provide to the Commission, upon the request of the Commission, such cost estimates as the Commission determines to be necessary to carry out its duties.

(B) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

(4) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(6) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(7) OBTAINING INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairperson of the Commission, the head of such agency shall furnish such information to the Commission.

(8) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(9) PRINTING.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of Congress.

(f) REPORT.—Not later than 1 year after the date on which the final member of the Commission is appointed under subsection (c), the Commission shall submit a report to the President and Congress which shall contain a detailed statement of only those recommendations, findings, and conclusions of the Commission that receive the approval of at least a majority of the members of the Commission.

(g) TERMINATION.—The Commission shall terminate 30 days after the date of submission of the report required under subsection (f).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000 to carry out this section.

By Mr. BAUCUS (for himself, Mr. BOND, Mr. BINGAMAN, Mr. DORGAN, Mr. DASCHLE, and Mr. KERREY):

S. 2709. To establish a Beef Industry Compensation Trust Fund with the duties imposed on products of countries that fail to comply with certain WTO dispute resolution decisions; to the Committee on Agriculture, Nutrition, and Forestry.

TRADE INJURY COMPENSATION ACT

• Mr. BAUCUS. Mr. President, I rise today to introduce the Trade Injury Compensation Act of 2000. I am joined in this effort by Senator BOND, my fellow co-chairman of the Senate Beef Caucus, and Senators BINGAMAN, DORGAN, DASCHLE, and KERREY.

The Trade Injury Compensation Act establishes a Beef Industry Compensation Trust Fund to help the United States cattle industry withstand the European Union's illegal ban on beef treated with hormones.

Over a year ago, the World Trade Organization endorsed retaliation when the EU refused to open to American beef. Since that time, the EU has continued to stall in its compliance which is frankly, outrageous. For over a decade we've fought the beef battle. Now its time to try something new to help producers who continue to be injured by the ban.

The Trade Injury Compensation Act establishes a mechanism for using the tariffs imposed on the EU to directly aid U.S. beef producers. Normally, the additional tariff revenues received from retaliation go to the Treasury.

This bill establishes a trust fund so that the affected industry will receive those revenues as compensation for its injury.

Our legislation authorizes the Secretary of Agriculture to provide grants to a nationally recognized beef promotion and research board for the education and market promotion of the United States beef industry. In particular, the fund shall:

(1) Provide assistance to United States beef producers to improve the quality of beef produced in the United States; and

(2) Provide assistance to United States beef producers in market development, consumer education, and promotion of the beef industry in overseas markets.

The Secretary of the Treasury shall cease the transfer of funds equivalent to the duties on the beef retaliation list only when the European Union complies with the World Trade Organization ruling allowing United States beef producers access to the European market.

In a perfect world we would not need this legislation because the European Union would abide by its international trade commitments. And it is still my hope that the European Union simply comply with the WTO Dispute Settlement rulings and allow our beef to enter its borders.

Mr. President, the WTO is a critically important institution that sets the foundation and framework to make world trade grow. We all recognize that it needs improvement, and I, along with many of my colleagues, are working on ways to fix it. We must bring credibility and compliance to the system. The Trade Injury Compensation Act will give some relief to our producers as we strive toward this endeavor.

I thank my colleagues for their sponsorship of this measure and strongly urge support for its expeditious passage.●

By Mr. CAMPBELL (for himself, Mrs. HUTCHISON, Mr. LAUTENBERG, Mr. ABRAHAM, Mr. BROWNBACK, Mr. HUTCHINSON, Mr. GRAHAM, Mr. DODD, and Mr. FEINGOLD):

S.J. Res. 48. A joint resolution calling upon the President to issue a proclamation recognizing the 25th anniversary of the Helsinki Final Act; to the Committee on the Judiciary.

THE HELSINKI FINAL ACT 25TH ANNIVERSARY RESOLUTION

Mr. CAMPBELL. Mr. President. Today in my capacity as Co-Chairman of the Commission on Security and Cooperation in Europe, I introduce a resolution commemorating the 25th anniversary of the Helsinki Final Act, one of the key international agreements of our time. I am pleased to be joined by all Senate Commissioners, Senators HUTCHISON, LAUTENBERG, ABRAHAM, BROWNBACK, HUTCHINSON, GRAHAM, DODD, and FEINGOLD, who are original cosponsors. A companion resolution also is being introduced today in the House by our colleague, Congressman CHRIS SMITH of New Jersey, who chairs the Helsinki Commission.

Five years ago, during the 20th anniversary celebrations in Helsinki, President Gerald Ford said: ''The Helsinki Accords, the Final Act, was the final nail in the coffin of Marxism and communism in many, many countries, and helped to bring about the change to a more democratic political system and a change to a more market-oriented economic system.'' Indeed, the Helsinki Final Act, signed by President Ford in 1975, marked the beginning of a process which has served U.S. interests in advancing democracy, human rights and the rule of law within a comprehensive framework covering the security, economic and human dimensions.

The legacy of Helsinki is especially historic with respect to what is now referred to as the ''human dimension.'' The Helsinki process—now named the Organization for Security and Cooperation in Europe (OSCE), is rightly credited with playing a contributing role in bringing down the Berlin Wall and Iron Curtain, and, in 1991, the Soviet Union. In short, the Helsinki process helped make it possible for the people of Central and Eastern Europe and the former Soviet Union to regain their freedom and independence.

Both Western governments and private individuals increasingly cited the Final Act, adopted by consensus, as a yardstick for measuring human rights performance, citing commitments which the violating governments freely undertook.

Human rights groups, including the Helsinki Monitoring Groups in Russia, Ukraine, Lithuania, Georgia, Armenia, as well as in Czechoslovakia and Poland grounded their activities in the Helsinki principles. During the communist era, members of these groups often sacrificed their personal freedom and in some instances their lives for their courageous and vocal support for the principles enshrined in the Helsinki Final Act. The pressure of governmental efforts and public opinion in both East and West contributed greatly to change in the Soviet Union and Eastern Europe.

Responding to a dramatically changed, post-Cold War world, the OSCE has evolved into a useful institutional tool for addressing many of the challenges confronting Europe and the Euro-Atlantic community today. The OSCE is the one political organization that unites all the countries of Europe, including all of the former Soviet republics, the United States and Canada, to face today's challenges. One of the primary strengths of the Helsinki process is its comprehensive nature and membership, where current human rights, military security, and trade and economic issues can be pursued.

The OSCE, now expanded to 55 from the original 35 countries, has been working hard to minimize conflict and bring all sides together, especially in the last decade which has seen several horrible regional conflicts, including in Bosnia, Kosovo, and Chechnya.

The OSCE has played an increasingly active role in civilian police-related activities, including training, as an integral part of the Organization's efforts in conflict prevention, crisis management and post-conflict rehabilitation. It has also played an important role in promoting greater transparency through the adoption and implementation of various confidence and security-building measures designed to reduce the risk of conflict in Europe. Other challenges that the OSCE is increasingly addressing include the promotion of economic reforms through enhanced transparency for market economic activity, environmental responsibility, the importance of the rule of law and fighting organized crime and corruption. And, of course, human rights remains very much on the OSCE's agenda, including but not limited to, the eradication of torture, free media, respect for the rights of individuals belonging to national minorities, and ending discrimination against Roma and Sinti. Unfortunately, serious human rights abuses continue in all too many OSCE countries. The main challenge facing the participating States of the OSCE remains the implementation of the commitments contained in the Helsinki Final Act and other OSCE documents. The Helsinki Commission, which I co-chair, will continue to work in accordance with our mandate to monitor and encourage compliance by all the signatory States with their Helsinki commitments.

Mr. President, this resolution commemorates the 25th anniversary of the signing of the Helsinki Final Act and authorizes the President to issue a proclamation reasserting America's commitment to full implementation of the Helsinki Final Act, and request that he convey to all signatories that respect for human rights and fundamental freedoms, and democratic principles as well as economic liberty and the implementation of related commitments continue to be vital elements in promoting a new era of democracy, peace and unity in the OSCE region.

Twenty-five years after the signing of the Helsinki Final Act, the principles enshrined in that historic document remain valid and continue to serve as an important tool in advancing U.S. interests in a region stretching from Vancouver to Vladivostok. Therefore, I urge my colleagues to support this resolution.

Mr. President. I ask unanimous consent that the resolution be printed in the RECORD following my remarks.

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

S.J. RES. 48

Whereas August 1, 2000, is the 25th anniversary of the Final Act of the Conference on Security and Cooperation in Europe (CSCE),

renamed the Organization for Security and Cooperation in Europe (OSCE) in January 1995 (in this joint resolution referred to as the ''Helsinki Final Act'');

Whereas the Helsinki Final Act, for the first time in the history of international agreements, accorded human rights the status of a fundamental principle in regulating international relations;

Whereas during the Communist era, members of nongovernmental organizations, such as the Helsinki Monitoring Groups in Russia, Ukraine, Lithuania, Georgia, and Armenia and similar groups in Czechoslovakia and Poland, sacrificed their personal freedom and even their lives in their courageous and vocal support for the principles enshrined in the Helsinki Final Act;

Whereas the United States Congress contributed to advancing the aims of the Helsinki Final Act by creating the Commission on Security and Cooperation in Europe to monitor and encourage compliance with provisions of the Helsinki Final Act;

Whereas in the 1990 Charter of Paris for a New Europe, the participating states declared, ''Human rights and fundamental freedoms are the birthright of all human beings, are inalienable and are guaranteed by law. Their protection and promotion is the first responsibility of government'';

Whereas in the 1991 Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, the participating states ''categorically and irrevocably declare[d] that the commitments undertaken in the field of the human dimension of the CSCE are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned'';

Whereas in the 1990 Charter of Paris for a New Europe, the participating states committed themselves ''to build, consolidate and strengthen democracy as the only system of government of our nations'';

Whereas the 1999 Istanbul Charter for European Security and Istanbul Summit Declaration note the particular challenges of ending violence against women and children as well as sexual exploitation and all forms of trafficking in human beings, strengthening efforts to combat corruption, eradicating torture, reinforcing efforts to end discrimination against Roma and Sinti, and promoting democracy and respect for human rights in Serbia;

Whereas the main challenge facing the participating states remains the implementation of the principles and commitments contained in the Helsinki Final Act and other OSCE documents adopted on the basis of consensus;

Whereas the participating states have recognized that economic liberty, social justice, and environmental responsibility are indispensable for prosperity;

Whereas the participating states have committed themselves to promote economic reforms through enhanced transparency for economic activity with the aim of advancing the principles of market economies;

Whereas the participating states have stressed the importance of respect for the rule of law and of vigorous efforts to fight organized crime and corruption, which constitute a great threat to economic reform and prosperity;

Whereas OSCE has expanded the scope and substance of its efforts, undertaking a variety of preventive diplomacy initiatives designed to prevent, manage, and resolve conflict within and among the participating states;

Whereas the politico-military aspects of security remain vital to the interests of the participating states and constitute a core element of OSCE's concept of comprehensive security;

Whereas the OSCE has played an increasingly active role in civilian police-related activities, including training, as an integral part of OSCE's efforts in conflict prevention, crisis management, and post-conflict rehabilitation; and

Whereas the participating states bear primary responsibility for raising violations of the Helsinki Final Act and other OSCE documents: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress calls upon the President to—

(1) issue a proclamation—

(A) recognizing the 25th anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe;

(B) reasserting the commitment of the United States to full implementation of the Helsinki Final Act;

(C) urging all signatory states to abide by their obligations under the Helsinki Final Act; and

(D) encouraging the people of the United States to join the President and the Congress in observance of this anniversary with appropriate programs, ceremonies, and activities; and

(2) convey to all signatory states of the Helsinki Final Act that respect for human rights and fundamental freedoms, democratic principles, economic liberty, and the implementation of related commitments continue to be vital elements in promoting a new era of democracy, peace, and unity in the region covered by the Organization for Security and Cooperation in Europe.

ADDITIONAL COSPONSORS

S. 662

At the request of Ms. SNOWE, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of S. 662, a bill to amend title XIX of the Social Security Act to provide medical assistance for certain women screened and found to have breast or cervical cancer under a federally funded screening program.

S. 764

At the request of Mr. THURMOND, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 764, a bill to amend section 1951 of title 18, United States Code (commonly known as the Hobbs Act), and for other purposes.

S. 796

At the request of Mr. WELLSTONE, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 796, a bill to provide for full parity with respect to health insurance coverage for certain severe biologically-based mental illnesses and to prohibit limits on the number of mental illness-related hospital days and outpatient visits that are covered for all mental illnesses.

S. 808

At the request of Mr. JEFFORDS, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 808, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives for land sales for conservation purposes.

S. 1087

At the request of Mr. HUTCHINSON, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1087, a bill to amend title 38, United States Code, to add bronchioloalveolar carcinoma to the list of diseases presumed to be service-connected for certain radiation-exposed veterans.

S. 1333

At the request of Mr. WYDEN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 1333, a bill to expand homeownership in the United States.

S. 1487

At the request of Mr. AKAKA, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1487, a bill to provide for excellence in economic education, and for other purposes.

S. 1592

At the request of Mr. DURBIN, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1592, a bill to amend the Nicaraguan Adjustment and Central American Relief Act to provide to certain nationals of El Salvador, Guatemala, Honduras, and Haiti an opportunity to apply for adjustment of status under that Act, and for other purposes.

S. 1594

At the request of Mr. KERRY, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1594, a bill to amend the Small Business Act and Small Business Investment Act of 1958.

S. 1805

At the request of Mr. KENNEDY, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1805, a bill to restore food stamp benefits for aliens, to provide States with flexibility in administering the food stamp vehicle allowance, to index the excess shelter expense deduction to inflation, to authorize additional appropriations to purchase and make available additional commodities under the emergency food assistance program, and for other purposes.

S. 1834

At the request of Mr. DASCHLE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1834, a bill to amend title XIX of the Social Security Act to restore medicaid eligibility for certain supplementary security income beneficiaries.

S. 2018

At the request of Mrs. HUTCHISON, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of S. 2018, a bill to amend title XVIII of the Social Security Act to revise the update factor used in making payments to PPS hospitals under the medicare program.

S. 2050

At the request of Mr. REID, the name of the Senator from Arkansas (Mrs.

LINCOLN) was added as a cosponsor of S. 2050, a bill to establish a panel to investigate illegal gambling on college sports and to recommend effective countermeasures to combat this serious national problem.

S. 2068

At the request of Mr. GREGG, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 2068, a bill to prohibit the Federal Communications Commission from establishing rules authorizing the operation of new, low power FM radio stations.

S. 2181

At the request of Mr. BINGAMAN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2181, a bill to amend the Land and Water Conservation Fund Act to provide full funding for the Land and Water Conservation Fund, and to provide dedicated funding for other conservation programs, including coastal stewardship, wildlife habitat protection, State and local park and open space preservation, historic preservation, forestry conservation programs, and youth conservation corps; and for other purposes.

S. 2287

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 2287, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 2330

At the request of Mr. LIEBERMAN, his name was added as a cosponsor of S. 2330, a bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communication services.

S. 2344

At the request of Mr. BROWNBACK, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 2344, a bill to amend the Internal Revenue Code of 1986 to treat payments under the Conservation Reserve Program as rentals from real estate.

S. 2365

At the request of Ms. COLLINS, the names of the Senator from New Hampshire (Mr. SMITH) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 2365, a bill to amend title XVIII of the Social Security Act to eliminate the 15 percent reduction in payment rates under the prospective payment system for home health services.

S. 2386

At the request of Mrs. FEINSTEIN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2386, a bill to extend the Stamp Out Breast Cancer Act.

S. 2423

At the request of Mr. DURBIN, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 2423, a bill to provide Federal Perkins Loan cancellation for public defenders.

S. 2434

At the request of Mr. L. CHAFEE, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 2434, a bill to provide that amounts allotted to a State under section 2401 of the Social Security Act for each of fiscal years 1998 and 1999 shall remain available through fiscal year 2002.

S. 2459

At the request of Mr. COVERDELL, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 2459, a bill to provide for the award of a gold medal on behalf of the Congress to former President Ronald Reagan and his wife Nancy Reagan in recognition of their service to the Nation.

S. 2476

At the request of Mr. GRAMS, his name was added as a cosponsor of S. 2476, a bill to amend the Communications Act of 1934 in order to prohibit any regulatory impediments to completely and accurately fulfilling the sufficiency of support mandates of the national statutory policy of universal service, and for other purposes.

S. 2516

At the request of Mr. THURMOND, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 2516, a bill to fund task forces to locate and apprehend fugitives in Federal, State, and local felony criminal cases and give administrative subpoena authority to the United States Marshals Service.

S. 2582

At the request of Mr. LIEBERMAN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 2582, a bill to amend section 527 of the Internal Revenue Code of 1986 to better define the term political organization.

S. 2583

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 2583, a bill to amend the Internal Revenue Code of 1986 to increase disclosure for certain political organizations exempt from tax under section 527.

At the request of Mr. LIEBERMAN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 2583, supra.

S. 2585

At the request of Mr. GRAHAM, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2585, a bill to amend titles IV and XX of the Social Security Act to restore funding for the Social Services Block Grant, to restore the ability of the States to transfer up to 10 percent of TANF funds to carry out activities under such block grant, and to require an annual report on such activities by the Secretary of Health and Human Services.

S. 2610

At the request of Mr. HARKIN, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 2610, a bill to amend title XVIII of the Social Security Act to improve the provision of items and services provided to medicare beneficiaries residing in rural areas.

S. 2630

At the request of Mr. FEINGOLD, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of S. 2630, a bill to prohibit products that contain dry ultrafiltered milk products or casein from being labeled as domestic natural cheese, and for other purposes.

S. 2643

At the request of Mr. STEVENS, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 2643, a bill to amend the Foreign Assistance Act of 1961 to provide increased foreign assistance for tuberculosis prevention, treatment, and control.

S. 2671

At the request of Mr. ASHCROFT, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 2671, a bill to amend the Internal Revenue Code of 1986 to promote pension opportunities for women, and for other purposes.

S. CON. RES. 34

At the request of Mr. SPECTER, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. Con. Res. 34, a concurrent resolution relating to the observance of ''In Memory'' Day.

S. CON. RES. 57

At the request of Mr. LIEBERMAN, the names of the Senator from Virginia (Mr. ROBB) and the Senator from Michigan (Mr. ABRAHAM) were added as cosponsors of S. Con. Res. 57, a concurrent resolution concerning the emancipation of the Iranian Baha'i community.

S. CON. RES. 102

At the request of Mrs. FEINSTEIN, the names of the Senator from Georgia (Mr. COVERDELL), the Senator from Illinois (Mr. DURBIN), the Senator from Texas (Mrs. HUTCHISON), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Virginia (Mr. ROBB) were added as cosponsors of S. Con. Res. 102, a concurrent resolution to commend the bravery and honor of the citizens of Remy, France, for their actions with respect to Lieutenant Houston Braly and to recognize the efforts of the 364th Fighter Group to raise funds to restore the stained glass windows of a church in Remy.

S. RES. 301

At the request of Mr. THURMOND, the names of the Senator from North Carolina (Mr. HELMS), the Senator from Delaware (Mr. BIDEN), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Virginia (Mr. ROBB), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Georgia (Mr. COVERDELL), the Senator from

Massachusetts (Mr. KERRY), the Senator from Ohio (Mr. DEWINE), the Senator from North Carolina (Mr. EDWARDS), the Senator from Hawaii (Mr. INOUYE), the Senator from Texas (Mrs. HUTCHISON), the Senator from Mississippi (Mr. COCHRAN), and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. Res. 301, a resolution designating August 16, 2000, as ''National Airborne Day''.

AMENDMENT NO. 3200

At the request of Mr. JEFFORDS, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of Amendment No. 3200 intended to be proposed to S. 2549, an original bill to authorize appropriations for fiscal year 2001 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 3204

At the request of Mr. STEVENS, the names of the Senator from North Carolina (Mr. HELMS) and the Senator from Alaska (Mr. MURKOWSKI) were added as cosponsors of Amendment No. 3204 intended to be proposed to S. 2549, an original bill to authorize appropriations for fiscal year 2001 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 3214

At the request of Mr. DASCHLE, his name was added as a cosponsor of Amendment No. 3214 proposed to S. 2549, an original bill to authorize appropriations for fiscal year 2001 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

At the request of Mr. FEINGOLD, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Nevada (Mr. BRYAN), and the Senator from California (Mrs. BOXER) were added as cosponsors of Amendment No. 3214 proposed to S. 2549, supra.

At the request of Mr. JOHNSON, his name was added as a cosponsor of amendment No. 3214 proposed to S. 2549, supra.

AMENDMENTS SUBMITTED

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001

CONRAD AMENDMENT NO. 3215

(Ordered to lie on the table.)

Mr. DASCHLE (for Mr. CONRAD) submitted an amendment to be proposed by him to the bill (S. 3215) to authorize appropriations for fiscal year 2001 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 378, between lines 19 and 20, insert the following:

SEC. 1027. STUDY AND REPORT ON USE OF EB–52 AIRCRAFT FOR PROVIDING ELECTRONIC COUNTERMEASURES.

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

(1) Experience in Operation Allied Force demonstrates that the Armed Forces lack sufficient assets for meeting the requirements of the Armed Forces for airborne electronic countermeasures.

(2) The B–52H aircraft, because of its outstanding reliability, range, payload capacity, and affordability, has excellent potential to serve as a platform for electronic countermeasures to supplement the other assets that the Armed Forces have for providing electronic countermeasures.

(b) STUDY REQUIRED.—The Secretary of Defense shall study—

(1) the option of using B–52 aircraft not provided for in the future-years defense program for fiscal year 2001 and ensuing fiscal years for the performance of the mission of jamming communications by means of electronic countermeasures, including the issues involving necessary modifications of the aircraft, costs, and operational benefits; and

(2) the options for, and implications of, funding the modification and use of B–52 aircraft for the performance of that mission from funds available for Department of Defense-wide use.

(c) REPORT.—(1) The Secretary shall submit to Congress a report on the study. The report shall include the following:

(A) The Secretary's findings resulting from the study.

(B) A strategy for providing for the procurement and conversion activities necessary for using B–52 aircraft for the performance of the mission of jamming communications by means of electronic countermeasures.

(2) The Secretary shall submit the report under paragraph (1) at the same time that the President submits the budget for fiscal year 2002 to Congress under section 1105(a) of title 31, United States Code.

SNOWE (AND KENNEDY) AMENDMENT NO. 3216

Mr. WARNER (for Ms. SNOWE (for herself and Mr. KENNEDY)) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 31, strike lines 16 through 18, and insert the following:

of the CVN—69 nuclear aircraft carrier.

(c) CONDITION FOR OUT-YEAR CONTRACT PAYMENTS.—A contract entered into under subsection (b) shall include a clause that states that any obligation of the United States to make a payment under the contract for a fiscal year after fiscal year 2001 is subject to the availability of appropriations for that purpose for that later fiscal year.

WARNER AMENDMENT NO. 3217

Mr. WARNER proposed an amendment to the bill, S. 2549, supra; as follows:

On page 364, between the matter following line 13 and line 14, insert the following:

SEC. 1010. REPEAL OF CERTAIN PROVISIONS SHIFTING CERTAIN OUTLAYS FROM ONE FISCAL YEAR TO ANOTHER.

Sections 305 and 306 of H.R. 3425 of the 106th Congress, as enacted into law by section 1000(a)(5) of Public Law 106–113 (113 Stat. 1501A–306), are repealed.

ROBB AMENDMENT NO. 3218

Mr. LEVIN (for Mr. ROBB) proposed an amendment to the bill, S. 2549, supra; as follows:

On page ____, between lines ____ and ____, insert the following:

SEC. . DEFENSE TRAVEL SYSTEM.

(a) REQUIREMENT FOR REPORT.—Not later than November 30, 2000, the Secretary of Defense shall submit to the congressional defense committees a report on the Defense Travel System.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) A detailed discussion of the development, testing, and fielding of the system, including the performance requirements, the evaluation criteria, the funding that has been provided for the development, testing, and fielding of the system, and the funding that is projected to be required for completing the development, testing, and fielding of the system.

(2) The schedule that has been followed for the testing of the system, including the initial operational test and evaluation and the final operational testing and evaluation, together with the results of the testing.

(3) The cost savings expected to result from the deployment of the system and from the completed implementation of the system, together with a discussion of how the savings are estimated and the expected schedule for the realization of the savings.

(4) An analysis of the costs and benefits of fielding the front-end software for the system throughout all 18 geographical areas selected for the original fielding of the system.

(c) LIMITATIONS.—(1) Not more than 25 percent of the amount authorized to be appropriated under section 301(5) for the Defense Travel System may be obligated or expended before the date on which the Secretary submits the report required under subsection (a).

(2) Funds appropriated for the Defense Travel System pursuant to the authorization of appropriations referred to in paragraph (1) may not be used for a purpose other than the Defense Travel System unless the Secretary first submits to Congress a written notification of the intended use and the amount to be so used.

WARNER (AND ROBB) AMENDMENT NO. 3219

Mr. WARNER (for himself and Mr. ROBB) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 501, between lines 10 and 11, insert the following:

SEC. 2404. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 1990 PROJECT.

(a) INCREASE.—Section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189), as amended by section 2407 of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105–261; 112 Stat. 2197), is amended in the item relating to Portsmouth Naval Hospital, Virginia, by striking ''$351,354,000'' and inserting ''$359,854,000''.

(b) CONFORMING AMENDMENT.—Section 2405(b)(2) of the Military Construction Authorization Act for Fiscal Years 1990 and

1991, as amended by section 2407 of the Military Construction Authorization Act for Fiscal Year 1999, is amended by striking ''$342,854,000'' and inserting ''$351,354,000''.

On page ___, between lines ___ and ___, insert the following:

SEC. . DEFENSE TRAVEL SYSTEM.

(a) REQUIREMENT FOR REPORT.—Not later than November 30, 2000, the Secretary of Defense shall submit to the congressional defense committees a report on the Defense Travel System.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) A detailed discussion of the development, testing, and fielding of the system, including the performance requirements, the evaluation criteria, the funding that has been provided for the development, testing, and fielding of the system, and the funding that is projected to be required for completing the development, testing, and fielding of the system.

(2) The schedule that has been followed for the testing of the system, including the initial operational test and evaluation and the final operational testing and evaluation, together with the results of the testing.

(3) The cost savings expected to result from the deployment of the system and from the completed implementation of the system, together with a discussion of how the savings are estimated and the expected schedule for the realization of the savings.

(4) An analysis of the costs and benefits of fielding the front-end software for the system throughout all 18 geographical areas selected for the original fielding of the system.

(c) LIMITATIONS.—(1) Not more than 25 percent of the amount authorized to be appropriated under section ___ for the Defense Travel System may be obligated or expended before the date on which the Secretary submits the report required under subsection (a).

(2) Funds appropriated for the Defense Travel System pursuant to the authorization of appropriations referred to in paragraph (1) may not be used for a purpose other than the Defense Travel System unless the Secretary first submits to Congress a written notification of the intended use and the amount to be so used.

WARNER AMENDMENTS NOS. 3220–3225

Mr. WARNER proposed six amendments to the bill, S. 2549, supra; as follows:

AMENDMENT NO. 3220

On page 94, between lines 6 and 7, insert the following:

(6) $7,975 for payment to the Texas Natural Resource Conservation Commission of a cash fine for permit violations assessed under the Solid Waste Disposal Act.

AMENDMENT NO. 3221

On page 88, strike line 11 and all that follows through page 92, line 19.

AMENDMENT NO. 3222

On page 147, line 6, strike ''section 573(b)'' and insert ''section 573(c)''.

On page 303, strike line 10 and insert the following:

SEC. 901. REPEAL OF LIMITATION ON MAJOR

On page 358, beginning on line 11, strike ''Defense Finance and Accounting System'' and insert ''Defense Finance and Accounting Service''.

On page 358, beginning on line 12, strike ''contract administration service'' and insert ''contract administration services system''.

On page 359, line 5, strike ''Defense Finance and Accounting System'' and insert ''Defense Finance and Accounting Service''.

On page 359, beginning on line 6, strike ''contract administration service'' and insert ''contract administration services system''.

On page 359, beginning on line 9, strike ''Defense Finance and Accounting System'' and insert ''Defense Finance and Accounting Service''.

On page 493, in the table following line 10, strike ''136 units'' in the purpose column in the item relating to Mountain Home Air Force Base, Idaho, and insert ''119 units''.

AMENDMENT NO. 3223

On page 584, line 13, strike ''3101(c)'' and insert ''301(a)(1)(C)''.

AMENDMENT NO. 3224

On page 565, strike lines 9 through 13.

AMENDMENT NO. 3225

On page 554, line 25, strike ''$31,000,000.'' and insert ''$20,000,000.''.

On page 555, line 4, strike ''$15,000,000.'' and insert ''$26,000,000.''.

CLELAND (AND OTHERS) AMENDMENT NO. 3226

Mr. LEVIN (for Mr. CLELAND (for himself, Mr. LEVIN, Mr. ROBB, Mr. REED, Mr. WARNER, Mr. MCCAIN, Mr. ABRAHAM, and Mr. JEFFORDS)) proposed an amendment to the bill, S. 2549, supra; as follows:

At the end of title VI, add the following new subtitle:

Subtitle F—Education Benefits

SEC. 671. SHORT TITLE.

This subtitle may be cited as the ''Helping Our Professionals Educationally (HOPE) Act of 2000''.

SEC. 672. TRANSFER OF ENTITLEMENT TO EDUCATIONAL ASSISTANCE BY CERTAIN MEMBERS OF THE ARMED FORCES.

(a) AUTHORITY TO TRANSFER TO FAMILY MEMBERS.—(1) Subchapter II of chapter 30 of title 38, United States Code, is amended by adding at the end the following new section:

''§ 3020. Transfer of entitlement to basic educational assistance: members of the Armed Forces

''(a)(1) Subject to the provisions of this section, the Secretary of each military department may, for the purpose of enhancing recruiting and retention and at such Secretary's sole discretion, permit an individual described in paragraph (2) who is entitled to basic educational assistance under this subchapter to elect to transfer such individual's entitlement to such assistance, in whole or in part, to the dependents specified in subsection (b).

''(2) An individual referred to in paragraph (1) is any individual who is a member of the Armed Forces at the time of the approval by the Secretary of the military department concerned of the individual's request to transfer entitlement to educational assistance under this section.

''(3) The Secretary of the military department concerned may not approve an individual's request to transfer entitlement to educational assistance under this section until the individual has completed six years of service in the Armed Forces.

''(4) Subject to the time limitation for use of entitlement under section 3031 of this title, an individual approved to transfer entitlement to educational assistance under this section may transfer such entitlement at any time after the approval of individual's request to transfer such entitlement without regard to whether the individual is a member of the Armed Forces when the transfer is executed.

''(b) An individual approved to transfer an entitlement to basic educational assistance under this section may transfer the individual's entitlement to such assistance as follows:

''(1) To the individual's spouse.

''(2) To one or more of the individual's children.

''(3) To a combination of the individuals referred to in paragraphs (1) and (2).

''(c)(1) An individual transferring an entitlement to basic educational assistance under this section shall—

''(A) designate the dependent or dependents to whom such entitlement is being transferred and the percentage of such entitlement to be transferred to each such dependent; and

''(B) specify the period for which the transfer shall be effective for each dependent designated under subparagraph (A).

''(2) The aggregate amount of the entitlement transferable by an individual under this section may not exceed the aggregate amount of the entitlement of such individual to basic educational assistance under this subchapter.

''(3) An individual transferring an entitlement under this section may modify or revoke the transfer at any time before the use of the transferred entitlement begins. An individual shall make the modification or revocation by submitting written notice of the action to the Secretary of the military department concerned.

''(d)(1) A dependent to whom entitlement to educational assistance is transferred under this section may not commence the use of the transferred entitlement until the completion by the individual making the transfer of 10 years of service in the Armed Forces.

''(2) The use of any entitlement transferred under this section shall be charged against the entitlement of the individual making the transfer at the rate of one month for each month of transferred entitlement that is used.

''(3) Except as provided in under subsection (c)(1)(B) and subject to paragraphs (4) and (5), a dependent to whom entitlement is transferred under this section is entitled to basic educational assistance under this subchapter in the same manner and at the same rate as the individual from whom the entitlement was transferred.

''(4) Notwithstanding section 3031 of this title, a child to whom entitlement is transferred under this section may not use any entitlement so transferred after attaining the age of 26 years.

''(5) The administrative provisions of this chapter (including the provisions set forth in section 3034(a)(1) of this title) shall apply to the use of entitlement transferred under this section, except that the dependent to whom the entitlement is transferred shall be treated as the eligible veteran for purposes of such provisions.

''(e) In the event of an overpayment of basic educational assistance with respect to a dependent to whom entitlement is transferred under this section, the dependent and the individual making the transfer shall be jointly and severally liable to the United States for the amount of the overpayment for purposes of section 3685 of this title.

''(f) The Secretary of a military department may approve transfers of entitlement to educational assistance under this section in a fiscal year only to the extent that appropriations for military personnel are available in the fiscal year for purposes of making transfers of funds under section 2006 of title 10 with respect to such transfers of entitlement.

''(g) The Secretary of Defense shall prescribe regulations for purposes of this section. Such regulations shall specify the manner and effect of an election to modify or revoke a transfer of entitlement under subsection (c)(3) and shall specify the manner of the applicability of the administrative provisions referred to in subsection (d)(5) to a dependent to whom entitlement is transferred under this section.

''(h)(1) Not later than January 31, 2002, and each year thereafter, each Secretary of a military department shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the transfers of entitlement under this section that were approved by such Secretary during the preceding year.

''(2) Each report shall set forth—

''(A) the number of transfers of entitlement under this section that were approved by such Secretary during the preceding year; or

''(B) if no transfers of entitlement under this section were approved by such Secretary during that year, a justification for such Secretary's decision not to approve any such transfers of entitlement during that year.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3019 the following new item:

''3020. Transfer of entitlement to basic educational assistance: members of the Armed Forces.''.

(b) TREATMENT UNDER DEPARTMENT OF DEFENSE EDUCATION BENEFITS FUND.—Section 2006(b)(2) of title 10, United States Code, is amended by adding at the end the following:

''(D) The present value of the future benefits payable from the Fund as a result of transfers under section 3020 of title 38 of entitlement to basic educational assistance under chapter 30 of title 38.''

(c) PLAN FOR IMPLEMENTATION.—Not later than June 30, 2001, the Secretary of Defense shall submit to Congress a report describing the manner in which the Secretaries of the military departments propose to exercise the authority granted by section 3020 of title 38, United States Code, as added by subsection (a).

SEC. 673. PARTICIPATION OF ADDITIONAL MEMBERS OF THE ARMED FORCES IN MONTGOMERY GI BILL PROGRAM.

(a) PARTICIPATION AUTHORIZED.—(1) Subchapter II of chapter 30 of title 38, United States Code, as amended by section 672(a) of this Act, is further amended by inserting after section 3018C the following new section:

''§ 3018D. Opportunity to enroll: certain VEAP participants; active duty personnel not previously enrolled

''(a)(1) Notwithstanding any other provision of law and subject to the provisions of this section, the Secretary concerned may, for the purpose of enhancing recruiting and retention and at such Secretary's sole discretion, permit an individual described in subsection (b) to elect under subsection (c) to become entitled to basic educational assistance under this chapter.

''(2) The Secretary concerned may permit an individual to elect to become entitled to basic educational assistance under this section only if sufficient funds are available in accordance with this section for purposes of payments by the Secretary of Defense into the Department of Defense Education Benefits Fund under section 2006 of title 10 with respect to such election.

''(3) An individual who makes an election to become entitled to basic educational assistance under this section shall be entitled to basic educational assistance under this chapter.

''(b) An individual eligible to be permitted to make an election under this section is an individual who—

''(1) either—

''(A)(i) is a participant on the date of the enactment of this section in the educational benefits program provided by chapter 32 of this title; or

''(ii) disenrolled from participation in that program before that date; or

''(B) has made an election under section 3011(c)(1) or 3012(d)(1) of this title not to receive educational assistance under this chapter and has not withdrawn that election under section 3018(a) of this title as of that date;

''(2) is serving on active duty (excluding periods referred to in section 3202(1)(C) of this title in the case of an individual described in paragraph (1)(A)) on that date; and

''(3) before applying for benefits under this section, has completed the requirements of a secondary school diploma (or equivalency certificate) or has successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree.

''(c) An individual permitted to make an election under this section to become entitled to basic educational assistance under this chapter shall make an irrevocable election to receive benefits under this section in lieu of benefits under chapter 32 of this title or withdraw the election made under section 3011(c)(1) or 3012(d)(1) of this title, as the case may be, pursuant to procedures which the Secretary of each military department shall provide in accordance with regulations prescribed by the Secretary of Defense for the purpose of carrying out this section or which the Secretary of Transportation shall provide for such purpose with respect to the Coast Guard when it is not operating as a service in the Navy.

''(d)(1) Except as provided in paragraphs (2) and (3), in the case of an individual who makes an election under this section to become entitled to basic educational assistance under this chapter, the basic pay of the individual shall be reduced (in a manner determined by the Secretary of Defense) until the total amount by which such basic pay is reduced is—

''(A) $1,200, in the case of an individual described in subsection (b)(1)(A); or

''(B) $1,500, in the case of an individual described in subsection (b)(1)(B).

''(2) In the case of an individual previously enrolled in the educational benefits program provided by chapter 32 of this title, the total amount of the reduction in basic pay otherwise required by paragraph (1) shall be reduced by an amount equal to so much of the unused contributions made by the individual to the Post-Vietnam Era Veterans Education Account under section 3222(a) of this title as do not exceed $1,200.

''(3) An individual may at any time pay the Secretary concerned an amount equal to the difference between the total of the reductions otherwise required with respect to the individual under this subsection and the total amount of the reductions made with respect to the individual under this subsection as of the time of the payment.

''(4) The Secretary concerned shall transfer to the Secretary of Defense amounts retained with respect to individuals under paragraph (1) and amounts, if any, paid by individuals under paragraph (3).

''(e)(1) An individual who is enrolled in the educational benefits program provided by chapter 32 of this title and who makes the election described in subsection (c) shall be disenrolled from the program as of the date of such election.

''(2) For each individual who is disenrolled from such program, the Secretary shall transfer to Secretary of Defense any amounts in the Post-Vietnam Era Veterans Education Account that are attributable to the individual, including amounts in the Account that are attributable to the individual by reason of contributions made by the Secretary of Defense under section 3222(c) of this title.

''(f) With respect to each individual electing under this section to become entitled to basic educational assistance under this chapter, the Secretary concerned shall transfer to the Secretary of Defense, from appropriations for military personnel that are available for transfer, an amount equal to the difference between—

''(1) the amount required to be paid by the Secretary of Defense into the Department of Defense Education Benefits Fund with respect to such election; and

''(2) the aggregate amount transferred to the Secretary of Defense with respect to the individual under subsections (d) and (e).

''(g) The Secretary of Defense shall utilize amounts transferred to such Secretary under this section for purposes of payments into the Department of Defense Education Benefits Fund with respect to the provision of benefits under this chapter for individuals making elections under this section.

''(h)(1) The requirements of sections 3011(a)(3) and 3012(a)(3) of this title shall apply to an individual who makes an election under this section, except that the completion of service referred to in such section shall be the completion of the period of active duty being served by the individual on the date of the enactment of this section.

''(2) The procedures provided in regulations referred to in subsection (c) shall provide for notice of the requirements of subparagraphs (B), (C), and (D) of section 3011(a)(3) of this title and of subparagraphs (B), (C), and (D) of section 3012(a)(3) of this title. Receipt of such notice shall be acknowledged in writing.

''(i)(1) Not later than January 31, 2002, and each year thereafter, each Secretary concerned shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the members of the Armed Forces under the jurisdiction of such Secretary who were permitted to elect to become entitled to basic educational assistance under this section during the preceding year.

''(2) Each report shall set forth—

''(A) the number of members who were permitted to elect to become entitled to basic educational assistance under this section during the preceding year;

''(B) the number of members so permitted who elected to become entitled to basic educational assistance during that year; and

''(C) if no members were so permitted during that year, a justification for such Secretary's decision not to permit any members to elect to become so entitled during that year.''.

(2) The table of sections at the beginning of chapter 30 of that title, as amended by section 672(a) of this Act, is further amended by inserting after the item relating to section 3018C the following new item:

''3018D. Opportunity to enroll: certain VEAP participants; active duty personnel not previously enrolled.''.

(b) CONFORMING AMENDMENT.—Section 3015(f) of that title is amended by striking ''or 3018C'' and inserting ''3018C, or 3018D''.

(c) TREATMENT UNDER DEPARTMENT OF DEFENSE EDUCATION BENEFITS FUND.—Section 2006(b)(2) of title 10, United States Code, as amended by section 672(b) of this Act, is further amended by adding at the end the following:

''(E) The present value of the future benefits payable from the Fund as a result of elections under section 3018D of title 38 of entitlement to basic educational assistance under chapter 30 of title 38.''.

(d) PLANS FOR IMPLEMENTATION.—(1) Not later than June 30, 2001, the Secretary of Defense shall submit to Congress a report describing the manner in which the Secretaries of the military departments propose to exercise the authority granted by section 3018A of title 38, United States Code, as added by subsection (a).

(2) Not later than June 30, 2001, the Secretary of Transportation shall submit to Congress a report describing the manner in which that Secretary proposes to exercise the authority granted by such section 3018A with respect to members of the Coast Guard.

SEC. 674. MODIFICATION OF AUTHORITY TO PAY TUITION FOR OFF-DUTY TRAINING AND EDUCATION.

(a) AUTHORITY TO PAY ALL CHARGES.—Section 2007 of title 10, United States Code, is amended—

(1) by striking subsections (a) and (b) and inserting the following new subsections:

''(a) Subject to subsection (b), the Secretary of a military department may pay all or a portion of the charges of an educational institution for the tuition or expenses of a member of the armed forces enrolled in such educational institution for education or training during the member's off-duty periods.

''(b) In the case of a commissioned officer on active duty, the Secretary of the military department concerned may not pay charges under subsection (a) unless the officer agrees to remain on active duty for a period of at least two years after the completion of the training or education for which the charges are paid.''; and

(2) in subsection (d)—

(A) by striking ''(within the limits set forth in subsection (a))'' in the matter preceding paragraph (1); and

(B) in paragraph (3), by striking ''subsection (a)(3)'' and inserting ''subsection (b)''.

(b) USE OF ENTITLEMENT TO ASSISTANCE UNDER MONTGOMERY GI BILL FOR PAYMENT OF CHARGES.—(1) That section is further amended by adding at the end the following new subsection:

''(e)(1) A member of the armed forces who is entitled to basic educational assistance under chapter 30 of title 38 may use such entitlement for purposes of paying any portion of the charges described in subsection (a) or (c) that are not paid for by the Secretary of the military department concerned under such subsection.

''(2) The use of entitlement under paragraph (1) shall be governed by the provisions of section 3014(b) of title 38.''.

(2) Section 3014 of title 38, United States Code, is amended—

(A) by inserting ''(a)'' before ''The Secretary''; and

(B) by adding at the end the following new subsection:

''(b)(1) In the case of an individual entitled to basic educational assistance who is pursuing education or training described in subsection (a) or (c) of section 2007 of title 10, the Secretary shall, at the election of the individual, pay the individual a basic educational assistance allowance to meet all or a portion of the charges of the educational institution for the education or training that are not paid by the Secretary of the military department concerned under such subsection.

''(2)(A) The amount of the basic educational assistance allowance payable to an individual under this subsection for a month shall be the amount of the basic educational assistance allowance to which the individual would be entitled for the month under section 3015 of this title (without regard to subsection (g) of that section) were payment made under that section instead of under this subsection.

''(B) The maximum number of months for which an individual may be paid a basic educational assistance allowance under paragraph (1) is 36.''.

(3) Section 3015 of title 38, United States Code, is amended—

(A) by striking ''subsection (g)'' each place it appears in subsections (a) and (b);

(B) by redesignating subsection (g) as subsection (h); and

(C) by inserting after subsection (f) the following new subsection (g):

''(g) In the case of an individual who has been paid a basic educational assistance allowance under section 3014(b) of this title, the rate of the basic educational assistance allowance applicable to the individual under this section shall be the rate otherwise applicable to the individual under this section reduced by an amount equal to—

''(1) the aggregate amount of such allowances paid the individual under such section 3014(b); divided by

''(2) 36.''.

SEC. 675. MODIFICATION OF TIME FOR USE BY CERTAIN MEMBERS OF SELECTED RESERVE OF ENTITLEMENT TO CERTAIN EDUCATIONAL ASSISTANCE.

Section 16133(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(5)(A) In the case of a person who continues to serve as member of the Selected Reserve as of the end of the 10-year period applicable to the person under subsection (a), as extended, if at all, under paragraph (4), the period during which the person may use the person's entitlement shall expire at the end of the 5-year period beginning on the date the person is separated from the Selected Reserve.

''(B) The provisions of paragraph (4) shall apply with respect to any period of active duty of a person referred to in subparagraph (A) during the 5-year period referred to in that subparagraph.''.

KENNEDY (AND CLELAND) AMENDMENT NO. 3227

Mr. LEVIN (for Mr. KENNEDY (for himself and Mr. CLELAND)) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 186, strike lines 1 through 9, and insert the following:

(c) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall take effect on July 1, 2002.

(2) The amendments made by subsection (b)

MCCAIN (AND OTHERS) AMENDMENT NO. 3228

Mr. WARNER (for Mr. MCCAIN (for himself, Mr. WARNER, and Mr. LEVIN)) proposed and amendment to the bill, S. 2549, supra; as follows:

On page 236, between lines 6 and 7, insert the following:

SEC. 646. POLICY ON INCREASING MINIMUM SURVIVOR BENEFIT PLAN BASIC ANNUITIES FOR SURVIVING SPOUSES AGE 62 OR OLDER.

It is the sense of Congress that there should be enacted during the 106th Congress legislation that increases the minimum basic annuities provided under the Survivor Benefit Plan for surviving spouses of members of the uniformed services who are 62 years of age or older.

SEC. 647. SURVIVOR BENEFIT PLAN ANNUITIES FOR SURVIVORS OF ALL MEMBERS WHO DIE ON ACTIVE DUTY.

(a) ENTITLEMENT.—(1) Subsection (d)(1) of section 1448 of title 10, United States Code, is amended to read as follows:

''(1) SURVIVING SPOUSE ANNUITY.—The Secretary concerned shall pay an annuity under this subchapter to the surviving spouse of—

''(A) a member who dies on active duty after—

''(i) becoming eligible to receive retired pay;

''(ii) qualifying for retired pay except that he has not applied for or been granted that pay; or

''(iii) completing 20 years of active service but before he is eligible to retire as a commissioned officer because he has not completed 10 years of active commissioned service; or

''(B) a member not described in subparagraph (A) who dies on active duty, except in the case of a member whose death, as determined by the Secretary concerned—

''(i) is a direct result of the member's intentional misconduct or willful neglect; or

''(ii) occurs during a period of unauthorized absence.''.

(2) The heading for subsection (d) of such section is amended by striking ''RETIREMENT-ELIGIBLE''.

