By simply inserting ''federally recognized Indian tribes'' in a list that already includes ''United States,'' ''States,'' ''municipality,'' and ''foreign nation,'' my amendment finally will offer protection from trademark to tribes the same protection that already is conferred upon any other form of government. My amendment does not affect any existing trademark rights that may already have been conferred under the Lanham Act.

What we are saying here is that we should take the Lanham Act where it provides for exceptions and says that you cannot trademark the insignia of the United States, States, municipalities, and foreign nations. We are saying we should assert federally recognized Indian tribes as another one of the categories that enjoys this same protection.

To me, it is a very straightforward amendment. I see no real basis for anyone opposing the amendment. I hope that it will be agreed to. I urge my colleagues to support this amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Chair would like to clarify that the time remaining to the proponents is 5 minutes 58 seconds, and for the opponents, 10 minutes.

Does anyone seek recognition?

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the time be evenly charged against the two sides, and I suggest the absence of a quorum.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BINGAMAN. 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 President, I ask unanimous consent that the order for the quorum call be rescinded.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. BINGAMAN. Mr. President, I yield the remainder of my time.

Mr. GREGG. Mr. President, we yield the remainder of our time, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The vote will be postponed.

Mr. GREGG. 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. GREGG. 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 President, I ask unanimous consent that the order for the quorum call be rescinded.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. GREGG. Mr. President, we are waiting for one or two Senators to come down. I simply advise my colleagues that progress is being made. We now have two votes ordered. We have a number of amendments still pending under the unanimous consent agreement, and we are trying to work out a number of them. Hopefully, we will soon have the next amendment in order to be offered.

While we are waiting for that, though, I would like to speak on another subject. I ask unanimous consent to speak as if in morning business for 5 minutes.

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

ALAN B. SHEPARD, JR.

Mr. GREGG. Mr. President, last night Alan Shepard died. Alan Shepard is a huge figure in the lives of those of us who are in that postwar baby boom generation which went through the Sputnik experience and the early days of our space program. He is a huge figure especially for those of us who come from New Hampshire, because he was born and raised in Derry, NH, a small town. In fact, a while after he went into space, for many years, Derry sort of changed its name and called itself Space Town in honor of Alan Shepard.

He was really an extraordinary American, embodying so much of what makes our country a special place. He came from a small, rural community. It has gotten quite big. In fact, it is a city now. But when he grew up, it was still a small, rural community. He committed his life to service of this Nation and, of course, he was one of those exceptional people who was in the early test pilot program which transitioned into the early astronaut program. We have the great benefit of having another one of those exceptional people in the Senate with us in Senator GLENN.

Alan Shepard was the first to go into space as an American, and his impact on our country was extraordinary because of that. I can recall very vividly—I must have been 9 or 10 years old—that our whole class in school met in the evening in order to watch this thing called Sputnik go through the sky. And it threw a great scare into our Nation at the time because we, at that time, having come out of World War II and the Korean war, viewed ourselves as a nation of extraordinary strength and really a nation of at least scientific leadership that was unparalleled, and suddenly the Soviet Union, which was a clear and present threat of proportions which cannot even be appreciated today, had launched a satellite which made it clear we were not maybe as far ahead as we thought we were. In fact, in the area of space we were behind.

And so the commitment was made to overtake the Soviet lead in space technology, but, more importantly, to make America the preeminent space explorer of the world. That commitment was made first by President Eisenhower and followed aggressively by President Kennedy, President Johnson and President Nixon. But the personification of the success of that commitment was Alan Shepard, because not only did he go into space as the first American, but then after overcoming significant physical restrictions—he had a very severe inner ear problem which he went back and had operated on—he went back into space and landed on the Moon. Of course, who can forget his hitting a golf ball on the Moon. I think he used a 6 iron and hit it 300 yards—almost