(b) AMOUNT OF ANNUITY.—Section 1451(c)(1) of such title is amended to read as follows:

''(1) IN GENERAL.—In the case of an annuity provided under section 1448(d) or 1448(f) of this title, the amount of the annuity shall be determined as follows:

''(A) BENEFICIARY UNDER 62 YEARS OF AGE.—If the person receiving the annuity is under 62 years of age or is a dependent child when the member or former member dies, the monthly annuity shall be the amount equal to 55 percent of the retired pay imputed to the member or former member. The retired pay imputed to a member or former member is as follows:

''(i) Except in a case described in clause (ii), the retired pay to which the member or former member would have been entitled if the member or former member had been entitled to that pay based upon his years of active service when he died.

''(ii) In the case of a deceased member referred to in subparagraph (A)(iii) or (B) of section 1448(d)(1) of this title, the retired pay to which the member or former member would have been entitled if the member had been entitled to that pay based upon a retirement under section 1201 of this title (if on active duty for more than 30 days when the member died) or section 1204 of this title (if on active duty for 30 days or less when the member died) for a disability rated as total.

''(B) BENEFICIARY 62 YEARS OF AGE OR OLDER.—

''(i) GENERAL RULE.—If the person receiving the annuity (other than a dependent child) is 62 years of age or older when the member or former member dies, the monthly annuity shall be the amount equal to 35 percent of the retired pay imputed to the member or former member as described in clause (i) or (ii) of the second sentence of subparagraph (A).

''(ii) RULE IF BENEFICIARY ELIGIBLE FOR SOCIAL SECURITY OFFSET COMPUTATION.—If the beneficiary is eligible to have the annuity computed under subsection (e) and if, at the time the beneficiary becomes entitled to the annuity, computation of the annuity under that subsection is more favorable to the beneficiary than computation under clause (i), the annuity shall be computed under that subsection rather than under clause (i).''.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on October 1, 2000, and shall apply with respect to deaths occurring on or after that date.

SEC. 648. FAMILY COVERAGE UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE.

(a) INSURABLE DEPENDENTS.—Section 1965 of title 38, United States Code, is amended by adding at the end the following:

''(10) The term 'insurable dependent', with respect to a member, means the following:

''(A) The member's spouse.

''(B) A child of the member for so long as the child is unmarried and the member is providing over 50 percent of the support of the child.''.

(b) INSURANCE COVERAGE.—(1) Subsection (a) of section 1967 of title 38, United States Code, is amended to read as follows:

''(a)(1) Subject to an election under paragraph (2), any policy of insurance purchased by the Secretary under section 1966 of this title shall automatically insure the following persons against death:

''(A) In the case of any member of a uniformed service on active duty (other than active duty for training)—

''(i) the member; and

''(ii) each insurable dependent of the member.

''(B) Any member of a uniformed service on active duty for training or inactive duty training scheduled in advance by competent authority.

''(C) Any member of the Ready Reserve of a uniformed service who meets the qualifications set forth in section 1965(5)(B) of this title.

''(2)(A) A member may elect in writing not to be insured under this subchapter.

''(B) A member referred to in subparagraph (A) may also make either or both of the following elections in writing:

''(i) An election not to insure a dependent spouse under this subchapter.

''(ii) An election to insure none of the member's children under this subchapter.

''(3)(A) Subject to an election under subparagraph (B), the amount for which a person is insured under this subchapter is as follows:

''(i) In the case of a member, $200,000.

''(ii) In the case of a member's spouse, the amount equal to 50 percent of the amount for which the member is insured under this subchapter.

''(iii) In the case of a member's child, $10,000.

''(B) A member may elect in writing to be insured or to insure an insurable dependent in an amount less than the amount provided under subparagraph (A). The amount of insurance so elected shall, in the case of a member or spouse, be evenly divisible by $10,000 and, in the case of a child, be evenly divisible by $5,000.

''(4) No dependent of a member is insured under this chapter unless the member is insured under this subchapter.

''(5) The insurance shall be effective with respect to a member and the member's dependents on the first day of active duty or active duty for training, or the beginning of a period of inactive duty training scheduled in advance by competent authority, or the first day a member of the Ready Reserve meets the qualifications set forth in section 1965(5)(B) of this title, or the date certified by the Secretary to the Secretary concerned as the date Servicemembers' Group Life Insurance under this subchapter for the class or group concerned takes effect, whichever is the later date.''.

(2) Subsection (c) of such section is amended by striking out the first sentence and inserting the following: ''If a person eligible for insurance under this subchapter is not so insured, or is insured for less than the maximum amount provided for the person under subparagraph (A) of subsection (a)(3), by reason of an election made by a member under subparagraph (B) of that subsection, the person may thereafter be insured under this subchapter in the maximum amount or any lesser amount elected as provided in such subparagraph (B) upon written application by the member, proof of good health of each person to be so insured, and compliance with such other terms and conditions as may be prescribed by the Secretary.''.

(c) TERMINATION OF COVERAGE.—(1) Subsection (a) of section 1968 of such title is amended—

(A) in the matter preceding paragraph (1), by inserting ''and any insurance thereunder on any insurable dependent of such a member,'' after '' any insurance thereunder on any member of the uniformed services,'';

(B) by striking ''and'' at the end of paragraph (3);

(C) by striking the period at the end of paragraph (4) and inserting ''; and''; and

(D) by adding at the end the following:

''(5) with respect to an insurable dependent of the member—

''(A) upon election made in writing by the member to terminate the coverage; or

''(B) on the earlier of—

''(i) the date of the member's death;

''(ii) the date of termination of the insurance on the member's life under this subchapter;

''(iii) the date of the dependent's death; or

''(iv) the termination of the dependent's status as an insurable dependent of the member.

(2) Subsection (b)(1)(A) of such section is amended by inserting ''(to insure against death of the member only)'' after ''converted to Veterans' Group Life Insurance''.

(d) PREMIUMS.—Section 1969 of such title is amended by adding at the end the following:

''(g)(1) During any period in which any insurable dependent of a member is insured under this subchapter, there shall be deducted each month from the member's basic or other pay until separation or release from active duty an amount determined by the Secretary (which shall be the same for all such members) as the premium allocable to the pay period for providing that insurance coverage.

''(2)(A) The Secretary shall determine the premium amounts to be charged for life insurance coverage for dependents of members under this subchapter.

''(B) The premium amounts shall be determined on the basis of sound actuarial principles and shall include an amount necessary to cover the administrative costs to the insurer or insurers providing such insurance.

''(C) Each premium rate for the first policy year shall be continued for subsequent policy years, except that the rate may be adjusted for any such subsequent policy year on the basis of the experience under the policy, as determined by the Secretary in advance of that policy year.

''(h) Any overpayment of a premium for insurance coverage for an insurable dependent of a member that is terminated under section 1968(a)(5) of this title shall be refunded to the member.''.

(e) PAYMENTS OF INSURANCE PROCEEDS.—Section 1970 of such title is amended by adding at the end the following:

''(h) Any amount of insurance in force on an insurable dependent of a member under this subchapter on the date of the dependent's death shall be paid, upon the establishment of a valid claim therefor, to the member or, in the event of the member's death before payment to the member can be made, then to the person or persons entitled to receive payment of the proceeds of insurance on the member' life under this subchapter.''.

(f) EFFECTIVE DATE AND INITIAL IMPLEMENTATION.—(1) This section and the amendments made by this section shall take effect on the first day of the first month that begins more than 120 days after the date of the enactment of this Act, except that paragraph (2) shall take effect on the date of the enactment of this Act.

(2) The Secretary of Veterans Affairs, in consultation with the Secretaries of the military departments, the Secretary of Transportation, the Secretary of Commerce and the Secretary of Health and Human Services, shall take such action as is necessary to ensure that each member of the uniformed services on active duty (other than active duty for training) during the period between the date of the enactment of this Act and the effective date determined under paragraph (1) is furnished an explanation of the insurance benefits available for dependents under the amendments made by this section and is afforded an opportunity before such effective date to make elections that are authorized under those amendments to be made with respect to dependents.

MCCAIN AMENDMENT NO. 3229

Mr. WARNER (for Mr. MCCAIN (for himself and Mr. WARNER)) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 206, between lines 15 and 16, insert the following:

SEC. 610. RESTRUCTURING OF BASIC PAY TABLES FOR CERTAIN ENLISTED MEMBERS.

(a) IN GENERAL.—The table under the heading ''ENLISTED MEMBERS'' in section 601(c) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 105–65; 113 Stat. 648) is amended by striking the amounts relating to pay grades E–7, E–6, and E–5 and inserting the amounts for the corresponding years of service specified in the following table:

ENLISTED MEMBERS

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
E–7	1,765.80	1,927.80	2,001.00	2,073.00	2,148.60
E–6	1,518.90	1,678.20	1,752.60	1,824.30	1,899.40
E–5	1,332.60	1,494.00	1,566.00	1,640.40	1,715.70
	Over 8	Over 10	Over 12	Over 14	Over 16
E–7	2,277.80	2,350.70	2,423.20	2,495.90	2,570.90
E–6	2,022.60	2,096.40	2,168.60	2,241.90	2,294.80
E–5	1,821.00	1,893.00	1,967.10	1,967.60	1,967.60
	Over 18	Over 20	Over 22	Over 24	Over 26
E–7	2,644.20	2,717.50	2,844.40	2,926.40	3,134.40
E–6	2,332.00	2,332.00	2,335.00	2,335.00	2,335.00
E–5	1,967.60	1,967.60	1,967.60	1,967.60	1,967.60

(b) APPLICATION OF AMENDMENTS.—The amendments made by subsection (a) shall take effect as of October 1, 2000, and shall apply with respect to months beginning on or after that date.

GRAMS (AND OTHERS) AMENDMENT NO. 3230

Mr. WARNER (for Mr. GRAMS (for himself, Mr. MCCAIN, Mr. SESSIONS, Mr. ALLARD, Mr. ASHCROFT, and Mr. LEVIN)) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 239, after line 22, add the following:

Subtitle F—Additional Benefits For Reserves and Their Dependents

SEC. 671. SENSE OF CONGRESS.

It is the sense of Congress that it is in the national interest for the President to provide the funds for the reserve components of the Armed Forces (including the National Guard and Reserves) that are sufficient to ensure that the reserve components meet the requirements specified for the reserve components in the National Military Strategy, including training requirements.

SEC. 672. TRAVEL BY RESERVES ON MILITARY AIRCRAFT.

(a) SPACE-REQUIRED TRAVEL FOR TRAVEL TO DUTY STATIONS INCONUS AND OCONUS.—(1) Subsection (a) of section 18505 of title 10, United States Code, is amended to read as follows:

''(a) A member of a reserve component traveling to a place of annual training duty or inactive-duty training (including a place other than the member's unit training assembly if the member is performing annual training duty or inactive-duty training in another location) may travel in a space-required status on aircraft of the armed forces between the member's home and the place of such duty or training.''.

(2) The heading of such section is amended to read as follows:

''§ 18505. Reserves traveling to annual training duty or inactive-duty training: authority for space-required travel''.

(b) SPACE-AVAILABLE TRAVEL FOR MEMBERS OF SELECTED RESERVE, GRAY AREA RETIREES, AND DEPENDENTS.—Chapter 1805 of such title is amended by adding at the end the following new section:

''§ 18506. Space-available travel: Selected Reserve members and reserve retirees under age 60; dependents

''(a) ELIGIBILITY FOR SPACE-AVAILABLE TRAVEL.—The Secretary of Defense shall prescribe regulations to allow persons described in subsection (b) to receive transportation on aircraft of the Department of Defense on a space-available basis under the same terms and conditions (including terms and conditions applicable to travel outside the United States) as apply to members of the armed forces entitled to retired pay.

''(b) PERSONS ELIGIBLE.—Subsection (a) applies to the following persons:

''(1) A person who is a member of the Selected Reserve in good standing (as determined by the Secretary concerned) or who is a participating member of the Individual Ready Reserve of the Navy or Coast Guard in good standing (as determined by the Secretary concerned).

''(c) DEPENDENTS.—A dependent of a person described in subsection (b) shall be provided transportation under this section on the same basis as dependents of members of the armed forces entitled to retired pay.

''(d) LIMITATION ON REQUIRED IDENTIFICATION.—Neither the 'Authentication of Reserve Status for Travel Eligibility' form (DD Form 1853), nor or any other form, other than the presentation of military identification and duty orders upon request, or other methods of identification required of active duty personnel, shall be required of reserve component personnel using space-available transportation within or outside the continental United States under this section.''.

(c) CLERICAL AMENDMENTS.—The table of sections at the beginning of such chapter is amended by striking the item relating to section 18505 and inserting the following new items:

''18505. Reserves traveling to annual training duty or inactive-duty training: authority for space-required travel.

''18506. Space-available travel: Selected Reserve members and reserve retirees under age 60; dependents.''.

(d) IMPLEMENTING REGULATIONS.—Regulations under section 18506 of title 10, United States Code, as added by subsection (b), shall be prescribed not later than 180 days after the date of the enactment of this Act.

SEC. 673. BILLETING SERVICES FOR RESERVE MEMBERS TRAVELING FOR INACTIVE DUTY TRAINING.

(a) IN GENERAL.—(1) Chapter 1217 of title 10, United States Code, is amended by inserting after section 12603 the following new section:

''§ 12604. Billeting in Department of Defense facilities: Reserves attending inactive-duty training

''(a) AUTHORITY FOR BILLETING ON SAME BASIS AS ACTIVE DUTY MEMBERS TRAVELING UNDER ORDERS.—The Secretary of Defense shall prescribe regulations authorizing a Reserve traveling to inactive-duty training at a location more than 50 miles from that Reserve's residence to be eligible for billeting in Department of Defense facilities on the same basis and to the same extent as a member of the armed forces on active duty who is traveling under orders away from the member's permanent duty station.

''(b) PROOF OF REASON FOR TRAVEL.—The Secretary shall include in the regulations the means for confirming a Reserve's eligibility for billeting under subsection (a).''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 12603 the following new item:

''12604. Billeting in Department of Defense facilities: Reserves attending inactive-duty training.

(b) EFFECTIVE DATE.—Section 12604 of title 10, United States Code, as added by subsection (a), shall apply with respect to periods of inactive-duty training beginning more than 180 days after the date of the enactment of this Act.

SEC. 674. INCREASE IN MAXIMUM NUMBER OF RESERVE RETIREMENT POINTS THAT MAY BE CREDITED IN ANY YEAR.

Section 12733(3) of title 10, United States Code, is amended by striking ''but not more than'' and all that follows and inserting ''but not more than—

''(A) 60 days in any one year of service before the year of service that includes September 23, 1996;

''(B) 75 days in the year of service that includes September 23, 1996, and in any subsequent year of service before the year of service that includes the date of the enactment of the National Defense Authorization Act for Fiscal Year 2001; and

''(C) 90 days in the year of service that includes the date of the enactment of the National Defense Authorization Act for Fiscal Year 2001 and in any subsequent year of service.''.

SEC. 675. AUTHORITY FOR PROVISION OF LEGAL SERVICES TO RESERVE COMPONENT MEMBERS FOLLOWING RELEASE FROM ACTIVE DUTY.

(a) LEGAL SERVICES.—Section 1044(a) of title 10, United States Code, is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph (4):

''(4) Members of reserve components of the armed forces not covered by paragraph (1) or (2) following release from active duty under a call or order to active duty for more than 30 days issued under a mobilization authority (as determined by the Secretary of Defense), but only during the period that begins on the date of the release and is equal to at least twice the length of the period served on active duty under such call or order to active duty.''.

(b) DEPENDENTS.—Paragraph (5) of such section, as redesignated by subsection (a)(1), is amended by striking ''and (3)'' and inserting ''(3), and (4)''.

(c) IMPLEMENTING REGULATIONS.—Regulations to implement the amendments made by this section shall be prescribed not later than 180 days after the date of the enactment of this Act.

BINGAMAN (AND OTHERS) AMENDMENT NO. 3231

Mr. LEVIN (for Mr. BINGAMAN (for himself, Mr. WARNER, Mr. BIDEN, and Mr. INOUYE) proposed an amendment to the bill, S. 2549, supra; as follows:

At the end of title X, insert the following:

SEC. 10___. CONGRESSIONAL MEDALS FOR NAVAJO CODE TALKERS.

(a) FINDINGS.—Congress finds that—

(1) on December 7, 1941, the Japanese Empire attacked Pearl Harbor and war was declared by Congress on the following day;

(2) the military code developed by the United States for transmitting messages had been deciphered by the Japanese, and a search was made by United States Intelligence to develop new means to counter the enemy;

(3) the United States Government called upon the Navajo Nation to support the military effort by recruiting and enlisting 29 Navajo men to serve as Marine Corps Radio Operators;

(4) the number of Navajo enlistees later increased to more than 350;

(5) at the time, the Navajos were often treated as second-class citizens, and they were a people who were discouraged from using their own native language;

(6) the Navajo Marine Corps Radio Operators, who became known as the ''Navajo Code Talkers'', were used to develop a code using their native language to communicate military messages in the Pacific;

(7) to the enemy's frustration, the code developed by these Native Americans proved to be unbreakable, and was used extensively throughout the Pacific theater;

(8) the Navajo language, discouraged in the past, was instrumental in developing the most significant and successful military code of the time;

(9) at Iwo Jima alone, the Navajo Code Talkers passed more than 800 error-free messages in a 48-hour period;

(10) use of the Navajo Code was so successful, that—

(A) military commanders credited it in saving the lives of countless American soldiers and in the success of the engagements of the United States in the battles of Guadalcanal, Tarawa, Saipan, Iwo Jima, and Okinawa;

(B) some Code Talkers were guarded by fellow Marines, whose role was to kill them in case of imminent capture by the enemy; and

(C) the Navajo Code was kept secret for 23 years after the end of World War II;

(11) following the conclusion of World War II, the Department of Defense maintained the secrecy of the Navajo Code until it was declassified in 1968; and

(12) only then did a realization of the sacrifice and valor of these brave Native Americans emerge from history.

(b) CONGRESSIONAL MEDALS AUTHORIZED.—To express recognition by the United States and its citizens in honoring the Navajo Code Talkers, who distinguished themselves in performing a unique, highly successful communications operation that greatly assisted in saving countless lives and hastening the end of World War II in the Pacific, the President is authorized—

(1) to award to each of the original 29 Navajo Code Talkers, or a surviving family member, on behalf of the Congress, a gold medal of appropriate design, honoring the Navajo Code Talkers; and

(2) to award to each person who qualified as a Navajo Code Talker (MOS 642), or a surviving family member, on behalf of the Congress, a silver medal of appropriate design, honoring the Navajo Code Talkers.

(c) DESIGN AND STRIKING.—For purposes of the awards authorized by subsection (b), the Secretary of the Treasury (in this section referred to as the ''Secretary'') shall strike gold and silver medals with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

(d) DUPLICATE MEDALS.—The Secretary may strike and sell duplicates in bronze of the medals struck pursuant to this section, under such regulations as the Secretary may prescribe, and at a price sufficient to cover the costs thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the medals.

(e) NATIONAL MEDALS.—The medals struck pursuant to this section are national medals for purposes of chapter 51, of title 31, United States Code.

(f) AUTHORITY TO USE FUND AMOUNTS.—There is authorized to be charged against the United States Mint Public Enterprise Fund, not more than $30,000, to pay for the costs of the medals authorized by this section.

(g) PROCEEDS OF SALE.—Amounts received from the sale of duplicate medals under this section shall be deposited in the United States Mint Public Enterprise Fund.

LOTT AMENDMENT NO. 3232

Mr. WARNER (for Mr. LOTT) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 236, between lines 6 and 7, insert the following:

SEC. 646. FEES PAID BY RESIDENTS OF THE ARMED FORCES RETIREMENT HOME.

(a) NAVAL HOME.—Section 1514 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 414) is amended by striking subsection (d) and inserting the following:

''(d) NAVAL HOME.—The monthly fee required to be paid by a resident of the Naval Home under subsection (a) shall be as follows:

''(1) For a resident in an independent living status, $500.

''(2) For a resident in an assisted living status, $750.

''(3) For a resident of a skilled nursing facility, $1,250.''.

(b) UNITED STATES SOLDIERS' AND AIRMEN'S HOME.—Subsection (c) of such section is amended—

(1) by striking ''(c) FIXING FEES.—'' and inserting ''(c) UNITED STATES SOLDIERS' AND AIRMEN'S HOME.—'';

(2) in paragraph (1)—

(A) by striking ''the fee required by subsection (a) of this section'' and inserting ''the fee required to be paid by residents of the United States Soldiers' and Airmen's Home under subsection (a)''; and

(B) by striking ''needs of the Retirement Home'' and inserting ''needs of that establishment''; and

(3) in paragraph (2), by striking the second sentence.

(c) SAVINGS PROVISION.—Such section is further amended by adding at the end the following:

''(e) RESIDENTS BEFORE FISCAL YEAR 2001.—A resident of the Retirement Home on September 30, 2000, may not be charged a monthly fee under this section in an amount that exceeds the amount of the monthly fee charged that resident for the month of September 2000.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2000.

KENNEDY (AND OTHERS) AMENDMENT NO. 3233

Mr. LEVIN (for Mr. KENNEDY (for himself, Mr. ROTH, Mr. THURMOND, Mr. BIDEN, and Mr. REID)) proposed an amendment to the bill, S. 2549, supra; as follows:

Submitted an amendment intended to be proposed by him to the bill, S. 2549, supra; as follows:

On page 200, after line 23, insert the following:

SEC. 566. SENIOR OFFICERS IN COMMAND IN HAWAII ON DECEMBER 7, 1941.

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

(1) Rear Admiral Husband E. Kimmel, formerly the Commander in Chief of the United States Fleet and the Commander in Chief, United States Pacific Fleet, had an excellent and unassailable record throughout his career in the United States Navy prior to the December 7, 1941, attack on Pearl Harbor.

(2) Major General Walter C. Short, formerly the Commander of the United States Army Hawaiian Department, had an excellent and unassailable record throughout his career in the United States Army prior to the December 7, 1941, attack on Pearl Harbor.

(3) Numerous investigations following the attack on Pearl Harbor have documented that Admiral Kimmel and Lieutenant General Short were not provided necessary and critical intelligence that was available, that foretold of war with Japan, that warned of imminent attack, and that would have alerted them to prepare for the attack, including such essential communiques as the Japanese Pearl Harbor Bomb Plot message of September 24, 1941, and the message sent from the Imperial Japanese Foreign Ministry to the Japanese Ambassador in the United States from December 6 to 7, 1941, known as the Fourteen-Part Message.

(4) On December 16, 1941, Admiral Kimmel and Lieutenant General Short were relieved of their commands and returned to their permanent ranks of rear admiral and major general.

(5) Admiral William Harrison Standley, who served as a member of the investigating commission known as the Roberts Commission that accused Admiral Kimmel and Lieutenant General Short of ''dereliction of duty'' only six weeks after the attack on Pearl Harbor, later disavowed the report maintaining that ''these two officers were martyred'' and ''if they had been brought to trial, both would have been cleared of the charge''.

(6) On October 19, 1944, a Naval Court of Inquiry exonerated Admiral Kimmel on the grounds that his military decisions and the disposition of his forces at the time of the December 7, 1941, attack on Pearl Harbor were proper ''by virtue of the information that Admiral Kimmel had at hand which indicated neither the probability nor the imminence of an air attack on Pearl Harbor''; criticized the higher command for not sharing with Admiral Kimmel ''during the very critical period of November 26 to December 7, 1941, important information . . . regarding the Japanese situation''; and, concluded that the Japanese attack and its outcome was attributable to no serious fault on the part of anyone in the naval service.

(7) On June 15, 1944, an investigation conducted by Admiral T. C. Hart at the direction of the Secretary of the Navy produced evidence, subsequently confirmed, that essential intelligence concerning Japanese intentions and war plans was available in Washington but was not shared with Admiral Kimmel.

(8) On October 20, 1944, the Army Pearl Harbor Board of Investigation determined that Lieutenant General Short had not been kept ''fully advised of the growing tenseness of the Japanese situation which indicated an increasing necessity for better preparation

for war''; detailed information and intelligence about Japanese intentions and war plans were available in ''abundance'' but were not shared with the General Short's Hawaii command; and General Short was not provided ''on the evening of December 6th and the early morning of December 7th, the critical information indicating an almost immediate break with Japan, though there was ample time to have accomplished this''.

(9) The reports by both the Naval Court of Inquiry and the Army Pearl Harbor Board of Investigation were kept secret, and Rear Admiral Kimmel and Major General Short were denied their requests to defend themselves through trial by court-martial.

(10) The joint committee of Congress that was established to investigate the conduct of Admiral Kimmel and Lieutenant General Short completed, on May 31, 1946, a 1,075-page report which included the conclusions of the committee that the two officers had not been guilty of dereliction of duty.

(11) The then Chief of Naval Personnel, Admiral J. L. Holloway, Jr., on April 27, 1954, recommended that Admiral Kimmel be advanced in rank in accordance with the provisions of the Officer Personnel Act of 1947.

(12) On November 13, 1991, a majority of the members of the Board for the Correction of Military Records of the Department of the Army found that Lieutenant General Short ''was unjustly held responsible for the Pearl Harbor disaster'' and that ''it would be equitable and just'' to advance him to the rank of lieutenant general on the retired list.

(13) In October 1994, the then Chief of Naval Operations, Admiral Carlisle Trost, withdrew his 1988 recommendation against the advancement of Admiral Kimmel and recommended that the case of Admiral Kimmel be reopened.

(14) Although the Dorn Report, a report on the results of a Department of Defense study that was issued on December 15, 1995, did not provide support for an advancement of Rear Admiral Kimmel or Major General Short in grade, it did set forth as a conclusion of the study that ''responsibility for the Pearl Harbor disaster should not fall solely on the shoulders of Admiral Kimmel and Lieutenant General Short, it should be broadly shared''.

(15) The Dorn Report found that ''Army and Navy officials in Washington were privy to intercepted Japanese diplomatic communications...which provided crucial confirmation of the imminence of war''; that ''the evidence of the handling of these messages in Washington reveals some ineptitude, some unwarranted assumptions and misestimations, limited coordination, ambiguous language, and lack of clarification and followup at higher levels''; and, that ''together, these characteristics resulted in failure...to appreciate fully and to convey to the commanders in Hawaii the sense of focus and urgency that these intercepts should have engendered''.

(16) On July 21, 1997, Vice Admiral David C. Richardson (United States Navy, retired) responded to the Dorn Report with his own study which confirmed findings of the Naval Court of Inquiry and the Army Pearl Harbor Board of Investigation and established, among other facts, that the war effort in 1941 was undermined by a restrictive intelligence distribution policy, and the degree to which the commanders of the United States forces in Hawaii were not alerted about the impending attack on Hawaii was directly attributable to the withholding of intelligence from Admiral Kimmel and Lieutenant General Short.

(17) The Officer Personnel Act of 1947, in establishing a promotion system for the Navy and the Army, provided a legal basis for the President to honor any officer of the Armed Forces of the United States who served his country as a senior commander during World War II with a placement of that officer, with the advice and consent of the Senate, on the retired list with the highest grade held while on the active duty list.

(18) Rear Admiral Kimmel and Major General Short are the only two eligible officers from World War II who were excluded from the list of retired officers presented for advancement on the retired lists to their highest wartime ranks under the terms of the Officer Personnel Act of 1947.

(19) This singular exclusion from advancement on the retired list serves only to perpetuate the myth that the senior commanders in Hawaii were derelict in their duty and responsible for the success of the attack on Pearl Harbor, a distinct and unacceptable expression of dishonor toward two of the finest officers who have served in the Armed Forces of the United States.

(20) Major General Walter Short died on September 23, 1949, and Rear Admiral Husband Kimmel died on May 14, 1968, without the honor of having been returned to their wartime ranks as were their fellow veterans of World War II.

(21) The Veterans of Foreign Wars, the Pearl Harbor Survivors Association, the Admiral Nimitz Foundation, the Naval Academy Alumni Association, the Retired Officers Association, and the Pearl Harbor Commemorative Committee, and other associations and numerous retired military officers have called for the rehabilitation of the reputations and honor of Admiral Kimmel and Lieutenant General Short through their posthumous advancement on the retired lists to their highest wartime grades.

(b) ADVANCEMENT OF REAR ADMIRAL KIMMEL AND MAJOR GENERAL SHORT ON RETIRED LISTS.—(1) The President is requested—

(A) to advance the late Rear Admiral Husband E. Kimmel to the grade of admiral on the retired list of the Navy; and

(B) to advance the late Major General Walter C. Short to the grade of lieutenant general on the retired list of the Army.

(2) Any advancement in grade on a retired list requested under paragraph (1) shall not increase or change the compensation or benefits from the United States to which any person is now or may in the future be entitled based upon the military service of the officer advanced.

(c) SENSE OF CONGRESS REGARDING THE PROFESSIONAL PERFORMANCE OF ADMIRAL KIMMEL AND LIEUTENANT GENERAL SHORT.—It is the sense of Congress that—

(1) the late Rear Admiral Husband E. Kimmel performed his duties as Commander in Chief, United States Pacific Fleet, competently and professionally, and, therefore, the losses incurred by the United States in the attacks on the naval base at Pearl Harbor, Hawaii, and other targets on the island of Oahu, Hawaii, on December 7, 1941, were not a result of dereliction in the performance of those duties by the then Admiral Kimmel; and

(2) the late Major General Walter C. Short performed his duties as Commanding General, Hawaiian Department, competently and professionally, and, therefore, the losses incurred by the United States in the attacks on Hickam Army Air Field and Schofield Barracks, Hawaii, and other targets on the island of Oahu, Hawaii, on December 7, 1941, were not a result of dereliction in the performance of those duties by the then Lieutenant General Short.

BIDEN (AND ROTH) AMENDMENT NO. 3234

Mr. LEVIN (for Mr. BIDEN (for himself and Mr. ROTH)) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 378, between lines 19 and 20, insert the following:

SEC. 1027. REPORT ON SPARE PARTS AND REPAIR PARTS PROGRAM OF THE AIR FORCE FOR THE C–5 AIRCRAFT.

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

(1) There exists a significant shortfall in the Nation's current strategic airlift requirement, even though strategic airlift remains critical to the national security strategy of the United States.

(2) This shortfall results from the slow phase-out C–141 aircraft and their replacement with C–17 aircraft and from lower than optimal reliability rates for the C–5 aircraft.

(3) One of the primary causes of these reliability rates for C–5 aircraft, and especially for operational unit aircraft, is the shortage of spare repair parts. Over the past 5 years, this shortage has been particularly evident in the C–5 fleet.

(4) NMCS (Not Mission Capable for Supply) rates for C–5 aircraft have increased significantly in the period between 1997 and 1999. At Dover Air Force Base, Delaware, an average of 7 through 9 C–5 aircraft were not available during that period because of a lack of parts.

(5) Average rates of cannibalization of C–5 aircraft per 100 sorties of such aircraft have also increased during that period and are well above the Air Mobility Command standard. In any given month, this means devoting additional manhours to cannibalizations of C–5 aircraft. At Dover Air Force Base, an average of 800 to 1,000 additional manhours were required for cannibalizations of C–5 aircraft during that period. Cannibalizations are often required for aircraft that transit through a base such as Dover Air Force Base, as well as those that are based there.

(6) High cannibalization rates indicate a significant problem in delivering spare parts in a timely manner and systemic problems within the repair and maintenance process, and also demoralize overworked maintenance crews.

(7) The C–5 aircraft remains an absolutely critical asset in air mobility and airlifting heavy equipment and personnel to both military contingencies and humanitarian relief efforts around the world.

(8) Despite increased funding for spare and repair parts and other efforts by the Air Force to mitigate the parts shortage problem, Congress continues to receive reports of significant cannibalizations to airworthy C–5 aircraft and parts backlogs.

(b) REPORTS.—Not later than January 1, 2001, and September 30, 2001, the Secretary of the Air Force shall submit to the congressional defense committees a report on the overall status of the spare and repair parts program of the Air Force for the C–5 aircraft. The report shall include the following—

(1) a statement the funds currently allocated to parts for the C–5 aircraft and the adequacy of such funds to meet current and future parts and maintenance requirements for that aircraft;

(2) a description of current efforts to address shortfalls in parts for such aircraft, including an assessment of potential short-term and long-term effects of such efforts;

(3) an assessment of the effects of such shortfalls on readiness and reliability ratings for C–5 aircraft;

(4) a description of cannibalization rates for C–5 aircraft and the manhours devoted to cannibalizations of such aircraft; and

(5) an assessment of the effects of parts shortfalls and cannibalizations with respect to C–5 aircraft on readiness and retention.

ROBERTS AMENDMENT NO. 3235

Mr. WARNER (for Mr. ROBERTS) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 539, between lines 7 and 8, insert the following:

SEC. 2836. LAND CONVEYANCE, FORT RILEY, KANSAS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the State of Kansas, all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 70 acres at Fort Riley Military Reservation, Fort Riley, Kansas. The preferred site is adjacent to the Fort Riley Military Reservation boundary, along the north side of Huebner Road across from the First Territorial Capitol of Kansas Historical Site Museum.

(b) CONDITIONS OF CONVEYANCE.—The conveyance required by subsection (a) shall be subject to the following conditions:

(1) That the State of Kansas use the property conveyed solely for purposes of establishing and maintaining a State-operated veterans cemetery.

(2) That all costs associated with the conveyance, including the cost of relocating water and electric utilities should the Secretary determine that such relocations are necessary, be borne by the State of Kansas.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary and the Director of the Kansas Commission on Veterans Affairs.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance required by subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

LIEBERMAN (AND ROBERTS) AMENDMENT NO. 3236

Mr. LEVIN (for Mr. LIEBERMAN (for himself and Mr. ROBERTS)) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 436, between lines 2 and 3, insert the following:

SEC. 1114. CLARIFICATION OF PERSONNEL MANAGEMENT AUTHORITY OF UNDER A PERSONNEL DEMONSTRATION PROJECT.

Section 342(b) of the National Defense Authorization Act for Fiscal Year 1995 is amended—

(1) by striking the last sentence of paragraph (4); and

(2) by adding at the end the following:

''(5) The employees of a laboratory covered by a personnel demonstration project under this section shall be managed by the director of the laboratory subject to the supervision of the Under Secretary of Defense for Acquisition, Technology, and Logistics. Notwithstanding any other provision of law, the director of the laboratory is authorized to appoint individuals to positions in the laboratory, and to fix the compensation of such individuals for service in those positions, under the demonstration project without the review or approval of any official or agency other than the Under Secretary.''.

ROBERTS AMENDMENT NO. 3237

Mr. WARNER (for Mr. ROBERTS) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 34, between lines 2 and 3, insert the following:

SEC. 203. ADDITIONAL AUTHORIZATION FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION ON WEATHERING AND CORROSION OF AIRCRAFT SURFACES AND PARTS.

(a) INCREASE IN AUTHORIZATION.—The amount authorized to be appropriated by section 201(3) is hereby increased by $1,500,000.

(b) AVAILABILITY OF FUNDS.—The amount available under section 201(3), as increased by subsection (a), for research, development, test, and evaluation on weathering and corrosion of aircraft surfaces and parts (PE62102F) is hereby increased by $1,500,000.

(c) OFFSET.—The amount authorized to be appropriated by section 201(4) is hereby decreased by $1,5000,000, with the amount of such decrease being allocated to Sensor and Guidance Technology (PE63762E).

CONRAD (AND OTHERS) AMENDMENT NO. 3238

Mr. LEVIN (for Mr. CONRAD (for himself, Ms. LANDRIEU, and Mr. DORGAN) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 372, between lines 6 and 7, insert the following:

SEC. 1019. SENSE OF SENATE ON THE MAINTENANCE OF THE STRATEGIC NUCLEAR TRIAD.

It is the sense of the Senate that, in light of the potential for further arms control agreements with the Russian Federation limiting strategic forces—

(1) it is in the national interest of the United States to maintain a robust and balanced TRIAD of strategic nuclear delivery vehicles, including long-range bombers, land-based intercontinental ballistic missiles (ICBMs), and ballistic missile submarines; and

(2) reductions to United States conventional bomber capability are not in the national interest of the United States.

NICKLES (AND INHOFE) AMEMDMENT NO. 3239

Mr. WARNER (for Mr. NICKLES (for himself and Mr. INHOFE)) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 72, strike line 3, and insert the following:

''(B) Each arsenal of the Army.

''(C) Each government-owned, government-operated ammunition plant of the Army.''.

On page 77, strike line 17, and insert the following:

gency.

''(f) CONSTRUCTION OF PROVISION.—Nothing in this section may be construed to authorize a change, otherwise prohibited by law, from the performance of work at a Center of Industrial and Technical Excellence by Department of Defense personnel to performance by a contractor.''.

LIEBERMAN (AND OTHERS) AMENDMENT NO. 3240

Mr. LEVIN (for Mr. LIEBERMAN (for himself, Mr. SANTORUM, Mr. ROBB, and Mrs. HUTCHISON)) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 415, between lines 2 and 3, insert the following:

SEC. 1061. AEROSPACE INDUSTRY BLUE RIBBON COMMISSION.

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

(1) The United States aerospace industry, composed of manufacturers of commercial, military, and business aircraft, helicopters, aircraft engines, missiles, spacecraft, materials, and related components and equipment, has a unique role in the economic and national security of our Nation.

(2) In 1999, the aerospace industry continued to produce, at $37,000,000,000, the largest trade surplus of any industry in the United States economy.

(3) The United States aerospace industry employs 800,000 Americans in highly skilled positions associated with manufacturing aerospace products.

(4) United States aerospace technology is preeminent in the global marketplace for both defense and commercial products.

(5) History since World War I has demonstrated that a superior aerospace capability usually determines victory in military operations and that a robust, technically innovative aerospace capability will be essential for maintaining United States military superiority in the 21st century.

(6) Federal Government policies concerning investment in aerospace research and development and procurement, controls on the export of services and goods containing advanced technologies, and other aspects of the Government-industry relationship will have a critical impact on the ability of the United States aerospace industry to retain its position of global leadership.

(7) Recent trends in investment in aerospace research and development, in changes in global aerospace market share, and in the development of competitive, non-United States aerospace industries could undermine the future role of the United States aerospace industry in the national economy and in the security of the Nation.

(8) Because the United States aerospace industry stands at an historical crossroads, it is advisable for the President and Congress to appoint a blue ribbon commission to assess the future of the industry and to make recommendations for Federal Government actions to ensure United States preeminence in aerospace in the 21st century.

(b) ESTABLISHMENT.—There is established a Blue Ribbon Commission on the Future of the United States Aerospace Industry.

(c) MEMBERSHIP.—(1) The Commission shall be composed of 12 members appointed, not later than March 1, 2001, as follows:

(A) Up to 6 members appointed by the President.

(B) Two members appointed by the Majority Leader of the Senate.

(C) Two members appointed by the Speaker of the House.

(D) One member appointed by the Minority Leader of the Senate.

(E) One member appointed by the Minority Leader of the House of Representatives.

(2) The members of the Commission shall be appointed from among—

(A) persons with extensive experience and national reputations in aerospace manufacturing, economics, finance, national security, international trade or foreign policy; and

(B) persons who are representative of labor organizations associated with the aerospace industry.

(3) Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(4) The President shall designate one member of the Commission to serve as the Chairman.

(5) The Commission shall meet at the call of the Chairman. A majority of the members shall constitute a quorum, but a lesser number may hold hearings for the Commission.

(d) DUTIES.—(1) The Commission shall—

(A) study the issues associated with the future of the United States aerospace industry

in the global economy, particularly in relationship to United States national security; and

(B) assess the future importance of the domestic aerospace industry for the economic and national security of the United States.

(2) In order to fulfill its responsibilities, the Commission shall study the following:

(A) The budget process of the Federal Government, particularly with a view to assessing the adequacy of projected budgets of the Federal Government agencies for aerospace research and development and procurement.

(B) The acquisition process of the Federal Government, particularly with a view to assessing—

(i) the adequacy of the current acquisition process of Federal agencies; and

(ii) the procedures for developing and fielding aerospace systems incorporating new technologies in a timely fashion.

(C) The policies, procedures, and methods for the financing and payment of government contracts.

(D) Statutes and regulations governing international trade and the export of technology, particularly with a view to assessing—

(i) the extent to which the current system for controlling the export of aerospace goods, services, and technologies reflects an adequate balance between the need to protect national security and the need to ensure unhindered access to the global marketplace; and

(ii) the adequacy of United States and multilateral trade laws and policies for maintaining the international competitiveness of the United States aerospace industry.

(E) Policies governing taxation, particularly with a view to assessing the impact of current tax laws and practices on the international competitiveness of the aerospace industry.

(F) Programs for the maintenance of the national space launch infrastructure, particularly with a view to assessing the adequacy of current and projected programs for maintaining the national space launch infrastructure.

(G) Programs for the support of science and engineering education, including current programs for supporting aerospace science and engineering efforts at institutions of higher learning, with a view to determining the adequacy of those programs.

(e) REPORT.—(1) Not later than March 1, 2002, the Commission shall submit a report on its activities to the President and Congress.

(2) The report shall include the following:

(A) The Commission's findings and conclusions.

(B) Recommendations for actions by Federal Government agencies to support the maintenance of a robust aerospace industry in the United States in the 21st century.

(C) A discussion of the appropriate means for implementing the recommendations.

(f) IMPLEMENTATION OF RECOMMENDATIONS.—The heads of the executive agencies of the Federal Government having responsibility for matters covered by recommendations of the Commission shall consider the implementation of those recommendations in accordance with regular administrative procedures. The Director of the Office of Management and Budget shall coordinate the consideration of the recommendations among the heads of those agencies.

(g) ADMINISTRATIVE REQUIREMENTS AND AUTHORITIES.—(1) The Director of the Office of Management and Budget shall ensure that the Commission is provided such administrative services, facilities, staff, and other support services as may be necessary. Any expenses of the Commission shall be paid from funds available to the Director.

(2) The Commission may hold hearings, sit and act at times and places, take testimony, and receive evidence that the Commission considers advisable to carry out the purposes of this Act.

(3) The Commission may secure directly from any department or agency of the Federal Government any information that the Commission considers necessary to carry out the provisions of this Act. Upon the request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(4) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(5) The Commission is an advisory committee for the purposes of the Federal Advisory Committee Act (5 U.S.C. App. 2).

(h) COMMISSION PERSONNEL MATTERS.—(1) Members of the Commission shall serve without additional compensation for their service on the Commission, except that members appointed from among private citizens may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in government service under subchapter I of chapter 57 of title 5, United States Code, while away from their homes and places of business in the performance of services for the Commission.

(2) The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate any staff that may be necessary to enable the Commission to perform its duties. The employment of a head of staff shall be subject to confirmation by the Commission. The Chairman may fix the compensation of the staff personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rates of pay fixed by the Chairman shall be in compliance with the guidelines prescribed under section 7(d) of the Federal Advisory Committee Act.

(3) Any Federal Government employee may be detailed to the Commission without reimbursement. Any such detail shall be without interruption or loss of civil status or privilege.

(4) The Chairman may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(i) TERMINATION.—The Commission shall terminate 30 days after the submission of the report under subsection (e).

GRAMM (AND HUTCHISON) AMENDMENT NO. 3241

Mr. WARNER (for Mr. GRAMM (for himself and Mrs. HUTCHISON)) proposed an amendment to the bill, S. 2549, supra; as follows:

At the appropriate place, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Military Voting Rights Act of 2000''.

SEC. 2. GUARANTEE OF RESIDENCY.

Article VII of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. 700 et seq.) is amended by adding at the end the following:

''SEC. 704. (a) For purposes of voting for an office of the United States or of a State, a person who is absent from a State in compliance with military or naval orders shall not, solely by reason of that absence—

''(1) be deemed to have lost a residence or domicile in that State; or

''(2) be deemed to have acquired a residence or domicile in any other State; or

''(3) be deemed to have become resident in or a resident of any other State.

''(b) In this section, the term 'State' includes a territory or possession of the United States, a political subdivision of a State, territory, or possession, and the District of Columbia.''.

SEC. 3. STATE RESPONSIBILITY TO GUARANTEE MILITARY VOTING RIGHTS.

(a) REGISTRATION AND BALLOTING.—Section 102 of the Uniformed and Overseas Absentee Voting Act (42 U.S.C. 1973ff–1) is amended—

(1) by inserting ''(a) ELECTIONS FOR FEDERAL OFFICES.—'' before ''Each State shall—''; and

(2) by adding at the end the following:

''(b) ELECTIONS FOR STATE AND LOCAL OFFICES.—Each State shall.—

''(1) permit absent uniformed services voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and run-off elections for State and local offices; and

''(2) accept and process, with respect to any election described in paragraph (1), any otherwise valid voter registration application from an absent uniformed services voter if the application is received by the appropriate State election official not less than 30 days before the election.''.

(b) CONFORMING AMENDMENT.—The heading for title I of such Act is amended by striking out ''FOR FEDERAL OFFICE''.

FEINSTEIN AMENDMENT NO. 3242

Mr. LEVIN (for Mrs. FEINSTEIN) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 543, between lines 19 and 20, insert the following:

SEC. 2855. MODIFICATION OF AUTHORITY FOR OXNARD HARBOR DISTRICT, PORT HUENEME, CALIFORNIA, TO USE CERTAIN NAVY PROPERTY.

(a) ADDITIONAL RESTRICTIONS ON JOINT USE.—Subsection (c) of section 2843 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3067) is amended to read as follows:

''(c) RESTRICTIONS ON USE.—The District's use of the property covered by an agreement under subsection (a) is subject to the following conditions:

''(1) The District shall suspend operations under the agreement upon notification by the commanding officer of the Center that the property is needed to support mission essential naval vessel support requirements or Navy contingency operations, including combat missions, natural disasters, and humanitarian missions.

''(2) The District shall use the property covered by the agreement in a manner consistent with Navy operations at the Center, including cooperating with the Navy for the purpose of assisting the Navy to meet its through-put requirements at the Center for the expeditious movement of military cargo.

''(3) The commanding officer of the Center may require the District to remove any of its personal property at the Center that the commanding officer determines may interfere with military operations at the Center. If the District cannot expeditiously remove the property, the commanding officer may provide for the removal of the property at District expense.''.

(b) CONSIDERATION.—Subsection (d) of such section is amended to read as follows:

''(d) CONSIDERATION.—(1) As consideration for the use of the property covered by an

agreement under subsection (a), the District shall pay to the Navy an amount that is mutually agreeable to the parties to the agreement, taking into account the nature and extent of the District's use of the property.

''(2) The Secretary may accept in-kind consideration under paragraph (1), including consideration in the form of—

''(A) the District's maintenance, preservation, improvement, protection, repair, or restoration of all or any portion of the property covered by the agreement;

''(B) the construction of new facilities, the modification of existing facilities, or the replacement of facilities vacated by the Navy on account of the agreement; and

''(C) covering the cost of relocation of the operations of the Navy from the vacated facilities to the replacement facilities.

''(3) All cash consideration received under paragraph (1) shall be deposited in the special account in the Treasury established for the Navy under section 2667(d) of title 10, United States Code. The amounts deposited in the special account pursuant to this paragraph shall be available, as provided in appropriation Acts, for general supervision, administration, overhead expenses, and Center operations and for the maintenance preservation, improvement, protection, repair, or restoration of property at the Center.''.

(c) CONFORMING AMENDMENTS.—Such section is further amended—

(1) by striking subsection (f); and

(2) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

THURMOND (AND OTHERS) AMENDMENT NO. 3243

Mr. WARNER (for Mr. THURMOND (for himself, Mr. LOTT, Mr. MCCAIN, Mr. CLELAND, Mr. COCHRAN, Ms. LANDRIEU, Ms. SNOWE, Mr. SESSIONS, Mr. INOUYE, and Mr. DODD) proposed an amendment to the bill, S. 2549, supra; as follows:

In title VI, at the end of subtitle D, add the following:

SEC. . COMPUTATION OF SURVIVOR BENEFITS.

(a) INCREASED BASIC ANNUITY.—(1) Subsection (a)(1)(B)(i) of section 1451 of title 10, United States Code, is amended by striking ''35 percent of the base amount.'' and inserting ''the product of the base amount and the percent applicable for the month. The percent applicable for a month is 35 percent for months beginning on or before the date of the enactment of the National Defense Authorization Act for Fiscal Year 2001, 40 percent for months beginning after such date and before October 2004, and 45 percent for months beginning after September 2004.''.

(2) Subsection (a)(2)(B)(i)(I) of such section is amended by striking ''35 percent'' and inserting ''the percent specified under subsection (a)(1)(B)(i) as being applicable for the month''.

(3) Subsection (c)(1)(B)(i) of such section is amended—

(A) by striking ''35 percent'' and inserting ''the applicable percent''; and

(B) by adding at the end the following: ''The percent applicable for a month under the preceding sentence is the percent specified under subsection (a)(1)(B)(i) as being applicable for the month.''.

(4) The heading for subsection (d)(2)(A) of such section is amended to read as follows: ''COMPUTATION OF ANNUITY.—''.

(b) ADJUSTED SUPPLEMENTAL ANNUITY.—Section 1457(b) of title 10, United States Code, is amended—

(1) by striking ''5, 10, 15, or 20 percent'' and inserting ''the applicable percent''; and

(2) by inserting after the first sentence the following: ''The percent used for the computation shall be an even multiple of 5 percent and, whatever the percent specified in the election, may not exceed 20 percent for months beginning on or before the date of the enactment of the National Defense Authorization Act for Fiscal Year 2001, 15 percent for months beginning after that date and before October 2004, and 10 percent for months beginning after September 2004.''.

(c) RECOMPUTATION OF ANNUITIES.—(1) Effective on the first day of each month referred to in paragraph (2)—

(A) each annuity under section 1450 of title 10, United States Code, that commenced before that month, is computed under a provision of section 1451 of that title amended by subsection (a), and is payable for that month shall be recomputed so as to be equal to the amount that would be in effect if the percent applicable for that month under that provision, as so amended, had been used for the initial computation of the annuity; and

(B) each supplemental survivor annuity under section 1457 of such title that commenced before that month and is payable for that month shall be recomputed so as to be equal to the amount that would be in effect if the percent applicable for that month under that section, as amended by this section, had been used for the initial computation of the supplemental survivor annuity.

(2) The requirements for recomputation of annuities under paragraph (1) apply with respect to the following months:

(A) The first month that begins after the date of the enactment of this Act.

(B) October 2004.

(d) RECOMPUTATION OF RETIRED PAY REDUCTIONS FOR SUPPLEMENTAL SURVIVOR ANNUITIES.—The Secretary of Defense shall take such actions as are necessitated by the amendments made by subsection (b) and the requirements of subsection (c)(1)(B) to ensure that the reductions in retired pay under section 1460 of title 10, United States Code, are adjusted to achieve the objectives set forth in subsection (b) of that section.

BINGAMAN AMENDMENT NO. 3244

Mr. LEVIN (for Mr. BINGAMAN) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 236, between lines 6 and 7, insert the following:

SEC. 646. EQUITABLE APPLICATION OF EARLY RETIREMENT ELIGIBILITY REQUIREMENTS TO MILITARY RESERVE TECHNICIANS.

(a) TECHNICIANS COVERED BY FERS.—Paragraph (1) of section 8414(c) of title 5, United States Code, is amended by striking ''after becoming 50 years of age and completing 25 years of service'' and inserting ''after completing 25 years of service or after becoming 50 years of age and completing 20 years of service''.

(b) TECHNICIANS COVERED BY CSRS.—Section 8336 of title 5, United States Code, is amended by adding at the end the following new subsection:

''(p) Section 8414(c) of this title applies—

''(1) under paragraph (1) of such section to a military reserve technician described in that paragraph for purposes of determining entitlement to an annuity under this subchapter; and

''(2) under paragraph (2) of such section to a military technician (dual status) described in that paragraph for purposes of determining entitlement to an annuity under this subchapter.''.

(c) TECHNICAL AMENDMENT.—Section 1109(a)(2) of Public Law 105–261 (112 Stat. 2143) is amended by striking ''adding at the end'' and inserting ''inserting after subsection (n)''.

(d) APPLICABILITY.—Subsection (c) of section 8414 of such title (as amended by subsection (a)), and subsection (p) of section 8336 of title 5, United States Code (as added by subsection (b)), shall apply according to the provisions thereof with respect to separations from service referred to in such subsections that occur on or after October 5, 1999.

STEVENS AMENDMENT NO. 3245

Mr. WARNER (for Mr. STEVENS) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 239, after line 22, insert the following:

SEC. 656. TRAVEL BY RESERVES ON MILITARY AIRCRAFT TO AND FROM LOCATIONS OUTSIDE THE CONTINENTAL UNITED STATES FOR INACTIVE-DUTY TRAINING.

(a) SPACE-REQUIRED TRAVEL.—Subsection (a) of section 18505 of title 10, United States Code, is amended—

(1) by inserting ''residence or'' after ''In the case of a member of a reserve component whose''; and

(2) by inserting after ''(including a place'' the following: ''of inactive-duty training''.

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

''§ 18505. Space-required travel: Reserves traveling to inactive-duty training''.

(2) The item relating to such section in the table of sections at the beginning of such chapter is amended to read as follows:

''18505. Space-required travel: Reserves traveling to inactive-duty training.''.

BINGAMAN (AND MURRAY) AMENDMENT NO. 3246

Mr. LEVIN (for Mr. BINGAMAN (for himself and Mrs. MURRAY) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 239, following line 22, add the following:

SEC. 656. ADDITIONAL BENEFITS AND PROTECTIONS FOR PERSONNEL INCURRING INJURY, ILLNESS, OR DISEASE IN THE PERFORMANCE OF FUNERAL HONORS DUTY.

(a) INCAPACITATION PAY.—Section 204 of title 37, United States Code, is amended—

(1) in subsection (g)(1)—

(A) by striking ''or'' at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting ''; or''; and

(C) by adding at the end the following:

''(E) in line of duty while—

''(i) serving on funeral honors duty under section 12503 of this title or section 115 of title 32;

''(ii) traveling to or from the place at which the duty was to be performed; or

''(iii) remaining overnight at or in the vicinity of that place immediately before so serving, if the place is outside reasonable commuting distance from the member's residence.''; and

(2) in subsection (h)(1)—

(A) by striking ''or'' at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting ''; or''; and

(C) by adding at the end the following:

''(E) in line of duty while—

''(i) serving on funeral honors duty under section 12503 of this title or section 115 of title 32;

''(ii) traveling to or from the place at which the duty was to be performed; or

''(iii) remaining overnight at or in the vicinity of that place immediately before so serving, if the place is outside reasonable commuting distance from the member's residence.''.

(b) TORT CLAIMS.—Section 2671 of title 28, United States Code, is amended by inserting ''115,'' in the second paragraph after ''members of the National Guard while engaged in training or duty under section''.

(c) APPLICABILITY.—(1) The amendments made by subsection (a) shall apply with respect to months beginning on or after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply with respect to acts and omissions occurring before, on, or after the date of the enactment of this Act.

SMITH OF OREGON (AND OTHERS) AMENDMENT NO. 3247

Mr. WARNER (for Mr. SMITH of Oregon (for himself, Mr. WYDEN, and Mr. BRYAN) proposed an amendment to the bill, S. 2549, supra; as follows:

[The amendment was not available for printing. It will appear in a future edition of the RECORD.]

CLELAND (AND HUTCHISON) AMENDMENT NO. 3248

Mr. LEVIN (for Mr. CLELAND (for himself and Mrs. HUTCHISON) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 155, between lines 9 and 10, insert the following:

SEC. 511. CONTINGENT EXEMPTION FROM LIMITATION ON NUMBER OF AIR FORCE OFFICERS SERVING ON ACTIVE DUTY IN GRADES ABOVE MAJOR GENERAL.

Section 525(b) of title 10, United States Code, is amended by adding at the end the following:

''(8) While an officer of the Army, Navy, or Marine Corps is serving as Commander in Chief of the United States Transportation Command, an officer of the Air Force, while serving as Commander of the Air Mobility Command, if serving in the grade of general, is in addition to the number that would otherwise be permitted for the Air Force for officers serving on active duty in grades above major general under paragraph (1).

''(9) While an officer of the Army, Navy, or Marine Corps is serving as Commander in Chief of the United States Space Command, an officer of the Air Force, while serving as Commander of the Air Force Space Command, if serving in the grade of general, is in addition to the number that would otherwise be permitted for the Air Force for officers serving on active duty in grades above major general under paragraph (1).''.

BOND (AND OTHERS) AMENDMENT NO. 3249

Mr. WARNER (for Mr. BOND (for himself, Mr. BRYAN, Mr. AKAKA, Mr. ABRAHAM, Mr. ASHCROFT, Mr. BAYH, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Mr. BUNNING, Mr. BURNS, Mr. BYRD, Mr. COCHRAN, Ms. COLLINS, Mr. COVERDELL, Mr. CRAIG, Mr. CRAPO, Mr. DASCHLE, Mr. DEWINE, Mr. DOMENICI, Mr. DURBIN, Mr. EDWARDS, Mr. ENZI, Mr. FEINGOLD, Mr. FITZGERALD, Mr. FRIST, Mr. GRAHAM, Mr. GRAMS, Mr. HAGEL, Mr. HELMS, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mrs. LINCOLN, Mr. LOTT, Mr. MACK, Mr. MCCONNELL, Ms. MIKULSKI, Mr. MURKOWSKI, Mrs. MURRAY, Mr. REED, Mr. REID, Mr. ROBB, Mr. ROTH, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of Oregon, Mr. SMITH of New Hampshire, Ms. SNOWE, Mr. STEVENS, Mr. THURMOND, Mr. VOINOVICH, and Mr. CONRAD)) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 125, line 19, strike ''22,536'' and insert ''22,974.''

On page 126, line 10, strike ''22,357'' and insert ''24,728.''

THOMPSON (AND OTHERS) AMENDMENT NO. 3250

Mr. WARNER (for Mr. THOMPSON (for himself, Mr. BINGAMAN, Mr. VOINOVICH, Mr. KENNEDY, Mr. DEWINE, Mr. REID, Mr. THURMOND, Mr. BRYAN, Mr. FRIST, Mrs. MURRAY, Mr. MURKOWSKI, Mr. HARKIN, Mr. HOLLINGS, and Mr. STEVENS)) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 613, after line 12, add the following:

TITLE XXXV—ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION

SEC. 3501. SHORT TITLE.

This title may be cited as the ''Energy Employees Occupational Illness Compensation Act of 2000''.

SEC. 3502. CONSTRUCTION WITH OTHER LAWS.

References in this title to a provision of another statute shall be considered as references to such provision, as amended and as may be amended form time to time.

SEC. 3503. DEFINITIONS.

(a) IN GENERAL.—In this title:

(1) ATOMIC WEAPON.—The term ''atomic weapon'' has the meaning given that term in section 11 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(d)).

(2) ATOMIC WEAPONS EMPLOYEE.—The term ''atomic weapons employee'' means an individual employed by an atomic weapons employer during a time when the employer was processing or producing, for the use by the United States, material that emitted radiation and was used in the production of an atomic weapon, excluding uranium mining and milling.

(3) ATOMIC WEAPONS EMPLOYER.—The term ''atomic weapons employer'' means an entity that—

(A) processed or produced, for the use by the United States, material that emitted radiation and was used in the production of an atomic weapon, excluding uranium mining and milling; and

(B) is designated as an atomic weapons employer for purposes of this title by the Secretary of Energy.

(4) ATOMIC WEAPONS EMPLOYER FACILITY.—The term ''atomic weapons employer facility'' means a facility, owned by an atomic weapons employer, that is or was used to process or produce, for use by the United States, material that emitted radiation and was used in the production of an atomic weapon, excluding uranium mining or milling.

(5) BERYLLIUM VENDOR.—The term ''beryllium vendor'' means the following:

(A) Atomics International.

(B) Brush Wellman, Incorporated, and its predecessor, Brush Beryllium Company.

(C) General Atomics.

(D) General Electric Company.

(E) NGK Metals Corporation and its predecessors, Kawecki-Berylco, Cabot Corporation, BerylCo, and Beryllium Corporation of America.

(F) Nuclear Materials and Equipment Corporation.

(G) StarMet Corporation, and its predecessor, Nuclear Metals, Incorporated.

(H) Wyman Gordan, Incorporated.

(I) Any other vendor, processor, or producer of beryllium or related products designated as a beryllium vendor for purposes of this title under section 3504(a).

(6) CHRONIC SILICOSIS.—The term ''chronic silicosis'' means silicosis if—

(A) at least 10 years elapse between initial exposure to silica and the emergence of the silicosis; and

(B) the silicosis is established by one of the following:

(i) A chest x-ray presenting any combination of rounded opacities of type p/q/r, with or without irregular opacities, present in at least both upper lung zones and of profusion 1/0 or greater, as found in accordance with the International Labor Organization classification system.

(ii) A physician's provisional or working diagnosis of silicosis, combined with—

(I) a chest radiograph interpreted as consistent with silicosis; or

(II) pathologic findings consistent with silicosis.

(iii) A history of occupational exposure to airborne silica dust and a chest radiograph or other imaging technique interpreted as consistent with silicosis or pathologic findings consistent with silicosis.

(7) COMPENSATION.—The term ''compensation'' means the money allowance payable under this title and any other benefits paid for from the Fund including the alternative compensation payable pursuant to section 3515.

(8) COVERED BERYLLIUM EMPLOYEE.—The term ''covered beryllium employee'' means the following:

(A) A current or former employee (as that term is defined in section 8101(1) of title 5, United States Code) who may have been exposed to beryllium at a Department of Energy facility or at a facility owned, operated, or occupied by a beryllium vendor.

(B) A current or former employee of any entity that contracted with the Department of Energy to provide management and operation, management and integration, or environmental remediation of a Department of Energy facility or an employee of any contractor or subcontractor that provided services, including construction and maintenance, at such a facility.

(C) A current or former employee of a beryllium vendor, or a contractor or subcontractor of a beryllium vendor, during a period when the vendor was engaged in activities related to the production or processing of beryllium for sale to, or use by, the Department of Energy.

(9) COVERED BERYLLIUM ILLNESS.—The term ''covered beryllium illness'' means any condition as follows:

(A) Beryllium sensitivity as established by,—

(i) an abnormal beryllium lymphocyte proliferation test performed on either blood or lung lavage cells; or

(ii) other means specified under section 3504(b).

(B) Chronic beryllium disease as established by the following:

(i) For diagnoses on or after January 1, 1993,—

(I) beryllium sensitivity, as established in accordance with subparagraph (A), and

(II) lung pathology consistent with chronic beryllium disease, including—

(aa) a lung biopsy showing granulomas or a lymphocytic process consistent with chronic beryllium disease;

(bb) a computerized axial tomography scan showing changes consistent with chronic beryllium disease; or

(cc) pulmonary function or exercise testing showing pulmonary deficits consistent with chronic beryllium disease.

(ii) For diagnoses before January 1, 1993, the presence of four of the criteria set forth in subclauses (I) through (VI), including the criteria set forth in subclause (I) and any three of the criteria set forth in subclauses (II) through (VI):

(I) Occupational or environmental history, or epidemiologic evidence of beryllium exposure.

(II) Characteristic chest radiographic (or computed tomography (CT) abnormalities.

(III) Restrictive or obstructive lung physiology testing or diffusing lung capacity defect.

(IV) Lung pathology consistent with chronic beryllium disease.

(V) Clinical course consistent with a chronic respiratory disorder.

(VI) Immunologic tests showing beryllium sensitivity (skin patch test or beryllium blood test preferred).

(iii) Other means specified under section 3504(b).

(C) Any injury, illness, impairment, or disability sustained as a consequence of a covered beryllium illness referred to in subparagraph (A) or (B).

(10) COVERED EMPLOYEE.—The term ''covered employee'' means a covered beryllium employee, a covered employee with cancer, or a covered employee with chronic silicosis.

(11) COVERED EMPLOYEE WITH CANCER.—The term ''covered employee with cancer'' means the following:

(A) An individual who meets the criteria in section 3511(c)(1).

(B) A member of the Special Exposure Cohort.

(12) COVERED EMPLOYEE WITH CHRONIC SILICOSIS.—The term ''covered employee with chronic silicosis'' means a—

(A) Department of Energy employee; or

(B) Department of Energy contractor employee;

with chronic silicosis who was exposed to silica in the performance of duty as determined in section 3511(b).

(13) DEPARTMENT OF ENERGY.—The term ''Department of Energy'' includes the predecessor agencies of the Department of Energy, including the Manhattan Engineering District.

(14) DEPARTMENT OF ENERGY CONTRACTOR EMPLOYEE.—The term ''Department of Energy contractor employee'' means the following:

(A) An individual who is or was in residence at a Department of Energy facility as a researcher for a period of at least 24 cumulative months.

(B) An individual who is or was employed, at a Department of Energy facility by—

(i) an entity that contracted with the Department of Energy to provide management and operating, management and integration, or environmental remediation at the facility; or

(ii) a contractor or subcontractor that provided services, including construction and maintenance, at the facility.

(15) DEPARTMENT OF ENERGY FACILITY.—The term ''Department of Energy facility'' means any building, structure, or premise, including the grounds upon which such building, structure, or premise is located—

(A) in which operations are, or have been, conducted by, or on behalf of, the Department of Energy (except for buildings, structures, premises, grounds, or operations covered by Executive Order 12344, pertaining to the Naval Nuclear Propulsion Program); and

(B) with regard to which the Department of Energy has or had—

(i) a proprietary interest; or

(ii) entered into a contract with an entity to provide management and operation, management and integration, environmental remediation services, construction, or maintenance services.

(16) FUND.—The term ''Fund'' means the Energy Employee's Occupational Illness Compensation Fund under section 3542 of this title.

(17) MONTHLY PAY.—The term ''monthly pay'' means the monthly pay at the time of injury, or the monthly pay at the time disability begins, or the monthly pay at the time the compensable disability recurs, if the recurrence begins more than 6 months after the employee resumes regular full-time employment, whichever is greater, except when otherwise determined under section 8113 of title 5, United States Code.

(18) RADIATION.—The term ''radiation'' means ionizing radiation in the form of—

(A) alpha particles;

(B) beta particles;

(C) neutrons;

(D) gamma rays; or

(E) accelerated ions or subatomic particles from accelerator machines.

(19) SECRETARY OF HEALTH AND HUMAN SERVICES.—The term ''Secretary of Health and Human Services'' means the Secretary of Health and Human Services with the assistance of the Director of the National Institute for Occupational Safety and Health.

(20) SPECIAL EXPOSURE COHORT.—The term ''Special Exposure Cohort'' means the following groups of Department of Energy employees, Department of Energy contractor employees, and atomic weapons employees:

(A) Individual who—

(i) were employed during the period prior to February 1, 1992—

(I) at the gaseous diffusion plants located in—

(aa) Paducah, Kentucky;

(bb) Portsmouth, Ohio; or

(cc) Oak Ridge, Tennessee; and

(II) by—

(aa) the Department of Energy;

(bb) a Department of Energy contractor or subcontractor; or

(cc) an atomic weapons employer; and

(ii) during employment covered by clause (i)—

(I) were monitored through the use of dosimetry badges for exposure at the plant of the external parts of the employee's body to radiation; or

(II) worked in a job that had exposures comparable to a job that is or was monitored through the use of dosimetry badges.

(B) Individuals who were employed by the Department of Energy or a Department of Energy contractor or subcontractor on Amchitka Island, Alaska, prior to January 1, 1974, and who were exposed to ionizing radiation in the performance of duty related to the Long Shot, Milrow, or Cannikin underground nuclear tests.

(C) Individuals designated as part of the Special Exposure Cohort by the Secretary of Health and Human Services, in accordance with section 3513.

(21) SPECIFIED CANCER.—The term ''specified cancer'' means the following:

(A) Leukemia (other than chronic lymphocytic leukemia).

(B) Multiple myeloma.

(C) Non-Hodgkins Lymphoma.

(D) Cancer of the—

(i) bladder;

(ii) bone;

(iii) brain;

(iv) breast (male or female);

(v) cervix;

(vi) digestive system (including esophagus, stomach, small intestine, bile ducts, colon, rectum, or other digestive organs);

(vii) gallbladder;

(viii) kidney;

(ix) larynx, pharynx, or other respiratory organs;

(x) liver;

(xi) lung;

(xii) male genitalia;

(xiii) nasal organs;

(xiv) nervous system;

(xv) ovary;

(xvi) pancreas;

(xvii) prostate;

(xviii) salivary gland (parotid or non-parotid);

(xix) thyroid;

(xx) ureter;

(xxi) urinary tract or other urinary organs; or

(xxii) uterus.

(22) SURVIVOR.—The term ''survivor'' means any individual or individuals eligible to receive compensation pursuant to section 8133 of title 5, United States Code.

(23) TIME OF INJURY.—The term ''time of injury'' means—

(A) in regard to a claim arising out of exposure to beryllium, the last date on which a covered employee was exposed to beryllium in the performance of duty in accordance with section 3511(a);

(B) in regard to a claim arising out of chronic silicosis, the last date on which a covered employee was exposed to silica in the performance of duty in accordance with section 3511(b); and

(C) in regard to a claim arising out of exposure to radiation, the last date on which a covered employee was exposed to radiation in the performance of duty in accordance with section 3511(c)(1) or, in the case of a member of the Special Exposure Cohort, the last date on which the member of the Special Exposure Cohort was employed at the Department of Energy facility at which the member was exposed to radiation.

(b) TERMS USED IN ADMINISTRATION.—

(1) IN GENERAL.—The following terms have the meaning given those terms in section 8101 of title 5, United States Code:

(A) ''physician'';

(B) ''medical, surgical, and hospital services and supplies;''

(C) ''injury'';

(D) ''widow'';

(E) ''parent'';

(F) ''brother'';

(G) ''sister'';

(H) ''child'';

(I) ''grandchild'';

(J) ''widower'';

(K) ''student'';

(L) ''price index'';

(M) ''organ''; and

(N) ''United States medical officers and hospitals''.

(2) EMPLOYEE.—In applying any provision of chapter 81 of title 5, United States Code (except section 8101), under this title, the term ''employee'' in such provision shall mean a covered employee.

(3) EMPLOYEES' COMPENSATION FUND.—In applying any provision of chapter 81 of title 5, United States Code, under this title, the term ''Employees' Compensation Fund'' in such provision shall mean the Fund.

SEC. 3504. EXPANSION OF LIST OF BERYLLIUM VENDORS AND MEANS OF ESTABLISHING COVERED BERYLLIUM ILLNESSES.

(a) BERYLLIUM VENDORS.—The Secretary of Energy may from time to time, and in consultation with the Secretary of Labor, designate as a beryllium vendor for purposes of section 3503(a)(5) any vendor, processor, or producer of beryllium or related products not previously listed under or designated for purposes of that section if the Secretary of Energy finds that such vendor, processor, or

producer has been engaged in activities related to the production or processing of beryllium for sale to, or use by, the Department of Energy in a manner similar to the entities listed in that section.

(b) MEANS OF ESTABLISHING COVERED BERYLLIUM ILLNESSES.—The Secretary of Health and Human Services may from time to time, and in consultation with the Secretary of Energy, specify means of establishing the existence of a covered beryllium illness referred to in subparagraph (A) or (B) of section 3503(a)(9) not previously listed under or specified for purposes of such subparagraph.

Subtitle A—Beryllium, Silicosis, and Radiation Compensation

SEC. 3511. EXPOSURE TO HAZARDS IN THE PERFORMANCE OF DUTY.

(a) BERYLLIUM.—In the absence of substantial evidence to the contrary, a covered beryllium employee shall be determined to have been exposed to beryllium in the performance of duty for the purposes of this title if, and only if, the covered beryllium employee was—

(1) employed at a Department of Energy facility; or

(2) present at a Department of Energy facility, or a facility owned and operated by a beryllium vendor, because of employment by the United States, a beryllium vendor, or a contractor or subcontractor of the Department of Energy;

during a period when beryllium dust, particles, or vapor may have been present at such facility.

(b) CHRONIC SILICOSIS.—In the absence of substantial evidence to the contrary, a covered employee with chronic silicosis shall be determined to have been exposed to silica in the performance of duty for the purposes of this title if, and only if, the covered employee with chronic silicosis was present during the mining of tunnels at a Department of Energy facility for tests or experiments related to an atomic weapon.

(c) CANCER.—

(1) IN GENERAL.—A Department of Energy employee, Department of Energy contractor employee, or an atomic weapons employee shall be determined to have sustained a cancer in the performance of duty if, and only if, such employee—

(A) contracted cancer after beginning employment at a Department of Energy facility for a Department of Energy contractor or an atomic weapons employer facility for an atomic weapons employer; and

(B) falls within guidelines that—

(i) are established by the Secretary of Health and Human Services by regulation, after consultation with the Secretary of Energy and after technical review by the Advisory Board under section 3512, for determining whether the cancer the employee contracted was at least as likely as not related to employment at the facility;

(ii) are based on the radiation dose received by the employee (or a group of employees performing similar work) at the facility and the upper 99 percent confidence interval of the probability of causation in the radioepidemiological tables published under section 7(b) of the Orphan Drug Act (42 U.S.C. 241 note), as such tables may be updated under section 7(b)(3) of such Act from time to time;

(iii) incorporate the methods established under subsection (d); and

(iv) take into consideration the type of cancer; past health-related activities, such as smoking; information on the risk of developing a radiation-related cancer from workplace exposure; and other relevant factors.

(2) SPECIAL EXPOSURE COHORT.—A member of the Special Exposure Cohort shall be determined to have sustained a cancer in the performance of duty if, and only if, such individual contracted a specified cancer after beginning employment at a Department of Energy facility for a Department of Energy contractor or an atomic weapons employer facility for an atomic weapons employer.

(d) RADIATION DOSE.—

(1) IN GENERAL.—The Secretary of Health and Human Services, after consultation with the Secretary of Energy, shall—

(A) establish by regulation methods for arriving at reasonable estimates of the radiation doses Department of Energy employees or Department of Energy contractor employees received at a Department of Energy facility and atomic weapons employees received at a facility operated by an atomic weapons employer if such employees were not monitored for exposure to radiation at the facility, or were monitored inadequately, or if the employees' exposure records are missing or incomplete; and

(B) provide to an employee who meets the requirements of subsection (c)(1)(B) an estimate of the radiation dose the employee received based on dosimetry reading, a method established under subparagraph (A), or a combination of both.

(2) SCIENTIFIC REVIEW.—The Secretary of Health and Human Services shall establish an independent review process utilizing the Advisory Board under section 3512 to assess the methods established under paragraph (1)(A) and the application of those methods and to verify a reasonable sample of individual dose reconstructions provided under paragraph (1)(B).

(3) ACCESS TO DOSE RECONSTRUCTIONS.—The Secretary of Health and Human Services and the Secretary of Energy each shall, consistent with the protection of private medical records, make available to researchers and the general public information on the assumptions, methodology, and data used in dose reconstructions undertaken under this subtitle.

SEC. 3512. ADVISORY BOARD ON RADIATION AND WORKER HEALTH.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this title, the Secretary of Health and Human Services, in consultation with the Secretary of Energy, shall establish and appoint an Advisory Board on Radiation and Worker Health.

(2) BALANCE OF VIEWS.—In making appointments to the Board, the Secretary of Health and Human Services shall also consult with labor unions and other organizations with expertise on worker health issues to ensure that the membership of the Board reflects a balance of scientific, medical, and worker perspectives.

(3) CHAIR.—The Secretary of Health and Human Services shall designate a Chair for the Board from among its members.

(b) DUTIES.—The Board shall advise the Secretary of Health and Human Services, Secretary of Energy, and Secretary of Labor on—

(1) the development of guidelines to be used by the Secretary of Health and Human Services under section 3511;

(2) the scientific validity and quality of dose estimation and reconstruction efforts being performed to implement compensation programs under this subtitle; and

(3) other matters related to radiation and worker health in Department of Energy facilities as the Secretary of Labor, the Secretary of Energy, or the Secretary of Health and Human Services may request.

(c) STAFF.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall appoint a staff to facilitate the work of the Board, headed by a Director appointed under subchapter VIII of chapter 33 of title 5, United States Code.

(2) DETAILS.—The Secretary of Health and Human Services may accept for staff of the Board personnel on detail from other federal agencies to serve on the staff on a nonreimbursable basis.

(d) EXPENSES.—Members of the Board, other than full-time employees of the federal government, while attending meetings of the Board or while otherwise serving at the request of the Secretary of Health and Human Services while serving away from their homes or regular places of business, may be allowed travel and meal expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government serving without pay.

(e) APPLICABILITY OF FACA.—The Advisory Board shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 3513. DESIGNATION OF ADDITIONAL MEMBERS OF THE SPECIAL EXPOSURE COHORT.

(a) ADVICE ON MEMBERSHIP IN COHORT.—

(1) IN GENERAL.—Upon request of the Secretary of Health and Human Services, the Advisory Board of Radiation and Worker Health under section 3512, based on exposure assessments by radiation health professionals, information provided by the Department of Energy, and other information deemed appropriate by the Board, shall advise the Secretary of Health and Human Services whether there is a class of employees at a Department of Energy facility who likely were exposed to radiation at the facility but for whom it is not feasible to estimate with sufficient accuracy the radiation dose they received.

(2) PROCEDURES.—The Secretary of Health and Human Services shall establish procedures for considering petitions by classes of employees to request the advice of the Board.

(b) TREATMENT AS MEMBERS OF COHORT.—A class of employees at a Department of Energy facility shall be considered as members of the Special Exposure Cohort for purposes of section 3503(a)(20) if the Secretary of Health and Human Services, upon recommendation of the Advisory Board on Radiation and Worker Health and in consultation with the Secretary of Energy, determines that—

(1) it is not feasible to estimate with sufficient accuracy the radiation dose which the class received; and

(2) there is a reasonable likelihood that the radiation dose may have endangered the health of members of the class.

(c) ACCESS TO INFORMATION.—The Secretary of Energy shall, in accordance with law, provide the Secretary of Health and Human Services and the members and staff of the Advisory Board under section 3512 access to relevant information on worker exposures, including access to Restricted Data (as that term is defined in section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

SEC. 3514. AUTHORITY TO PROVIDE COMPENSATION AND OTHER ASSISTANCE.

(a) COMPENSATION.—Subject to the provisions of this title, the Secretary of Labor—

(1) shall pay compensation in accordance with sections 8105 through 8110, 8111(a), 8112, 8113, 8115, 8117. 8133, 8134, 8146a(a), and 8146a(b) of title 5, United States Code, for the disability or death—

(A) from a covered beryllium illness of a covered beryllium employee who was exposed to beryllium while in the performance of duty as determined in accordance with section 3511(a) of this title;

(B) from chronic silicosis of a covered employee with chronic silicosis who was exposed to silica in the performance of duty as determined in accordance with section 3511(b) of this title; or

(C) from cancer of a covered employee with cancer determined to have sustained that cancer in the performance of duty in accordance with section 3511(c) of this title or from any injury suffered as a consequence of that cancer;

(2) shall furnish the services and other benefits specified in section 8103 of title 5, United States Code, to—

(A) a covered beryllium employee with a covered beryllium illness who was exposed to beryllium in the performance of duty as determined in accordance with section 3511(a) of this title;

(B) a covered employee with chronic silicosis who was exposed to silica in the performance of duty as determined in accordance with section 3511(b) of this title; or

(C) a covered employee with cancer determined to have sustained that cancer in the performance of duty in accordance with section 3511(c) of this title or to have suffered any injury as a consequence of that cancer; and

(3) may direct a permanently disabled individual whose disability is compensable under this subtitle to undergo vocational rehabilitation and shall provide for furnishing such vocational rehabilitation services pursuant to the provisions of sections 8104, 8111(b), and 8113(b) of title 5, United States Code.

(b) LIMITATIONS ON COMPENSATION.—

(1) EMPLOYEE MISCONDUCT.—No compensation or benefits may be paid or provided under this title for a cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death if the cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death occurred under one of the circumstances set forth in paragraph (1), (2), or (3) of section 8102(a) of title 5, United States Code.

(2) RETROACTIVE BENEFITS.—No compensation may be paid under this section for any period before the date of enactment of this title, except in the case of compensation under section 3515.

(3) SOURCE.—All compensation under this subtitle shall be paid from the Fund.

(c) COMPUTATION OF PAY.—

(1) IN GENERAL.—Except as otherwise provided by this title or by regulation, computation of pay under this title shall be determined in accordance with section 8114 of title 5, United States Code.

(2) SUBSTITUTE RULE FOR SECTION 8114(d)(3).—If either of the methods of determining the average annual earnings specified in section 8114(d)(1) and (2) of title 5, United States Code, cannot be applied reasonably and fairly, the average annual earnings are a sum that reasonably represents the annual earning capacity of the covered employee in the employment in which the employee was working at the time of injury having regard to the previous earnings of the employee in similar employment, and of other employees of the same employer in the same or most similar class working in the same or most similar employment in the same or neighboring location, other previous employment of the employee, or other relevant factors. However, the average annual earnings may not be less than 150 times the average daily wage the covered employee earned in the employment during the days employed within 1 year immediately preceding the time of injury.

(d) ASSISTANCE FOR CLAIMANTS.—The Secretary of Labor shall, upon the receipt of a request for assistance from a claimant for compensation under this section, provide assistance to the claimant in connection with the claim, including—

(1) assistance in securing medical testing and diagnostic services necessary to establish the existence of a covered beryllium illness or cancer; and

(2) such other assistance as may be required to develop facts pertinent to the claim.

(e) ASSISTANCE FOR POTENTIAL CLAIMANTS.—The Secretary of Energy, in consultation with the Secretary of Labor, shall take appropriate actions to inform and assist covered employees who are potential claimants under this subtitle, and other potential claimants under this subtitle, of the availability of compensation under this subtitle, including actions to—

(1) ensure the ready availability, in paper and electronic format, of forms necessary for making claims;

(2) provide such covered employees and other potential claimants with information and other support necessary for making claims, including—

(A) medical protocols for medical testing and diagnosis to establish the existence of a covered beryllium illness, silicosis, or cancer; and

(B) lists of vendors approved for providing laboratory services related to such medical testing and diagnosis;

(3) provide such additional assistance to such covered employees and other potential claimants as may be required for the development of facts pertinent to a claim.

(f) INFORMATION FROM BERYLLIUM VENDORS AND OTHER CONTRACTORS.—As part of the assistance program provided under subsections (d) and (e), and as permitted by law, the Secretary of Energy shall, upon the request of the Secretary of Labor, require a beryllium vendor or other Department of Energy contractor or subcontractor to provide information relevant to a claim or potential claim under this title to the Secretary of Labor.

SEC. 3515. ALTERNATIVE COMPENSATION.

(a) IN GENERAL.—Subject to the provisions of this section, a covered employee eligible for benefits under section 3514(a), or the survivor of such covered employee if the employee is deceased, may elect to receive compensation in the amount of $200,000 in lieu of any other compensation under section 3514(a)(1).

(b) DEATH BEFORE ELECTION.—

(1) IN GENERAL.—Subject to the provisions of this section, if a covered employee otherwise eligible to make an election provided by this section dies before the date of enactment of this title, or before making the election, whether or not the death is a result of a cancer (including a specified cancer), chronic silicosis, or covered beryllium illness, a survivor of the covered employee on behalf of the survivor and any other survivors of the covered employee may make the election and receive the compensation provided for under this section.

(2) PRECEDENCE OF SURVIVORS.—The right to make an election and to receive compensation under this section shall be afforded to survivors in the order of precedence set forth in section 8109 of title 5, United States Code.

(c) TIME LIMIT FOR ELECTION.—An election under this section may be made at any time after the submittal under this subtitle of the claim on which such compensation is based, but not later than 30 days after the latter of the date of—

(1) a determination by the Secretary of Labor that an employee is eligible for an award under this section; or

(2) a determination by the Secretary of Labor under section 3214 awarding an employee or an employee's survivors compensation for total or partial disability or compensation in case of death.

(d) IRREVOCABILITY OF ELECTION.—

(1) IN GENERAL.—An election under this section when made is irrevocable.

(2) BINDING EFFECT.—An election made by a covered employee or survivor under this section is binding on all survivors of the covered employee.

SEC. 3516. SUBMITTAL OF CLAIMS.

(a) CLAIMS REQUIRED.—A claim for compensation under this subtitle shall be submitted to the Secretary of Labor in the manner specified in section 8121 of title 5, United States code.

(b) GENERAL TIME LIMITATIONS.—A claim for compensation under this subtitle shall be filed under this section not later than the later of—

(1) seven years after the date of enactment of this title;

(2) seven years after the date the claimant first becomes aware that a cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death from any of the foregoing of a covered employee may be connected to the exposure of the covered employee to beryllium, radiation, or silica in the performance of duty.

(c) NEW PERIOD FOR ADDITIONAL ILLNESSES AND CONDITIONS.—A new period of limitation under subsection (b)(2) shall commence with each new diagnosis of a cancer (including a specified cancer), chronic silicosis, or covered beryllium illness that is different from a previously diagnosed cancer (including a specified cancer), chronic silicosis, or covered beryllium illness.

(d) DEATH CLAIM.—The timely filing of a disability claim for a cancer (including a specified cancer), chronic silicosis, or covered beryllium illness shall satisfy the time requirements of this section for death benefits for the same cancer (including a specified cancer), chronic silicosis, or covered beryllium illness.

SEC. 3517. ADJUDICATION AND ADMINISTRATION.

(a) IN GENERAL.—

(1) REQUIREMENT.—The Secretary of Labor shall determine and make a finding of fact and make an award for or against payment of compensation under this subtitle after—

(2) (A) considering the claim presented by the claimant, the results of any medical test or diagnosis undertaken to establish the existence of a cancer (including a specified cancer), chronic silicosis, or covered beryllium illness, and any report furnished by the Secretary of Energy with respect to the claim; and

(B) completing such investigation as the Secretary of Labor considers necessary.

(2) SCOPE OF ALLOWANCE AND DENIAL.—The Secretary may allow or deny a claim, in whole or in part.

(b) AVAILABLE AUTHORITIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), in carrying out activities under subsection (c), the Secretary of Labor may utilize the authorities available to the Secretary under sections 8123, 8124(b), 8125, 8126, 8128(a), and 8129 of title 5, United States Code.

(2) DISAGREEMENT.—If there is a disagreement under section 8123(a) of title 5, United States Code, between the physician making the examination for the United States and the physician of the employee, the Secretary of Labor shall appoint a third physician from a roster of physicians with relevant expertise maintained by the Secretary of Health and Human Services.

(c) RIGHTS OF CLAIMANT.—

(1) IN GENERAL.—Except as provided by paragraph (2), the provisions of section 8127 of title 5, United States Code, shall apply.

(2) SUITS TO COMPEL INFORMATION.—A claimant may commence an action in the appropriate district court of the United States against a beryllium vendor, or other contractor or subcontractor of the Department of Energy, to compel the production of information or documents requested by the Secretary of Labor under this subtitle if such information or documents are not provided

within 180 days of the date of the request. Upon successful resolution of any action brought under this paragraph, the court shall award the claimant reasonable attorney fees and costs to be paid by the defendant in such action.

(d) DEADLINES.—Beginning on the date that is two years after the date of enactment of this title, the Secretary of Labor shall allow or deny a claim under this section not later than the later of—

(1) 180 days after the date of submittal of the claim to the Secretary under section 3516; or

(2) 120 days after the date of receipt of information or documents produced under subsection (c)(2).

(e) RESOLUTION OF REASONABLE DOUBT.—Except as provided in subsection (b)(2), in determining whether a claimant meets the requirements of this subtitle, the Secretary of Labor shall find in favor of the claimant in circumstances where the evidence supporting the claim of the claimant and the evidence controverting the claim of the claimant is in equipoise.

(f) SERVICE OF DECISION.—The Secretary of Labor shall have served upon a claimant the Secretary's decision denying the claim under this section, including the finding of fact under subsection (a)(1).

(g) HEARINGS AND FURTHER REVIEW.—

(1) REGULATIONS.—The Secretary of Labor may prescribe regulations necessary for the administration and enforcement of this title including regulations for the conduct of hearings under this section.

(2) APPEALS PANELS.—

(A) IN GENERAL.—Regulations issued by the Secretary of Labor under this title shall provide for one or more Energy Employees' Compensation Appeals Panels of three individuals with authority to hear and, subject to applicable law and the regulations of the Secretary, make final decisions on appeals taken from determinations and awards with respect to claims of employees filed under this subtitle.

(B) INTERAGENCY AGREEMENT.—Under an agreement between the Secretary of Labor and another federal agency (except the Department of Energy), a panel appointed by the other federal agency may provide these appellate decision-making services.

(3) APPEAL.—An individual seeking review of a denial of an award under this section shall submit an appeal in accordance with the regulations under this subsection.

(h) RECONSIDERATION BASED ON NEW CRITERIA OR EVIDENCE.—

(1) NEW CRITERIA OR METHODS FOR ESTABLISHING WORK-RELATED ILLNESS.—A claimant may obtain reconsideration of a decision awarding or denying coverage under this subtitle within one year after the effective date of regulations setting forth—

(A) new criteria for establishing a covered beryllium illness pursuant to section 3504(b), or

(B) additional or revised methods for determining whether a cancer was as least as likely as not related to employment pursuant to section 3211(c)(1)(B)(i)—

by submitting evidence that is relevant and pertinent to the new regulations.

(2) NEW EVIDENCE.—A covered employee or covered employee's survivor may obtain reconsideration of a decision denying an application for compensation or benefits under this title if the employee or employee's survivor has additional medical or other information relevant to the claim that was not reasonably available at the time of the decision and that likely would lead to the reversal of the decision.

Subtitle B—Exposure to Other Toxic Substances

SEC. 3521. DEFINITIONS.

In this subtitle—

(1) DIRECTOR.—The term ''Director'' means the Director of the Office of Workers' Compensation Advocate under section 217 of the Department of Energy Organization Act, as added by section 3538 of this Act.

(2) PANEL.—The term ''panel'' means a physicians panel established under section 3522(d).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

SEC. 3522. AGREEMENTS WITH STATES.

(a) AGREEMENTS.—The Secretary, through the Director, may enter into agreements with the Governor of a State to provide assistance to a Department of Energy contractor employee in filing a claim under the appropriate State workers' compensation system.

(b) PROCEDURE.—Pursuant to agreements under subsection (a), the Director may—

(1) establish procedures under which an individual may submit an application for review and assistance under this section, and

(2) review an application submitted under this section and determine whether the applicant submitted reasonable evidence that—

(A) the application was filed by or on behalf of a Department of Energy contractor employee or employee's estate, and

(B) the illness or death of the Department of Energy contractor employee may have been related to employment at a Department of Energy facility.

(c) SUBMITTAL OF APPLICATIONS TO PANELS.—If provided in an agreement under subsection (a), and if the Director determines that the applicant submitted reasonable evidence under subsection (b)(2), the Director shall submit the application to a physicians panel established under subsection (d). The Director shall assist the employee in obtaining additional evidence within the control of the Department of Energy and relevant to the panel's deliberations.

(d) PANEL.—

(1) NUMBER OF PANELS.—The Director shall inform the Secretary of Health and Human Services of the number of physicians panels the Director has determined to be appropriate to administer this section, the number of physicians needed for each panel, and the area of jurisdiction of each panel. The Director may determine to have only one panel.

(2) APPOINTMENT.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall appoint panel members with experience and competency in diagnosing occupational illnesses under section 3109 of title 5, United States Code.

(B) COMPENSATION.—Each member of a panel shall be paid at the rate of pay payable for level III of the Executive Schedule for each day (including travel time) the member is engaged in the work of a panel.

(3) DUTIES.—A panel shall review an application submitted to it by the Director and determine, under guidelines established by the Director, by rule, whether the illness or death that is the subject of the application arose out of and in the course of employment by the Department of Energy and exposure to a toxic substance at a Department of Energy facility.

(4) ADDITIONAL INFORMATION.—At the request of a panel, the Director and a contractor who employed a Department of Energy contractor employee shall provide additional information relevant to the panel's deliberations. A panel may consult specialists in relevant fields it determines necessary.

(5) DETERMINATIONS.—Once a panel has made a determination under paragraph (3), it shall report to the Director its determination and the basis for the determination.

(6) INAPPLICABILITY OF FACA.—A panel established under this section shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(e) ASSISTANCE.—If provided in an agreement under subsection (a)—

(1) the Director shall review a panel's determination made under subsection (d), information the panel considered in reaching its determination, any relevant new information not reasonably available at the time of the panel's deliberations, and the basis for the panel's determination;

(2) as a result of the review under paragraph (1), the Director shall accept the panel's determination in the absence of compelling evidence to the contrary;

(3) if the panel has made a positive determination under subsection (d) and the Director accepts the determination under paragraph (2), or the panel has made a negative determination under subsection (d) and the Director finds compelling evidence to the contrary—

(A) the Director shall—

(i) assist the applicant to file a claim under the appropriate State workers' compensation system based on the health condition that was the subject of the determination,

(ii) recommend to the Secretary of Energy that the Department of Energy not contest a claim filed under a State workers' compensation system based on the health condition that was the subject of the determination and not contest an award made under a State workers' compensation system regarding that claim, and

(iii) recommend to the Secretary of Energy that the Secretary direct, as permitted by law, the contractor who employed the Department of Energy contractor employee who is the subject of the claim not to contest the claim or an award regarding the claim; and

(B) any costs of contesting a claim or an award regarding the claim incurred by the contractor who employed the Department of Energy contractor employee who is the subject of the claim shall not be an allowable cost under a Department of Energy contract.

(f) INFORMATION.—At the request of the Director, a contractor who employed a Department of Energy contractor employee shall make available to the Director or the employee, information relevant to deliberations under this section.

(g) GAO REPORT.—Not later than February 1, 2002, the Comptroller General shall submit a report to the Congress evaluating the implementing by the Department of Energy of the provisions of this subtitle and of the effectiveness of the program under this subtitle in providing compensation to Department of Energy contractor employees for occupational illness.

Subtitle C—General Provisions

SEC. 3531. TREATMENT OF COMPENSATION AND BENEFITS.

(a) IN GENERAL.—Any compensation or benefits allowed, paid, or provided under this title—

(1) shall not be considered income for purposes of the Internal Revenue Code, and shall not be subject to Federal income tax under the internal revenue laws of the United States;

(2) shall not be included a income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of those benefits; and

(3) shall not be subject to offset under chapter 37 of title 31, United States Code.

(b) INSURANCE.—(1) Compensation or benefits paid or provided under this title shall not be considered as any form of compensation or reimbursement for a loss for purposes of imposing liability on an individual receiving the compensation or benefits to repay

any insurance carrier for insurance payments made.

(2) The payment or provision of compensation or benefits under this title shall not be treated as affecting any claim against an insurance carrier with respect to insurance.

(c) PROHIBITION ON ASSIGNMENT OR ATTACHMENT OF CLAIMS.—The provisions of section 8130 of title 5, United States Code, shall apply to claims under this title.

(d) RETENTION OF CIVIL SERVICE RIGHTS.—If a Federal employee found to be disabled under this title resumes employment with the Federal government, the employee shall be entitled to the rights set forth in section 8151 of title 5, United States Code.

SEC. 3532. FORFEITURE OF BENEFITS BY CONVICTED FELONS.

(a) FORFEIT COMPENSATION.—Any individual convicted of a violation of section 1920 of title 18, or any other Federal or State criminal statute relating to fraud in the application for or receipt of any benefit under this title or under any other Federal or State workers' compensation law, shall forfeit (as of the date of such conviction) any entitlement to any benefit under this title such individual would otherwise be awarded for any injury, illness or death covered by this title for which the time of injury was on or before the date of the conviction. This forfeiture shall be in addition to any action the Secretary of Labor takes under sections 8106 or 8129 of title 5, United States Code.

(b) DEPENDENTS.—(1) Notwithstanding any other provision of law, except as provided under paragraph (2), compensation under this title shall not be paid or provided to an individual during any period during which such individual is confined in a jail, prison, or other penal institution or correctional facility, pursuant to that individual's conviction of an offense that constituted a felony under applicable law. After this period of incarceration ends, the individual shall not received compensation forfeited during the period of incarceration.

(2) If an individual has one or more dependents as defined under section 8110(a) of title 5, United States Code, the Secretary of Labor may, during the period of incarceration, pay to such dependents a percentage of the compensation under section 3114 that would have been payable to the individual computed according to the percentages set forth in section 8133(a)(1) through (5) of title 5, United States Code.

(c) INFORMATION.—Notwithstanding section 552a of title 5, United States Code, or any other Federal or State law, an agency of the United States, a State, or a political subdivision of a State shall make available to the Secretary of Labor, upon written request from the Secretary of Labor and if the Secretary of Labor requires the information to carry out this section, the names and Social Security account numbers of individuals confined, for conviction of a felony, in a jail, prison, or other penal institution or correctional facility under the jurisdiction of that agency.

SEC. 3533. LIMITATION ON RIGHT TO RECEIVE BENEFITS.

(a) CLAIMANT.—A claimant who receives compensation for any claim under this title, except for compensation provided under the authority of section 8103(b) of title 5, United States Code, shall not receive compensation for any other claim under this title.

(b) SURVIVOR.—If a survivor receives compensation for any claim under this title derived from a covered employee, except for compensation provided under the authority of section 8103(b) of title 5, United States Code, such survivor shall not receive compensation for any other claim under this title derived from the same covered employee. A survivor of a claimant who receives compensation for any claim under this title, except for compensation provided under the authority of section 8103(b) of title 5, United States Code, shall not receive compensation for any other claim under this title derived from the same covered employee.

(c) WIDOW OR WIDOWER.—A widow or widower who is eligible for benefits under this title derived from more than one husband or wife shall elect one benefit to receive.

SEC. 3534. COORDINATION OF BENEFITS—STATE WORKERS' COMPENSATION.

(a) IN GENERAL.—An individual who is eligible to receive compensation under this title because of a cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death and who is also entitled to receive benefits because of the same cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death from a State workers' compensation system shall elect which such benefits to receive, unless—

(1) at the time of injury, workers' compensation coverage for the employee was secured by a policy or contract of insurance; and

(2) the Secretary of Labor waives the requirement to make such an election.

(b) ELECTION.—The individual shall make the election within the time allowed by the Secretary of Labor. The election when made is irrevocable and binding on all survivors of that individual.

(c) COORDINATION.—Except as provided in paragraph (d), an individual who has been awarded compensation under this title and who also has received benefits from a State workers' compensation system because of the same cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death, shall receive compensation as specified under this title reduced by the amount of any workers' compensation benefits that the individual has received under the State workers' compensation system as a result of the cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death attributable to the period subsequent to the effective date of this title, after deducting the reasonable costs, as determined by the Secretary of Labor, of obtaining benefits under the State workers' compensation system.

(d) WAIVER.—An individual described in paragraph (a) who has also received, under paragraph (a)(2), a waiver of the requirement to elect between compensation under this title and benefits under a State workers' compensation system shall receive compensation as specified in this title for the cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death, reduced by eighty percent of the net amount of any workers' compensation benefits that the claimant has received under a State workers' compensation system attributable to the period subsequent to the effective date of this title, after deducting the reasonable costs, as determined by the Secretary of Labor, of obtaining benefits under the State workers' compensation system.

SEC. 3535. COORDINATION OF BENEFITS—FEDERAL WORKERS' COMPENSATION.

(a) IN GENERAL.—An individual who is eligible to receive compensation under this title because of a cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death and who is also entitled to receive benefits because of the same cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death from another Federal workers' compensation system shall elect which such benefits to receive.

(b) ELECTION.—The individual shall make the election within the time allowed by the Secretary of Labor. The election when made is irrevocable and binding on all survivors of that individual.

(c) COORDINATION.—An individual who has been awarded compensation under this title and who also has received benefits from another Federal workers' compensation system because of the same cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death, shall receive compensation as specified under this title reduced by the amount of any workers' compensation benefits that the individual has received under the other Federal workers compensation system as a result of the cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death.

SEC. 3536. RECEIPT OF BENEFITS—OTHER STATUTES.

An individual may not receive compensation under this title for cancer and also receive compensation under the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) or the Radiation-Exposed Veterans Compensation Act (38 U.S.C. 112(c)).

SEC. 3537. DUAL COMPENSATION-FEDERAL EMPLOYEES.

(A) LIMITATION.—While a federal employee is receiving compensation under this title, or such employee has been paid a lump sum in commutation of installment payments until the expiration of the period during which the installment payments would have continued, such employee may not receive salary, pay, or remuneration of any type from the United States, except—

(1) in return for service actually performed;

(2) pension for service in the Army, Navy or Air Force;

(3) other benefits administrated by the Department of Veterans Affair unless such benefits are payable for the same covered illness or the same death; and

(4) retired pay, retirement pay, retainer pay, or equivalent pay for service in the Armed Forces or other uniformed service.

However, eligibility for or receipt of benefits under subchapter III of chapter 83 of title 5, United States Code, or another retirement system for employees of the Government, does not impair the right of the employee to compensation for scheduled disabilities specified by section 8107 of title 5, United States Code.

SEC. 3538. DUAL COMPENSATION—OTHER EMPLOYEES.

An individual entitled to receive compensation under this title because of a cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death covered by this title of a covered employee, who also is entitled to receive from the United States under a provision of a statute other than this title payments or benefits for that injury, illness or death (except proceeds of an insurance policy), because of service by such employee (or in the case of death, by the deceased as an employee or in the armed forces, shall elect which benefits to receive. The individual shall make the election within the time allowed by the Secretary of Labor. The election when made is irrevocable, except as otherwise provided by statue

SEC. 3539. EXCLUSIVITY OF REMEDY AGAINST THE UNITED STATES, CONTRACTORS, AND SUBCONTRACTORS.

(a) IN GENERAL.—The liability of the United States or an instrumentality of the United States under this title with respect to a cancer (including a specified cancer), Chronic silicosis, covered beryllium illness, or death of a covered employee is exclusive and instead of all other liability—

(1) of—

(A) the United States;

(B) any instrumentality of the United States;

(C) a contractor that contracted with the Department of Energy to provide management and operation, management and integration, or environmental remediation of a Department of Energy facility (in its capacity as a contractor);

(D) a subcontractor that provided services, including construction, at a Department of Energy facility (in its capacity as a subcontractor); and

(E) an employee, agent, or assign of an entity specified in subparagraphs (A) through (D)—

(2) to—

(A) the covered employee;

(B) the covered employee's legal representative, spouse, dependents, survivors and next of kin, and

(C) any other person, including any third party as to whom the covered employee has a cause of action relating to the cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death, otherwise entitled to recover damages from the United States, the instrumentality, the contractor, the subcontractor, or the employee, agent, or assign of one of them—

because of the cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death in any proceeding or action including a direct judicial proceeding, a civil action, a proceeding in admiralty, or a proceeding under a tort liability statue or the common law.

(b)APPLICABILITY.—This section applies to all cases filed on after July 31, 2000.

(c) WORKERS' COMPENSATION.—This section does not apply to an administrative or judicial proceeding under a State or Federal workers' compensation statute subject to sections 3534 through 3538.

SEC. 3540 ELECTION OF REMEDY AGAINST BERYLLIUM VENDORS AND ATOMIC WEAPONS EMPLOYERS.

(a) BERYLLIUM VENDORS.—If an individual elects to accept payment under this title with respect to a covered beryllium illness or death of a covered employee, that acceptance of payment shall be in full settlement of all tort claims related to such covered beryllium illness or death—

(1) against—

(A) a beryllium vendor or a contractor or subcontractor of a beryllium vendor; and

(B) an employee, agent, or assign of a beryllium vendor or of a contractor or subcontractor of a beryllium vendor;

(2) by—

(A) that individual;

(B) that individual's legal representative, spouse, dependents, survivors, and next of kin; and

(C) any other person, including any third party as to whom a covered employee has a cause of action relating to the covered beryllium illness or death, otherwise entitled to recover damages from the beryllium vendor, the contractor or subcontractor of the beryllium vendor, or the employee, agent, or assign of the beryllium vendor, of the contractor or subcontractor of the beryllium vendor—

that arise out of the covered beryllium illness or death in any proceeding or action including a direct judicial proceeding, a civil action, a proceeding in admiralty, or proceeding under a tort liability statute or the common law.

(b) ATOMIC WEAPONS EMPLOYER.—If an individual elects to accept payment under this title with respect to a cancer (including a specified cancer) or death of a covered employee, that acceptance of payment shall be in full settlement of all tort claims—

(1) against—

(A) an atomic weapons employer; and

(C) an employee, agent, or assign of an atomic weapons employer;

(2) by—

(A) that individual;

(B) that individual's legal representative, spouse, dependents, survivors, and next of kin; and

(C) any other person, including any party as to whom a covered employee has a cause of action relating to the cancer (including a specified cancer) or death, otherwise entitled to recover damages from the atomic weapons employer, or the employee, agent, or assign of the atomic weapons employer—

that arise out of the cancer (including a specified cancer) or death in any proceeding or action including a direct judicial proceeding, a civil action, a proceeding in admiralty, or proceeding under a tort liability statute or the common law.

(c) APPLICABILITY.—

(1) IN GENERAL.—With respect to a case filed after the date of enactment of this title, alleging liability of—

(A) a beryllium vendor or a contractor or subcontractor of a beryllium vendor for a covered beryllium illness or death of a covered beryllium employee; or

(B) an atomic weapons employer for a cancer (including a specified cancer) or death of a covered employee—

the plaintiff shall not be eligible for benefits under this title unless the plaintiff files such case within the applicable time limits in paragraph (2).

(2) TIME LIMITS.—

(A) SUITS AGAINST BERYLLIUM VENDORS.—Except as provided in subparagraph (B), a case described in paragraph (1)(A) shall be filed not later than the later of—

(i) 180 days after the date of enactment of this title; or

(ii) 180 days after the date the plaintiff first becomes aware that a covered beryllium illness or death of a covered beryllium employee may be connected to the exposure of the covered employee to beryllium in the performance of duty.

(B) NEW DIAGNOSES.—A new period of limitation under subparagraph (A)(ii) shall commence with each new diagnosis of a covered beryllium illness that is different from a previously diagnosed covered beryllium illness.

(C) SUITS AGAINST ATOMIC WEAPONS EMPLOYERS.—Except as provided in subparagraph (D), a case described in paragraph (1)(B) shall be filed not later than the later of—

(i) 180 days after the date of enactment of this title; or

(ii) 180 days after the date the plaintiff first becomes aware that a cancer (including a specified cancer) or death of a covered employee may be connected to the exposure of the covered employee to radiation in the performance of duty.

(D) NEW DIAGNOSES.—A new period of limitation under subparagraph (C)(ii) shall commence with each new diagnosis of a cancer (including a specified cancer) that is different from a previously diagnosed cancer.

(c) WORKERS' COMPENSATION.—This section does not apply to an administrative or judicial proceeding under a State or Federal workers' compensation statute subject to sections 3534 through 3538.

SEC. 3541. SUBROGATION OF THE UNITED STATES.

(a) IN GENERAL.—If a cancer (including a specified cancer), covered beryllium illness, chronic silicosis, disability, or death for which compensation is payable under this title is caused under circumstances creating a legal liability in a person other than the United States to pay damages, sections 8131 and 8132 of title 5, United States Code, shall apply, except to the extent specified in this title.

(b) APPEARANCE OF EMPLOYEE.—For the purposes of this title, the provision in section 8131 of title 5, United States Code, that provides that an employee required to appear as a party or witness in the prosecution of an action described in that section is in an active duty status while so engaged shall only apply to a Federal employee.

SEC. 3542. ENERGY EMPLOYEES' OCCUPATIONAL ILLNESS COMPENSATION FUND.

(a) ESTABLISHMENT.—There is hereby established on the books of the Treasury a fund to be known as the Energy Employees' Occupational Illness Compensation Fund. The Secretary of the Treasury shall transfer to the Fund from the general fund of the Treasury the amounts necessary to carry out the purposes of this title.

(b) USE OF THE FUND.—Amounts in the Fund shall be used for the payment of compensation under this title and other benefits and expenses authorized by this title or any extension or application thereof, and for payment of all expenses of the administration of this title.

(c) COST DETERMINATIONS.—(1) Within 45 days of the end of every quarter of every fiscal year, the Secretary of Labor shall determine the total costs of compensation, benefits, administrative expenses, and other payments made from the Fund during the quarter just ended; the end-of-quarter balance in the Fund; and the amount anticipated to be needed during the immediately succeeding two quarters for the payment of compensation, benefits, and administrative expenses under this title.

(2) In making the determination under paragraph (1), the Secretary of Labor shall include, without amendment, information provided by the Secretary of Energy and the Secretary of Health and Human Services on the total costs and amounts anticipated to be needed for their activities under this title.

(3) Each cost determination made in the last quarter of the fiscal year under paragraph (1) shall show, in addition, the total costs of compensation, benefits, administrative expenses, and other payments from the Fund during the preceding twelve-month expense period and an estimate of the expenditures from the Fund for the payment of compensation, benefits, administrative expenses, and other payments for each of the immediately succeeding two fiscal years.

(d) ASSURING AVAILABLE BALANCE IN THE FUND.—Upon application of the Secretary of Labor, the Secretary of Treasury shall advance such sums from the Treasury as are projected by the Secretary of Labor to be necessary, for the period of time equaling the date of a projected deficiency in the Fund through ninety days following the end of the fiscal year, for the payment of compensation and other benefits and expenses authorized by this title or any extension or application thereof, and for payment of all expenses of administering this title.

SEC. 3543. EFFECTIVE DATE.

This title is effective upon enactment, and applies to all claims, civil actions, and proceedings pending on, or filed on or after, the date of enactment of this title.

SEC. 3544. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 1920 of title 18 is amended by inserting in the title ''or Energy employee's'' after ''Federal employee's'' and by inserting ''or the Energy Employees' Occupational Illness Compensation Act of 2000'' after ''title 5''.

(b) Section 1921 of title 18 is amended by inserting in the title ''or Energy employees'' after ''Federal employees'' and by inserting ''or the Energy Employees' Occupational Illness Compensation Act of 2000'' after ''title 5''.

(c) Section 210(a)(1) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(a)(1)) is amended by—

(1) in subparagraph (E), striking ''or;'' and inserting ''; '',

(2) in subparagraph (F), striking the period and inserting ''; or '', and

(3) after subparagraph (F) inserting a new subparagraph as follows:

''(G) filed an application for benefits or assistance under the Energy Employees Occupational Illness Compensation Act of 2000''.

(d) Title II of the Department of Energy Organization Act (P.L. 95–91) is amended by adding at the end of the title the following:

''OFFICE OF WORKERS' COMPENSATION ADVOCATE

''SEC. 217. (a) There shall be within the Department an Office of Workers' Compensation Advocate. The Office shall be headed by a Director who shall be appointed by the Secretary. The Director shall be compensated at the rate provided for in level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(b) The Director shall be responsible for providing information, research reports, and studies to support the implementation of the Energy Employees' Occupational Illness Compensation Act of 2000. Not later than 90 days after the date of enactment of this section, the Director shall enter into memoranda of agreement to provide for coordination of the efforts of the office with the Department of Labor and the Department of Health and Human Services.

''(c) The Director shall coordinate efforts within the Department to collect and make available to present and former employees of the Department and its predecessor agencies, present and former employees of contractors and subcontractors to the Department and its predecessor agencies, and other individuals who are or were present at facilities owned or operated by the Department or its predecessor agencies information on occupational conditions and exposures to health hazards. Such information shall include information on substances and their chemical forms to which employees may have been exposed, records and studies relevant to determining occupational hazards, raw dosimetry and industrial hygiene data, results from medical screening programs, accident and other relevant occurrence reports, and reports, assessments, or reviews by contractors, consultants, or external entities relevant to assessing risk of occupational hazards or illness.

''(d) If the Director determines that—

(1) an entity within the Department or an entity that is the recipient of a Departmental grant, contract, or cooperative agreement possesses information necessary to carry out the provisions of the Energy Employees' Occupational Illness Compensation Act of 2000, and

(2) the production and sharing of that information under the provisions of the Energy Employee's Occupational Illness Compensation Act of 2000 is being unreasonably delayed—

the Director shall have the authority, notwithstanding section 3213 of the National Nuclear Security Administration Act, to direct such entity to produce expeditiously such information in accordance with the provisions of this section and the Energy Employees' Occupational Illness Compensation Act of 2000.

''(e) The Director shall take actions to inform and assist potential claimants under the Energy Employees' Occupational Illness Compensation Act of 2000, pursuant to section 3515(e) of such Act.''.

LEVIN AMENDMENT NO. 3251

Mr. LEVIN proposed an amendment to the bill, S. 2549, supra; as follows:

Beginning on page 144, strike line 22 and all that follows through page 145, line 4, and insert the following:

may be, only if the court finds that recommendation or action was contrary to law or involved a material error of fact or a material administrative error.

On page 145, strike lines 8 through 12, and insert the following:

only if the court finds the decision to be arbitrary or capricious, not based on substantial evidence, or otherwise contrary to law.

On page 148, line 24, strike ''of Defense'' and insert ''concerned''.

MURRAY (AND SNOWE) AMENDMENT NO. 3252

(Ordered to lie on the table.)

Mrs. MURRAY (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by them to the bill, S. 2549, supra; as follows:

On page 270, between lines 16 and 17, insert the following:

SEC. 743. RESTORATION OF PREVIOUS POLICY REGARDING RESTRICTIONS ON USE OF DEPARTMENT OF DEFENSE MEDICAL FACILITIES.

Section 1093 of title 10, United States Code, is amended—

(1) by striking subsection (b); and

(2) in subsection (a), by striking ''RESTRICTION ON USE OF FUNDS.—''.

DOMENICI (AND OTHERS) AMENDMENT NO. 3253

(Ordered to lie on the table.)

Mr. DOMENICI (for himself, Mr. LEVIN, Mr. LUGAR, Mr. BIDEN, Mr. BINGAMAN, Mr. CRAIG, and Mr. THOMPSON) submitted an amendment intended to be proposed by them to the bill, S. 2549, supra; as follows:

On page 610, between lines 13 and 14, insert the following:

Subtitle F—Russian Nuclear Complex Conversion

SEC. 3191. SHORT TITLE.

This subtitle may be cited as the ''Russian Nuclear Weapons Complex Conversion Act of 2000''.

SEC. 3192. FINDINGS.

Congress makes the following findings:

(1) The Russian nuclear weapons complex has begun closure and complete reconfiguration of certain weapons complex plants and productions lines. However, this work is at an early stage. The major impediments to downsizing have been economic and social conditions in Russia. Little information about this complex is shared, and 10 of its most sensitive cities remain closed. These cities house 750,000 people and employ approximately 150,000 people in nuclear military facilities. Although the Russian Federation Ministry of Atomic Energy has announced the need to significantly downsize its workforce, perhaps by as much as 50 percent, it has been very slow in accomplishing this goal. Information on the extent of any progress is very closely held.

(2) The United States, on the other hand, has significantly downsized its nuclear weapons complex in an open and transparent manner. As a result, an enormous asymmetry now exists between the United States and Russia in nuclear weapon production capacities and in transparency of such capacities. It is in the national security interest of the United States to assist the Russian Federation in accomplishing significant reductions in its nuclear military complex and in helping it to protect its nuclear weapons, nuclear materials, and nuclear secrets during such reductions. Such assistance will accomplish critical nonproliferation objectives and provide essential support towards future arms reduction agreements. The Russian Federation's program to close and reconfigure weapons complex plants and production lines will address, if it is implemented in a significant and transparent manner, concerns about the Russian Federation's ability to quickly reconstitute its arsenal.

(3) Several current programs address portions of the downsizing and nuclear security concerns. The Nuclear Cities Initiative was established to assist Russia in creating job opportunities for employees who are not required to support realistic Russian nuclear security requirements. Its focus has been on creating commercial ventures that can provide self-sustaining jobs in three of the closed cities. The current scope and funding of the program are not commensurate with the scale of the threats to the United States sought to be addressed by the program.

(4) To effectively address threats to United States national security interests, progress with respect to the nuclear cities must be expanded and accelerated. The Nuclear Cities Initiative has laid the groundwork for an immediate increase in investment which offers the potential for prompt risk reduction in the cities of Sarov, Snezhinsk, and Zheleznogorsk, which house four key Russian nuclear facilities. Furthermore, the Nuclear Cities Initiative has made considerable progress with the limited funding available. However, to gain sufficient advocacy for additional support, the program must demonstrate—

(A) rapid progress in conversion and restructuring; and

(B) an ability for the United States to track progress against verifiable milestones that support a Russian nuclear complex consistent with their future national security requirements.

(5) Reductions in the nuclear weapons-grade material stocks in the United States and Russia enhance prospects for future arms control agreements and reduce concerns that these materials could lead to proliferation risks. Confidence in both nations will be enhanced by knowledge of the extent of each nation's stockpiles of weapons-grade materials. The United States already makes this information public.

(6) Many current programs contribute to the goals stated herein. However, the lack of programmatic coordination within and among United States Government agencies impedes the capability of the United States to make rapid progress. A formal single point of coordination is essential to ensure that all United States programs directed at cooperative threat reduction, nuclear materials reduction and protection, and the downsizing, transparency, and nonproliferation of the nuclear weapons complex effectively mitigate the risks inherent in the Russian Federation's military complex.

(7) Specialists in the United States and the former Soviet Union trained in nonproliferation studies can significantly assist in the downsizing process while minimizing the threat presented by potential proliferation of weapons materials or expertise.

SEC. 3193. EXPANSION AND ENHANCEMENT OF NUCLEAR CITIES INITIATIVE.

(a) IN GENERAL.—The Secretary of Energy shall, in accordance with the provisions of this section, take appropriate actions to expand and enhance the activities under the Nuclear Cities Initiative in order to—

(1) assist the Russian Federation in the downsizing of the Russian Nuclear Complex; and

(2) coordinate the downsizing of the Russian Nuclear Complex under the Initiative

with other United States nonproliferation programs.

(b) ENHANCED USE OF MINATOM TECHNOLOGY AND RESEARCH AND DEVELOPMENT SERVICES.—In carrying out actions under this section, the Secretary shall facilitate the enhanced use of the technology, and the research and development services, of the Russia Ministry of Atomic Energy (MINATOM) by—

(1) fostering the commercialization of peaceful, non-threatening advanced technologies of the Ministry through the development of projects to commercialize research and development services for industry and industrial entities; and

(2) authorizing the Department of Energy, and encouraging other departments and agencies of the United States Government, to utilize such research and development services for activities appropriate to the mission of the Department, and such departments and agencies, including activities relating to—

(A) nonproliferation (including the detection and identification of weapons of mass destruction and verification of treaty compliance);

(B) global energy and environmental matters; and

(C) basic scientific research of benefit to the United States.

(c) ACCELERATION OF NUCLEAR CITIES INITIATIVE.—(1) In carrying out actions under this section, the Secretary shall accelerate the Nuclear Cities Initiative by implementing, as soon as practicable after the date of the enactment of this Act, programs at the nuclear cities referred to in paragraph (2) in order to convert significant portions of the activities carried out at such nuclear cities from military activities to civilian activities.

(2) The nuclear cities referred to in this paragraph are the following:

(A) Sarov (Arzamas–16).

(B) Snezhinsk (Chelyabinsk–70).

(C) Zheleznogorsk (Krasnoyarsk–26).

(3) To advance nonproliferation and arms control objectives, the Nuclear Cities Initiative is encouraged to begin planning for accelerated conversion, commensurate with available resources, in the remaining nuclear cities.

(4) Before implementing a program under paragraph (1), the Secretary shall establish appropriate, measurable milestones for the activities to be carried out in fiscal year 2001.

(d) PLAN FOR RESTRUCTURING THE RUSSIAN NUCLEAR COMPLEX.—(1) The President, acting through the Secretary of Energy, is urged to enter into negotiations with the Russian Federation for purposes of the development by the Russian Federation of a plan to restructure the Russian Nuclear Complex in order to meet changes in the national security requirements of Russia by 2010.

(2) The plan under paragraph (1) should include the following:

(A) Mechanisms to achieve a nuclear weapons production capacity in Russia that is consistent with the obligations of Russia under current and future arms control agreements.

(B) Mechanisms to increase transparency regarding the restructuring of the nuclear weapons complex and weapons-surplus nuclear materials inventories in Russia to the levels of transparency for such matters in the United States, including the participation of Department of Energy officials with expertise in transparency of such matters.

(C) Measurable milestones that will permit the United States and the Russian Federation to monitor progress under the plan.

(e) ENCOURAGEMENT OF CAREERS IN NONPROLIFERATION.—(1) In carrying out actions under this section, the Secretary shall carry out a program to encourage students in the United States and in the Russian Federation to pursue a career in an area relating to nonproliferation.

(2) Of the amounts under subsection (f), such amounts as may be appropriated for purpose of the program under paragraph (1) shall be available for purposes of the program.

(f) FUNDING FOR FISCAL YEAR 2001.—There is hereby authorized such funds as may be appropriated for the Department of Energy for fiscal year 2001 for purposes of the Nuclear Cities Initiative, including activities under this section.

(g) SENSE OF CONGRESS REGARDING FUNDING FOR FISCAL YEARS AFTER FISCAL YEAR 2001.—It is the sense of Congress that the availability of funds for the Nuclear Cities Initiative in fiscal years after fiscal year 2001 should be contingent upon—

(1) demonstrable progress in the programs carried out under subsection (c), as determined utilizing the milestones required under paragraph (4) of that subsection; and

(2) the development and implementation of the plan required by subsection (d).

SEC. 3194. SENSE OF CONGRESS ON THE ESTABLISHMENT OF A NATIONAL COORDINATOR FOR NONPROLIFERATION MATTERS.

It is the sense of Congress that—

(1) there should be a National Coordinator for Nonproliferation Matters to coordinate—

(A) the Nuclear Cities Initiative;

(B) the Initiatives for Proliferation Prevention program;

(C) the Cooperative Threat Reduction programs;

(D) the materials protection, control, and accounting programs; and

(E) the International Science and Technology Center; and

(2) the position of National Coordinator for Nonproliferation Matters should be similar, regarding nonproliferation matters, to the position filled by designation of the President under section 1441(a) of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201; 110 Stat. 2727; 50 U.S.C. 2351(a)).

SEC. 3195. DEFINITIONS.

In this subtitle:

(1) NUCLEAR CITY.—The term ''nuclear city'' means any of the closed nuclear cities within the complex of the Russia Ministry of Atomic Energy (MINATOM) as follows:

(A) Sarov (Arzamas–16).

(B) Zarechnyy (Penza–19).

(C) Novoural'sk (Sverdlovsk–44).

(D) Lesnoy (Sverdlovsk–45).

(E) Ozersk (Chelyabinsk–65).

(F) Snezhinsk (Chelyabinsk–70).

(G) Trechgornyy (Zlatoust–36).

(H) Seversk (Tomsk–7).

(I) Zhelenznogorsk (Krasnoyarsk–26).

(J) Zelenogorsk (Krasnoyarsk–45).

(2) RUSSIAN NUCLEAR COMPLEX.—The term ''Russian Nuclear Complex'' refers to all of the nuclear cities.

DOMENICI AMENDMENTS NOS. 3254–3258

(Ordered to lie on the table.)

Mr. DOMENICI submitted five amendments intended to be proposed by him to the bill, S. 2549, supra; as followed:

AMENDMENT NO. 3254

On page 48, between lines 20 and 21, insert the following:

SEC. 222. INFORMATION WARFARE AND VULNERABILITY ANALYSIS.

(a) AVAILABILITY OF FUNDS.—(1) Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, the amount available for Survivability/Lethality Analysis (PE605604A) is hereby increased by $16,000,000.

(2) Of the amounts available under this Act for Survivability/Lethality Analysis, as increased by paragraph (1), $16,000,000 shall be available for Information Warfare and Vulnerability Analysis in order to ensure the survivability of the digitized systems and networked decision-making structures of the Army against asymmetric threats.

(3) The amount made available under paragraph (2) for the purpose specified in that paragraph is in addition to any other amounts made available under this Act for that purpose.

(b) OFFSET.—Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, the amount available for EW Development (PE604270A) is hereby reduced by $16,000,000.

AMENDMENT NO. 3255

On page 48, between lines 20 and 21, insert the following:

SEC. 222. LASERSPARK COUNTERMEASURES PROGRAM.

(a) AVAILABILITY OF FUNDS.—(1) Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, the amount available for Advanced Technology (PE603605F) is hereby increased by $5,000,000.

(2) Of the amounts available under this Act for Advanced Technology, as increased by paragraph (1), $5,000,000 shall be available for the LaserSpark countermeasures program.

(3) The amount made available under paragraph (2) for the purpose specified in that paragraph is in addition to any other amounts made available under this Act for that purpose.

(b) OFFSET.—Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, the amount available for the Joint Strike Fighter (PE603800F) is hereby reduced by $5,000,000.

AMENDMENT NO. 3256

On page 48, between lines 20 and 21, insert the following:

SEC. 222. GEOSYNCHRONOUS LASER IMAGING TESTBED PROGRAM.

(a) AVAILABILITY OF FUNDS.—(1) Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, the amount available for Advanced Technology (PE603605F) is hereby increased by $5,000,000.

(2) Of the amounts available under this Act for Advanced Technology, as increased by paragraph (1), $5,000,000 shall be available for the Geosynchronous Laser Imaging Testbed (GLINT) program for very high altitude and deep space object identification and capabilities analysis.

(3) The amount made available under paragraph (2) for the purpose specified in that paragraph is in addition to any other amounts made available under this Act for that purpose.

(b) OFFSET.—Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, the amount available for the Joint Strike Fighter (PE603800F) is hereby reduced by $5,000,000.

AMENDMENT NO. 3257

On page 48, between lines 20 and 21, insert the following:

SEC. 222. RADIO FREQUENCY WEAPONS ANALYSIS.

(a) AVAILABILITY OF FUNDS.—(1) Of the amount authorized to be appropriated by

section 201(3) for research, development, test, and evaluation for the Air Force, the amount available for Intelligence Equipment (PE604750F) is hereby increased by $5,300,000.

(2) Of the amounts available under this Act for Intelligence Equipment, as increased by paragraph (1), $5,300,000 shall be available for analysis of the capabilities and characteristics of terrorist Radio Frequency weapons to evaluate the susceptibilities of United States systems to such weapons.

(3) The amount made available under paragraph (2) for the purpose specified in that paragraph is in addition to any other amounts made available under this Act for that purpose.

(b) OFFSET.—Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, the amount available for the Joint Strike Fighter (PE603800F) is hereby reduced by $5,300,000.

AMENDMENT NO. 3258

On page 48, between lines 20 and 21, insert the following:

SEC. 222. SILICON-BASED NANOSTRUCTURES PROGRAM.

(a) AVAILABILITY OF FUNDS.—(1) Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation Defense-wide, the amount available for Logistics Research and Development Technology Demonstration (PE603712S) is hereby increased by $5,000,000.

(2) Of the amounts available under this Act for Logistics Research and Development Technology Demonstration, as increased by paragraph (1), $5,000,000 shall be available for a Silicon-Based Nanostructures Program to facilitate the economic and efficient upgrade of mission critical systems through computer chip replacement.

(3) The amount made available under paragraph (2) for the purpose specified in that paragraph is in addition to any other amounts made available under this Act for that purpose.

(b) OFFSET.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation Defense-wide, the amount available for Extensible Information Systems (PE602302E) is hereby reduced by $5,000,000.

DOMENICI (AND OTHERS) AMENDMENT NO. 3259

(Ordered to lie on the table.)

Mr. DOMENICI (for himself, Mrs. HUTCHISON, and Mr. BINGAMAN) submitted an amendment intended to be proposed by them to the bill, S. 2549, supra; as follows:

On page 353, between lines 15 and 16, insert the following:

SEC. 914. COORDINATION AND FACILITATION OF DEVELOPMENT OF DIRECTED ENERGY TECHNOLOGIES, SYSTEMS, AND WEAPONS.

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

(1) Directed energy systems are available to address many current challenges with respect to military weapons, including offensive weapons and defensive weapons.

(2) Directed energy weapons offer the potential to maintain an asymmetrical technological edge over adversaries of the United States for the foreseeable future.

(3) It is in the national interest that funding for directed energy science and technology programs be increased in order to support priority acquisition programs and to develop new technologies for future applications.

(4) It is in the national interest that the level of funding for directed energy science and technology programs correspond to the level of funding for large-scale demonstration programs in order to ensure the growth of directed energy science and technology programs and to ensure the successful development of other weapons systems utilizing directed energy systems.

(5) The industrial base for several critical directed energy technologies is in fragile condition and lacks appropriate incentives to make the large-scale investments that are necessary to address current and anticipated Department of Defense requirements for such technologies.

(6) It is in the national interest that the Department of Defense utilize and expand upon directed energy research currently being conducted by the Department of Energy, other Federal agencies, the private sector, and academia.

(7) It is increasingly difficult for the Federal Government to recruit and retain personnel with skills critical to directed energy technology development.

(8) The implementation of the recommendations contained in the High Energy Laser Master Plan of the Department of Defense is in the national interest.

(9) Implementation of the management structure outlined in the Master Plan will facilitate the development of revolutionary capabilities in directed energy weapons by achieving a coordinated and focused investment strategy under a new management structure featuring a joint technology office with senior-level oversight provided by a technology council and a board of directors.

(b) COORDINATION AND OVERSIGHT UNDER HIGH ENERGY LASER MASTER PLAN.—(1) Subchapter II of Chapter 8 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 204. Joint Technology Office

''(a) ESTABLISHMENT.—(1) There is in the Department of Defense a Joint Technology Office (in this section referred to as the 'Office').

''(2) The Office shall be part of the National Directed Energy Center at Kirtland Air Force Base, New Mexico.

''(3) The Office shall be under the authority, direction, and control of the Deputy Under Secretary of Defense for Science and Technology.

''(b) STAFF.—(1) The head of the Office shall be a civilian employee of the Department of Defense in the Senior Executive Service who is designated by the Secretary of Defense for that purpose. The head of the Office shall be known as the 'Director of the Joint Technology Office'.

''(2) The Secretary of Defense shall provide the Office such civilian and military personnel and other resources as are necessary to permit the Office to carry out its duties under this section.

''(c) DUTIES.—The duties of the Office shall be to—

''(1) develop and oversee the management of a Department of Defense-wide program of science and technology relating to directed energy technologies, systems, and weapons;

''(2) serve as a point of coordination for initiatives for science and technology relating to directed energy technologies, systems, and weapons from throughout the Department of Defense;

''(3) develop and promote a program (to be known as the 'National Directed Energy Technology Alliance') to foster the exchange of information and cooperative activities on directed energy technologies, systems, and weapons between and among the Department of Defense, other Federal agencies, institutions of higher education, and the private sector; and

''(4) carry out such other activities relating to directed energy technologies, systems, and weapons as the Deputy Under Secretary of Defense for Science and Technology considers appropriate.

''(d) COORDINATION WITHIN DEPARTMENT OF DEFENSE.—(1) The Director of the Office shall assign to appropriate personnel of the Office the performance of liaison functions with the other Defense Agencies and with the military departments.

''(2) The head of each military department and Defense Agency having an interest in the activities of the Office shall assign personnel of such department or Defense Agency to assist the Office in carrying out its duties. In providing such assistance, such personnel shall be known collectively as 'Technology Area Working Groups'.

''(e) JOINT TECHNOLOGY BOARD OF DIRECTORS.—(1) There is established in the Department of Defense a board to be known as the 'Joint Technology Board of Directors' (in this section referred to as the 'Board').

''(2) The Board shall be composed of 8 members as follows:

''(A) The Under Secretary of Defense for Acquisition and Technology, who shall serve as chairperson of the Board.

''(B) The Director of Defense Research and Engineering, who shall serve as vice-chairperson of the Board.

''(C) The senior acquisition executive of the Department of the Army.

''(D) The senior acquisition executive of the Department of the Navy.

''(E) The senior acquisition executive of the Department of the Air Force.

''(F) The Director of the Defense Advanced Research Projects Agency.

''(G) The Director of the Ballistic Missile Defense Organization.

''(H) The Director of the Defense Threat Reduction Agency.

''(3) The duties of the Board shall be—

''(A) to review and comment on recommendations made and issues raised by the Council under this section; and

''(B) to review and oversee the activities of the Office under this section.

''(f) JOINT TECHNOLOGY COUNCIL.—(1) There is established in the Department of Defense a council to be known as the 'Joint Technology Council' (in this section referred to as the 'Council').

''(2) The Council shall be composed of 7 members as follows:

''(A) The Deputy Under Secretary of Defense for Science and Technology, who shall be chairperson of the Council.

''(B) The senior science and technology executive of the Department of the Army.

''(C) The senior science and technology executive of the Department of the Navy.

''(D) The senior science and technology executive of the Department of the Air Force.

''(E) The senior science and technology executive of the Defense Advanced Research Projects Agency.

''(F) The senior science and technology executive of the Ballistic Missile Defense Organization.

''(G) The senior science and technology executive of the Defense Threat Reduction Agency.

''(3) The duties of the Council shall be—

''(A) to review and recommend priorities among programs, projects, and activities proposed and evaluated by the Office under this section;

''(B) to make recommendations to the Board regarding funding for such programs, projects, and activities; and

''(C) to otherwise review and oversee the activities of the Office under this section.''.

(2) The table of sections at the beginning of subchapter II of chapter 8 of such title is

amended by adding at the end the following new section:

''204. Joint Technology Office.''.

(3) The Secretary of Defense shall locate the Joint Technology Office under section 204 of title 10, United States Code (as added by this subsection), at the National Directed Energy Center at Kirtland Air Force Base, New Mexico, not later than January 1, 2001.

(c) TECHNOLOGY AREA WORKING GROUPS UNDER HIGH ENERGY LASER MASTER PLAN.—(1) The Secretary of Defense shall provide for the implementation of the portion of the High Energy Laser Master Plan relating to technology area working groups.

(2) In carrying out activities under this subsection, the Secretary of Defense shall require the Secretary of the military department concerned to provide within such department technology area working groups as follows:

(A) Within the Department of the Army—

(i) a technology area working group on solid state lasers; and

(ii) a technology area working group on advanced technology.

(B) Within the Department of the Navy, a technology area working group on free electron lasers.

(C) Within the Department of the Air Force—

(i) a technology area working group on chemical lasers;

(ii) a technology area working group on beam control;

(iii) a technology area working group on lethality/vulnerability; and

(iv) a technology area working group on high power microwaves.

(3) The military department concerned shall establish general direction concerning the technology to be addressed by each technology area working group under the department, with such direction to take into account the recommendations of all participants in such technology area working group.

(d) ENHANCEMENT OF INDUSTRIAL BASE.—(1) The Secretary of Defense shall develop and undertake initiatives, including investment initiatives, for purposes of enhancing the industrial base for directed energy technologies and systems.

(2) Initiatives under paragraph (1) shall be designed to—

(A) stimulate the development by institutions of higher education and the private sector of promising directed energy technologies and systems; and

(B) stimulate the development of a workforce skilled in such technologies and systems.

(3) Of the amounts authorized to be appropriated by subsection (h), $20,000,000 shall be available for the initiation of development of the Advanced Tactical Laser (ATL). The Joint Non-Lethal Weapons Directorate shall assist the operational manager of the Advanced Tactical Laser program in establishing specifications for non-lethal operations of the Advanced Tactical Laser.

(e) ENHANCEMENT OF TEST AND EVALUATION CAPABILITIES.—(1) The Secretary of Defense shall evaluate and implement proposals for modernizing the High Energy Laser Test Facility at White Sands Missile Range, New Mexico, in order to enhance the test and evaluation capabilities of the Department of Defense with respect to directed energy weapons.

(2) Of the amounts authorized to be appropriated or otherwise made available to the Department of Defense for each of fiscal years 2001 and 2002, not more than $2,000,000 shall be made available in each such fiscal year for purposes of the deployment and test at the High Energy Laser Test Facility at White Sands Missile Range of free electron laser technologies under development at Los Alamos National Laboratory, New Mexico.

(f) COOPERATIVE PROGRAMS AND ACTIVITIES.—(1) The Secretary of Defense shall evaluate the feasibility and advisability of entering into cooperative programs or activities with other Federal agencies, institutions of higher education, and the private sector, including the national laboratories of the Department of Energy, for the purpose of enhancing the programs, projects, and activities of the Department of Defense relating to directed energy technologies, systems, and weapons. The Secretary shall carry out the evaluation in consultation with the Joint Technology Board of Directors established by section 204 of title 10, United States Code (as added by subsection (b) of this section).

(2) The Secretary shall enter into any cooperative program or activity determined under the evaluation under paragraph (1) to be feasible and advisable for the purpose set forth in that paragraph.

(3) Of the amounts authorized to be appropriated by subsection (h), $50,000,000 shall be available for cooperative programs and activities entered into under paragraph (2).

(g) PARTICIPATION OF JOINT TECHNOLOGY COUNCIL IN ACTIVITIES.—The Secretary of Defense shall, to the maximum extent practicable, carry out activities under subsections (c), (d), (e), and (f), through the Joint Technology Council established pursuant to section 204 of title 10, United States Code.

(h) FUNDING FOR FISCAL YEAR 2001.—(1)(A) There is hereby authorized to be appropriated for the Department of Defense for fiscal year 2001, $150,000,000 for science and technology activities relating to directed energy technologies, systems, and weapons.

(B) Amounts authorized to be appropriated for fiscal year 2001 by subparagraph (A) are in addition to any other amounts authorized to be appropriated for such fiscal year for the activities referred to in that subparagraph.

(2) The Director of the Joint Technology Office established pursuant to section 204 of title 10, United States Code, shall allocate amounts appropriated pursuant to the authorization of appropriations in paragraph (1) among appropriate program elements of the Department of Defense, and among cooperative programs and activities under this section, in accordance with such procedures as the Director shall establish.

(3) In establishing procedures for purposes of the allocation of funds under paragraph (2), the Director shall provide for the competitive selection of programs, projects, and activities to be the recipients of such funds.

(i) DIRECTED ENERGY DEFINED.—In this section, the term ''directed energy'', with respect to technologies, systems, or weapons, means technologies, systems, or weapons that provide for the directed transmission of energies across the energy and frequency spectrum, including high energy lasers and high power microwaves.

MURRAY AMENDMENT NO. 3260

(Ordered to lie on the table.)

Mrs. MURRAY submitted an amendment intended to be proposed by him to the bill, S. 2549, supra; as follows:

On page 58, between lines 7 and 8, insert the following:

SEC. 313. DEMONSTRATION PROJECT FOR INTERNET ACCESS AND SERVICES IN RURAL COMMUNITIES.

(a) IN GENERAL.—The Secretary of the Army, acting through the Chief of the National Guard Bureau, shall carry out a demonstration project to provide Internet access and services to rural communities that are unserved or underserved by the Internet.

(b) PROJECT ELEMENTS.—In carrying out the demonstration project, the Secretary shall—

(1) establish and operate distance learning classrooms in communities described in subsection (a), including any support systems required for such classrooms; and

(2) subject to subsection (c), provide Internet access and services in such classrooms through GuardNet, the telecommunications infrastructure of the National Guard.

(c) AVAILABILITY OF ACCESS AND SERVICES.—Under the demonstration project, Internet access and services shall be available to the following:

(1) Personnel and elements of governmental emergency management and response entities located in communities served by the demonstration project.

(2) Members and units of the Army National Guard located in such communities.

(3) Businesses located in such communities.

(4) Personnel and elements of local governments in such communities.

(5) Other appropriate individuals and entities located in such communities.

(d) REPORT.—Not later than _____, the Secretary shall submit to Congress a report on the demonstration project. The report shall describe the activities under the demonstration project and include any recommendations for the improvement or expansion of the demonstration project that the Secretary considers appropriate.

(e) FUNDING.—(1) The amount authorized to be appropriated by section 301(10) for operation and maintenance of the Army National Guard is hereby increased by $15,000,000.

(2) Of the amount authorized to be appropriated by section 301(10), as increased by paragraph (1), $15,000,000 shall be available for the demonstration project required by this section.

(3) It is the sense of Congress that requests of the President for funds for the National Guard for fiscal years after fiscal year 2001 should provide for sufficient funds for the continuation of the demonstration project required by this section.

DORGAN AMENDMENT NOS. 3261–3263

(Ordered to lie on the table.)

Mr. DORGAN submitted three amendments intended to be proposed by him to the bill, S. 2549, supra; as follows:

AMENDMENT NO. 3261

At the appropriate place, add the following:

SEC. . SENSE OF THE SENATE RESOLUTION ON THE MODERNIZATION OF AIR NATIONAL GUARD F–16A UNITS

(a) FINDINGS.—Congress finds that—

(1) Certain U.S. Air Force Air National Guard fighter units are flying some of the world's oldest and least capable F–16A aircraft.

(2) These aircraft have already been flown well beyond their designed service life and are suffering from major airframe cracks and other maintenance problems.

(3) The aircraft are generally incompatible with those flown by the active force and therefore cannot be effectively deployed to theaters of operation to support contingencies and to relieve the high operations tempo of active duty units.

(4) The Air Force has specified no plans to replace these obsolescent aircraft before the year 2007 at the earliest.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that in light of these findings—

(1) The Air Force should program the proper resources and take the necessary action to urgently replace aircraft of Air National Guard fighter units that are flying F–16A's.

AMENDMENT NO. 3262

At the appropriate place, add the following:

SEC. . Report on an electronic warfare version of the B–52.

(a) REPORT.—No later than May 1, 2001, the Secretary of the Air Force shall submit to the congressional defense committees a report on the potential role of an electronic warfare (EW) version of the B–52 bomber in meeting anticipated future shortfalls in airborne EW assets.

(b) CONTENT.—The report shall include the following:

(1) the anticipated near- and long-term requirement for and availability of airborne electronic warfare assets;

(2) the advantages and disadvantages of using the B–52 airframe's size, payload and endurance for standoff jamming;

(3) the impact on the weapons carrying capability of the B–52;

(4) the arms control implications of using certain B–52s as EW platforms;

(5) the impact on the ability of the B–52 fleet to meet operational power projection needs; and

(6) the estimated schedule for deploying interim and long term EW versions of the B–52, and the potential additive cost thereof, assuming prior completion of EW and situational awareness upgrades already scheduled for the B–52 fleet.

AMENDMENT NO. 3263

At the appropriate place in the bill, insert the following new title:

TITLE ____—FOOD AND MEDICINE FOR THE WORLD ACT

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Food and Medicine for the World Act''.

SEC. ___02. DEFINITIONS.

In this title:

(1) AGRICULTURAL COMMODITY.—The term ''agricultural commodity'' has the meaning given the term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).

(2) AGRICULTURAL PROGRAM.—The term ''agricultural program'' means—

(A) any program administered under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.);

(B) any program administered under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(C) any program administered under the Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.);

(D) the dairy export incentive program administered under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14);

(E) any commercial export sale of agricultural commodities; or

(F) any export financing (including credits or credit guarantees) provided by the United States Government for agricultural commodities.

(3) JOINT RESOLUTION.—The term ''joint resolution'' means—

(A) in the case of section ___03(a)(1), only a joint resolution introduced within 10 session days of Congress after the date on which the report of the President under section ___03(a)(1) is received by Congress, the matter after the resolving clause of which is as follows: ''That Congress approves the report of the President pursuant to section ___03(a)(1) of the Food and Medicine for the World Act, transmitted on _____.'', with the blank completed with the appropriate date; and

(B) in the case of section ___06(1), only a joint resolution introduced within 10 session days of Congress after the date on which the report of the President under section ___06(2) is received by Congress, the matter after the resolving clause of which is as follows: ''That Congress approves the report of the President pursuant to section ___06(1) of the Food and Medicine for the World Act, transmitted on _____.'', with the blank completed with the appropriate date.

(4) MEDICAL DEVICE.—The term ''medical device'' has the meaning given the term ''device'' in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(5) MEDICINE.—The term ''medicine'' has the meaning given the term ''drug'' in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(6) UNILATERAL AGRICULTURAL SANCTION.—The term ''unilateral agricultural sanction'' means any prohibition, restriction, or condition on carrying out an agricultural program with respect to a foreign country or foreign entity that is imposed by the United States for reasons of foreign policy or national security, except in a case in which the United States imposes the measure pursuant to a multilateral regime and the other member countries of that regime have agreed to impose substantially equivalent measures.

(7) UNILATERAL MEDICAL SANCTION.—The term ''unilateral medical sanction'' means any prohibition, restriction, or condition on exports of, or the provision of assistance consisting of, medicine or a medical device with respect to a foreign country or foreign entity that is imposed by the United States for reasons of foreign policy or national security, except in a case in which the United States imposes the measure pursuant to a multilateral regime and the other member countries of that regime have agreed to impose substantially equivalent measures.

SEC. ___03. RESTRICTION.

(a) NEW SANCTIONS.—Except as provided in sections ___04 and ___05 and notwithstanding any other provision of law, the President may not impose a unilateral agricultural sanction or unilateral medical sanction against a foreign country or foreign entity, unless—

(1) not later than 60 days before the sanction is proposed to be imposed, the President submits a report to Congress that—

(A) describes the activity proposed to be prohibited, restricted, or conditioned; and

(B) describes the actions by the foreign country or foreign entity that justify the sanction; and

(2) there is enacted into law a joint resolution stating the approval of Congress for the report submitted under paragraph (1).

(b) EXISTING SANCTIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the President shall terminate any unilateral agricultural sanction or unilateral medical sanction that is in effect as of the date of enactment of this Act.

(2) EXEMPTIONS.—Paragraph (1) shall not apply to a unilateral agricultural sanction or unilateral medical sanction imposed—

(A) with respect to any program administered under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(B) with respect to the Export Credit Guarantee Program (GSM–102) or the Intermediate Export Credit Guarantee Program (GSM–103) established under section 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5622); or

(C) with respect to the dairy export incentive program administered under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14).

SEC. ___04. EXCEPTIONS.

Section ___03 shall not affect any authority or requirement to impose (or continue to impose) a sanction referred to in section ___03—

(1) against a foreign country or foreign entity—

(A) pursuant to a declaration of war against the country or entity;

(B) pursuant to specific statutory authorization for the use of the Armed Forces of the United States against the country or entity;

(C) against which the Armed Forces of the United States are involved in hostilities; or

(D) where imminent involvement by the Armed Forces of the United States in hostilities against the country or entity is clearly indicated by the circumstances; or

(2) to the extent that the sanction would prohibit, restrict, or condition the provision or use of any agricultural commodity, medicine, or medical device that is—

(A) controlled on the United States Munitions List established under section 38 of the Arms Export Control Act (22 U.S.C. 2778);

(B) controlled on any control list established under the Export Administration Act of 1979 or any successor statute (50 U.S.C. App. 2401 et seq.); or

(C) used to facilitate the development or production of a chemical or biological weapon or weapon of mass destruction.

SEC. ___05. COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.

Notwithstanding section ___03 and except as provided in section ___07, the prohibitions in effect on or after the date of the enactment of this Act under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) on providing, to the government of any country supporting international terrorism, United States Government assistance, including United States foreign assistance, United States export assistance, or any United States credits or credit guarantees, shall remain in effect for such period as the Secretary of State determines under such section 620A that the government of the country has repeatedly provided support for acts of international terrorism.

SEC. ___06. TERMINATION OF SANCTIONS.

Any unilateral agricultural sanction or unilateral medical sanction that is imposed pursuant to the procedures described in section ___03(a) shall terminate not later than 2 years after the date on which the sanction became effective unless—

(1) not later than 60 days before the date of termination of the sanction, the President submits to Congress a report containing—

(A) the recommendation of the President for the continuation of the sanction for an additional period of not to exceed 2 years; and

(B) the request of the President for approval by Congress of the recommendation; and

(2) there is enacted into law a joint resolution stating the approval of Congress for the report submitted under paragraph (1).

SEC. ___07. STATE SPONSORS OF INTERNATIONAL TERRORISM.

(a) IN GENERAL.—Notwithstanding any other provision of this title, the export of agricultural commodities, medicine, or medical devices to the government of a country that has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) shall only be made—

(1) pursuant to one-year licenses issued by the United States Government for contracts entered into during the one-year period and completed with the 12-month period beginning on the date of the signing of the contract, except that, in the case of the export

of items used for food and for food production, such one-year licenses shall otherwise be no more restrictive than general licenses; and

(2) without benefit of Federal financing, direct export subsidies, Federal credit guarantees, or other Federal promotion assistance programs.

(b) QUARTERLY REPORTS.—The applicable department or agency of the Federal Government shall submit to the appropriate congressional committees on a quarterly basis a report on any activities undertaken under subsection (a)(1) during the preceding calendar quarter.

(c) BIENNIAL REPORTS.—Not later than two years after the date of enactment of this Act, and every two years thereafter, the applicable department or agency of the Federal Government shall submit a report to the appropriate congressional committees on the operation of the licensing system under this section for the preceding two-year period, including—

(1) the number and types of licenses applied for;

(2) the number and types of licenses approved;

(3) the average amount of time elapsed from the date of filing of a license application until the date of its approval;

(4) the extent to which the licensing procedures were effectively implemented; and

(5) a description of comments received from interested parties about the extent to which the licensing procedures were effective, after the applicable department or agency holds a public 30-day comment period.

SEC. ___08. CONGRESSIONAL PRIORITY PROCEDURES.

(a) REFERRAL OF REPORT.—A report described in section ___03(a)(1) or ___06(1) shall be referred to the appropriate committee or committees of the House of Representatives and to the appropriate committee or committees of the Senate.

(b) REFERRAL OF JOINT RESOLUTION.—

(1) IN GENERAL.—A joint resolution introduced in the Senate shall be referred to the Committee on Foreign Relations, and a joint resolution introduced in the House of Representatives shall be referred to the Committee on International Relations.

(2) REPORTING DATE.—A joint resolution referred to in paragraph (1) may not be reported before the eighth session day of Congress after the introduction of the joint resolution.

(c) DISCHARGE OF COMMITTEE.—If the committee to which is referred a joint resolution has not reported the joint resolution (or an identical joint resolution) at the end of 30 session days of Congress after the date of introduction of the joint resolution—

(1) the committee shall be discharged from further consideration of the joint resolution; and

(2) the joint resolution shall be placed on the appropriate calendar of the House concerned.

(d) FLOOR CONSIDERATION.—

(1) MOTION TO PROCEED.—

(A) IN GENERAL.—When the committee to which a joint resolution is referred has reported, or when a committee is discharged under subsection (c) from further consideration of, a joint resolution—

(i) it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any member of the House concerned to move to proceed to the consideration of the joint resolution; and

(ii) all points of order against the joint resolution (and against consideration of the joint resolution) are waived.

(B) PRIVILEGE.—The motion to proceed to the consideration of the joint resolution—

(i) shall be highly privileged in the House of Representatives and privileged in the Senate; and

(ii) not debatable.

(C) AMENDMENTS AND MOTIONS NOT IN ORDER.—The motion to proceed to the consideration of the joint resolution shall not be subject to—

(i) amendment;

(ii) a motion to postpone; or

(iii) a motion to proceed to the consideration of other business.

(D) MOTION TO RECONSIDER NOT IN ORDER.—A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(E) BUSINESS UNTIL DISPOSITION.—If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the House concerned until disposed of.

(2) LIMITATIONS ON DEBATE.—

(A) IN GENERAL.—Debate on the joint resolution, and on all debatable motions and appeals in connection with the joint resolution, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution.

(B) FURTHER DEBATE LIMITATIONS.—A motion to limit debate shall be in order and shall not be debatable.

(C) AMENDMENTS AND MOTIONS NOT IN ORDER.—An amendment to, a motion to postpone, a motion to proceed to the consideration of other business, a motion to recommit the joint resolution, or a motion to reconsider the vote by which the joint resolution is agreed to or disagreed to shall not be in order.

(3) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the House concerned, the vote on final passage of the joint resolution shall occur.

(4) RULINGS OF THE CHAIR ON PROCEDURE.—An appeal from a decision of the Chair relating to the application of the rules of the Senate or House of Representatives, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

(e) COORDINATION WITH ACTION BY OTHER HOUSE.—If, before the passage by 1 House of a joint resolution of that House, that House receives from the other House a joint resolution, the following procedures shall apply:

(1) NO COMMITTEE REFERRAL.—The joint resolution of the other House shall not be referred to a committee.

(2) FLOOR PROCEDURE.—With respect to a joint resolution of the House receiving the joint resolution—

(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(B) the vote on final passage shall be on the joint resolution of the other House.

(3) DISPOSITION OF JOINT RESOLUTIONS OF RECEIVING HOUSE.—On disposition of the joint resolution received from the other House, it shall no longer be in order to consider the joint resolution originated in the receiving House.

(f) PROCEDURES AFTER ACTION BY BOTH THE HOUSE AND SENATE.—If a House receives a joint resolution from the other House after the receiving House has disposed of a joint resolution originated in that House, the action of the receiving House with regard to the disposition of the joint resolution originated in that House shall be deemed to be the action of the receiving House with regard to the joint resolution originated in the other House.

(g) RULEMAKING POWER.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such this section—

(A) is deemed to be a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution; and

(B) supersedes other rules only to the extent that this paragraph is inconsistent with those rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as the rules relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

SEC. ___09. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this title takes effect on the date of enactment of this Act.

(b) EXISTING SANCTIONS.—In the case of any unilateral agricultural sanction or unilateral medical sanction that is in effect as of the date of enactment of this Act, this title takes effect 180 days after the date of enactment of this Act.

WELLSTONE AMENDMENT NO. 3264

Mr. WELLSTONE proposed an amendment to the bill, S. 2549, supra; as follows:

At the appropriate place add the following:

SEC. ___. REPORT TO CONGRESS REGARDING EXTENT AND SEVERITY OF CHILD POVERTY.

(a) IN GENERAL.—Not later than June 1, 2001 and prior to any reauthorization of the temporary assistance to needy families program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) for any fiscal year after fiscal year 2002, the Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall report to Congress on the extent and severity of child poverty in the United States. Such report shall, at a minimum—

(1) determine for the period since the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2105)—

(A) whether the rate of child poverty in the United States has increased;

(B) whether the children who live in poverty in the United States have gotten poorer; and

(C) how changes in the availability of cash and non-cash benefits to poor families have affected child poverty in the United States;

(2) identify alternative methods for defining child poverty that are based on consideration of factors other than family income and resources, including consideration of a family's work-related expenses; and

(3) contain multiple measures of child poverty in the United States that may include the child poverty gap and the extreme poverty rate.

(b) LEGISLATIVE PROPOSAL.—If the Secretary determines that during the period since the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2105) the extent or severity of child poverty in the United States has increased to any extent, the Secretary shall include with the report to Congress required under subsection (a) a legislative proposal addressing the factors that led to such increase.

BROWNBACK (AND MCAIN) AMENDMENT NO. 3265

(Ordered to lie on the table.)

Mr. BOWNBBACK (for himself and MCCAIN (submitted an amendment intended to be proposed by them to the bill, S. 2549, supra; as follows:

At the end of the bill, add the following:

DIVISION D—AMATEUR SPORTS INTEGRITY

SEC. 4001. SHORT TITLE.

This division may be cited as the ''Amateur Sports Integrity Act''.

TITLE XLI—PERFORMANCE-ENHANCING DRUGS

SEC. 4101. SHORT TITLE.

This title may be cited as the ''Athletic Performance-Enhancing Drugs Research and Detection Act''.

SEC. 4102. RESEARCH AND DETECTION PROGRAM ESTABLISHED.

(a) IN GENERAL.—The Director of the National Institute of Standards and Technology shall establish and administer a program under this title to support research into the use of performance-enhancing substances by athletes, and methods of detecting their use.

(b) GRANTS.—

(1) IN GENERAL.—The program shall include grants of financial assistance, awarded on a competitive basis, to support the advancement and improvement of research into the use of performance-enhancing substances by athletes, and methods of detecting their use.

(2) BANNED SUBSTANCES.—In carrying out the program the Director shall consider research proposals involving performance-enhancing substances banned from use by competitors in events sanctioned by organizations, such as the International Olympic Committee, the United States Olympic Committee, the National Collegiate Athletic Association, the National Football League, the National Basketball Association, and Major League Baseball.

(3) RESEARCH CONCENTRATION.—In carrying out the program, the Director shall—

(A) fund research on the detection of naturally-occurring steroids and other testosterone precursors (e.g., androstendione), such as testosterone, and other substances, such as human growth hormone and erythropoietin for which no tests are available but for which there is evidence of abuse or abuse potential;

(B) fund research that focuses on population studies to ensure that tests are accurate for men, women, all relevant age, and major ethnic groups; and

(C) not fund research on drugs of abuse, such as cocaine, phencyclidine, marijuana, morphine/codeine, and methamphetamine/amphetamine.

(c) TECHNICAL AND SCIENTIFIC PEER REVIEW.—

(1) IN GENERAL.—The Director shall establish appropriate technical and scientific peer review procedures for evaluating applications for grants under the program.

(2) IMPLEMENTATION.—The Director shall—

(A) ensure that grant applicants meet a set of minimum criteria before receiving consideration for an award under the program;

(B) give preference to laboratories with an established record of athletic drug testing analysis; and

(C) establish a minimum grant award of not less than $500,000.

(3) CRITERIA.—The list of minimum criteria shall include requirements that each applicant—

(A) demonstrate a record of publication and research in the area of athletic drug testing;

(B) provide a plan detailing the direct transference of the research findings to lab applications in athletic drug testing; and

(C) certify that it is a not-for-profit research program.

(4) RESULTS.—The Director also shall establish appropriate technical and scientific peer review procedures for evaluating the results of research funded, in part or in whole by grants provided under the program. Each review conducted under this paragraph shall include a written report of findings and, if appropriate, recommendations prepared by the reviewer. The reviewer shall provide a copy of the report to the Director within 30 days after the conclusion of the review.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Director of the National Institute of Standards and Technology $4,000,000 per fiscal year to carry out this section for fiscal years 2001, 2002, 2003, 2004, and 2005.

SEC. 4103. PREVENTION AND INTERVENTION PROGRAMS.

(a) IN GENERAL.—The Director of the National Institute of Standards and Technology shall develop a grant program to fund educational substance abuse prevention and intervention programs related to the use of performance-enhancing substances described in section 4102(b)(2) by high school and college student athletes. The Director shall establish a set of minimum criteria for applicants to receive consideration for an award under the program. The list of minimum criteria shall include requirements that each applicant—

(1) propose an intervention and prevention program based on methodologically sound evaluation with evidence of drug prevention efficacy; and

(2) demonstrate a record of publication and research in the area of athletic drug use prevention.

(b) MINIMUM GRANT AWARD.—The Director shall establish a minimum grant award of not less than $300,000 per recipient.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Director of the National Institute of Standards and Technology $3,000,000 per fiscal year to carry out this section for fiscal years 2001, 2002, 2003, 2004, and 2005.

TITLE XLII—GAMBLING

SEC. 4201. PROHIBITION ON GAMBLING ON COMPETITIVE GAMES INVOLVING HIGH SCHOOL AND COLLEGE ATHLETES AND THE OLYMPICS.

(a) IN GENERAL.—The Ted Stevens Olympic and Amateur Sports Act (chapter 2205 of title 36, United States Code) is amended by adding at the end the following new subchapter:

''SUBCHAPTER III—MISCELLANEOUS

''§ 220541. Unlawful sports gambling: Olympics; high school and college athletes

''(a) PROHIBITION.—It shall be unlawful for—

''(1) a governmental entity to sponsor, operate, advertise, promote, license, or authorize by law or compact, or

''(2) a person to sponsor, operate, advertise, or promote, pursuant to law or compact of a governmental entity,

a lottery, sweepstakes, or other betting, gambling, or wagering scheme based, directly or indirectly, on a competitive game or performance described in subsection (b).

''(b) COVERED GAMES AND PERFORMANCES.—A competitive game or performance described in this subsection is the following:

''(1) One or more competitive games at the Summer or Winter Olympics.

''(2) One or more competitive games in which high school or college athletes participate.

''(3) One or more performances of high school or college athletes in a competitive game.

''(c) APPLICABILITY.—The prohibition in subsection (a) applies to activity described in that subsection without regard to whether the activity would otherwise be permitted under subsection (a) or (b) of section 3704 of title 28.

''(d) INJUNCTIONS.—A civil action to enjoin a violation of subsection (a) may be commenced in an appropriate district court of the United States by the Attorney General of the United States, a local educational agency, college, or sports organization, including an amateur sports organization or the corporation, whose competitive game is alleged to be the basis of such violation.

''(e) DEFINITIONS.—In this section:

''(1) The term 'high school' has the meaning given the term 'secondary school' in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

''(2) The term 'college' has the meaning given the term 'institution of higher education' in section 101 of the Higher Education Act of 1965 (20 U.S.C. 8801).

''(3) The term 'local educational agency' has the meaning given that term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).''

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of that Act (chapter 2205 of title 36, United States Code) is amended by adding at the end the following:

''SUBCHAPTER III—MISCELLANEOUS

''220541. Unlawful sports gambling: Olympics; high school and college athletes.''.

GRAMS AMENDMENT NO. 3266

(Ordered to lie on the table.)

Mr. GRAMS submitted an amendment intended to be proposed by him to the bill, S. 2549, supra; as follows:

On page 130, strike lines 3 through 11 and insert the following:

SEC. 423. EXCLUSION OF CERTAIN ARMY AND AIR FORCE OFFICERS FROM LIMITATION ON STRENGTHS OF RESERVE COMMISSIONED OFFICERS IN GRADES BELOW BRIGADIER GENERAL.

Section 12005(a) of title 10, United States Code, is amended by adding at the end the following:

''(3) Medical officers, dental officers, judge advocate officers, nurse officers, and chaplains shall not be counted for purposes of this subsection.''.

WARNER (AND DODD) AMENDMENT NO. 3267

Mr. WARNER (for himself, Mr. DODD, and Mr. LEVIN) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 462, between lines 2 and 3, insert the following:

SEC. ___. ESTABLISHMENT OF NATIONAL BIPARTISAN COMMISSION ON CUBA.

(a) SHORT TITLE.—This section may be cited as the ''National Bipartisan Commission on Cuba Act of 2000''.

(b) PURPOSES.—The purposes of this section are to—

(1) address the serious long-term problems in the relations between the United States and Cuba; and

(2) help build the necessary national consensus on a comprehensive United States policy with respect to Cuba.

(c) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the National Bipartisan Commission on Cuba (in this section referred to as the ''Commission'').

(2) MEMBERSHIP.—The Commission shall be composed of 12 members, who shall be appointed as follows:

(A) Three individuals to be appointed by the President pro tempore of the Senate, of

whom two shall be appointed upon the recommendation of the Majority Leader of the Senate and of whom one shall be appointed upon the recommendation of the Minority Leader of the Senate.

(B) Three individuals to be appointed by the Speaker of the House of Representatives, of whom two shall be appointed upon the recommendation of the Majority Leader of the House of Representatives and of whom one shall be appointed upon the recommendation of the Minority Leader of the House of Representatives.

(C) Six individuals to be appointed by the President.

(3) SELECTION OF MEMBERS.—Members of the Commission shall be selected from among distinguished Americans in the private sector who are experienced in the field of international relations, especially Cuban affairs and United States-Cuban relations, and shall include representatives from a cross-section of United States interests, including human rights, religion, public health, military, business, and the Cuban-American community.

(4) DESIGNATION OF CHAIR.—The President shall designate a Chair from among the members of the Commission.

(5) MEETINGS.—The Commission shall meet at the call of the Chair.

(6) QUORUM.—A majority of the members of the Commission shall constitute a quorum.

(7) VACANCIES.—Any vacancy of the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(d) DUTIES AND POWERS OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall be responsible for an examination and documentation of the specific achievements of United States policy with respect to Cuba and an evaluation of—

(A) what national security risk Cuba poses to the United States and an assessment of any role the Cuban government may play in support of acts of international terrorism and the trafficking of illegal drugs;

(B) the indemnification of losses incurred by United States certified claimants with confiscated property in Cuba; and

(C) the domestic and international impacts of the 39-year-old United States economic, trade and travel embargo against Cuba on—

(i) the relations of the United States with allies of the United States;

(ii) the political strength of Fidel Castro;

(iii) the condition of human rights, religious freedom, and freedom of the press in Cuba;

(iv) the health and welfare of the Cuban people;

(v) the Cuban economy; and

(vi) the United States economy, business, and jobs.

(2) CONSULTATION RESPONSIBILITIES.—In carrying out its duties under paragraph (1), the Commission shall consult with governmental leaders of countries substantially impacted by the current state of United States-Cuban relations, particularly countries impacted by the United States trade embargo against Cuba, and with the leaders of nongovernmental organizations operating in those countries.

(3) POWERS OF THE COMMISSION.—The Commission may, for the purpose of carrying out its duties under this subsection, hold hearings, sit and act at times and places in the United States, take testimony, and receive evidence as the Commission considers advisable to carry out the provisions of this section.

(e) REPORT OF THE COMMISSION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commission shall submit a report to the President, the Secretary of State, and Congress setting forth its recommendations for United States policy options based on its evaluations under subsection (d).

(2) CLASSIFIED FORM OF REPORT.—The report required by paragraph (1) shall be submitted in unclassified form, together with a classified annex, if necessary.

(3) INDIVIDUAL OR DISSENTING VIEWS.—Each member of the Commission may include the individual or dissenting views of the member in the report required by paragraph (1).

(f) ADMINISTRATION.—

(1) COOPERATION BY OTHER FEDERAL AGENCIES.—The heads of Executive agencies shall, to the extent permitted by law, provide the Commission such information as it may require for purposes of carrying out its functions.

(2) COMPENSATION.—Members of the Commission 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 of the Commission.

(3) ADMINISTRATIVE SUPPORT.—The Secretary of State shall, to the extent permitted by law, provide the Commission with such administrative services, funds, facilities, staff, and other support services as may be necessary for the performance of its functions.

(g) APPLICABILITY OF OTHER LAWS.—The Federal Advisory Committee Act shall not apply to the Commission to the extent that the provisions of this section are inconsistent with that Act.

(h) TERMINATION DATE.—The Commission shall terminate 60 days after submission of the report required by subsection (e).

DURBIN (AND OTHERS) AMENDMENT NO. 3268

Mr. DURBIN (for himself, Mr. AKAKA, and Mr. VOINOVICH) submitted an amendment intended to be proposed by them to the bill, S. 2549, supra; as follows:

On page 415, between lines 2 and 3, insert the following:

SEC. 1061. STUDENT LOAN REPAYMENT PROGRAMS.

(a) STUDENT LOANS.—Section 5379(a)(1)(B) of title 5, United States Code, is amended—

(1) in clause (i), by inserting ''(20 U.S.C. 1071 et seq.)'' before the semicolon;

(2) in clause (ii), by striking ''part E of title IV of the Higher Education Act of 1965'' and inserting ''part D or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq., 1087aa et seq.)''; and

(3) in clause (iii), by striking ''part C of title VII of Public Health Service Act or under part B of title VIII of such Act'' and inserting ''part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) or under part E of title VIII of such Act (42 U.S.C. 297a et seq.)''.

(b) PERSONNEL COVERED.—

(1) INELIGIBLE PERSONNEL.—Section 5379(a)(2) of title 5, United States Code, is amended to read as follows:

''(2) An employee shall be ineligible for benefits under this section if the employee occupies a position that is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character.''.

(2) PERSONNEL RECRUITED OR RETAINED.—Section 5379(b)(1) of title 5, United States Code, is amended by striking ''professional, technical, or administrative''.

(c) REGULATIONS.—

(1) PROPOSED REGULATIONS.—Not later than 60 days after the date of enactment of this Act, the Director of the Office of Personnel Management (referred to in this section as the ''Director'') shall issue proposed regulations under section 5379(g) of title 5, United States Code. The Director shall provide for a period of not less than 60 days for public comment on the regulations.

(2) FINAL REGULATIONS.—Not later than 240 days after the date of enactment of this Act, the Director shall issue final regulations described in paragraph (1).

(d) ANNUAL REPORTS.—Section 5379 of title 5, United States Code, is amended by adding at the end the following:

''(h)(1) Each head of an agency shall maintain, and annually submit to the Director of the Office of Personnel Management, information with respect to the agency on—

''(A) the number of Federal employees selected to receive benefits under this section;

''(B) the job classifications for the recipients; and

''(C) the cost to the Federal Government of providing the benefits.

''(2) The Director of the Office of Personnel Management shall prepare, and annually submit to Congress, a report containing the information submitted under paragraph (1), and information identifying the agencies that have provided the benefits described in paragraph (1).''.

BINGAMAN AMENDMENT NO. 3269

(Ordered to lie on the table.)

Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill, S. 2549, supra; as follows:

On page 586, following line 20, add the following:

SEC. 3138. CONSTRUCTION OF NATIONAL NUCLEAR SECURITY ADMINISTRATION OFFICE COMPLEX AT KIRTLAND AIR FORCE BASE, NEW MEXICO.

(a) AUTHORITY FOR DESIGN AND CONSTRUCTION.—The Administrator of the National Nuclear Security Administration may provide for the design and construction of a new office complex for the National Nuclear Security Administration at the Department of Energy site located at the eastern boundary of Kirtland Air Force Base, New Mexico.

(b) BASIS OF AUTHORITY.—The design and construction of the office complex authorized by subsection (a) shall be carried out through one or more energy savings performance contracts entered into under this section and in accordance with the provisions of title VIII of the National Energy Policy Conservation Act (42 U.S.C. 8287 et seq.).

(c) PAYMENT OF COSTS.—Amounts for payments of costs associated with the construction of the office complex authorized by subsection (a) shall be derived from energy savings and ancillary operation and maintenance savings that result from the replacement of a current Department of Energy office complex in Albuquerque, New Mexico (as identified in a feasibility study conducted under the National Defense Authorization Act for Fiscal Year 2000), with the office complex authorized by subsection (a).

SCHUMER AMENDMENT NO. 3270

(Ordered to lie on the table.)

Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill, S. 2549, supra; as follows:

On page 613, after line 12, insert the following:

TITLE XXXV—FOREIGN MONEY LAUNDERING DETERRENCE

SEC. 3501. SHORT TITLE.

This title may be cited as the ''Foreign Money Laundering Deterrence Act''.

SEC. 3502. REQUIREMENTS RELATING TO TRANSACTIONS AND ACCOUNTS WITH OR ON BEHALF OF FOREIGN ENTITIES.

(a) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code, is amended by adding at the end the following new section:

''§ 5331. Requirements relating to transactions and accounts with or on behalf of foreign entities

''(a) PROHIBITION ON OPENING OR MAINTAINING CORRESPONDENT ACCOUNTS OR CORRESPONDENT BANK RELATIONSHIPS WITH CERTAIN FOREIGN BANKS.—A depository institution may not open or maintain a correspondent account in the United States for or on behalf of a foreign banking institution, or establish or maintain a correspondent bank relationship with a foreign banking institution, that—

''(1) is organized under the laws of a jurisdiction outside the United States but is not licensed or permitted to offer, or is not offering, any banking service to any resident of such jurisdiction; and

''(2) is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in such jurisdiction, as determined by the Secretary of the Treasury.

''(b) EXCEPTION.—Subsection (a) does not apply to a foreign banking institution if the institution is an affiliate of—

''(1) a depository institution; or

''(2) a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978) that is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in the foreign jurisdiction under whose laws it is organized, as determined by the Secretary of the Treasury.

''(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(1) CORRESPONDENT ACCOUNT.—The term 'correspondent account' means an account established to receive deposits from and make payments on behalf of a correspondent bank.

''(2) CORRESPONDENT BANK.—The term 'correspondent bank' means a depository institution that accepts deposits from another financial institution and provides services on behalf of such other financial institution.

''(3) DEPOSITORY INSTITUTION.—The term 'depository institution' has the same meaning as in section 19(b)(1)(A) of the Federal Reserve Act.

''(4) FOREIGN BANKING INSTITUTION.—The term 'foreign banking institution' means a foreign entity that engages in the business of banking, and includes foreign commercial banks, foreign merchant banks, and other foreign institutions that engage in banking activities that are usual in connection with the business of banking in the countries in which they are organized or operating.''.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5330 the following new item:

''5331. Requirements relating to transactions and accounts with or on behalf of foreign entities.''.

WARNER AMENDMENT NO. 3271

Mr. WARNER submitted an amendment intended to be proposed by him to the bill, S. 2549, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING DISCLOSURES BY TAX-EXEMPT ORGANIZATIONS.

(a) FINDINGS.—The Senate finds that—

(1) disclosure of political campaign activities is among the most important political reforms;

(2) disclosure of political campaign activities enables citizens to make informed decisions about the political process; and

(3) certain tax-exempt organizations, including organizations organized under section 527 of the Internal Revenue Code of 1986, are not presently required to make meaningful public disclosures.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that all tax-exempt organizations engaging in political campaign activities, including organizations organized under section 527 of the Internal Revenue Code of 1986, should be held to the same standard and required to make meaningful public disclosure of their activities.

MCCAIN AMENDMENT NO. 3272

(Ordered to lie on the table.)

Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill, S. 2549, supra; as follows:

On page 239, following line 22, add the following:

SEC. 656. CLARIFICATION OF DEPARTMENT OF VETERANS AFFAIRS DUTY TO ASSIST.

(a) IN GENERAL.—Section 5107 of title 38, United States Code, is amended to read as follows:

''§ 5107 Assistance to claimants; benefit of the doubt; burden of proof

''(a) The Secretary shall assist a claimant in developing all facts pertinent to a claim for benefits under this title. Such assistance shall include requesting information as described in section 5106 of this title. The Secretary shall provide a medical examination when such examination may substantiate entitlement to the benefits sought. The Secretary may decide a claim without providing assistance under this subsection when no reasonable possibility exists that such assistance will aid in the establishment of entitlement.

''(b) The Secretary shall consider all evidence and material of record in a case before the Department with respect to benefits under laws administered by the Secretary and shall give the claimant the benefit of the doubt when there is an approximate balance of positive and negative evidence regarding any issue material to the determination of the matter.

''(c) Except when otherwise provided by this title or by the Secretary in accordance with the provisions of this title, a person who submits a claim for benefits under a law administered by the Secretary shall have the burden of proof.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of that title is amended by striking the item relating to section 5017 and inserting the following new item:

''5107 Assistance to claimants; benefit of the doubt; burden of proof.''.

DASCHLE (AND OTHERS) AMENDMENT NO. 3273

Mr. DASCHLE (for himself, Mr. KENNEDY, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mr. ROCKEFELLER, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. ROBB, and Mr. REED) proposed an amendment to the bill, S. 2549, supra; as follows:

At the appropriate place add the following:

DIVISION D—BIPARTISAN CONSENSUS MANAGED CARE IMPROVEMENT ACT

SEC. 4001. SHORT TITLE.

This division may be cited as the ''Bipartisan Consensus Managed Care Improvement Act''.

TITLE XLI—IMPROVING MANAGED CARE

Subtitle A—Grievance and Appeals

SEC. 4101. UTILIZATION REVIEW ACTIVITIES.

(a) COMPLIANCE WITH REQUIREMENTS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer that provides health insurance coverage, shall conduct utilization review activities in connection with the provision of benefits under such plan or coverage only in accordance with a utilization review program that meets the requirements of this section.

(2) USE OF OUTSIDE AGENTS.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from arranging through a contract or otherwise for persons or entities to conduct utilization review activities on behalf of the plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

(3) UTILIZATION REVIEW DEFINED.—For purposes of this section, the terms ''utilization review'' and ''utilization review activities'' mean procedures used to monitor or evaluate the use or coverage, clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

(b) WRITTEN POLICIES AND CRITERIA.—

(1) WRITTEN POLICIES.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

(2) USE OF WRITTEN CRITERIA.—

(A) IN GENERAL.—Such a program shall utilize written clinical review criteria developed with input from a range of appropriate actively practicing health care professionals, as determined by the plan, pursuant to the program. Such criteria shall include written clinical review criteria that are based on valid clinical evidence where available and that are directed specifically at meeting the needs of at-risk populations and covered individuals with chronic conditions or severe illnesses, including gender-specific criteria and pediatric-specific criteria where available and appropriate.

(B) CONTINUING USE OF STANDARDS IN RETROSPECTIVE REVIEW.—If a health care service has been specifically pre-authorized or approved for an enrollee under such a program, the program shall not, pursuant to retrospective review, revise or modify the specific standards, criteria, or procedures used for the utilization review for procedures, treatment, and services delivered to the enrollee during the same course of treatment.

(C) REVIEW OF SAMPLE OF CLAIMS DENIALS.—Such a program shall provide for an evaluation of the clinical appropriateness of at least a sample of denials of claims for benefits.

(c) CONDUCT OF PROGRAM ACTIVITIES.—

(1) ADMINISTRATION BY HEALTH CARE PROFESSIONALS.—A utilization review program shall be administered by qualified health care professionals who shall oversee review decisions.

(2) USE OF QUALIFIED, INDEPENDENT PERSONNEL.—

(A) IN GENERAL.—A utilization review program shall provide for the conduct of utilization review activities only through personnel who are qualified and have received appropriate training in the conduct of such activities under the program.

(B) PROHIBITION OF CONTINGENT COMPENSATION ARRANGEMENTS.—Such a program shall not, with respect to utilization review activities, permit or provide compensation or anything of value to its employees, agents, or contractors in a manner that encourages denials of claims for benefits.

(C) PROHIBITION OF CONFLICTS.—Such a program shall not permit a health care professional who is providing health care services to an individual to perform utilization review activities in connection with the health care services being provided to the individual.

(3) ACCESSIBILITY OF REVIEW.—Such a program shall provide that appropriate personnel performing utilization review activities under the program, including the utilization review administrator, are reasonably accessible by toll-free telephone during normal business hours to discuss patient care and allow response to telephone requests, and that appropriate provision is made to receive and respond promptly to calls received during other hours.

(4) LIMITS ON FREQUENCY.—Such a program shall not provide for the performance of utilization review activities with respect to a class of services furnished to an individual more frequently than is reasonably required to assess whether the services under review are medically necessary or appropriate.

(d) DEADLINE FOR DETERMINATIONS.—

(1) PRIOR AUTHORIZATION SERVICES.—

(A) IN GENERAL.—Except as provided in paragraph (2), in the case of a utilization review activity involving the prior authorization of health care items and services for an individual, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, as soon as possible in accordance with the medical exigencies of the case, and in no event later than the deadline specified in subparagraph (B).

(B) DEADLINE.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), the deadline specified in this subparagraph is 14 days after the date of receipt of the request for prior authorization.

(ii) EXTENSION PERMITTED WHERE NOTICE OF ADDITIONAL INFORMATION REQUIRED.—If a utilization review program—

(I) receives a request for a prior authorization;

(II) determines that additional information is necessary to complete the review and make the determination on the request; and

(III) notifies the requester, not later than five business days after the date of receiving the request, of the need for such specified additional information,

the deadline specified in this subparagraph is 14 days after the date the program receives the specified additional information, but in no case later than 28 days after the date of receipt of the request for the prior authorization. This clause shall not apply if the deadline is specified in clause (iii).

(iii) EXPEDITED CASES.—In the case of a situation described in section 102(c)(1)(A), the deadline specified in this subparagraph is 72 hours after the time of the request for prior authorization.

(2) ONGOING CARE.—

(A) CONCURRENT REVIEW.—

(i) IN GENERAL.—Subject to subparagraph (B), in the case of a concurrent review of ongoing care (including hospitalization), which results in a termination or reduction of such care, the plan must provide by telephone and in printed form notice of the concurrent review determination to the individual or the individual's designee and the individual's health care provider as soon as possible in accordance with the medical exigencies of the case, with sufficient time prior to the termination or reduction to allow for an appeal under section 102(c)(1)(A) to be completed before the termination or reduction takes effect.

(ii) CONTENTS OF NOTICE.—Such notice shall include, with respect to ongoing health care items and services, the number of ongoing services approved, the new total of approved services, the date of onset of services, and the next review date, if any, as well as a statement of the individual's rights to further appeal.

(B) EXCEPTION.—Subparagraph (A) shall not be interpreted as requiring plans or issuers to provide coverage of care that would exceed the coverage limitations for such care.

(3) PREVIOUSLY PROVIDED SERVICES.—In the case of a utilization review activity involving retrospective review of health care services previously provided for an individual, the utilization review program shall make a determination concerning such services, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, within 30 days of the date of receipt of information that is reasonably necessary to make such determination, but in no case later than 60 days after the date of receipt of the claim for benefits.

(4) FAILURE TO MEET DEADLINE.—In a case in which a group health plan or health insurance issuer fails to make a determination on a claim for benefit under paragraph (1), (2)(A), or (3) by the applicable deadline established under the respective paragraph, the failure shall be treated under this subtitle as a denial of the claim as of the date of the deadline.

(5) REFERENCE TO SPECIAL RULES FOR EMERGENCY SERVICES, MAINTENANCE CARE, AND POST-STABILIZATION CARE.—For waiver of prior authorization requirements in certain cases involving emergency services and maintenance care and post-stabilization care, see subsections (a)(1) and (b) of section 4113, respectively.

(e) NOTICE OF DENIALS OF CLAIMS FOR BENEFITS.—

(1) IN GENERAL.—Notice of a denial of claims for benefits under a utilization review program shall be provided in printed form and written in a manner calculated to be understood by the participant, beneficiary, or enrollee and shall include—

(A) the reasons for the denial (including the clinical rationale);

(B) instructions on how to initiate an appeal under section 4102; and

(C) notice of the availability, upon request of the individual (or the individual's designee) of the clinical review criteria relied upon to make such denial.

(2) SPECIFICATION OF ANY ADDITIONAL INFORMATION.—Such a notice shall also specify what (if any) additional necessary information must be provided to, or obtained by, the person making the denial in order to make a decision on such an appeal.

(f) CLAIM FOR BENEFITS AND DENIAL OF CLAIM FOR BENEFITS DEFINED.—For purposes of this subtitle:

(1) CLAIM FOR BENEFITS.—The term ''claim for benefits'' means any request for coverage (including authorization of coverage), for eligibility, or for payment in whole or in part, for an item or service under a group health plan or health insurance coverage.

(2) DENIAL OF CLAIM FOR BENEFITS.—The term ''denial'' means, with respect to a claim for benefits, means a denial, or a failure to act on a timely basis upon, in whole or in part, the claim for benefits and includes a failure to provide benefits (including items and services) required to be provided under this title.

SEC. 4102. INTERNAL APPEALS PROCEDURES.

(a) RIGHT OF REVIEW.—

(1) IN GENERAL.—Each group health plan, and each health insurance issuer offering health insurance coverage—

(A) shall provide adequate notice in writing to any participant or beneficiary under such plan, or enrollee under such coverage, whose claim for benefits under the plan or coverage has been denied (within the meaning of section 4101(f)(2)), setting forth the specific reasons for such denial of claim for benefits and rights to any further review or appeal, written in a manner calculated to be understood by the participant, beneficiary, or enrollee; and

(B) shall afford such a participant, beneficiary, or enrollee (and any provider or other person acting on behalf of such an individual with the individual's consent or without such consent if the individual is medically unable to provide such consent) who is dissatisfied with such a denial of claim for benefits a reasonable opportunity (of not less than 180 days) to request and obtain a full and fair review by a named fiduciary (with respect to such plan) or named appropriate individual (with respect to such coverage) of the decision denying the claim.

(2) TREATMENT OF ORAL REQUESTS.—The request for review under paragraph (1)(B) may be made orally, but, in the case of an oral request, shall be followed by a request in writing.

(b) INTERNAL REVIEW PROCESS.—

(1) CONDUCT OF REVIEW.—

(A) IN GENERAL.—A review of a denial of claim under this section shall be made by an individual who—

(i) in a case involving medical judgment, shall be a physician or, in the case of limited scope coverage (as defined in subparagraph (B), shall be an appropriate specialist;

(ii) has been selected by the plan or issuer; and

(iii) did not make the initial denial in the internally appealable decision.

(B) LIMITED SCOPE COVERAGE DEFINED.—For purposes of subparagraph (A), the term ''limited scope coverage'' means a group health plan or health insurance coverage the only benefits under which are for benefits described in section 2791(c)(2)(A) of the Public Health Service Act (42 U.S.C. 300gg–91(c)(2)).

(2) TIME LIMITS FOR INTERNAL REVIEWS.—

(A) IN GENERAL.—Having received such a request for review of a denial of claim, the plan or issuer shall, in accordance with the medical exigencies of the case but not later than the deadline specified in subparagraph (B), complete the review on the denial and transmit to the participant, beneficiary, enrollee, or other person involved a decision that affirms, reverses, or modifies the denial. If the decision does not reverse the denial, the plan or issuer shall transmit, in printed form, a notice that sets forth the grounds for such decision and that includes a description of rights to any further appeal. Such decision shall be treated as the final decision of the plan. Failure to issue such a decision by such deadline shall be treated as a final decision affirming the denial of claim.

(B) DEADLINE.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), the deadline specified in this subparagraph is 14 days after the date of receipt of the request for internal review.

(ii) EXTENSION PERMITTED WHERE NOTICE OF ADDITIONAL INFORMATION REQUIRED.—If a group health plan or health insurance issuer—

(I) receives a request for internal review;

(II) determines that additional information is necessary to complete the review and make the determination on the request; and

(III) notifies the requester, not later than five business days after the date of receiving the request, of the need for such specified additional information,

the deadline specified in this subparagraph is 14 days after the date the plan or issuer receives the specified additional information, but in no case later than 28 days after the date of receipt of the request for the internal review. This clause shall not apply if the deadline is specified in clause (iii).

(iii) EXPEDITED CASES.—In the case of a situation described in subsection (c)(1)(A), the deadline specified in this subparagraph is 72 hours after the time of the request for review.

(c) EXPEDITED REVIEW PROCESS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer, shall establish procedures in writing for the expedited consideration of requests for review under subsection (b) in situations—

(A) in which the application of the normal timeframe for making a determination could seriously jeopardize the life or health of the participant, beneficiary, or enrollee or such an individual's ability to regain maximum function; or

(B) described in section 4101(d)(2) (relating to requests for continuation of ongoing care which would otherwise be reduced or terminated).

(2) PROCESS.—Under such procedures—

(A) the request for expedited review may be submitted orally or in writing by an individual or provider who is otherwise entitled to request the review;

(B) all necessary information, including the plan's or issuer's decision, shall be transmitted between the plan or issuer and the requester by telephone, facsimile, or other similarly expeditious available method; and

(C) the plan or issuer shall expedite the review in the case of any of the situations described in subparagraph (A) or (B) of paragraph (1).

(3) DEADLINE FOR DECISION.—The decision on the expedited review must be made and communicated to the parties as soon as possible in accordance with the medical exigencies of the case, and in no event later than 72 hours after the time of receipt of the request for expedited review, except that in a case described in paragraph (1)(B), the decision must be made before the end of the approved period of care.

(d) WAIVER OF PROCESS.—A plan or issuer may waive its rights for an internal review under subsection (b). In such case the participant, beneficiary, or enrollee involved (and any designee or provider involved) shall be relieved of any obligation to complete the review involved and may, at the option of such participant, beneficiary, enrollee, designee, or provider, proceed directly to seek further appeal through any applicable external appeals process.

SEC. 4103. EXTERNAL APPEALS PROCEDURES.

(a) RIGHT TO EXTERNAL APPEAL.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall provide for an external appeals process that meets the requirements of this section in the case of an externally appealable decision described in paragraph (2), for which a timely appeal is made either by the plan or issuer or by the participant, beneficiary, or enrollee (and any provider or other person acting on behalf of such an individual with the individual's consent or without such consent if such an individual is medically unable to provide such consent). The appropriate Secretary shall establish standards to carry out such requirements.

(2) EXTERNALLY APPEALABLE DECISION DEFINED.—

(A) IN GENERAL.—For purposes of this section, the term ''externally appealable decision'' means a denial of claim for benefits (as defined in section 4101(f)(2))—

(i) that is based in whole or in part on a decision that the item or service is not medically necessary or appropriate or is investigational or experimental; or

(ii) in which the decision as to whether a benefit is covered involves a medical judgment.

(B) INCLUSION.—Such term also includes a failure to meet an applicable deadline for internal review under section 4102.

(C) EXCLUSIONS.—Such term does not include—

(i) specific exclusions or express limitations on the amount, duration, or scope of coverage that do not involve medical judgment; or

(ii) a decision regarding whether an individual is a participant, beneficiary, or enrollee under the plan or coverage.

(3) EXHAUSTION OF INTERNAL REVIEW PROCESS.—Except as provided under section 4102(d), a plan or issuer may condition the use of an external appeal process in the case of an externally appealable decision upon a final decision in an internal review under section 4102, but only if the decision is made in a timely basis consistent with the deadlines provided under this subtitle.

(4) FILING FEE REQUIREMENT.—

(A) IN GENERAL.—Subject to subparagraph (B), a plan or issuer may condition the use of an external appeal process upon payment to the plan or issuer of a filing fee that does not exceed $25.

(B) EXCEPTION FOR INDIGENCY.—The plan or issuer may not require payment of the filing fee in the case of an individual participant, beneficiary, or enrollee who certifies (in a form and manner specified in guidelines established by the Secretary of Health and Human Services) that the individual is indigent (as defined in such guidelines).

(C) REFUNDING FEE IN CASE OF SUCCESSFUL APPEALS.—The plan or issuer shall refund payment of the filing fee under this paragraph if the recommendation of the external appeal entity is to reverse or modify the denial of a claim for benefits which is the subject of the appeal.

(b) GENERAL ELEMENTS OF EXTERNAL APPEALS PROCESS.—

(1) CONTRACT WITH QUALIFIED EXTERNAL APPEAL ENTITY.—

(A) CONTRACT REQUIREMENT.—Except as provided in subparagraph (D), the external appeal process under this section of a plan or issuer shall be conducted under a contract between the plan or issuer and one or more qualified external appeal entities (as defined in subsection (c)).

(B) LIMITATION ON PLAN OR ISSUER SELECTION.—The applicable authority shall implement procedures—

(i) to assure that the selection process among qualified external appeal entities will not create any incentives for external appeal entities to make a decision in a biased manner; and

(ii) for auditing a sample of decisions by such entities to assure that no such decisions are made in a biased manner.

(C) OTHER TERMS AND CONDITIONS.—The terms and conditions of a contract under this paragraph shall be consistent with the standards the appropriate Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external appeal activities. Such contract shall provide that all costs of the process (except those incurred by the participant, beneficiary, enrollee, or treating professional in support of the appeal) shall be paid by the plan or issuer, and not by the participant, beneficiary, or enrollee. The previous sentence shall not be construed as applying to the imposition of a filing fee under subsection (a)(4).

(D) STATE AUTHORITY WITH RESPECT QUALIFIED EXTERNAL APPEAL ENTITY FOR HEALTH INSURANCE ISSUERS.—With respect to health insurance issuers offering health insurance coverage in a State, the State may provide for external review activities to be conducted by a qualified external appeal entity that is designated by the State or that is selected by the State in a manner determined by the State to assure an unbiased determination.

(2) ELEMENTS OF PROCESS.—An external appeal process shall be conducted consistent with standards established by the appropriate Secretary that include at least the following:

(A) FAIR AND DE NOVO DETERMINATION.—The process shall provide for a fair, de novo determination. However, nothing in this paragraph shall be construed as providing for coverage of items and services for which benefits are specifically excluded under the plan or coverage.

(B) STANDARD OF REVIEW.—An external appeal entity shall determine whether the plan's or issuer's decision is in accordance with the medical needs of the patient involved (as determined by the entity) taking into account, as of the time of the entity's determination, the patient's medical condition and any relevant and reliable evidence the entity obtains under subparagraph (D). If the entity determines the decision is in accordance with such needs, the entity shall affirm the decision and to the extent that the entity determines the decision is not in accordance with such needs, the entity shall reverse or modify the decision.

(C) CONSIDERATION OF PLAN OR COVERAGE DEFINITIONS.—In making such determination, the external appeal entity shall consider (but not be bound by) any language in the plan or coverage document relating to the definitions of the terms medical necessity, medically necessary or appropriate, or experimental, investigational, or related terms.

(D) EVIDENCE.—

(i) IN GENERAL.—An external appeal entity shall include, among the evidence taken into consideration—

(I) the decision made by the plan or issuer upon internal review under section 4102 and any guidelines or standards used by the plan or issuer in reaching such decision;

(II) any personal health and medical information supplied with respect to the individual whose denial of claim for benefits has been appealed; and

(III) the opinion of the individual's treating physician or health care professional.

(ii) ADDITIONAL EVIDENCE.—Such entity may also take into consideration but not be limited to the following evidence (to the extent available):

(I) The results of studies that meet professionally recognized standards of validity and replicability or that have been published in peer-reviewed journals.

(II) The results of professional consensus conferences conducted or financed in whole or in part by one or more Government agencies.

(III) Practice and treatment guidelines prepared or financed in whole or in part by Government agencies.

(IV) Government-issued coverage and treatment policies.

(V) Community standard of care and generally accepted principles of professional medical practice.

(VI) To the extent that the entity determines it to be free of any conflict of interest, the opinions of individuals who are qualified as experts in one or more fields of health

care which are directly related to the matters under appeal.

(VII) To the extent that the entity determines it to be free of any conflict of interest, the results of peer reviews conducted by the plan or issuer involved.

(E) DETERMINATION CONCERNING EXTERNALLY APPEALABLE DECISIONS.—A qualified external appeal entity shall determine—

(i) whether a denial of claim for benefits is an externally appealable decision (within the meaning of subsection (a)(2));

(ii) whether an externally appealable decision involves an expedited appeal; and

(iii) for purposes of initiating an external review, whether the internal review process has been completed.

(F) OPPORTUNITY TO SUBMIT EVIDENCE.—Each party to an externally appealable decision may submit evidence related to the issues in dispute.

(G) PROVISION OF INFORMATION.—The plan or issuer involved shall provide timely access to the external appeal entity to information and to provisions of the plan or health insurance coverage relating to the matter of the externally appealable decision, as determined by the entity.

(H) TIMELY DECISIONS.—A determination by the external appeal entity on the decision shall—

(i) be made orally or in writing and, if it is made orally, shall be supplied to the parties in writing as soon as possible;

(ii) be made in accordance with the medical exigencies of the case involved, but in no event later than 21 days after the date (or, in the case of an expedited appeal, 72 hours after the time) of requesting an external appeal of the decision;

(iii) state, in layperson's language, the basis for the determination, including, if relevant, any basis in the terms or conditions of the plan or coverage; and

(iv) inform the participant, beneficiary, or enrollee of the individual's rights (including any limitation on such rights) to seek further review by the courts (or other process) of the external appeal determination.

(I) COMPLIANCE WITH DETERMINATION.—If the external appeal entity reverses or modifies the denial of a claim for benefits, the plan or issuer shall—

(i) upon the receipt of the determination, authorize benefits in accordance with such determination;

(ii) take such actions as may be necessary to provide benefits (including items or services) in a timely manner consistent with such determination; and

(iii) submit information to the entity documenting compliance with the entity's determination and this subparagraph.

(c) QUALIFICATIONS OF EXTERNAL APPEAL ENTITIES.—

(1) IN GENERAL.—For purposes of this section, the term ''qualified external appeal entity'' means, in relation to a plan or issuer, an entity that is certified under paragraph (2) as meeting the following requirements:

(A) The entity meets the independence requirements of paragraph (3).

(B) The entity conducts external appeal activities through a panel of not fewer than three clinical peers.

(C) The entity has sufficient medical, legal, and other expertise and sufficient staffing to conduct external appeal activities for the plan or issuer on a timely basis consistent with subsection (b)(2)(G).

(D) The entity meets such other requirements as the appropriate Secretary may impose.

(2) INITIAL CERTIFICATION OF EXTERNAL APPEAL ENTITIES.—

(A) IN GENERAL.—In order to be treated as a qualified external appeal entity with respect to—

(i) a group health plan, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting the requirements of paragraph (1)—

(I) by the Secretary of Labor;

(II) under a process recognized or approved by the Secretary of Labor; or

(III) to the extent provided in subparagraph (C)(i), by a qualified private standard-setting organization (certified under such subparagraph); or

(ii) a health insurance issuer operating in a State, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting such requirements—

(I) by the applicable State authority (or under a process recognized or approved by such authority); or

(II) if the State has not established a certification and recertification process for such entities, by the Secretary of Health and Human Services, under a process recognized or approved by such Secretary, or to the extent provided in subparagraph (C)(ii), by a qualified private standard-setting organization (certified under such subparagraph).

(B) RECERTIFICATION PROCESS.—The appropriate Secretary shall develop standards for the recertification of external appeal entities. Such standards shall include a review of—

(i) the number of cases reviewed;

(ii) a summary of the disposition of those cases;

(iii) the length of time in making determinations on those cases;

(iv) updated information of what was required to be submitted as a condition of certification for the entity's performance of external appeal activities; and

(v) such information as may be necessary to assure the independence of the entity from the plans or issuers for which external appeal activities are being conducted.

(C) CERTIFICATION OF QUALIFIED PRIVATE STANDARD-SETTING ORGANIZATIONS.—

(i) FOR EXTERNAL REVIEWS UNDER GROUP HEALTH PLANS.—For purposes of subparagraph (A)(i)(III), the Secretary of Labor may provide for a process for certification (and periodic recertification) of qualified private standard-setting organizations which provide for certification of external review entities. Such an organization shall only be certified if the organization does not certify an external review entity unless it meets standards required for certification of such an entity by such Secretary under subparagraph (A)(i)(I).

(ii) FOR EXTERNAL REVIEWS OF HEALTH INSURANCE ISSUERS.—For purposes of subparagraph (A)(ii)(II), the Secretary of Health and Human Services may provide for a process for certification (and periodic recertification) of qualified private standard-setting organizations which provide for certification of external review entities. Such an organization shall only be certified if the organization does not certify an external review entity unless it meets standards required for certification of such an entity by such Secretary under subparagraph (A)(ii)(II).

(3) INDEPENDENCE REQUIREMENTS.—

(A) IN GENERAL.—A clinical peer or other entity meets the independence requirements of this paragraph if—

(i) the peer or entity does not have a familial, financial, or professional relationship with any related party;

(ii) any compensation received by such peer or entity in connection with the external review is reasonable and not contingent on any decision rendered by the peer or entity;

(iii) except as provided in paragraph (4), the plan and the issuer have no recourse against the peer or entity in connection with the external review; and

(iv) the peer or entity does not otherwise have a conflict of interest with a related party as determined under any regulations which the Secretary may prescribe.

(B) RELATED PARTY.—For purposes of this paragraph, the term ''related party'' means—

(i) with respect to—

(I) a group health plan or health insurance coverage offered in connection with such a plan, the plan or the health insurance issuer offering such coverage; or

(II) individual health insurance coverage, the health insurance issuer offering such coverage,

or any plan sponsor, fiduciary, officer, director, or management employee of such plan or issuer;

(ii) the health care professional that provided the health care involved in the coverage decision;

(iii) the institution at which the health care involved in the coverage decision is provided;

(iv) the manufacturer of any drug or other item that was included in the health care involved in the coverage decision; or

(v) any other party determined under any regulations which the Secretary may prescribe to have a substantial interest in the coverage decision.

(4) LIMITATION ON LIABILITY OF REVIEWERS.—No qualified external appeal entity having a contract with a plan or issuer under this part and no person who is employed by any such entity or who furnishes professional services to such entity, shall be held by reason of the performance of any duty, function, or activity required or authorized pursuant to this section, to have violated any criminal law, or to be civilly liable under any law of the United States or of any State (or political subdivision thereof) if due care was exercised in the performance of such duty, function, or activity and there was no actual malice or gross misconduct in the performance of such duty, function, or activity.

(d) EXTERNAL APPEAL DETERMINATION BINDING ON PLAN.—The determination by an external appeal entity under this section is binding on the plan and issuer involved in the determination.

(e) PENALTIES AGAINST AUTHORIZED OFFICIALS FOR REFUSING TO AUTHORIZE THE DETERMINATION OF AN EXTERNAL REVIEW ENTITY.—

(1) MONETARY PENALTIES.—In any case in which the determination of an external review entity is not followed by a group health plan, or by a health insurance issuer offering health insurance coverage, any person who, acting in the capacity of authorizing the benefit, causes such refusal may, in the discretion in a court of competent jurisdiction, be liable to an aggrieved participant, beneficiary, or enrollee for a civil penalty in an amount of up to $1,000 a day from the date on which the determination was transmitted to the plan or issuer by the external review entity until the date the refusal to provide the benefit is corrected.

(2) CEASE AND DESIST ORDER AND ORDER OF ATTORNEY'S FEES.—In any action described in paragraph (1) brought by a participant, beneficiary, or enrollee with respect to a group health plan, or a health insurance issuer offering health insurance coverage, in which a plaintiff alleges that a person referred to in such paragraph has taken an action resulting in a refusal of a benefit determined by an external appeal entity in violation of such terms of the plan, coverage, or this subtitle, or has failed to take an action for which such person is responsible under the plan, coverage, or this title and which is necessary under the plan or coverage for authorizing a

benefit, the court shall cause to be served on the defendant an order requiring the defendant—

(A) to cease and desist from the alleged action or failure to act; and

(B) to pay to the plaintiff a reasonable attorney's fee and other reasonable costs relating to the prosecution of the action on the charges on which the plaintiff prevails.

(3) ADDITIONAL CIVIL PENALTIES.—

(A) IN GENERAL.—In addition to any penalty imposed under paragraph (1) or (2), the appropriate Secretary may assess a civil penalty against a person acting in the capacity of authorizing a benefit determined by an external review entity for one or more group health plans, or health insurance issuers offering health insurance coverage, for—

(i) any pattern or practice of repeated refusal to authorize a benefit determined by an external appeal entity in violation of the terms of such a plan, coverage, or this title; or

(ii) any pattern or practice of repeated violations of the requirements of this section with respect to such plan or plans or coverage.

(B) STANDARD OF PROOF AND AMOUNT OF PENALTY.—Such penalty shall be payable only upon proof by clear and convincing evidence of such pattern or practice and shall be in an amount not to exceed the lesser of—

(i) 25 percent of the aggregate value of benefits shown by the appropriate Secretary to have not been provided, or unlawfully delayed, in violation of this section under such pattern or practice; or

(ii) $500,000.

(4) REMOVAL AND DISQUALIFICATION.—Any person acting in the capacity of authorizing benefits who has engaged in any such pattern or practice described in paragraph (3)(A) with respect to a plan or coverage, upon the petition of the appropriate Secretary, may be removed by the court from such position, and from any other involvement, with respect to such a plan or coverage, and may be precluded from returning to any such position or involvement for a period determined by the court.

(f) PROTECTION OF LEGAL RIGHTS.—Nothing in this subtitle shall be construed as altering or eliminating any cause of action or legal rights or remedies of participants, beneficiaries, enrollees, and others under State or Federal law (including sections 502 and 503 of the Employee Retirement Income Security Act of 1974), including the right to file judicial actions to enforce rights.

SEC. 4104. ESTABLISHMENT OF A GRIEVANCE PROCESS.

(a) ESTABLISHMENT OF GRIEVANCE SYSTEM.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall establish and maintain a system to provide for the presentation and resolution of oral and written grievances brought by individuals who are participants, beneficiaries, or enrollees, or health care providers or other individuals acting on behalf of an individual and with the individual's consent or without such consent if the individual is medically unable to provide such consent, regarding any aspect of the plan's or issuer's services.

(2) GRIEVANCE DEFINED.—In this section, the term ''grievance'' means any question, complaint, or concern brought by a participant, beneficiary or enrollee that is not a claim for benefits (as defined in section 4101(f)(1)).

(b) GRIEVANCE SYSTEM.—Such system shall include the following components with respect to individuals who are participants, beneficiaries, or enrollees:

(1) Written notification to all such individuals and providers of the telephone numbers and business addresses of the plan or issuer personnel responsible for resolution of grievances and appeals.

(2) A system to record and document, over a period of at least three previous years, all grievances and appeals made and their status.

(3) A process providing for timely processing and resolution of grievances.

(4) Procedures for follow-up action, including the methods to inform the person making the grievance of the resolution of the grievance.

Grievances are not subject to appeal under the previous provisions of this subtitle.

Subtitle B—Access to Care

SEC. 4111. CONSUMER CHOICE OPTION.

(a) IN GENERAL.—If—

(1) a health insurance issuer providing health insurance coverage in connection with a group health plan offers to enrollees health insurance coverage which provides for coverage of services only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers who have entered into a contract with the issuer to provide such services, or

(2) a group health plan offers to participants or beneficiaries health benefits which provide for coverage of services only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers who have entered into a contract with the plan to provide such services,

then the issuer or plan shall also offer or arrange to be offered to such enrollees, participants, or beneficiaries (at the time of enrollment and during an annual open season as provided under subsection (c)) the option of health insurance coverage or health benefits which provide for coverage of such services which are not furnished through health care professionals and providers who are members of such a network unless such enrollees, participants, or beneficiaries are offered such non-network coverage through another group health plan or through another health insurance issuer in the group market.

(b) ADDITIONAL COSTS.—The amount of any additional premium charged by the health insurance issuer or group health plan for the additional cost of the creation and maintenance of the option described in subsection (a) and the amount of any additional cost sharing imposed under such option shall be borne by the enrollee, participant, or beneficiary unless it is paid by the health plan sponsor or group health plan through agreement with the health insurance issuer.

(c) OPEN SEASON.—An enrollee, participant, or beneficiary, may change to the offering provided under this section only during a time period determined by the health insurance issuer or group health plan. Such time period shall occur at least annually.

SEC. 4112. CHOICE OF HEALTH CARE PROFESSIONAL.

(a) PRIMARY CARE.—If a group health plan, or a health insurance issuer that offers health insurance coverage, requires or provides for designation by a participant, beneficiary, or enrollee of a participating primary care provider, then the plan or issuer shall permit each participant, beneficiary, and enrollee to designate any participating primary care provider who is available to accept such individual.

(b) SPECIALISTS.—

(1) IN GENERAL.—Subject to paragraph (2), a group health plan and a health insurance issuer that offers health insurance coverage shall permit each participant, beneficiary, or enrollee to receive medically necessary or appropriate specialty care, pursuant to appropriate referral procedures, from any qualified participating health care professional who is available to accept such individual for such care.

(2) LIMITATION.—Paragraph (1) shall not apply to specialty care if the plan or issuer clearly informs participants, beneficiaries, and enrollees of the limitations on choice of participating health care professionals with respect to such care.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the application of section 4114 (relating to access to specialty care).

SEC. 4113. ACCESS TO EMERGENCY CARE.

(a) COVERAGE OF EMERGENCY SERVICES.—

(1) IN GENERAL.—If a group health plan, or health insurance coverage offered by a health insurance issuer, provides any benefits with respect to services in an emergency department of a hospital, the plan or issuer shall cover emergency services (as defined in paragraph (2)(B))—

(A) without the need for any prior authorization determination;

(B) whether or not the health care provider furnishing such services is a participating provider with respect to such services;

(C) in a manner so that, if such services are provided to a participant, beneficiary, or enrollee—

(i) by a nonparticipating health care provider with or without prior authorization; or

(ii) by a participating health care provider without prior authorization,

the participant, beneficiary, or enrollee is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating health care provider with prior authorization; and

(D) without regard to any other term or condition of such coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 2701 of the Public Health Service Act, section 701 of the Employee Retirement Income Security Act of 1974, or section 9801 of the Internal Revenue Code of 1986, and other than applicable cost-sharing).

(2) DEFINITIONS.—In this section:

(A) EMERGENCY MEDICAL CONDITION BASED ON PRUDENT LAYPERSON STANDARD.—The term ''emergency medical condition'' means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

(B) EMERGENCY SERVICES.—The term ''emergency services'' means—

(i) a medical screening examination (as required under section 1867 of the Social Security Act) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate an emergency medical condition (as defined in subparagraph (A)); and

(ii) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient.

(C) STABILIZE.—The term ''to stabilize'' means, with respect to an emergency medical condition, to provide such medical treatment of the condition as may be necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility.

(b) REIMBURSEMENT FOR MAINTENANCE CARE AND POST-STABILIZATION CARE.—In the case of services (other than emergency services) for which benefits are available under a group health plan, or under health insurance coverage offered by a health insurance issuer, the plan or issuer shall provide for reimbursement with respect to such services provided to a participant, beneficiary, or enrollee other than through a participating health care provider in a manner consistent with subsection (a)(1)(C) (and shall otherwise comply with the guidelines established under section 1852(d)(2) of the Social Security Act), if the services are maintenance care or post-stabilization care covered under such guidelines.

SEC. 4114. ACCESS TO SPECIALTY CARE.

(a) SPECIALTY CARE FOR COVERED SERVICES.—

(1) IN GENERAL.—If—

(A) an individual is a participant or beneficiary under a group health plan or an enrollee who is covered under health insurance coverage offered by a health insurance issuer;

(B) the individual has a condition or disease of sufficient seriousness and complexity to require treatment by a specialist; and

(C) benefits for such treatment are provided under the plan or coverage,

the plan or issuer shall make or provide for a referral to a specialist who is available and accessible to provide the treatment for such condition or disease.

(2) SPECIALIST DEFINED.—For purposes of this subsection, the term ''specialist'' means, with respect to a condition, a health care practitioner, facility, or center that has adequate expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to provide high quality care in treating the condition.

(3) CARE UNDER REFERRAL.—A group health plan or health insurance issuer may require that the care provided to an individual pursuant to such referral under paragraph (1) be—

(A) pursuant to a treatment plan, only if the treatment plan is developed by the specialist and approved by the plan or issuer, in consultation with the designated primary care provider or specialist and the individual (or the individual's designee); and

(B) in accordance with applicable quality assurance and utilization review standards of the plan or issuer.

Nothing in this subsection shall be construed as preventing such a treatment plan for an individual from requiring a specialist to provide the primary care provider with regular updates on the specialty care provided, as well as all necessary medical information.

(4) REFERRALS TO PARTICIPATING PROVIDERS.—A group health plan or health insurance issuer is not required under paragraph (1) to provide for a referral to a specialist that is not a participating provider, unless the plan or issuer does not have an appropriate specialist that is available and accessible to treat the individual's condition and that is a participating provider with respect to such treatment.

(5) TREATMENT OF NONPARTICIPATING PROVIDERS.—If a plan or issuer refers an individual to a nonparticipating specialist pursuant to paragraph (1), services provided pursuant to the approved treatment plan (if any) shall be provided at no additional cost to the individual beyond what the individual would otherwise pay for services received by such a specialist that is a participating provider.

(b) SPECIALISTS AS GATEKEEPER FOR TREATMENT OF ONGOING SPECIAL CONDITIONS.—

(1) IN GENERAL.—A group health plan, or a health insurance issuer, in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has an ongoing special condition (as defined in paragraph (3)) may request and receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the individual's care with respect to the condition. Under such procedures if such an individual's care would most appropriately be coordinated by such a specialist, such plan or issuer shall refer the individual to such specialist.

(2) TREATMENT FOR RELATED REFERRALS.—Such specialists shall be permitted to treat the individual without a referral from the individual's primary care provider and may authorize such referrals, procedures, tests, and other medical services as the individual's primary care provider would otherwise be permitted to provide or authorize, subject to the terms of the treatment (referred to in subsection (a)(3)(A)) with respect to the ongoing special condition.

(3) ONGOING SPECIAL CONDITION DEFINED.—In this subsection, the term ''ongoing special condition'' means a condition or disease that—

(A) is life-threatening, degenerative, or disabling; and

(B) requires specialized medical care over a prolonged period of time.

(4) TERMS OF REFERRAL.—The provisions of paragraphs (3) through (5) of subsection (a) apply with respect to referrals under paragraph (1) of this subsection in the same manner as they apply to referrals under subsection (a)(1).

(c) STANDING REFERRALS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has a condition that requires ongoing care from a specialist may receive a standing referral to such specialist for treatment of such condition. If the plan or issuer, or if the primary care provider in consultation with the medical director of the plan or issuer and the specialist (if any), determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to such a specialist if the individual so desires.

(2) TERMS OF REFERRAL.—The provisions of paragraphs (3) through (5) of subsection (a) apply with respect to referrals under paragraph (1) of this subsection in the same manner as they apply to referrals under subsection (a)(1).

SEC. 4115. ACCESS TO OBSTETRICAL AND GYNECOLOGICAL CARE.

(a) IN GENERAL.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires or provides for a participant, beneficiary, or enrollee to designate a participating primary care health care professional, the plan or issuer—

(1) may not require authorization or a referral by the individual's primary care health care professional or otherwise for coverage of gynecological care (including preventive women's health examinations) and pregnancy-related services provided by a participating health care professional, including a physician, who specializes in obstetrics and gynecology to the extent such care is otherwise covered; and

(2) shall treat the ordering of other obstetrical or gynecological care by such a participating professional as the authorization of the primary care health care professional with respect to such care under the plan or coverage.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed to—

(1) waive any exclusions of coverage under the terms of the plan or health insurance coverage with respect to coverage of obstetrical or gynecological care; or

(2) preclude the group health plan or health insurance issuer involved from requiring that the obstetrical or gynecological provider notify the primary care health care professional or the plan or issuer of treatment decisions.

SEC. 4116. ACCESS TO PEDIATRIC CARE.

(a) PEDIATRIC CARE.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires or provides for an enrollee to designate a participating primary care provider for a child of such enrollee, the plan or issuer shall permit the enrollee to designate a physician who specializes in pediatrics as the child's primary care provider.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed to waive any exclusions of coverage under the terms of the plan or health insurance coverage with respect to coverage of pediatric care.

SEC. 4117. CONTINUITY OF CARE.

(a) IN GENERAL.—

(1) TERMINATION OF PROVIDER.—If a contract between a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, and a health care provider is terminated (as defined in paragraph (3)(B)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in a group health plan, and an individual who is a participant, beneficiary, or enrollee in the plan or coverage is undergoing treatment from the provider for an ongoing special condition (as defined in paragraph (3)(A)) at the time of such termination, the plan or issuer shall—

(A) notify the individual on a timely basis of such termination and of the right to elect continuation of coverage of treatment by the provider under this section; and

(B) subject to subsection (c), permit the individual to elect to continue to be covered with respect to treatment by the provider of such condition during a transitional period (provided under subsection (b)).

(2) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

(3) DEFINITIONS.—For purposes of this section:

(A) ONGOING SPECIAL CONDITION.—The term ''ongoing special condition'' has the meaning given such term in section 4114(b)(3), and also includes pregnancy.

(B) TERMINATION.—The term ''terminated'' includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract by the plan or issuer for failure to meet applicable quality standards or for fraud.

(b) TRANSITIONAL PERIOD.—

(1) IN GENERAL.—Except as provided in paragraphs (2) through (4), the transitional period under this subsection shall extend up to 90 days (as determined by the treating health care professional) after the date of

the notice described in subsection (a)(1)(A) of the provider's termination.

(2) SCHEDULED SURGERY AND ORGAN TRANSPLANTATION.—If surgery or organ transplantation was scheduled for an individual before the date of the announcement of the termination of the provider status under subsection (a)(1)(A) or if the individual on such date was on an established waiting list or otherwise scheduled to have such surgery or transplantation, the transitional period under this subsection with respect to the surgery or transplantation shall extend beyond the period under paragraph (1) and until the date of discharge of the individual after completion of the surgery or transplantation.

(3) PREGNANCY.—If—

(A) a participant, beneficiary, or enrollee was determined to be pregnant at the time of a provider's termination of participation; and

(B) the provider was treating the pregnancy before date of the termination,

the transitional period under this subsection with respect to provider's treatment of the pregnancy shall extend through the provision of post-partum care directly related to the delivery.

(4) TERMINAL ILLNESS.—If—

(A) a participant, beneficiary, or enrollee was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation; and

(B) the provider was treating the terminal illness before the date of termination,

the transitional period under this subsection shall extend for the remainder of the individual's life for care directly related to the treatment of the terminal illness or its medical manifestations.

(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under subsection (a)(1)(B) upon the individual notifying the plan of the election of continued coverage and upon the provider agreeing to the following terms and conditions:

(1) The provider agrees to accept reimbursement from the plan or issuer and individual involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in subsection (a)(2), at the rates applicable under the replacement plan or issuer after the date of the termination of the contract with the health insurance issuer) and not to impose cost-sharing with respect to the individual in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

(2) The provider agrees to adhere to the quality assurance standards of the plan or issuer responsible for payment under paragraph (1) and to provide to such plan or issuer necessary medical information related to the care provided.

(3) The provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

(d) CONSTRUCTION.—Nothing in this section shall be construed to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider.

SEC. 4118. ACCESS TO NEEDED PRESCRIPTION DRUGS.

If a group health plan, or health insurance issuer that offers health insurance coverage, provides benefits with respect to prescription drugs but the coverage limits such benefits to drugs included in a formulary, the plan or issuer shall—

(1) ensure participation of participating physicians and pharmacists in the development of the formulary;

(2) disclose to providers and, disclose upon request under section 4121(c)(5) to participants, beneficiaries, and enrollees, the nature of the formulary restrictions; and

(3) consistent with the standards for a utilization review program under section 4101, provide for exceptions from the formulary limitation when a non-formulary alternative is medically indicated.

SEC. 4119. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

(a) COVERAGE.—

(1) IN GENERAL.—If a group health plan, or health insurance issuer that is providing health insurance coverage, provides coverage to a qualified individual (as defined in subsection (b)), the plan or issuer—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

(B) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

(C) may not discriminate against the individual on the basis of the enrollee's participation in such trial.

(2) EXCLUSION OF CERTAIN COSTS.—For purposes of paragraph (1)(B), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

(3) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

(b) QUALIFIED INDIVIDUAL DEFINED.—For purposes of subsection (a), the term ''qualified individual'' means an individual who is a participant or beneficiary in a group health plan, or who is an enrollee under health insurance coverage, and who meets the following conditions:

(1)(A) The individual has a life-threatening or serious illness for which no standard treatment is effective.

(B) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

(C) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

(2) Either—

(A) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

(B) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

(c) PAYMENT.—

(1) IN GENERAL.—Under this section a group health plan or health insurance issuer shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected (as determined by the Secretary) to be paid for by the sponsors of an approved clinical trial.

(2) PAYMENT RATE.—In the case of covered items and services provided by—

(A) a participating provider, the payment rate shall be at the agreed upon rate; or

(B) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable services under subparagraph (A).

(d) APPROVED CLINICAL TRIAL DEFINED.—

(1) IN GENERAL.—In this section, the term ''approved clinical trial'' means a clinical research study or clinical investigation approved and funded (which may include funding through in-kind contributions) by one or more of the following:

(A) The National Institutes of Health.

(B) A cooperative group or center of the National Institutes of Health.

(C) Either of the following if the conditions described in paragraph (2) are met:

(i) The Department of Veterans Affairs.

(ii) The Department of Defense.

(2) CONDITIONS FOR DEPARTMENTS.—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the Secretary determines—

(A) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health; and

(B) assures unbiased review of the highest scientific standards by qualified individuals who have no interest in the outcome of the review.

(e) CONSTRUCTION.—Nothing in this section shall be construed to limit a plan's or issuer's coverage with respect to clinical trials.

Subtitle C—Access to Information

SEC. 4121. PATIENT ACCESS TO INFORMATION.

(a) DISCLOSURE REQUIREMENT.—

(1) GROUP HEALTH PLANS.—A group health plan shall—

(A) provide to participants and beneficiaries at the time of initial coverage under the plan (or the effective date of this section, in the case of individuals who are participants or beneficiaries as of such date), and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to participants and beneficiaries, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to participants and beneficiaries, the applicable authority, and prospective participants and beneficiaries, the information described in subsection (b) or (c) in printed form.

(2) HEALTH INSURANCE ISSUERS.—A health insurance issuer in connection with the provision of health insurance coverage shall—

(A) provide to individuals enrolled under such coverage at the time of enrollment, and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to enrollees, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to the applicable authority, to individuals who are prospective enrollees, and to the public the information described in subsection (b) or (c) in printed form.

(b) INFORMATION PROVIDED.—The information described in this subsection with respect to a group health plan or health insurance coverage offered by a health insurance issuer includes the following:

(1) SERVICE AREA.—The service area of the plan or issuer.

(2) BENEFITS.—Benefits offered under the plan or coverage, including—

(A) covered benefits, including benefit limits and coverage exclusions;

(B) cost sharing, such as deductibles, coinsurance, and copayment amounts, including any liability for balance billing, any maximum limitations on out of pocket expenses, and the maximum out of pocket costs for services that are provided by nonparticipating providers or that are furnished without meeting the applicable utilization review requirements;

(C) the extent to which benefits may be obtained from nonparticipating providers;

(D) the extent to which a participant, beneficiary, or enrollee may select from among participating providers and the types of providers participating in the plan or issuer network;

(E) process for determining experimental coverage; and

(F) use of a prescription drug formulary.

(3) ACCESS.—A description of the following:

(A) The number, mix, and distribution of providers under the plan or coverage.

(B) Out-of-network coverage (if any) provided by the plan or coverage.

(C) Any point-of-service option (including any supplemental premium or cost-sharing for such option).

(D) The procedures for participants, beneficiaries, and enrollees to select, access, and change participating primary and specialty providers.

(E) The rights and procedures for obtaining referrals (including standing referrals) to participating and nonparticipating providers.

(F) The name, address, and telephone number of participating health care providers and an indication of whether each such provider is available to accept new patients.

(G) Any limitations imposed on the selection of qualifying participating health care providers, including any limitations imposed under section 4112(b)(2).

(H) How the plan or issuer addresses the needs of participants, beneficiaries, and enrollees and others who do not speak English or who have other special communications needs in accessing providers under the plan or coverage, including the provision of information described in this subsection and subsection (c) to such individuals.

(4) OUT-OF-AREA COVERAGE.—Out-of-area coverage provided by the plan or issuer.

(5) EMERGENCY COVERAGE.—Coverage of emergency services, including—

(A) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

(B) the process and procedures of the plan or issuer for obtaining emergency services; and

(C) the locations of (i) emergency departments, and (ii) other settings, in which plan physicians and hospitals provide emergency services and post-stabilization care.

(6) PERCENTAGE OF PREMIUMS USED FOR BENEFITS (LOSS-RATIOS).—In the case of health insurance coverage only (and not with respect to group health plans that do not provide coverage through health insurance coverage), a description of the overall loss-ratio for the coverage (as defined in accordance with rules established or recognized by the Secretary of Health and Human Services).

(7) PRIOR AUTHORIZATION RULES.—Rules regarding prior authorization or other review requirements that could result in noncoverage or nonpayment.

(8) GRIEVANCE AND APPEALS PROCEDURES.—All appeal or grievance rights and procedures under the plan or coverage, including the method for filing grievances and the time frames and circumstances for acting on grievances and appeals, who is the applicable authority with respect to the plan or issuer.

(9) QUALITY ASSURANCE.—Any information made public by an accrediting organization in the process of accreditation of the plan or issuer or any additional quality indicators the plan or issuer makes available.

(10) INFORMATION ON ISSUER.—Notice of appropriate mailing addresses and telephone numbers to be used by participants, beneficiaries, and enrollees in seeking information or authorization for treatment.

(11) NOTICE OF REQUIREMENTS.—Notice of the requirements of this title.

(12) AVAILABILITY OF INFORMATION ON REQUEST.—Notice that the information described in subsection (c) is available upon request.

(c) INFORMATION MADE AVAILABLE UPON REQUEST.—The information described in this subsection is the following:

(1) UTILIZATION REVIEW ACTIVITIES.—A description of procedures used and requirements (including circumstances, time frames, and appeal rights) under any utilization review program under section 4101, including under any drug formulary program under section 4118.

(2) GRIEVANCE AND APPEALS INFORMATION.—Information on the number of grievances and appeals and on the disposition in the aggregate of such matters.

(3) METHOD OF PHYSICIAN COMPENSATION.—A general description by category (including salary, fee-for-service, capitation, and such other categories as may be specified in regulations of the Secretary) of the applicable method by which a specified prospective or treating health care professional is (or would be) compensated in connection with the provision of health care under the plan or coverage.

(4) SPECIFIC INFORMATION ON CREDENTIALS OF PARTICIPATING PROVIDERS.—In the case of each participating provider, a description of the credentials of the provider.

(5) FORMULARY RESTRICTIONS.—A description of the nature of any drug formula restrictions.

(6) PARTICIPATING PROVIDER LIST.—A list of current participating health care providers.

(d) CONSTRUCTION.—Nothing in this section shall be construed as requiring public disclosure of individual contracts or financial arrangements between a group health plan or health insurance issuer and any provider.

Subtitle D—Protecting the Doctor-Patient Relationship

SEC. 4131. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) GENERAL RULE.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or otherwise restrict a health care professional from advising such a participant, beneficiary, or enrollee who is a patient of the professional about the health status of the individual or medical care or treatment for the individual's condition or disease, regardless of whether benefits for such care or treatment are provided under the plan or coverage, if the professional is acting within the lawful scope of practice.

(b) NULLIFICATION.—Any contract provision or agreement that restricts or prohibits medical communications in violation of subsection (a) shall be null and void.

SEC. 4132. PROHIBITION OF DISCRIMINATION AGAINST PROVIDERS BASED ON LICENSURE.

(a) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification.

(b) CONSTRUCTION.—Subsection (a) shall not be construed—

(1) as requiring the coverage under a group health plan or health insurance coverage of particular benefits or services or to prohibit a plan or issuer from including providers only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer;

(2) to override any State licensure or scope-of-practice law; or

(3) as requiring a plan or issuer that offers network coverage to include for participation every willing provider who meets the terms and conditions of the plan or issuer.

SEC. 4133. PROHIBITION AGAINST IMPROPER INCENTIVE ARRANGEMENTS.

(a) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage may not operate any physician incentive plan (as defined in subparagraph (B) of section 1876(i)(8) of the Social Security Act) unless the requirements described in clauses (i), (ii)(I), and (iii) of subparagraph (A) of such section are met with respect to such a plan.

(b) APPLICATION.—For purposes of carrying out paragraph (1), any reference in section 1876(i)(8) of the Social Security Act to the Secretary, an eligible organization, or an individual enrolled with the organization shall be treated as a reference to the applicable authority, a group health plan or health insurance issuer, respectively, and a participant, beneficiary, or enrollee with the plan or organization, respectively.

(c) CONSTRUCTION.—Nothing in this section shall be construed as prohibiting all capitation and similar arrangements or all provider discount arrangements.

SEC. 4134. PAYMENT OF CLAIMS.

A group health plan, and a health insurance issuer offering group health insurance coverage, shall provide for prompt payment of claims submitted for health care services or supplies furnished to a participant, beneficiary, or enrollee with respect to benefits covered by the plan or issuer, in a manner consistent with the provisions of sections 1816(c)(2) and 1842(c)(2) of the Social Security Act (42 U.S.C. 1395h(c)(2) and 42 U.S.C. 1395u(c)(2)), except that for purposes of this section, subparagraph (C) of section 1816(c)(2) of the Social Security Act shall be treated as applying to claims received from a participant, beneficiary, or enrollee as well as claims referred to in such subparagraph.

SEC. 4135. PROTECTION FOR PATIENT ADVOCACY.

(a) PROTECTION FOR USE OF UTILIZATION REVIEW AND GRIEVANCE PROCESS.—A group health plan, and a health insurance issuer with respect to the provision of health insurance coverage, may not retaliate against a participant, beneficiary, enrollee, or health care provider based on the participant's, beneficiary's, enrollee's or provider's use of, or participation in, a utilization review process or a grievance process of the plan or issuer (including an internal or external review or appeal process) under this title.

(b) PROTECTION FOR QUALITY ADVOCACY BY HEALTH CARE PROFESSIONALS.—

(1) IN GENERAL.—A group health plan or health insurance issuer may not retaliate or discriminate against a protected health care professional because the professional in good faith—

(A) discloses information relating to the care, services, or conditions affecting one or more participants, beneficiaries, or enrollees of the plan or issuer to an appropriate public regulatory agency, an appropriate private accreditation body, or appropriate management personnel of the plan or issuer; or

(B) initiates, cooperates, or otherwise participates in an investigation or proceeding by such an agency with respect to such care, services, or conditions.

If an institutional health care provider is a participating provider with such a plan or issuer or otherwise receives payments for benefits provided by such a plan or issuer, the provisions of the previous sentence shall apply to the provider in relation to care, services, or conditions affecting one or more patients within an institutional health care provider in the same manner as they apply to the plan or issuer in relation to care, services, or conditions provided to one or more participants, beneficiaries, or enrollees; and for purposes of applying this sentence, any reference to a plan or issuer is deemed a reference to the institutional health care provider.

(2) GOOD FAITH ACTION.—For purposes of paragraph (1), a protected health care professional is considered to be acting in good faith with respect to disclosure of information or participation if, with respect to the information disclosed as part of the action—

(A) the disclosure is made on the basis of personal knowledge and is consistent with that degree of learning and skill ordinarily possessed by health care professionals with the same licensure or certification and the same experience;

(B) the professional reasonably believes the information to be true;

(C) the information evidences either a violation of a law, rule, or regulation, of an applicable accreditation standard, or of a generally recognized professional or clinical standard or that a patient is in imminent hazard of loss of life or serious injury; and

(D) subject to subparagraphs (B) and (C) of paragraph (3), the professional has followed reasonable internal procedures of the plan, issuer, or institutional health care provider established for the purpose of addressing quality concerns before making the disclosure.

(3) EXCEPTION AND SPECIAL RULE.—

(A) GENERAL EXCEPTION.—Paragraph (1) does not protect disclosures that would violate Federal or State law or diminish or impair the rights of any person to the continued protection of confidentiality of communications provided by such law.

(B) NOTICE OF INTERNAL PROCEDURES.—Subparagraph (D) of paragraph (2) shall not apply unless the internal procedures involved are reasonably expected to be known to the health care professional involved. For purposes of this subparagraph, a health care professional is reasonably expected to know of internal procedures if those procedures have been made available to the professional through distribution or posting.

(C) INTERNAL PROCEDURE EXCEPTION.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(4) ADDITIONAL CONSIDERATIONS.—It shall not be a violation of paragraph (1) to take an adverse action against a protected health care professional if the plan, issuer, or provider taking the adverse action involved demonstrates that it would have taken the same adverse action even in the absence of the activities protected under such paragraph.

(5) NOTICE.—A group health plan, health insurance issuer, and institutional health care provider shall post a notice, to be provided or approved by the Secretary of Labor, setting forth excerpts from, or summaries of, the pertinent provisions of this subsection and information pertaining to enforcement of such provisions.

(6) CONSTRUCTIONS.—

(A) DETERMINATIONS OF COVERAGE.—Nothing in this subsection shall be construed to prohibit a plan or issuer from making a determination not to pay for a particular medical treatment or service or the services of a type of health care professional.

(B) ENFORCEMENT OF PEER REVIEW PROTOCOLS AND INTERNAL PROCEDURES.—Nothing in this subsection shall be construed to prohibit a plan, issuer, or provider from establishing and enforcing reasonable peer review or utilization review protocols or determining whether a protected health care professional has complied with those protocols or from establishing and enforcing internal procedures for the purpose of addressing quality concerns.

(C) RELATION TO OTHER RIGHTS.—Nothing in this subsection shall be construed to abridge rights of participants, beneficiaries, enrollees, and protected health care professionals under other applicable Federal or State laws.

(7) PROTECTED HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term ''protected health care professional'' means an individual who is a licensed or certified health care professional and who—

(A) with respect to a group health plan or health insurance issuer, is an employee of the plan or issuer or has a contract with the plan or issuer for provision of services for which benefits are available under the plan or issuer; or

(B) with respect to an institutional health care provider, is an employee of the provider or has a contract or other arrangement with the provider respecting the provision of health care services.

Subtitle E—Definitions

SEC. 4151. DEFINITIONS.

(a) INCORPORATION OF GENERAL DEFINITIONS.—Except as otherwise provided, the provisions of section 2791 of the Public Health Service Act shall apply for purposes of this title in the same manner as they apply for purposes of title XXVII of such Act.

(b) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Health and Human Services, in consultation with the Secretary of Labor and the term ''appropriate Secretary'' means the Secretary of Health and Human Services in relation to carrying out this title under sections 2706 and 2751 of the Public Health Service Act and the Secretary of Labor in relation to carrying out this title under section 713 of the Employee Retirement Income Security Act of 1974.

(c) ADDITIONAL DEFINITIONS.—For purposes of this title:

(1) ACTIVELY PRACTICING.—The term ''actively practicing'' means, with respect to a physician or other health care professional, such a physician or professional who provides professional services to individual patients on average at least two full days per week.

(2) APPLICABLE AUTHORITY.—The term ''applicable authority'' means—

(A) in the case of a group health plan, the Secretary of Health and Human Services and the Secretary of Labor; and

(B) in the case of a health insurance issuer with respect to a specific provision of this title, the applicable State authority (as defined in section 2791(d) of the Public Health Service Act), or the Secretary of Health and Human Services, if such Secretary is enforcing such provision under section 2722(a)(2) or 2761(a)(2) of the Public Health Service Act.

(3) CLINICAL PEER.—The term ''clinical peer'' means, with respect to a review or appeal, an actively practicing physician (allopathic or osteopathic) or other actively practicing health care professional who holds a nonrestricted license, and who is appropriately credentialed in the same or similar specialty or subspecialty (as appropriate) as typically handles the medical condition, procedure, or treatment under review or appeal and includes a pediatric specialist where appropriate; except that only a physician (allopathic or osteopathic) may be a clinical peer with respect to the review or appeal of treatment recommended or rendered by a physician.

(4) ENROLLEE.—The term ''enrollee'' means, with respect to health insurance coverage offered by a health insurance issuer, an individual enrolled with the issuer to receive such coverage.

(5) GROUP HEALTH PLAN.—The term ''group health plan'' has the meaning given such term in section 733(a) of the Employee Retirement Income Security Act of 1974 and in section 2791(a)(1) of the Public Health Service Act.

(6) HEALTH CARE PROFESSIONAL.—The term ''health care professional'' means an individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification.

(7) HEALTH CARE PROVIDER.—The term ''health care provider'' includes a physician or other health care professional, as well as an institutional or other facility or agency that provides health care services and that is licensed, accredited, or certified to provide health care items and services under applicable State law.

(8) NETWORK.—The term ''network'' means, with respect to a group health plan or health insurance issuer offering health insurance coverage, the participating health care professionals and providers through whom the plan or issuer provides health care items and services to participants, beneficiaries, or enrollees.

(9) NONPARTICIPATING.—The term ''nonparticipating'' means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

(10) PARTICIPATING.—The term ''participating'' means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage offered by a health insurance issuer, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

(11) PRIOR AUTHORIZATION.—The term ''prior authorization'' means the process of

obtaining prior approval from a health insurance issuer or group health plan for the provision or coverage of medical services.

SEC. 4152. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.

(a) CONTINUED APPLICABILITY OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

(1) IN GENERAL.—Subject to paragraph (2), this title shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers (in connection with group health insurance coverage or otherwise) except to the extent that such standard or requirement prevents the application of a requirement of this title.

(2) CONTINUED PREEMPTION WITH RESPECT TO GROUP HEALTH PLANS.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 with respect to group health plans.

(b) DEFINITIONS.—For purposes of this section:

(1) STATE LAW.—The term ''State law'' includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(2) STATE.—The term ''State'' includes a State, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any political subdivisions of such, or any agency or instrumentality of such.

SEC. 4153. EXCLUSIONS.

(a) NO BENEFIT REQUIREMENTS.—Nothing in this title shall be construed to require a group health plan or a health insurance issuer offering health insurance coverage to include specific items and services under the terms of such a plan or coverage, other than those that are provided for under the terms of such plan or coverage.

(b) EXCLUSION FROM ACCESS TO CARE MANAGED CARE PROVISIONS FOR FEE-FOR-SERVICE COVERAGE.—

(1) IN GENERAL.—The provisions of sections 4111 through 4117 shall not apply to a group health plan or health insurance coverage if the only coverage offered under the plan or coverage is fee-for-service coverage (as defined in paragraph (2)).

(2) FEE-FOR-SERVICE COVERAGE DEFINED.—For purposes of this subsection, the term ''fee-for-service coverage'' means coverage under a group health plan or health insurance coverage that—

(A) reimburses hospitals, health professionals, and other providers on the basis of a rate determined by the plan or issuer on a fee-for-service basis without placing the provider at financial risk;

(B) does not vary reimbursement for such a provider based on an agreement to contract terms and conditions or the utilization of health care items or services relating to such provider;

(C) does not restrict the selection of providers among those who are lawfully authorized to provide the covered services and agree to accept the terms and conditions of payment established under the plan or by the issuer; and

(D) for which the plan or issuer does not require prior authorization before providing coverage for any services.

SEC. 4154. COVERAGE OF LIMITED SCOPE PLANS.

Only for purposes of applying the requirements of this title under sections 2707 and 2753 of the Public Health Service Act and section 714 of the Employee Retirement Income Security Act of 1974, section 2791(c)(2)(A), and section 733(c)(2)(A) of the Employee Retirement Income Security Act of 1974 shall be deemed not to apply.

SEC. 4155. REGULATIONS.

The Secretaries of Health and Human Services and Labor shall issue such regulations as may be necessary or appropriate to carry out this title. Such regulations shall be issued consistent with section 104 of Health Insurance Portability and Accountability Act of 1996. Such Secretaries may promulgate any interim final rules as the Secretaries determine are appropriate to carry out this title.

TITLE XLII—APPLICATION OF QUALITY CARE STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT

SEC. 4201. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

''SEC. 2707. PATIENT PROTECTION STANDARDS.

''(a) IN GENERAL.—Each group health plan shall comply with patient protection requirements under title XLI of the Patients' Bill of Rights Act, and each health insurance issuer shall comply with patient protection requirements under such title with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

''(b) NOTICE.—A group health plan shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) and a health insurance issuer shall comply with such notice requirement as if such section applied to such issuer and such issuer were a group health plan.''.

(b) CONFORMING AMENDMENT.—Section 2721(b)(2)(A) of such Act (42 U.S.C. 300gg–21(b)(2)(A)) is amended by inserting ''(other than section 2707)'' after ''requirements of such subparts''.

SEC. 4202. APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.

Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2752 the following new section:

''SEC. 2753. PATIENT PROTECTION STANDARDS.

''(a) IN GENERAL.—Each health insurance issuer shall comply with patient protection requirements under title XLI of the Patients' Bill of Rights Act with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

''(b) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of such title as if such section applied to such issuer and such issuer were a group health plan.''.

TITLE XLIII—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 4301. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

''SEC. 714. PATIENT PROTECTION STANDARDS.

''(a) IN GENERAL.—Subject to subsection (b), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of title XLI of the Patients' Bill of Rights Act (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this subsection.

''(b) PLAN SATISFACTION OF CERTAIN REQUIREMENTS.—

''(1) SATISFACTION OF CERTAIN REQUIREMENTS THROUGH INSURANCE.—For purposes of subsection (a), insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the following requirements of title XLI of the Patients' Bill of Rights Act with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer:

''(A) Section 4112 (relating to choice of providers).

''(B) Section 4113 (relating to access to emergency care).

''(C) Section 4114 (relating to access to specialty care).

''(D) Section 4115 (relating to access to obstetrical and gynecological care).

''(E) Section 4116 (relating to access to pediatric care).

''(F) Section 4117(a)(1) (relating to continuity in case of termination of provider contract) and section 4117(a)(2) (relating to continuity in case of termination of issuer contract), but only insofar as a replacement issuer assumes the obligation for continuity of care.

''(G) Section 4118 (relating to access to needed prescription drugs).

''(H) Section 4119 (relating to coverage for individuals participating in approved clinical trials.)

''(I) Section 4134 (relating to payment of claims).

''(2) INFORMATION.—With respect to information required to be provided or made available under section 4121, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide or make available the information (and is not liable for the issuer's failure to provide or make available the information), if the issuer is obligated to provide and make available (or provides and makes available) such information.

''(3) GRIEVANCE AND INTERNAL APPEALS.—With respect to the internal appeals process and the grievance system required to be established under sections 4102 and 4104, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide for such process and system (and is not liable for the issuer's failure to provide for such process and system), if the issuer is obligated to provide for (and provides for) such process and system.

''(4) EXTERNAL APPEALS.—Pursuant to rules of the Secretary, insofar as a group health plan enters into a contract with a qualified external appeal entity for the conduct of external appeal activities in accordance with section 4103, the plan shall be treated as meeting the requirement of such section and is not liable for the entity's failure to meet any requirements under such section.

''(5) APPLICATION TO PROHIBITIONS.—Pursuant to rules of the Secretary, if a health insurance issuer offers health insurance coverage in connection with a group health plan

and takes an action in violation of any of the following sections, the group health plan shall not be liable for such violation unless the plan caused such violation:

''(A) Section 4131 (relating to prohibition of interference with certain medical communications).

''(B) Section 4132 (relating to prohibition of discrimination against providers based on licensure).

''(C) Section 4133 (relating to prohibition against improper incentive arrangements).

''(D) Section 4135 (relating to protection for patient advocacy).

''(6) CONSTRUCTION.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

''(7) APPLICATION TO CERTAIN PROHIBITIONS AGAINST RETALIATION.—With respect to compliance with the requirements of section 4135(b)(1) of the Patients' Bill of Rights Act, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care provider.

''(c) ENFORCEMENT OF CERTAIN REQUIREMENTS.—

''(1) COMPLAINTS.—Any protected health care professional who believes that the professional has been retaliated or discriminated against in violation of section 4135(b)(1) of the Patients' Bill of Rights Act may file with the Secretary a complaint within 180 days of the date of the alleged retaliation or discrimination.

''(2) INVESTIGATION.—The Secretary shall investigate such complaints and shall determine if a violation of such section has occurred and, if so, shall issue an order to ensure that the protected health care professional does not suffer any loss of position, pay, or benefits in relation to the plan, issuer, or provider involved, as a result of the violation found by the Secretary.

''(d) CONFORMING REGULATIONS.—The Secretary may issue regulations to coordinate the requirements on group health plans under this section with the requirements imposed under the other provisions of this title.''.

(b) SATISFACTION OF ERISA CLAIMS PROCEDURE REQUIREMENT.—Section 503 of such Act (29 U.S.C. 1133) is amended by inserting ''(a)'' after ''SEC. 503.'' and by adding at the end the following new subsection:

''(b) In the case of a group health plan (as defined in section 733) compliance with the requirements of subtitle A of title XLI of the Patients Bill of Rights Act in the case of a claims denial shall be deemed compliance with subsection (a) with respect to such claims denial.''.

(c) CONFORMING AMENDMENTS.—(1) Section 732(a) of such Act (29 U.S.C. 1185(a)) is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(2) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 713 the following new item:

''Sec. 714. Patient protection standards.''.

(3) Section 502(b)(3) of such Act (29 U.S.C. 1132(b)(3)) is amended by inserting ''(other than section 135(b))'' after ''part 7''.

SEC. 4302. ERISA PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS INVOLVING HEALTH INSURANCE POLICYHOLDERS.

(a) IN GENERAL.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) (as amended by section 301(b)) is amended further by adding at the end the following subsections:

''(f) PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS ARISING OUT OF PROVISION OF HEALTH BENEFITS.—

''(1) NON-PREEMPTION OF CERTAIN CAUSES OF ACTION.—

''(A) IN GENERAL.—Except as provided in this subsection, nothing in this title shall be construed to invalidate, impair, or supersede any cause of action by a participant or beneficiary (or the estate of a participant or beneficiary) under State law to recover damages resulting from personal injury or for wrongful death against any person—

''(i) in connection with the provision of insurance, administrative services, or medical services by such person to or for a group health plan as defined in section 733), or

''(ii) that arises out of the arrangement by such person for the provision of such insurance, administrative services, or medical services by other persons.

''(B) LIMITATION ON PUNITIVE DAMAGES.—

''(i) IN GENERAL.—No person shall be liable for any punitive, exemplary, or similar damages in the case of a cause of action brought under subparagraph (A) if—

''(I) it relates to an externally appealable decision (as defined in subsection (a)(2) of section 4103 of the Patients' Bill of Rights Act);

''(II) an external appeal with respect to such decision was completed under such section 4103;

''(III) in the case such external appeal was initiated by the plan or issuer filing the request for the external appeal, the request was filed on a timely basis before the date the action was brought or, if later, within 30 days after the date the externally appealable decision was made; and

''(IV) the plan or issuer complied with the determination of the external appeal entity upon receipt of the determination of the external appeal entity.

The provisions of this clause supersede any State law or common law to the contrary.

''(ii) EXCEPTION.—Clause (i) shall not apply with respect to damages in the case of a cause of action for wrongful death if the applicable State law provides (or has been construed to provide) for damages in such a cause of action which are only punitive or exemplary in nature.

''(C) PERSONAL INJURY DEFINED.—For purposes of this subsection, the term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

''(2) EXCEPTION FOR GROUP HEALTH PLANS, EMPLOYERS, AND OTHER PLAN SPONSORS.—

''(A) IN GENERAL.—Subject to subparagraph (B), paragraph (1) does not authorize—

''(i) any cause of action against a group health plan or an employer or other plan sponsor maintaining the plan (or against an employee of such a plan, employer, or sponsor acting within the scope of employment), or

''(ii) a right of recovery, indemnity, or contribution by a person against a group health plan or an employer or other plan sponsor (or such an employee) for damages assessed against the person pursuant to a cause of action under paragraph (1).

''(B) SPECIAL RULE.—Subparagraph (A) shall not preclude any cause of action described in paragraph (1) against group health plan or an employer or other plan sponsor (or against an employee of such a plan, employer, or sponsor acting within the scope of employment) if—

''(i) such action is based on the exercise by the plan, employer, or sponsor (or employee) of discretionary authority to make a decision on a claim for benefits covered under the plan or health insurance coverage in the case at issue; and

''(ii) the exercise by the plan, employer, or sponsor (or employee) of such authority resulted in personal injury or wrongful death.

''(C) EXCEPTION.—The exercise of discretionary authority described in subparagraph (B)(i) shall not be construed to include—

''(i) the decision to include or exclude from the plan any specific benefit;

''(ii) any decision to provide extra-contractual benefits; or

''(iii) any decision not to consider the provision of a benefit while internal or external review is being conducted.

''(3) FUTILITY OF EXHAUSTION.—An individual bringing an action under this subsection is required to exhaust administrative processes under sections 4102 and 4103 of the Patients' Bill of Rights Act, unless the injury to or death of such individual has occurred before the completion of such processes.

''(4) CONSTRUCTION.—Nothing in this subsection shall be construed as—

''(A) permitting a cause of action under State law for the failure to provide an item or service which is specifically excluded under the group health plan involved;

''(B) as preempting a State law which requires an affidavit or certificate of merit in a civil action; or

''(C) permitting a cause of action or remedy under State law in connection with the provision or arrangement of excepted benefits (as defined in section 733(c)), other than those described in section 733(c)(2)(A).

''(g) RULES OF CONSTRUCTION RELATING TO HEALTH CARE.—Nothing in this title shall be construed as—

''(1) permitting the application of State laws that are otherwise superseded by this title and that mandate the provision of specific benefits by a group health plan (as defined in section 733(a)) or a multiple employer welfare arrangement (as defined in section 3(40)), or

''(2) affecting any State law which regulates the practice of medicine or provision of medical care, or affecting any action based upon such a State law.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to acts and omissions occurring on or after the date of enactment of this Act, from which a cause of action arises.

SEC. 4303. LIMITATIONS ON ACTIONS.

Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) (as amended by section 304(b)) is amended further by adding at the end the following new subsection:

''(o)(1) Except as provided in this subsection, no action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) by a participant or beneficiary seeking relief based on the application of any provision in section 4101, subtitle B, or subtitle D of title XLI of the Patients' Bill of Rights Act (as incorporated under section 714).

''(2) An action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) by a participant or beneficiary seeking relief based on the application of section 4101, 4113, 4114, 4115, 4116, 4117, 4119, or 4118(3) of the Patients' Bill of Rights Act (as incorporated under section 714) to the individual circumstances of that participant or beneficiary, except that—

''(A) such an action may not be brought or maintained as a class action; and

''(B) in such an action, relief may only provide for the provision of (or payment of) benefits, items, or services denied to the individual participant or beneficiary involved (and for attorney's fees and the costs of the action, at the discretion of the court) and shall not provide for any other relief to the participant or beneficiary or for any relief to any other person.

''(3) Nothing in this subsection shall be construed as affecting any action brought by the Secretary.''.

TITLE XLIV—APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986

SEC. 4401. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

''Sec. 9813. Standard relating to patient freedom of choice.'';

and

(2) by inserting after section 9812 the following:

''SEC. 9813. STANDARD RELATING TO PATIENTS' BILL OF RIGHTS.

''A group health plan shall comply with the requirements of title XLI of the Patients' Bill of Rights Act (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this section.''.

TITLE XLV—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

SEC. 4501. EFFECTIVE DATES.

(a) GROUP HEALTH COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by sections 4201(a), 4301, 4303, and 4401 (and title XLI insofar as it relates to such sections) shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after October 1, 2002 (in this section referred to as the ''general effective date'') and also shall apply to portions of plan years occurring on and after such date.

(2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by sections 4201(a), 4301, 4303, and 4401 (and title XLI insofar as it relates to such sections) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act); or

(B) the general effective date.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this division shall not be treated as a termination of such collective bargaining agreement.

(b) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The amendments made by section 4202 shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

SEC. 4502. COORDINATION IN IMPLEMENTATION.

The Secretary of Labor, the Secretary of Health and Human Services, and the Secretary of the Treasury shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which such Secretaries have responsibility under the provisions of this division (and the amendments made thereby) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

TITLE XLVI—MISCELLANEOUS PROVISIONS

SEC. 4601. HEALTH CARE PAPERWORK SIMPLIFICATION.

(a) ESTABLISHMENT OF PANEL.—

(1) ESTABLISHMENT.—There is established a panel to be known as the Health Care Panel to Devise a Uniform Explanation of Benefits (in this section referred to as the ''Panel'').

(2) DUTIES OF PANEL.—

(A) IN GENERAL.—The Panel shall devise a single form for use by third-party health care payers for the remittance of claims to providers.

(B) DEFINITION.—For purposes of this section, the term ''third-party health care payer'' means any entity that contractually pays health care bills for an individual.

(3) MEMBERSHIP.—

(A) SIZE AND COMPOSITION.—The Secretary of Health and Human Services shall determine the number of members and the composition of the Panel. Such Panel shall include equal numbers of representatives of private insurance organizations, consumer groups, State insurance commissioners, State medical societies, State hospital associations, and State medical specialty societies.

(B) TERMS OF APPOINTMENT.—The members of the Panel shall serve for the life of the Panel.

(C) VACANCIES.—A vacancy in the Panel shall not affect the power of the remaining members to execute the duties of the Panel, but any such vacancy shall be filled in the same manner in which the original appointment was made.

(4) PROCEDURES.—

(A) MEETINGS.—The Panel shall meet at the call of a majority of its members.

(B) FIRST MEETING.—The Panel shall convene not later than 60 days after the date of the enactment of the Bipartisan Consensus Managed Care Improvement Act of 1999.

(C) QUORUM.—A quorum shall consist of a majority of the members of the Panel.

(D) HEARINGS.—For the purpose of carrying out its duties, the Panel may hold such hearings and undertake such other activities as the Panel determines to be necessary to carry out its duties.

(5) ADMINISTRATION.—

(A) COMPENSATION.—Except as provided in subparagraph (B), members of the Panel shall receive no additional pay, allowances, or benefits by reason of their service on the Panel.

(B) TRAVEL EXPENSES AND PER DIEM.—Each member of the Panel who is not an officer or employee of the Federal Government shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

(C) CONTRACT AUTHORITY.—The Panel may contract with and compensate Government and private agencies or persons for items and services, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

(D) USE OF MAILS.—The Panel may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(E) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Panel, the Secretary of Health and Human Services shall provide to the Panel on a reimbursable basis such administrative support services as the Panel may request.

(6) SUBMISSION OF FORM.—Not later than 2 years after the first meeting, the Panel shall submit a form to the Secretary of Health and Human Services for use by third-party health care payers.

(7) TERMINATION.—The Panel shall terminate on the day after submitting the form under paragraph (6).

(b) REQUIREMENT FOR USE OF FORM BY THIRD-PARTY CARE PAYERS.—A third-party health care payer shall be required to use the form devised under subsection (a) for plan years beginning on or after 5 years following the date of the enactment of this Act.

SEC. 4602. NO IMPACT ON SOCIAL SECURITY TRUST FUND.

(a) IN GENERAL.—Nothing in this Act (or an amendment made by this Act) shall be construed to alter or amend the Social Security Act (or any regulation promulgated under that Act).

(b) TRANSFERS.—

(1) ESTIMATE OF SECRETARY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) TRANSFER OF FUNDS.—If, under paragraph (1), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of such Act.

SEC. 4603. CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking ''2003'' and inserting ''2010''.

BINGAMAN (AND DOMENICI) AMENDMENT NO. 3274

(Ordered to lie on the table.)

Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by them to the bill, S. 2549, supra; as follows:

At the appropriate place, insert the following:

Sec. . Maverick Missile upgrades.

AVAILABILITY OF FUNDS.—(1) Of the amount authorized to be appropriated by section XXX for missile procurement for the Air Force, the amount available for Maverick modifications is hereby increased by $5,000,000.

(2) Of the amounts available under this Act for In-Service Missile Modifications, as increased by paragraph (1), $5,000,000 shall be available for conversion of AGM–65B and AGM–65G missiles to both the AGM–65H and K configurations, of which an appropriate quantity will be procured for Air National Guard pilot training.

(3) The amount made available under paragraph (2) for the purpose specified in that paragraph is in addition to any other amounts made available under this Act for that purpose.

EDWARDS (AND TORRICELLI) AMENDMENT NO. 3275

(Ordered to lie on the table.)

Mr. EDWARDS (for himself and Mr. TORRICELLI) submitted an amendment intended to be proposed by them to the bill, S. 2549, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) during September 1999, Hurricane Floyd ran a path of destruction along the entire eastern seaboard from Florida to Maine;

(2) Hurricane Floyd was the most destructive natural disaster in the history of the State of North Carolina and most costly natural disaster in the history of the State of New Jersey;

(3) the Federal Emergency Management Agency declared Hurricane Floyd the eighth worst natural disaster of the past decade;

(4) although the Federal Emergency Management Agency coordinates the Federal response to natural disasters that exceed the capabilities of State and local governments and assists communities to recover from those disasters, the Federal Emergency Management Agency is not equipped to provide long-term economic recovery assistance;

(5) it has been 9 months since Hurricane Floyd and the Nation has hundreds of communities that have yet to recover from the devastation caused by that disaster;

(6) in the past, Congress has responded to natural disasters by providing additional economic community development assistance to communities recovering from those disasters, including $250,000,000 for Hurricane Georges in 1998, $552,000,000 for Red River Valley Floods in North Dakota in 1997, $25,000,000 for Hurricanes Fran and Hortense in 1996, and $725,000,000 for the Northridge Earthquake in California in 1994;

(7) additional assistance provided by Congress to communities recovering from natural disasters has been in the form of community development block grants administered by the Department of Housing and Urban Development and grants administered by the Economic Development Administration;

(8) communities affected by Hurricane Floyd are facing similar recovery needs as have victims of other natural disasters and will need long-term economic recovery plans to make them strong again; and

(9) on April 7, 2000, the Senate passed amendment number 3001 to S. Con. Res. 101, which amendment would allocate $250,000,000 in long-term economic development aid to assist communities rebuilding from Hurricane Floyd, including $150,000,000 in community development block grant funding and $50,000,000 in rural facilities grant funding.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) communities devastated by Hurricane Floyd should know that, in the past, Congress has responded to natural disasters by demonstrating a commitment to helping affected States and communities to recover;

(2) the Federal response to natural disasters has traditionally been quick, supportive, and appropriate;

(3) recognizing that communities devastated by Hurricane Floyd are facing tremendous challenges as they begin their recovery, the Federal agencies that administer community and regional development programs should expect an increase in applications and other requests from these communities;

(4) community development block grants administered by the Department of Housing and Urban Development, grant programs administered by the Economic Development Administration, and the Community Facilities Grant Program administered by the Department of Agriculture are resources that communities have used to accomplish revitalization and economic development following natural disasters; and

(5) additional community and regional development funding, as provided for in amendment number 3001 to S. Con. Res. 101, as passed by the Senate on April 7, 2000, should be appropriated to assist communities in need of long-term economic development aid as a result of damage suffered by Hurricane Floyd.

EDWARDS AMENDMENT NO. 3276

(Ordered to lie on the table.)

Mr. EDWARDS submitted an amendment intended to be proposed by him to the bill, S. 2549; supra; as follows:

At the appropriate place, insert the following:

SEC. . SENSE OF THE SENATE REGARDING TAX TREATMENT OF MEMBERS RECEIVING SPECIAL PAY.

It is the sense of the Senate that members of the Armed Forces who receive special pay for duty subject to hostile fire or imminent danger (37 U.S.C. 310) should receive the same tax treatment as members serving in combat zones.

BINGAMAN AMENDMENT NO. 3277

(Ordered to lie on the table.)

Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill, S. 2549; supra; as follows:

On page 462, between lines 2 and 3, insert the following:

SEC. 1210. CONTROLS ON EXPORTS OF SATELLITES AND RELATED EQUIPMENT.

Section 1513(b) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2174; 22 U.S.C. 2778 note) is amended to read as follows:

''(b) RELATIONSHIP TO OTHER LAWS.—The satellites and related equipment on the United States Munitions List under subsection (a) shall not be considered as being defense articles or defense services for the purpose of any provision of law other than section 38 of the Arms Export Control Act except as may be specifically provided in that other provision of law.''.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT 2001

STEVENS (AND INOUYE) AMENDMENT NO. 3278

Mr. STEVENS (for himself and Mr. INOUYE) proposed an amendment to the bill (H.R. 4576) making appropriations for the Department of Defense for the fiscal year ending September 30, 2001, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2001, for military functions administered by the Department of Defense, and for other purposes, namely:

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, $22,173,929,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, $17,877,215,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, $6,831,373,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, $18,110,764,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $2,458,961,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,539,490,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $446,586,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $963,752,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $3,781,236,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,634,181,000.

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $10,616,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes, $19,049,881,000 and, in addition, $50,000,000 shall be derived by transfer from the National Defense Stockpile Transaction Fund: *Provided,* That of the funds appropriated in this paragraph, not less than $355,000,000 shall be made available only for conventional ammunition care and maintenance.

OPERATION AND MAINTENANCE, NAVY

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $5,146,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes, $23,398,254,000 and, in addition, $50,000,000 shall be derived by transfer from the National Defense Stockpile Transaction Fund.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law, $2,729,758,000.

OPERATION AND MAINTENANCE, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $7,878,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes, $22,268,977,000 and, in addition, $50,000,000, shall be derived by transfer from the National Defense Stockpile Transaction Fund.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law, $11,991,688,000, of which not to exceed $25,000,000 may be available for the CINC initiative fund account; and of which not to exceed $30,000,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,529,418,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $968,946,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $141,159,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,893,859,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft), $3,330,535,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things, hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau, $3,481,775,000.

OVERSEAS CONTINGENCY OPERATIONS TRANSFER FUND

(INCLUDING TRANSFER OF FUNDS)

For expenses directly relating to Overseas Contingency Operations by United States military forces, $4,100,577,000, to remain available until expended: *Provided,* That the Secretary of Defense may transfer these funds only to military personnel accounts; operation and maintenance accounts within this title, the Defense Health Program appropriation, and to working capital funds: *Provided further,* That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred: *Provided further,* That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That the transfer authority provided in this paragraph is in addition to any other transfer authority contained elsewhere in this Act.

UNITED STATES COURTS OF APPEALS FOR THE ARMED FORCES

For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces, $8,574,000, of which not to exceed $2,500 can be used for official representation purposes.

ENVIRONMENTAL RESTORATION, ARMY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $389,932,000, to remain available until transferred: *Provided*, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Army, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, NAVY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Navy, $294,038,000, to remain available until transferred: *Provided*, That the Secretary of the Navy shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Navy, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Navy, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Air Force, $376,300,000, to remain available until transferred: *Provided*, That the Secretary of the Air Force shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Air Force, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Air Force, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense, $21,412,000, to remain available until transferred: *Provided*, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $231,499,000, to remain available until transferred: *Provided*, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris at sites formerly used by the Department of Defense, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2547, and 2551 of title 10, United States Code), $55,900,000, to remain available until September 30, 2002.

FORMER SOVIET UNION THREAT REDUCTION

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, $458,400,000, to remain available until September 30, 2003: *Provided*, That of the amounts provided under this heading, $25,000,000 shall be available only to support the dismantling and disposal of nuclear submarines and submarine reactor components in the Russian Far East.

TITLE III

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,532,862,000, to remain available for obligation until September 30, 2003.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,329,781,000, to remain available for obligation until September 30, 2003.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $2,166,574,000, to remain available for obligation until September 30, 2003.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,212,149,000, to remain available for obligation until September 30, 2003.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat vehicles; the purchase of not to exceed 35 passenger motor vehicles for replacement only; and the purchase of 12 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $200,000 per vehicle; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $4,060,728,000, to remain available for obligation until September 30, 2003.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $8,426,499,000, to remain available for obligation until September 30, 2003.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $1,571,650,000, to remain available for obligation until September 30, 2003.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $471,749,000, to remain available for obligation until September 30, 2003.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

Carrier Replacement Program, $4,053,653,000;

Carrier Replacement Program (AP), $21,869,000;

NSSN, $1,203,012,000;

NSSM (AP), $508,222,000;

CVN Refuelings, $703,441,000;

CVN Refuelings (AP), $25,000,000;

Submarine Refuelings, $210,414,000;

Submarine Refuelings (AP), $72,277,000;

DDG–51 destroyer program, $2,713,559,000;

DDG–51 destroyer program (AP), $500,000,000;

LPD–17 Program Cost Growth, $285,000,000;

LPD–17 (AP), $200,000,000;

LHD–8 (AP), $460,000,000;

ADC(X), $338,951,000;

LCAC landing craft air cushion program, $15,615,000; and

For craft, outfitting, post delivery, conversions, and first destination transformation transportation, $301,077,000;

In all: $11,612,090,000, to remain available for obligation until September 30, 2005: *Provided*, That additional obligations may be incurred after September 30, 2005, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: *Provided further*, That none of the funds provided under this heading for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: *Provided further*, That none of the funds provided under this heading shall be used for the construction of any naval vessel in foreign shipyards: *Provided further*, That the Secretary of the Navy is hereby granted the authority to enter into contracts for an LHD–1 Amphibious Assault Ship and LPD–17 Class Ships which shall be funded on an incremental basis.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed 63 passenger motor vehicles for replacement only, and the purchase of one vehicle required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $200,000; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $3,400,180,000, to remain available for obligation until September 30, 2003.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of not to exceed 33 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, $1,196,368,000, to remain available for obligation until September 30, 2003.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, lease, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $7,289,934,000, to remain available for obligation until September 30, 2003.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $2,920,815,000, to remain available for obligation until September 30, 2003.

PROCUREMENT OF AMMUNITION, AIR FORCE

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $654,808,000, to remain available for obligation until September 30, 2003.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 173, passenger motor vehicles for replacement only, and the purchase of one vehicle required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $200,000; lease of passenger motor vehicles; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $7,605,027,000, to remain available for obligation until September 30, 2003.

PROCUREMENT, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 115 passenger motor vehicles for replacement only; the purchase of 10 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $250,000 per vehicle; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $2,294,908,000, to remain available for obligation until September 30, 2003.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other

weapons, and other procurement for the reserve components of the Armed Forces, $150,000,000, to remain available for obligation until September 30, 2003: *Provided*, That the Chiefs of the Reserve and National Guard components shall, not later than 30 days after the enactment of this Act, individually submit to the congressional defense committees the modernization priority assessment for their respective Reserve or National Guard component.

TITLE IV

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $5,683,675,000, to remain available for obligation until September 30, 2002.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $8,812,070,000, to remain available for obligation until September 30, 2002: *Provided*, That funds appropriated in this paragraph which are available for the V–22 may be used to meet unique requirements of the Special Operation Forces.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $13,931,145,000, to remain available for obligation until September 30, 2002.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, $10,952,039,000, to remain available for obligation until September 30, 2002.

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith, $218,560,000, to remain available for obligation until September 30, 2002.

TITLE V

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For the Defense Working Capital Funds; $916,276,000: *Provided*, That during fiscal year 2001, funds in the Defense Working Capital Funds may be used for the purchase of not to exceed 330 passenger carrying motor vehicles for replacement only for the Defense Security Service.

NATIONAL DEFENSE SEALIFT FUND

For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), $388,158,000, to remain available until expended: *Provided*, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: *Provided further*, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: *Provided further*, That the Secretary of the military department responsible for such procurement may waive the restrictions in the first proviso on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

NATIONAL DEFENSE AIRLIFT FUND

For National Defense Airlift Fund programs, projects, and activities, $2,890,923,000, to remain available until expended: *Provided*, That these funds shall only be available for transfer to the appropriate C–17 program P–1 line items of Titles III of this Act for the purposes specified in this section: *Provided further*, That the funds transferred under the authority provided within this section shall be merged with and shall be available for the same purposes, and for the same time period, as the appropriation to which transferred: *Provided further*, That the transfer authority provided in this section is in addition to any other transfer authority contained elsewhere in this Act.

TITLE VI

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law, $12,130,179,000, of which $11,437,293,000 shall be for Operation and maintenance, of which not to exceed 2 percent shall remain available until September 30, 2002; of which $290,006,000, to remain available for obligation until September 30, 2003, shall be for Procurement; of which $402,880,000, to remain available for obligation until September 30, 2002, shall be for Research, development, test and evaluation; and of which $10,000,000 shall be available for HIV prevention educational activities undertaken in connection with U.S. military training, exercises, and humanitarian assistance activities conducted in African nations.

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, $979,400,000, of which $600,000,000 shall be for Operation and maintenance to remain available until September 30, 2002, $105,000,000 shall be for Procurement to remain available until September 30, 2003, and $274,400,000 shall be for Research, development, test and evaluation to remain available until September 30, 2002: *Provided*, That of the funds available under this heading, $1,000,000 shall be available until expended each year only for a Johnston Atoll off-island leave program: *Provided further*, That the Secretaries concerned shall, pursuant to uniform regulations, prescribe travel and transportation allowances for travel by participants in the off-island leave program.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation, $933,700,000: *Provided*, That the funds appropriated under this heading shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: *Provided further*, That the transfer authority provided under this heading is in addition to any transfer authority contained elsewhere in this Act.

OFFICE OF THE INSPECTOR GENERAL

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $147,545,000, of which $144,245,000 shall be for Operation and maintenance, of which not to exceed $700,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on the Inspector General's certificate of necessity for confidential military purposes; and of which $3,300,000 to remain available until September 30, 2003, shall be for Procurement.

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, $216,000,000.

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Intelligence Community Management Account, $177,331,000, of which $22,557,000 for the Advanced Research and Development Committee shall remain available until September 30, 2002: *Provided*, That of the funds appropriated under this heading, $27,000,000 shall be transferred to the Department of Justice for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities, and of the said amount, $1,500,000 for Procurement shall remain available until September 30, 2002, and $1,000,000 for Research, development, test and evaluation shall remain available until September 30, 2002.

PAYMENT TO KAHO'OLAWE

For payment to Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Fund, as authorized by law, $60,000,000, to remain available until expended.

NATIONAL SECURITY EDUCATION TRUST FUND

For the purposes of title VIII of Public Law 102–183, $6,950,000, to be derived from the National Security Education Trust Fund, to remain available until expended.

TITLE VIII

GENERAL PROVISIONS—DEPARTMENT OF DEFENSE

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: *Provided*, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: *Provided further*, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: *Provided further*, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 percent of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.

(TRANSFER OF FUNDS)

SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $2,000,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: *Provided further*, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

(TRANSFER OF FUNDS)

SEC. 8006. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds: *Provided further*, That transfers may be made between working capital funds and the ''Foreign Currency Fluctuations, Defense'' appropriation and the ''Operation and Maintenance'' appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8007. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session to the congressional defense committees.

SEC. 8008. None of the funds provided in this Act shall be available to initiate: (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year of the contract or that includes an unfunded contingent liability in excess of $20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year, unless the congressional defense committees have been notified at least 30 days in advance of the proposed contract award: *Provided*, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further*, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: *Provided further*, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: *Provided further*, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement.

Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

M2A3 Bradley fighting vehicle; DDG–51 destroyer; C–17; and UH–60/CH–60 aircraft.

SEC. 8009. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported to the Congress on September 30 of each year: *Provided*, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99–239: *Provided further*, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

SEC. 8010. (a) During fiscal year 2001, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(b) The fiscal year 2002 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2002 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 2002.

(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

SEC. 8011. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department of Defense to exceed, outside the 50 United States, its territories, and the District of Columbia, 125,000 civilian workyears: *Provided*, That workyears shall be applied as defined in the Federal Personnel Manual: *Provided further*, That workyears expended in dependent student hiring programs for disadvantaged youths shall not be included in this workyear limitation.

SEC. 8012. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8013. (a) None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 3015(d) of title 38, United States Code, for any member of the armed services who, on or after the date of the enactment of this Act, enlists in the armed services for a period of active duty of less than 3 years, nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Secretary of Veterans Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Secretary of Veterans Affairs pay such benefits to any such member: *Provided*, That these limitations shall not apply to members in combat arms skills or to members who enlist in the armed services on or after July 1, 1989, under a program continued or established by the Secretary of Defense in fiscal year 1991 to test the cost-effective use of special recruiting incentives involving not more than 19 noncombat arms skills approved in advance by the Secretary of Defense: *Provided further*, That this subsection applies only to active components of the Army.

(b) None of the funds appropriated by this Act shall be available for the basic pay and

allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: *Provided*, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further*, That this subsection applies only to active components of the Army.

SEC. 8014. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this Act, is performed by more than 10 Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That this section and subsections (a), (b), and (c) of 10 U.S.C. 2461 shall not apply to a commercial or industrial type function of the Department of Defense that: (1) is included on the procurement list established pursuant to section 2 of the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Javits-Wagner-O'Day Act; (2) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or (3) is planned to be converted to performance by a qualified firm under 51 percent Native American ownership.

(TRANSFER OF FUNDS)

SEC. 8015. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2301 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

SEC. 8016. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: *Provided*, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): *Provided further*, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: *Provided further*, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8017. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or Tricare shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: *Provided*, That this limitation does not apply in the case of inpatient mental health services provided under the program for persons with disabilities under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

SEC. 8018. Funds available in this Act may be used to provide transportation for the next-of-kin of individuals who have been prisoners of war or missing in action from the Vietnam era to an annual meeting in the United States, under such regulations as the Secretary of Defense may prescribe.

SEC. 8019. Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may, by executive agreement, establish with host nation governments in NATO member states a separate account into which such residual value amounts negotiated in the return of United States military installations in NATO member states may be deposited, in the currency of the host nation, in lieu of direct monetary transfers to the United States Treasury: *Provided*, That such credits may be utilized only for the construction of facilities to support United States military forces in that host nation, or such real property maintenance and base operating costs that are currently executed through monetary transfers to such host nations: *Provided further*, That the Department of Defense's budget submission for fiscal year 2002 shall identify such sums anticipated in residual value settlements, and identify such construction, real property maintenance or base operating costs that shall be funded by the host nation through such credits: *Provided further*, That all military construction projects to be executed from such accounts must be previously approved in a prior Act of Congress: *Provided further*, That each such executive agreement with a NATO member host nation shall be reported to the congressional defense committees, the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate 30 days prior to the conclusion and endorsement of any such agreement established under this provision.

SEC. 8020. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M–1 Carbines, M–1 Garand rifles, M–14 rifles, .22 caliber rifles, .30 caliber rifles, or M–1911 pistols.

SEC. 8021. No more than $500,000 of the funds appropriated or made available in this Act shall be used during a single fiscal year for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government.

SEC. 8022. In addition to the funds provided elsewhere in this Act, $8,000,000 is appropriated only for incentive payments authorized by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544): *Provided*, That contractors participating in the test program established by section 854 of Public Law 101–189 (15 U.S.C. 637 note) shall be eligible for the program established by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544).

SEC. 8023. During the current fiscal year, funds appropriated or otherwise available for any Federal agency, the Congress, the judicial branch, or the District of Columbia may be used for the pay, allowances, and benefits of an employee as defined by section 2105 of title 5, United States Code, or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, who—

(1) is a member of a Reserve component of the Armed Forces, as described in section 10101 of title 10, United States Code, or the National Guard, as described in section 101 of title 32, United States Code;

(2) performs, for the purpose of providing military aid to enforce the law or providing assistance to civil authorities in the protection or saving of life or property or prevention of injury—

(A) Federal service under sections 331, 332, 333, or 12406 of title 10, United States Code, or other provision of law, as applicable; or

(B) full-time military service for his or her State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States; and

(3) requests and is granted—

(A) leave under the authority of this section; or

(B) annual leave, which may be granted without regard to the provisions of sections 5519 and 6323(b) of title 5, United States Code, if such employee is otherwise entitled to such annual leave:

Provided, That any employee who requests leave under subsection (3)(A) for service described in subsection (2) of this section is entitled to such leave, subject to the provisions of this section and of the last sentence of section 6323(b) of title 5, United States Code, and such leave shall be considered leave under section 6323(b) of title 5, United States Code.

SEC. 8024. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A–76 if the study being performed exceeds a period of 24 months after initiation of such study with respect to a single function activity or 48 months after initiation of such study for a multi-function activity.

SEC. 8025. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

SEC. 8026. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

SEC. 8027. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the 53rd Weather Reconnaissance Squadron of the Air Force Reserve, if such action would reduce the WC–130 Weather Reconnaissance mission below the levels funded in this Act.

SEC. 8028. (a) Of the funds for the procurement of supplies or services appropriated by this Act, qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to participate as subcontractors and suppliers in the performance of contracts let by the Department of Defense.

(b) During the current fiscal year, a business concern which has negotiated with a

military service or defense agency a subcontracting plan for the participation by small business concerns pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) shall be given credit toward meeting that subcontracting goal for any purchases made from qualified nonprofit agencies for the blind or other severely handicapped.

(c) For the purpose of this section, the phrase ''qualified nonprofit agency for the blind or other severely handicapped'' means a nonprofit agency for the blind or other severely handicapped that has been approved by the Committee for the Purchase from the Blind and Other Severely Handicapped under the Javits-Wagner-O'Day Act (41 U.S.C. 46–48).

SEC. 8029. During the current fiscal year, net receipts pursuant to collections from third party payers pursuant to section 1095 of title 10, United States Code, shall be made available to the local facility of the uniformed services responsible for the collections and shall be over and above the facility's direct budget amount.

SEC. 8030. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed $350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: *Provided*, That upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

SEC. 8031. Of the funds made available in this Act, not less than $21,417,000 shall be available for the Civil Air Patrol Corporation, of which $19,417,000 shall be available for Civil Air Patrol Corporation operation and maintenance to support readiness activities which includes $2,000,000 for the Civil Air Patrol counterdrug program: *Provided*, That funds identified for ''Civil Air Patrol'' under this section are intended for and shall be for the exclusive use of the Civil Air Patrol Corporation and not for the Air Force or any unit thereof.

SEC. 8032. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administrated by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other non-profit entities.

(b) No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, except when acting in a technical advisory capacity, may be compensated for his or her services as a member of such entity, or as a paid consultant by more than one FFRDC in a fiscal year: *Provided*, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties.

(c) Notwithstanding any other provision of law, none of the funds available to the department from any source during fiscal year 2001 may be used by a defense FFRDC, through a fee or other payment mechanism, for construction of new buildings, for payment of cost sharing for projects funded by Government grants, for absorption of contract overruns, or for certain charitable contributions, not to include employee participation in community service and/or development.

(d) Notwithstanding any other provision of law, of the funds available to the department during fiscal year 2001, not more than 6,227 staff years of technical effort (staff years) may be funded for defense FFRDCs: *Provided*, That of the specific amount referred to previously in this subsection, not more than 1,009 staff years may be funded for the defense studies and analysis FFRDCs.

(e) The Secretary of Defense shall, with the submission of the department's fiscal year 2002 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year.

SEC. 8033. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: *Provided*, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: *Provided further*, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That these restrictions shall not apply to contracts which are in being as of the date of the enactment of this Act.

SEC. 8034. For the purposes of this Act, the term ''congressional defense committees'' means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

SEC. 8035. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: *Provided*, That the Senior Acquisition Executive of the military department or defense agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: *Provided further*, That Office of Management and Budget Circular A–76 shall not apply to competitions conducted under this section.

SEC. 8036. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to the Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 2001. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term ''Buy American Act'' means title III of the Act entitled ''An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes'', approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 8037. Appropriations contained in this Act that remain available at the end of the current fiscal year as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8038. Amounts deposited during the current fiscal year to the special account established under 40 U.S.C. 485(h)(2) and to the special account established under 10 U.S.C. 2667(d)(1) are appropriated and shall be available until transferred by the Secretary of Defense to current applicable appropriations or funds of the Department of Defense under the terms and conditions specified by 40 U.S.C. 485(h)(2)(A) and (B) and 10 U.S.C. 2667(d)(1)(B), to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred.

SEC. 8039. The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the defense agencies.

SEC. 8040. Notwithstanding any other provision of law, funds available for ''Drug Interdiction and Counter-Drug Activities, Defense'' may be obligated for the Young Marines program.

SEC. 8041. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101–510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act: *Provided*, That none of the funds made available for expenditure under this section may be transferred or obligated until 30 days after the Secretary of Defense submits a report which details the balance available in the Overseas Military Facility Investment Recovery Account, all projected income into the account during fiscal years 2001 and 2002, and the specific expenditures to be made using funds transferred from this account during fiscal year 2001.

SEC. 8042. Of the funds appropriated or otherwise made available by this Act, not more than $119,200,000 shall be available for payment of the operating costs of NATO Headquarters: *Provided*, That the Secretary of Defense may waive this section for Department of Defense support provided to NATO forces in and around the former Yugoslavia.

SEC. 8043. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than $100,000.

SEC. 8044. (a) During the current fiscal year, none of the appropriations or funds available to the Department of Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Department of Defense Working Capital Funds if such an item would not have been chargeable to the Department of Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

(b) The fiscal year 2002 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2002 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 2000 procurement appropriation and not in the supply management business area or any other area or category of the Department of Defense Working Capital Funds.

SEC. 8045. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 2002: *Provided*, That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended.

SEC. 8046. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8047. Of the funds appropriated by the Department of Defense under the heading ''Operation and Maintenance, Defense-Wide'', not less than $10,000,000 shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation and cost to complete estimates for mitigation, on Indian lands resulting from Department of Defense activities.

SEC. 8048. Amounts collected for the use of the facilities of the National Science Center for Communications and Electronics during the current fiscal year pursuant to section 1459(g) of the Department of Defense Authorization Act, 1986, and deposited to the special account established under subsection 1459(g)(2) of that Act are appropriated and shall be available until expended for the operation and maintenance of the Center as provided for in subsection 1459(g)(2).

SEC. 8049. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term ''Buy American Act'' means title III of the Act entitled ''An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes'', approved March 3, 1933 (41 U.S.C. 10a et seq.).

(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a ''Made in America'' inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

SEC. 8050. None of the funds appropriated by this Act shall be available for a contract for studies, analysis, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work;

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support: *Provided*, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8051. (a) Except as provided in subsections (b) and (c), none of the funds made available by this Act may be used—

(1) to establish a field operating agency; or

(2) to pay the basic pay of a member of the Armed Forces or civilian employee of the department who is transferred or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters.

(b) The Secretary of Defense or Secretary of a military department may waive the limitations in subsection (a), on a case-by-case basis, if the Secretary determines, and certifies to the Committees on Appropriations of the House of Representatives and Senate that the granting of the waiver will reduce the personnel requirements or the financial requirements of the department.

(c) This section does not apply to field operating agencies funded within the National Foreign Intelligence Program.

SEC. 8052. Funds appropriated by this Act, or made available by the transfer of funds in this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2001 until the enactment of the Intelligence Authorization Act for Fiscal Year 2001.

SEC. 8053. Notwithstanding section 303 of Public Law 96–487 or any other provision of law, the Secretary of the Navy is authorized to lease real and personal property at Naval Air Facility, Adak, Alaska, pursuant to 10 U.S.C. 2667(f), for commercial, industrial or other purposes: *Provided*, That notwithstanding any other provision of law, the Secretary of the Navy may remove hazardous materials from facilities, buildings, and structures at Adak, Alaska, and may demolish or otherwise dispose of such facilities, buildings, and structures.

(RESCISSIONS)

SEC. 8054. Of the funds provided in Department of Defense Acts, the following funds are hereby rescinded as of the date of the enactment of this Act or October 1, 2000, whichever is later, from the following accounts and programs in the specified amounts:

''Weapons and Tracked Combat Vehicles, 2000/2002'', $59,000,000;

''Aircraft Procurement, Air Force, 2000/2002'', $24,000,000;

''Other Procurement, Army, 2000/2002'', $29,300,000;

''Missile Procurement, Air Force, 2000/2002'', $30,000,000; and

''Research, Development, Test and Evaluation, Army, 2000/2001'', $27,000,000.

SEC. 8055. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, the Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

SEC. 8056. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of North Korea unless specifically appropriated for that purpose.

SEC. 8057. During the current fiscal year, funds appropriated in this Act are available to compensate members of the National Guard for duty performed pursuant to a plan submitted by a Governor of a State and approved by the Secretary of Defense under section 112 of title 32, United States Code: *Provided*, That during the performance of such duty, the members of the National Guard shall be under State command and control: *Provided further*, That such duty shall be treated as full-time National Guard duty for purposes of sections 12602(a)(2) and (b)(2) of title 10, United States Code.

SEC. 8058. Funds appropriated in this Act for operation and maintenance of the Military Departments, Unified and Specified Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Unified and Specified Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Foreign Intelligence Program (NFIP), the Joint Military Intelligence Program (JMIP), and the Tactical Intelligence and Related Activities (TIARA) aggregate: *Provided*, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8059. None of the funds appropriated in this Act may be transferred to or obligated from the Pentagon Reservation Maintenance Revolving Fund, unless the Secretary of Defense certifies that the total cost for the planning, design, construction and installation of equipment for the renovation of the Pentagon Reservation will not exceed $1,222,000,000.

SEC. 8060. (a) None of the funds available to the Department of Defense for any fiscal

year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(TRANSFER OF FUNDS)

SEC. 8061. Appropriations available in this Act under the heading ''Operation and Maintenance, Defense-Wide'' for increasing energy and water efficiency in Federal buildings may, during their period of availability, be transferred to other appropriations or funds of the Department of Defense for projects related to increasing energy and water efficiency, to be merged with and to be available for the same general purposes, and for the same time period, as the appropriation or fund to which transferred.

SEC. 8062. None of the funds appropriated by this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: *Provided*, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8063. Notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa, and funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.

SEC. 8064. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8065. Notwithstanding any other provision of law, the Naval shipyards of the United States shall be eligible to participate in any manufacturing extension program financed by funds appropriated in this or any other Act.

SEC. 8066. Notwithstanding any other provision of law, each contract awarded by the Department of Defense during the current fiscal year for construction or service performed in whole or in part in a State (as defined in section 381(d) of title 10, United States Code) which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor, shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: *Provided*, That the Secretary of Defense may waive the requirements of this section, on a case-by-case basis, in the interest of national security.

SEC. 8067. During the current fiscal year, the Army shall use the former George Air Force Base as the airhead for the National Training Center at Fort Irwin: *Provided*, That none of the funds in this Act shall be obligated or expended to transport Army personnel into Edwards Air Force Base for training rotations at the National Training Center.

SEC. 8068. (a) LIMITATION ON TRANSFER OF DEFENSE ARTICLES AND SERVICES.—Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

(b) COVERED ACTIVITIES.—This section applies to—

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) REQUIRED NOTICE.—A notice under subsection (a) shall include the following:

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

SEC. 8069. To the extent authorized by subchapter VI of chapter 148 of title 10, United States Code, the Secretary of Defense may issue loan guarantees in support of United States defense exports not otherwise provided for: *Provided*, That the total contingent liability of the United States for guarantees issued under the authority of this section may not exceed $15,000,000,000: *Provided further*, That the exposure fees charged and collected by the Secretary for each guarantee, shall be paid by the country involved and shall not be financed as part of a loan guaranteed by the United States: *Provided further*, That the Secretary shall provide quarterly reports to the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate and the Committees on Appropriations, Armed Services, and International Relations in the House of Representatives on the implementation of this program: *Provided further*, That amounts charged for administrative fees and deposited to the special account provided for under section 2540c(d) of title 10, shall be available for paying the costs of administrative expenses of the Department of Defense that are attributable to the loan guarantee program under subchapter VI of chapter 148 of title 10, United States Code.

SEC. 8070. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

(1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and

(2) such bonus is part of restructuring costs associated with a business combination.

SEC. 8071. (a) None of the funds appropriated or otherwise made available in this Act may be used to transport or provide for the transportation of chemical munitions or agents to the Johnston Atoll for the purpose of storing or demilitarizing such munitions or agents.

(b) The prohibition in subsection (a) shall not apply to any obsolete World War II chemical munition or agent of the United States found in the World War II Pacific Theater of Operations.

(c) The President may suspend the application of subsection (a) during a period of war in which the United States is a party.

SEC. 8072. None of the funds provided in title II of this Act for ''Former Soviet Union Threat Reduction'' may be obligated or expended to finance housing for any individual who was a member of the military forces of the Soviet Union or for any individual who is or was a member of the military forces of the Russian Federation.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8073. During the current fiscal year, no more than $30,000,000 of appropriations made in this Act under the heading ''Operation and Maintenance, Defense-Wide'' may be transferred to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which transferred, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code.

SEC. 8074. For purposes of section 1553(b) of title 31, United States Code, any subdivision of appropriations made in this Act under the heading ''Shipbuilding and Conversion, Navy'' shall be considered to be for the same purpose as any subdivision under the heading ''Shipbuilding and Conversion, Navy'' appropriations in any prior year, and the 1 percent limitation shall apply to the total amount of the appropriation.

SEC. 8075. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation account for the same purpose as the expired or closed account if—

(1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account;

(2) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense; and

(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101–510, as amended (31 U.S.C. 1551 note): *Provided*, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and

recorded against the expired account: *Provided further*, That the total amount charged to a current appropriation under this section may not exceed an amount equal to 1 percent of the total appropriation for that account.

(TRANSFER OF FUNDS)

SEC. 8076. Upon the enactment of this Act, the Secretary of Defense shall make the following transfers of funds: *Provided*, That the amounts transferred shall be available for the same purposes as the appropriations to which transferred, and for the same time period as the appropriation from which transferred: *Provided further*, That the amounts shall be transferred between the following appropriations in the amount specified:

From:

Under the heading, ''Shipbuilding and Conversion, Navy, 1998/2002'':

SSN–21 attack submarine program, $74,000,000;

To:

Under the heading, ''Research, Development, Test and Evaluation, Navy, 2001/2002'':

For SSN–21 development, $74,000,000.

SEC. 8077. The Under Secretary of Defense (Comptroller) shall submit to the congressional defense committees by February 1, 2001, a detailed report identifying, by amount and by separate budget activity, activity group, subactivity group, line item, program element, program, project, subproject, and activity, any activity for which the fiscal year 2002 budget request was reduced because the Congress appropriated funds above the President's budget request for that specific activity for fiscal year 2001.

SEC. 8078. Funds appropriated in title II of this Act and for the Defense Health Program in title VI of this Act for supervision and administration costs for facilities maintenance and repair, minor construction, or design projects may be obligated at the time the reimbursable order is accepted by the performing activity: *Provided*, That for the purpose of this section, supervision and administration costs includes all in-house Government cost.

SEC. 8079. During the current fiscal year, the Secretary of Defense may waive reimbursement of the cost of conferences, seminars, courses of instruction, or similar educational activities of the Asia-Pacific Center for Security Studies for military officers and civilian officials of foreign nations if the Secretary determines that attendance by such personnel, without reimbursement, is in the national security interest of the United States: *Provided*, That costs for which reimbursement is waived pursuant to this subsection shall be paid from appropriations available for the Asia-Pacific Center.

SEC. 8080. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

SEC. 8081. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: *Provided*, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: *Provided further*, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

SEC. 8082. Notwithstanding 31 U.S.C. 3902, during the current fiscal year, interest penalties may be paid by the Department of Defense from funds financing the operation of the military department or defense agency with which the invoice or contract payment is associated.

(RESCISSIONS)

SEC. 8083. Of the funds provided in the Department of Defense Appropriations Act, 1999 (Public Law 105–262), $319,688,000, to reflect savings from revised economic assumptions, is hereby rescinded as of the date of the enactment of this Act, or October 1, 2000, whichever is later, from the following accounts in the specified amounts:

''Aircraft Procurement, Army'', $7,000,000;

''Missile Procurement, Army'', $6,000,000;

''Procurement of Weapons and Tracked Combat Vehicles, Army'', $7,000,000;

''Procurement of Ammunition, Army'', $5,000,000;

''Other Procurement, Army'', $16,000,000;

''Aircraft Procurement, Navy'', $24,125,000;

''Weapons Procurement, Navy'', $3,853,000;

''Procurement of Ammunition, Navy and Marine Corps'', $1,463,000;

''Shipbuilding and Conversion, Navy'', $19,644,000;

''Other Procurement, Navy'', $12,032,000;

''Procurement, Marine Corps'', $3,623,000;

''Aircraft Procurement, Air Force'', $32,743,000;

''Missile Procurement, Air Force'', $5,500,000;

''Procurement of Ammunition, Air Force'', $1,232,000;

''Other Procurement, Air Force'', $19,902,000;

''Procurement, Defense-Wide'', $6,683,000;

''Chemical Agents and Munitions Destruction, Army'', $1,103,000;

''Defense Health Program'', $808,000;

''Research, Development, Test and Evaluation, Army'', $20,592,000;

''Research, Development, Test and Evaluation, Navy'', $35,621,000;

''Research, Development, Test and Evaluation, Air Force'', $53,467,000; and

''Research, Development, Test and Evaluation, Defense-Wide'', $36,297,000:

Provided, That these reductions shall be applied proportionally to each budget activity, activity group and subactivity group and each program, project, and activity within each appropriation account.

SEC. 8084. The budget of the President for fiscal year 2002 submitted to the Congress pursuant to section 1105 of title 31, United States Code, and each annual budget request thereafter, shall include budget activity groups (known as ''subactivities'') in all appropriations accounts provided in this Act, as may be necessary, to separately identify all costs incurred by the Department of Defense to support the North Atlantic Treaty Organization and all Partnership For Peace programs and initiatives. The budget justification materials submitted to the Congress in support of the budget of the Department of Defense for fiscal year 2002, and subsequent fiscal years, shall provide complete, detailed estimates for all such costs.

SEC. 8085. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.

(b) Subsection (a) applies with respect to—

(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and

(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section 11 (chapters 50–65) of the Harmonized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

SEC. 8086. Funds made available to the Civil Air Patrol in this Act under the heading ''Drug Interdiction and Counter-Drug Activities, Defense'' may be used for the Civil Air Patrol Corporation's counterdrug program, including its demand reduction program involving youth programs, as well as operational and training drug reconnaissance missions for Federal, State, and local government agencies; for administrative costs, including the hiring of Civil Air Patrol Corporation employees; for travel and per diem expenses of Civil Air Patrol Corporation personnel in support of those missions; and for equipment needed for mission support or performance: *Provided*, That the Department of the Air Force should waive reimbursement from the Federal, State, and local government agencies for the use of these funds.

SEC. 8087. Notwithstanding any other provision of law, the TRICARE managed care support contracts in effect, or in final stages of acquisition as of September 30, 2000, may be extended for 2 years: *Provided*, That any such extension may only take place if the Secretary of Defense determines that it is in the best interest of the Government: *Provided further*, That any contract extension shall be based on the price in the final best and final offer for the last year of the existing contract as adjusted for inflation and other factors mutually agreed to by the contractor and the Government: *Provided further*, That notwithstanding any other provision of law, all future TRICARE managed care support contracts replacing contracts in effect, or in the final stages of acquisition as of September 30, 2000, may include a base contract period for transition and up to seven 1-year option periods.

SEC. 8088. (a) PROHIBITION.—None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

(b) MONITORING.—The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training program referred to in subsection (a), full consideration is given to all

credible information available to the Department of State relating to human rights violations by foreign security forces.

(c) WAIVER.—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances.

(d) REPORT.—Not more than 15 days after the exercise of any waiver under subsection (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

SEC. 8089. The Secretary of Defense, in coordination with the Secretary of Health and Human Services, may carry out a program to distribute surplus dental equipment of the Department of Defense, at no cost to the Department of Defense, to Indian health service facilities and to federally-qualified health centers (within the meaning of section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B))).

SEC. 8090. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by $56,200,000 to reflect savings from the pay of civilian personnel, to be distributed as follows:

''Operation and Maintenance, Army'', $4,600,000;

''Operation and Maintenance, Navy'', $49,600,000; and

''Operation and Maintenance, Defense-Wide'', $2,000,000.

SEC. 8091. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by $769,700,000 to reflect savings from favorable foreign currency fluctuations, to be distributed as follows:

''Military Personnel, Army'', $60,500,000;

''Military Personnel, Navy'', $32,000,000;

''Military Personnel, Marine Corps'', $9,700,000;

''Military Personnel, Air Force'', $53,000,000;

''Operation and Maintenance, Army'', $292,100,000;

''Operation and Maintenance, Navy'', $105,100,000;

''Operation and Maintenance, Marine Corps'', $25,800,000;

''Operation and Maintenance, Air Force,'' $157,600,000;

''Operation and Maintenance, Defense-Wide'', $27,200,000; and

''Defense Health Program'', $6,700,000.

SEC. 8092. None of the funds appropriated or made available in this Act to the Department of the Navy shall be used to develop, lease or procure the ADC(X) class of ships unless the main propulsion diesel engines and propulsors are manufactured in the United States by a domestically operated entity: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes or there exists a significant cost or quality difference.

SEC. 8093. Of the funds made available in this Act, not less than $65,200,000 shall be available to maintain an attrition reserve force of 18 B–52 aircraft, of which $3,200,000 shall be available from ''Military Personnel, Air Force'', $36,900,000 shall be available from ''Operation and Maintenance, Air Force'', and $25,100,000 shall be available from ''Aircraft Procurement, Air Force'': *Provided*, That the Secretary of the Air Force shall maintain a total force of 94 B–52 aircraft, including 18 attrition reserve aircraft, during fiscal year 2001: *Provided further*, That the Secretary of Defense shall include in the Air Force budget request for fiscal year 2002 amounts sufficient to maintain a B–52 force totaling 94 aircraft.

SEC. 8094. The budget of the President for fiscal year 2001 submitted to the Congress pursuant to section 1105 of title 31, United States Code, and each annual budget request thereafter, shall include separate budget justification documents for costs of United States Armed Forces' participation in contingency operations for the Military Personnel accounts, the Overseas Contingency Operations Transfer Fund, the Operation and Maintenance accounts, and the Procurement accounts: *Provided*, That these budget justification documents shall include a description of the funding requested for each anticipated contingency operation, for each military service, to include active duty and Guard and Reserve components, and for each appropriation account: *Provided further*, That these documents shall include estimated costs for each element of expense or object class, a reconciliation of increases and decreases for ongoing contingency operations, and programmatic data including, but not limited to troop strength for each active duty and Guard and Reserve component, and estimates of the major weapons systems deployed in support of each contingency.

SEC. 8095. None of the funds appropriated or otherwise made available by this or other Department of Defense Appropriations Acts may be obligated or expended for the purpose of performing repairs or maintenance to military family housing units of the Department of Defense, including areas in such military family housing units that may be used for the purpose of conducting official Department of Defense business.

SEC. 8096. Notwithstanding any other provision of law, for the purpose of establishing all Department of Defense policies governing the provision of care provided by and financed under the military health care system's case management program under 10 U.S.C. 1079(a)(17), the term ''custodial care'' shall be defined as care designed essentially to assist an individual in meeting the activities of daily living and which does not require the supervision of trained medical, nursing, paramedical or other specially trained individuals: *Provided*, That the case management program shall provide that members and retired members of the military services, and their dependents and survivors, have access to all medically necessary health care through the health care delivery system of the military services regardless of the health care status of the person seeking the health care: *Provided further*, That the case management program shall be the primary obligor for payment of medically necessary services and shall not be considered as secondarily liable to title XIX of the Social Security Act, other welfare programs or charity based care.

SEC. 8097. During the current fiscal year—

(1) refunds attributable to the use of the Government travel card and refunds attributable to official Government travel arranged by Government Contracted Travel Management Centers may be credited to operation and maintenance accounts of the Department of Defense which are current when the refunds are received; and

(2) refunds attributable to the use of the Government Purchase Card by military personnel and civilian employees of the Department of Defense may be credited to accounts of the Department of Defense that are current when the refunds are received and that are available for the same purposes as the accounts originally charged.

SEC. 8098. During the current fiscal year, none of the funds available to the Department of Defense may be used to provide support to another department or agency of the United States if such department or agency is more than 90 days in arrears in making payment to the Department of Defense for goods or services previously provided to such department or agency on a reimbursable basis: *Provided*, That this restriction shall not apply if the department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: *Provided further*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8099. None of the funds provided in this Act may be used to transfer to any nongovernmental entity ammunition held by the Department of Defense that has a centerfire cartridge and a United States military nomenclature designation of ''armor penetrator'', ''armor piercing (AP)'', ''armor piercing incendiary (API)'', or ''armor-piercing incendiary-tracer (API–T)'', except to an entity performing demilitarization services for the Department of Defense under a contract that requires the entity to demonstrate to the satisfaction of the Department of Defense that armor piercing projectiles are either: (1) rendered incapable of reuse by the demilitarization process; or (2) used to manufacture ammunition pursuant to a contract with the Department of Defense or the manufacture of ammunition for export pursuant to a License for Permanent Export of Unclassified Military Articles issued by the Department of State.

SEC. 8100. Notwithstanding any other provision of law, the Chief of the National Guard Bureau, or his designee, may waive payment of all or part of the consideration that otherwise would be required under 10 U.S.C. 2667, in the case of a lease of personal property for a period not in excess of 1 year to any organization specified in 32 U.S.C. 508(d), or any other youth, social, or fraternal non-profit organization as may be approved by the Chief of the National Guard Bureau, or his designee, on a case-by-case basis.

SEC. 8101. Notwithstanding any other provision of law, that not more than 35 percent of funds provided in this Act, may be obligated for environmental remediation under indefinite delivery/indefinite quantity contracts with a total contract value of $130,000,000 or higher.

SEC. 8102. Of the funds made available under the heading ''Operation and Maintenance, Air Force'', $10,000,000 shall be transferred to the Department of Transportation to enable the Secretary of Transportation to realign railroad track on Elmendorf Air Force Base and Fort Richardson.

SEC. 8103. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: *Provided*, That in a case in which the military installation is located in more

than one State, purchases may be made in any State in which the installation is located: *Provided further*, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous with another State: *Provided further*, That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

SEC. 8104. During the current fiscal year, under regulations prescribed by the Secretary of Defense, the Center of Excellence for Disaster Management and Humanitarian Assistance may also pay, or authorize payment for, the expenses of providing or facilitating education and training for appropriate military and civilian personnel of foreign countries in disaster management, peace operations, and humanitarian assistance: *Provided*, That not later than April 1, 2001, the Secretary of Defense shall submit to the congressional defense committees a report regarding the training of foreign personnel conducted under this authority during the preceding fiscal year for which expenses were paid under the section: *Provided further*, That the report shall specify the countries in which the training was conducted, the type of training conducted, and the foreign personnel trained.

SEC. 8105. (a) The Department of Defense is authorized to enter into agreements with the Veterans Administration and federally-funded health agencies providing services to Native Hawaiians for the purpose of establishing a partnership similar to the Alaska Federal Health Care Partnership, in order to maximize Federal resources in the provision of health care services by federally-funded health agencies, applying telemedicine technologies. For the purpose of this partnership, Native Hawaiians shall have the same status as other Native Americans who are eligible for the health care services provided by the Indian Health Service.

(b) The Department of Defense is authorized to develop a consultation policy, consistent with Executive Order No. 13084 (issued May 14, 1998), with Native Hawaiians for the purpose of assuring maximum Native Hawaiian participation in the direction and administration of governmental services so as to render those services more responsive to the needs of the Native Hawaiian community.

(c) For purposes of this section, the term ''Native Hawaiian'' means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.

SEC. 8106. None of the funds appropriated or otherwise made available by this Act or any other Act may be made available for reconstruction activities in the Republic of Serbia (excluding the province of Kosovo) as long as Slobodan Milosevic remains the President of the Federal Republic of Yugoslavia (Serbia and Montenegro).

SEC. 8107. In addition to the amounts provided elsewhere in this Act, the amount of $10,000,000 is hereby appropriated for ''Operation and Maintenance, Defense-Wide'', to be available, notwithstanding any other provision of law, only for a grant to the United Service Organizations Incorporated, a federally chartered corporation under chapter 2201 of title 36, United States Code. The grant provided for by this section is in addition to any grant provided for under any other provision of law.

SEC. 8108. Of the funds made available in this Act under the heading ''Operation and Maintenance, Defense-Wide'', up to $5,000,000 shall be available to provide assistance, by grant or otherwise, to public school systems that have unusually high concentrations of special needs military dependents enrolled: *Provided*, That in selecting school systems to receive such assistance, special consideration shall be given to school systems in States that are considered overseas assignments.

SEC. 8109. (a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Air Force may convey at no cost to the Air Force, without consideration, to Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota relocatable military housing units located at Grand Forks Air Force Base and Minot Air Force Base that are excess to the needs of the Air Force.

(b) PROCESSING OF REQUESTS.—The Secretary of the Air Force shall convey, at no cost to the Air Force, military housing units under subsection (a) in accordance with the request for such units that are submitted to the Secretary by the Operation Walking Shield Program on behalf of Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota.

(c) RESOLUTION OF HOUSING UNIT CONFLICTS.—The Operation Walking Shield program shall resolve any conflicts among request of Indian tribes for housing units under subsection (a) before submitting requests to the Secretary of the Air Force under paragraph (b).

(d) INDIAN TRIBE DEFINED.—In this section, the term ''Indian tribe'' means any recognized Indian tribe included on the current list published by the Secretary of Interior under section 104 of the Federally Recognized Indian Tribe Act of 1994 (Public Law 103–454; 108 Stat. 4792; 25 U.S.C. 479a–1).

SEC. 8110. Of the amounts appropriated in the Act under the heading ''Research, Development, Test and Evaluation, Defense-Wide'', $85,849,000 shall be available for the purpose of adjusting the cost-share of the parties under the Agreement between the Department of Defense and the Ministry of Defence of Israel for the Arrow Deployability Program.

SEC. 8111. The Secretary of Defense shall fully identify and determine the validity of healthcare contract additional liabilities, requests for equitable adjustment, and claims for unanticipated healthcare contract costs: *Provided*, That the Secretary of Defense shall establish an equitable and timely process for the adjudication of claims, and recognize actual liabilities during the Department's planning, programming and budgeting process: *Provided further*, That not later than March 1, 2001, the Secretary of Defense shall submit a report to the congressional defense committees on the scope and extent of healthcare contract claims, and on the action taken to implement the provisions of this section: *Provided further*, That nothing in this section should be construed as congressional direction to liquidate or pay any claims that otherwise would not have been adjudicated in favor of the claimant.

SEC. 8112. Funds available to the Department of Defense for the Global Positioning System during the current fiscal year may be used to fund civil requirements associated with the satellite and ground control segments of such system's modernization program.

SEC. 8113. Of the amounts appropriated in this Act under the heading, ''Operation and Maintenance, Defense-Wide,'' $115,000,000 shall remain available until expended: *Provided*, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government.

SEC. 8114. OPERATIONAL SUPPORT AIRCRAFT LEASING AUTHORITY. (a) The Secretary of the Army and the Secretary of the Navy may establish a multi-year pilot program for leasing aircraft for utility and operational support airlift purposes on such terms and conditions as the respective Secretaries may deem appropriate, consistent with this section.

(b) Sections 2401 and 2401a of title 10, United States Code, shall not apply to any aircraft lease authorized by this section.

(c) Under the aircraft lease program authorized by this section:

(1) The Secretary of the Army and the Secretary of the Navy may include terms and conditions in lease agreements that are customary in aircraft leases by a non-Government lessor to a non-Government lessee.

(2) The term of any individual lease agreement into which a service Secretary enters under this section shall not exceed 10 years.

(3) The Secretary of the Army and the Secretary of the Navy may provide for special payments to a lessor if either the respective Secretary terminates or cancels the lease prior to the expiration of its term or aircraft are damaged or destroyed prior to the expiration of the term of the lease. Such special payments shall not exceed an amount equal to the value of one year's lease payment under the lease. The amount of special payments shall be subject to negotiation between the Army or Navy and lessors.

(4) Notwithstanding any other provision of law, any payments required under a lease under this section, and any payments made pursuant to subsection (3) above may be made from:

(A) appropriations available for the performance of the lease at the time the lease takes effect;

(B) appropriations for the operation and maintenance available at the time which the payment is due; and

(C) funds appropriated for those payments.

(5) The Secretary of the Army and the Secretary of the Navy may lease aircraft, on such terms and conditions as they may deem appropriate, consistent with this section, through an operating lease consistent with OMB Circular A–11.

(6) The Secretary of the Army and the Secretary of the Navy may exchange or sell existing aircraft and apply the exchange allowance or sale proceeds in whole or in part toward the cost of leasing replacement aircraft under this section.

(7) No lease of operational support aircraft may be entered into under this section after September 30, 2004.

(d) The authority granted to the Secretary of the Army and the Secretary of the Navy by this section is separate from and in addition to, and shall not be construed to impair or otherwise affect, the authority of the respective Secretaries to procure transportation or enter into leases under a provision of law other than this section.

(e) The authority provided under this section may be used to lease not more than a total of three (3) Army aircraft, three (3) Navy aircraft, and three (3) Marine Corps aircraft for the purposes of providing operational support.

SEC. 8115. Notwithstanding any other provision in this Act, the total amount appropriated in this Act under Title IV for the Ballistic Missile Defense Organization (BMDO) is hereby reduced by $26,154,000 to reflect a reduction in system engineering, program management, and other support costs.

SEC. 8116. The Ballistic Missile Defense Organization and its subordinate offices and associated contractors, including the Lead Systems Integrator, shall notify the congressional defense committees 30 days prior to issuing any type of information or proposal solicitation under the NMD program.

SEC. 8117. Up to $3,000,000 of the funds appropriated under the heading, ''Operation and Maintenance, Navy'' in this Act for the Pacific Missile Range Facility may be made available to contract for the repair, maintenance, and operation of adjacent off-base water, drainage, and flood control systems critical to base operations.

SEC. 8118. In addition to amounts appropriated elsewhere in the Act, $20,000,000 is hereby appropriated to the Department of Defense: *Provided*, That the Secretary of Defense shall make a grant in the amount of $20,000,000 to the National Center for the Preservation of Democracy.

SEC. 8119. Of the funds made available under the heading ''Operation and Maintenance, Air Force'', not less than $7,000,000 shall be made available by grant or otherwise, to the North Slope Borough, to provide assistance for health care, monitoring and related issues associated with research conducted from 1955 to 1957 by the former Arctic Aeromedical Laboratory.

SEC. 8120. None of the funds appropriated in this Act under the heading ''Overseas Contingency Operations Transfer Fund'' may be transferred or obligated for expenses not directly related to the conduct of overseas contingencies: *Provided*, That the Secretary of Defense shall submit a report no later than thirty days after the end of each fiscal quarter to the Committees on Appropriations of the Senate and House of Representatives that details any transfer of funds from the ''Overseas Contingency Operations Transfer Fund'': *Provided further*, That the report shall explain any transfer for the maintenance of real property, pay of civilian personnel, base operations support, and weapon, vehicle or equipment maintenance.

SEC. 8121. In addition to amounts made available elsewhere in this Act, $1,000,000 is hereby appropriated to the Department of Defense to be available for payment to members of the uniformed services for reimbursement for mandatory pet quarantines as authorized by law.

SEC. 8122. The Secretary of the Navy may transfer from any available Department of the Navy appropriation to any available Navy ship construction appropriation for the purpose of liquidating necessary ship cost changes for previous ship construction programs appropriated in law: *Provided*, That the Secretary may transfer no more than $300,000,000 under the authority provided within this section: *Provided further*, That the funding transferred shall be available for the same time period as the appropriation from which transferred: *Provided further*, That the Secretary may not transfer any funding until 30 days after the proposed transfer has been reported to the House and Senate Committees on Appropriations: *Provided further*, That the transfer authority provided within this section is in addition to any other transfer authority contained elsewhere in this Act.

SEC. 8123. In addition to amounts appropriated elsewhere in the Act, $2,100,000 is hereby appropriated to the Department of Defense: *Provided*, That the Secretary of Defense shall make a grant in the amount of $2,100,000 to the National D-Day Museum.

SEC. 8124. In addition to amounts appropriated elsewhere in this Act, $5,000,000 is hereby appropriated to the Department of Defense: *Provided*, That the Secretary of the Army shall make available a grant of $5,000,000 only to the Chicago Public Schools for conversion and expansion of the former Eighth Regiment National Guard Armory (Bronzeville).

SEC. 8125. In addition to the amounts provided elsewhere in this Act, the amount of $10,000,000 is hereby appropriated for ''Operation and Maintenance, Navy'', to accelerate the disposal and scrapping of ships of the Navy Inactive Fleet and Maritime Administration National Defense Reserve Fleet: *Provided*, That the Secretary of the Navy and the Secretary of Transportation shall develop criteria for selecting ships for scrapping or disposal based on their potential for causing pollution, creating an environmental hazard and cost of storage: *Provided further*, That the Secretary of the Navy and the Secretary of Transportation shall report to the congressional defense committees no later than June 1, 2001 regarding the total number of vessels currently designated for scrapping, and the schedule and costs for scrapping these vessels.

This Act may be cited as the ''Department of Defense Appropriations Act, 2001''.

GRASSLEY AMENDMENT NO. 3279

Mr. GRASSLEY proposed an amendment to the bill, H.R. 4576, supra; as follows:

At the appropriate place, insert the following

SEC. ____. Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104–208; 110 Stat. 3009–111, 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2001.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON INTERNATIONAL TRADE AND FINANCE

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on International Trade and Finance be authorized to meet during the session of the Senate on Thursday, June 8, 2000, to conduct a hearing on multilateral development institutions.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on Gender Wage Discrimination during the session of the Senate on Thursday, June 8, 2000, at 10:00 a.m.

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

COMMITTEE ON THE JUDICIARY

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, June 8, 2000, at 10:00 a.m. The markup will take place in Dirksen Room 226.

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

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs be authorized to meet during the session of the Senate on Thursday, June 8, 2000 at 10:00 a.m. to hold a hearing.

The PRESIDING OFFICER. Without objection it is so ordered.

SUBCOMMITTEE ON FORESTS AND PUBLIC LANDS

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public lands be authorized to meet during the session of the Senate on Thursday, June 8, at 9:30 a.m. to conduct a hearing. The subcommittee will receive testimony on H.R. 359, an act to clarify the intent of Congress in Public Law 93–632 to require the Secretary of Agriculture to continue to provide for the maintenance and operation to certain water impoundment structures that were located in the Emigrant Wilderness at the time the wilderness area was designated in that Public Law; H.R. 468, an act to establish the Saint Helena Island National Scenic Area; H.R. 1680, an act to provide for the conveyance of Forest Service property in Kern County California, in exchange for county lands suitable for inclusion in Sequoia National Forest; S. 1817, a bill to validate a conveyance of certain lands located in Carlton County, Minnesota and to provide for the compensation of certain original heirs; S. 1972, a bill to direct the Secretary of Agriculture to convey to the town of Dolores, Colorado, the current site of the Joe Rowell Park; and S. 2111, a bill to direct the Secretary of Agriculture to convey for fair market value 1.06 acres of land in the San Bernardino national Forest, California, to KATY 101.3 FM, a California corporation.

The PRESIDING OFFICER. Without objection. It is so ordered.

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on National parks, Historic Preservation and Recreation be authorized to meet during the session of the Senate on Thursday, June 8, at 2:30 p.m. to conduct an oversight hearing. The subcommittee will review the final rules and regulations issued by the National Park Service relating to title IV of the National Parks Omnibus management act of 1998.

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

PRIVILEGE OF THE FLOOR

Ms. SNOWE. Mr. President, I ask unanimous consent to grant floor privileges to two defense legislative fellows in my office, Jennifer Ogilvie and Sam Horton, for the duration of our consideration of S. 2549, the National Defense Authorization Act.

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

Mr. SCHUMER. Mr. President, I ask unanimous consent that Martin Siegel, a Judiciary Committee staffer in my office, be granted full floor privileges for the remainder of the 106th Congress.

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

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that Howard Krawitz of my office be granted privileges of the floor.

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

Mr. FEINGOLD. Mr. President, I ask unanimous consent the following members of my staff be granted privileges of the floor during consideration of the DOD authorization: Bob Schiff, Bill Dauster, Sumner Slichter, Kitty Thomas, Mary Ann Richmond, and Mary Murphy.

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

Mr. STEVENS. Mr. President, I ask unanimous consent that the following staff of the Senate Appropriations Committee be given floor privileges during the consideration of H.R. 4576 and or S. 2593, the FY 2001 Defense Appropriation Bill: Tom Hawkins, Bob Henke, Susan Hogan, Lesley Kalan, Mazie Mattson, Gary Reese, Candice Rogers, Kraig Siracuse, Justin Weddle, Brian Wilson, John Young, Sonja King, and Cathy Wilson.

THE HARRY S TRUMAN FEDERAL BUILDING

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate now proceed the consideration of H.R. 3639, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3639) to designate the Federal building located at 2201 C Street, Northwest, in the District of Columbia, currently headquarters for the Department of State, as the ''Harry S Truman Federal Building.''

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

Mr. MOYNIHAN. Mr. President, I rise today to pay tribute to a farmer, Army captain, Senator, and President of the United States who founded the United Nations, launched the Marshall plan, and forged the North Atlantic Treaty Organization [NATO]. As an original cosponsor of the bill to name the Federal building located at 2201 C Street, Northwest, in the District of Columbia, currently headquarters for the Department of State, as the ''Harry S Truman Federal Building.'' I am pleased that my colleagues from both sides of the aisle and in both Houses have unanimously agreed to adopt this measure.

Fifty-five years ago, President Truman challenged Democrats and Republicans in his Four Point Speech to join together and lend their full support to international organizations; continue programs for world economic recovery; join with other free peoples in the defense of democracy; and draw on our country's vast storehouse of technical expertise to help people overseas help themselves in the fight against ignorance, illness, and despair. President Truman envisioned ''that what happens beyond our shores determines how we live in our own lives,'' and the American people agreed. He exemplified the very best of what we need in our elected officials.

The United States is extremely fortunate to have had such a man be its Chief Executive in a time of two wars, where he presided over the fall of Germany, the ultimate surrender of Japan, and the preservation of South Korea. It is only appropriate for us to honor a man who made the United States a major force in world affairs by working with all the world for freedom and democracy. I look forward to seeing this legislation adopted, and giving President Truman the recognition he deserves for his tireless efforts to bring peace.

Mr. BIDEN. Mr. President, I rise today to endorse the measure to name the State Department's headquarters after one of the great leaders of the twentieth century—President Harry S Truman.

Harry Truman symbolized the path that this country took during the ''American Century,'' moving from a small community in the American midwest, to the center of the world stage, where he helped rebuild a devastated Europe and contain Communism.

Harry Truman might have stayed on his farm in Independence, Missouri, but World War I intervened and he found himself in Europe as a captain in the Field Artillery. The man whose poor eyesight had kept him out of West Point, was a hero on the battlefields of France. When he returned to Independence—and the beautiful Bess Wallace—his reputation as a leader in battle led to his election as county judge in 1922. In 1935 he was elected Senator from Missouri, and in 1945, he became President upon the death of Franklin Roosevelt.

Truman's mother once said of him: (i)t was on the farm that Harry got his common sense. He didn't get it in town. It was this common sense—a hard-eyed pragmatism, really—that made him a great President. Having fought through the First World War in Europe, he was able to understand the ruin that faced Europe after the Second World War. This led to his support of the brilliant plan of his Secretary of State, George Marshall, who rebuilt Europe. It is not an exaggeration to say that our European allies own the peace and prosperity that they have enjoyed for the last two generations to Truman and Marshall.

It was also this hard-eyed pragmatism that gave Truman a clear view of the Communist threat that come on the heels of World War II. He laid out—and acted upon—the Truman Doctrine—in 1947, when he provided $400 million to fight the spread of Communism in Greece and Turkey. In 1949, he joined with Europe to form the alliance that contained the Soviet Union for nearly 50 years—NATO. And, although we were weary of war in 1950, he sent American forces to defend South Korea from incursions by the Communists of North Korea.

Harry Truman's foreign policy decisions were never easy. Europe's reconstruction, fencing in Communism, creating NATO, required clear vision, and a decisiveness that had nothing to do with favorable poll numbers or reelection prospects. Those are the attributes that made Harry Truman a great President—an ability to see what needed to be done, and the willingness to do it.

Because President Truman's greatest legacy was in international affairs, it is fitting that his name be bestowed on the State Department's main building. I hope that it will provide an inspiration to our diplomats, as they seek to defend the interests of our country, and the world.

Mr. ASHCROFT. Mr. President, it is my great privilege to speak on the passage of H.R. 3639 as I am the sponsor of the Senate's companion bill, S. 2416. This bill will name the State Department's headquarters at 2201 C Street in Washington, DC, the ''Harry S Truman Federal Building.'' First, I would like to provide my deepest thanks to my esteemed co-sponsor who have joined this effort. From the onset, this proposal has had strong bi-partisan support in both Houses. Senators BOND, WARNER, DEWINE, and MOYNIHAN and Representatives ROY BLUNT and IKE SKELTON have been incredibly helpful in seeing this proposal become a reality. Furthermore, I would like to thank the Honorable Secretary of State, Madeleine Albright, for her unqualified support and cooperation for honoring President Harry Truman befittingly honored in this manner.

Today I enjoy the privilege, granted to me by the citizens of Missouri, of occupying the Senate seat formerly held by Harry S Truman. Truman left this seat in January 1945 to become Vice President, and by April of that year assumed the office of President of the United States in the wake of President Franklin Delano Roosevelt's death. The day after becoming President, Truman told a group of reporters that ''boys, if you ever pray, pray for me now . . . I feel like the moon, the stars, and all the planets have fallen on me.''

As the new President, Harry Truman inherited a world on fire. The most destructive war in human history still raged on in Europe and Asia; and Truman, the only chief executive in this century who did not enjoy a university education, faced a most crucial role bringing the war to a close and constructing a viable international system in the postwar. Truman, whose strong personal integrity and vast common sense was forged in the small towns of western Missouri, brilliantly succeeded.

This bill will name the building that houses our Nation's Department of State—the agency responsible for international relations—in honor of Missouri's favorite son and one of our country's greatest statesmen. This is benefitting, for it was the decisions made by President Truman in the realm of foreign policy that made his Presidency one of the most monumental and influential in our country's history.

President Harry Truman led during one of the most trying times in our nation's tumultuous history. During Truman's years in the White House, crisis compounded crisis overseas and hard decisions continually confronted a President who stoically dealt with the awesome responsibilities he had to face.

After Truman assumed office he successfully led the United States to victory against the Axis powers. However, the end of the Second World War brought little respite for the new President from Missouri. The cooperation Truman, and most Americans, hoped to find with the Soviet Union collapsed as an Iron Curtain descended across the heart of Europe. Behind it, the creation of totalitarian Communist regimes confronted the United States with a new dark challenge—the cold war.

In response to this newest danger, President Truman led the free world forward. He emphasized the need to support free people and assist those who resisted attempted subjugation by armed minorities and outside pressures. To this end, Truman began the United States' single most successful foreign aid initiative, the Marshall plan. Under Truman's leadership, this ambitious program saved the economies of Western Europe and set vital United States allies on the path of full recovery within a democratic political framework.

President Harry S Truman realized that economic recovery of war torn areas would not, in itself, secure the free world from Communist aggression. Therefore, President Truman spearheaded the creation of the North Atlantic Treaty Organization, one of the most successful military alliances of all time and the cornerstone of Western Europe's defense for the past five decades.

Europe was not the only place where President Truman took a stand for freedom and democracy in the face of aggression and hostility. When Communist North Korea blatantly invaded South Korea in 1950, only Truman's quick action, and continued resolve, made possible South Korea's escape from the control of North Korea's totalitarian regime. Throughout the world, in Northern Iran, Berlin, China, and the Eastern Mediterranean, Truman's strong and wise leadership, grounded in a small town Missouri sense of right and wrong, heroically guided our country through some of its most dangerous years. In addition to his commitment to fight Communist aggression, the institutions created during the Truman years—such as the United States Air Force, the Department of Defense, the National Security Council, the Central Intelligence Agency—eventually ensured victory in the cold war, and enhanced the United States strength in the years after. Surely Winston Churchill exhibited his always impressive observational abilities when he told Truman in 1950 that ''. . . you, more than any other man, have saved Western Civilization.''

I am proud to be a part of this effort today to see President Harry S Truman so honored. More than any other postwar President he shaped the world we live in today. To name the headquarters of the United States State Department after this fellow Missourian is a fitting and just choice.

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

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

The bill (H.R. 3639) was read the third time and passed.

LOWER SIOUX INDIAN COMMUNITY LAND ACT

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 558, H.R. 2484.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2484) to provide that land which is owned by the Lower Sioux Indian Community in the State of Minnesota but which is not held in trust by the United States for the Community may be leased or transferred by the Community without further approval by the United States.

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

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

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

The bill (H.R. 2484) was read the third time and passed.

AUTHORIZING LEASES FOR TORRES MARTINEZ DESERT CAHUILLA INDIANS AND GUIDIVILLE BAND OF POMO INDIANS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 557, H.R. 1953.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1953) to authorize leases for terms not to exceed 99 years on land held in trust for the Torres Martinez Desert Cahuilla Indians and the Guidiville Band of Pomo Indians of the Guidiville Indian Rancheria.

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

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

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

The bill (H.R. 1953) was read the third time and passed.

ORDERS FOR FRIDAY, JUNE 9, 2000

Mr. STEVENS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Friday, June 9. I further ask unanimous consent that on Friday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day. I further ask unanimous consent that the Senate then resume consideration of H.R. 4576, the Department of Defense appropriations bill.

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

Mr. STEVENS. I further ask unanimous consent that there be 10 minutes equally divided in the usual form for final explanation of the Grassley amendment, with no amendments in order to it, and that the vote occur immediately following the use or yielding back of that time at approximately 9:40 a.m.

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

PROGRAM

Mr. STEVENS. Mr. President, we had announced that there would be a vote at 9:30. Because of the request just agreed to, we will have that vote at approximately 9:40 a.m. tomorrow on the Grassley amendment. There will be further amendments considered during the day and additional votes may occur. Senators who have amendments are encouraged, as I have said before, to contact my friend from Hawaii, Senator INOUYE, or myself. We want to try to expedite consideration of this important spending bill. I ask my friend if he has anything further to come before the Senate.

Mr. INOUYE. No.

ORDER FOR ADJOURNMENT

Mr. STEVENS. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order following the remarks that will be made by Senator GORTON.

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

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

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

GORTON TO GORE: ''WELCOME TO EASTERN WASHINGTON!''

Mr. GORTON. Mr. President, the citizens of eastern Washington will experience a rare occurrence this week: AL GORE will visit there for the first time since he was re-elected Vice President almost 4 years ago. I welcome him to that beautiful part of Washington, and hope that he takes the opportunity to listen to the concerns of as many people as he can.

If he had come a week earlier, he could have joined me at any or all of the seven stops I made in eastern Washington, so that he could hear about the primary concern of citizens—the proposed removal of dams by the Clinton/Gore administration. On the other hand, knowing how eastern Washington citizens feel about hydroelectric dams, it is not a surprise that he would choose to stay away.

But let me urge the citizens of eastern Washington to take a good look around this week, because they will be getting a preview of what life would be like under a Gore administration. Just as in the Clinton/Gore administration, they would have a President and an administration who believe that the Federal Government knows better than local citizens do how to manage their eastern Washington way of life.

They would have an administration and a President who appears more interested in politics and his own election than what is necessary to save salmon or which energy source is the cleanest and most efficient for Washington citizens.

Consider the following dubious challenge that eastern Washington citizens face in this administration:

Next week, the Clinton/Gore administration will enact its 4(d) rules under the Endangered Species Act. Under the rules, the National Marine Fisheries Service will have the right to regulate the ''daily behavior'' of Washington citizens, including how much energy they consume, how far they travel, and how they maintain their gardens. Earlier this year, the administration ignored eastern Washington's request for more public hearings on the subject and more time to gain a better understanding of the vast impact the rules will have on their lives.

Later this summer, the administration will seek to implement the Interior Columbia Basin Ecosystem Management Project over the strong opposition of many citizens of eastern Washington.

Tomorrow, AL GORE will announce that 200,000 acres on the Hanford site will be set aside as a national monument by Presidential fiat. No one disagrees that the Hanford Reach must be protected. It is a magnificent part of the state that deserves preservation for generations to come. Of course, it is not now under threat and no emergency requires presidential action without consulting those who live around the reach. So, as decisions are made on how to protect the Hanford Reach, local consensus should be a vital component in reaching those decisions.

I have always advocated collaboration with and listening to all of the stakeholders to achieve a just solution. The Clinton/Gore approach is but one more example of Washington, D.C. deciding for Washington communities something I believe that they are fully capable of deciding for themselves.

The fact that GORE will tell local people what the Federal Government intends to do on the Hanford site rather than listen is a preview of how a Gore administration will deal with local citizens on a whole host of issues in the future.

The issue of the Snake River dams, however, is another matter. I expect that while AL GORE is in eastern Washington, much as with his previous visits to Seattle and Portland, he will refuse honestly to reveal his position about whether he believes tearing down the Snake River dams is necessary to save salmon.

Equivocating on an issue that will affect the lives of hundreds of thousands of people, cost billions of dollars, and have minimal if any impact on salmon is flat out wrong. Last month, the only thing new that GORE told reporters in Portland about his position on dams is that the issue requires more study and that ''he refuses to prejudge or play politics'' with the issue. Well, if he's not playing politics with the issue, then I'm the inventor of the Internet.

After all, last fall the U.S. Army Corps of Engineers, using science from the National Marine Fisheries Service, released a report stating that more than 90 percent of adult salmon survive through all four of the Snake River dams—the very dams that the administration has proposed to take out.

The Corps of Engineers was prepared to recommend, rightfully, that the costs are too high, that the benefits are too few, and that the dams should be left in place. But high-ranking officials within the Clinton-Gore administration directed the Corps' recommendation be suppressed.

AL GORE owes the people of the Northwest an explanation. We deserve to know why the Clinton/Gore administration hid this important recommendation from thousands of Northwest citizens who spent the better part of four out of the last five months writing comments, attending public meetings, and speaking out on the dams.

AL GORE apparently agrees with the National Marine Fisheries Service that, despite the expenditure of $20 million and five years of study so far by the Corps, any decision on the dams should be postponed for five years, and that a ''trigger'' should be set, based upon the arbitrary performance standards set by unelected bureaucrats, that will require that the dams be breached if the standards are not met to their satisfaction.

The fisheries service hasn't even published its biological opinion, which was due two months ago. How can we trust that delaying a decision five years or the imposition of arbitrary performance standards won't also be moved to meet the Gore agenda to take out the dams? We can't.

Another subject I'll bet the Vice President will ignore is the amazing return of salmon to the Columbia and Snake river system last fall and this spring. It was reported last week that 189,000—a record number—of spring chinook salmon have passed through the Bonneville Dam already. Will he be willing to declare victory and move on? Of course not.

So, I hope that the Vice President enjoys his most recent trip to Washington. I ask him to listen to local people in eastern Washington about the Hanford Reach with or more open mind than Bruce Babbitt did three weeks ago.

And I ask him to take a firm position on the dams now—to practice what he preaches and not to play politics with the lives of eastern Washington citizens.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned.

Thereupon, the Senate, at 7:41 p.m., adjourned until Friday, June 9, 2000, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 8, 2000:

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

John Train, of New York, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring October 11, 2003, vice Scott B. Lukins, term expired.

UNITED STATES INSTITUTE OF PEACE

Holly J. Burkhalter, of the District of Columbia, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 2001, vice W. Scott Thompson, term expired.

THE JUDICIARY

John S. W. Lim, of Hawaii, to be United States District Judge for the District of Hawaii, vice Alan C. Kay, retired.

Gregory A. Presnell, of Florida, to be United States District Judge for the Middle District of Florida vice a new position created by Public Law 106–113, approved November 29, 1999.

James S. Moody, Jr., of Florida, to be United States District Judge for the Middle District of Florida vice a new position created by Public Law 106–113, approved November 29, 1999.

DEPARTMENT OF STATE

James A. Daley, of Massachusetts, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Barbados, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to St. Kitts and Nevis and to Saint Lucia.

FEDERAL MINE SAFETY AND HEALTH ADMINISTRATION

James Charles Riley, of Virginia, to be a Member of the Federal Mine Safety and Health Review Commission for a term of six years expiring August 30, 2006. (Reappointment)

Marc Lincoln Marks, of Pennsylvania, to be a Member of the Federal Mine Safety and Health Review Commission for a term of six years expiring August 30, 2006. (Reappointment)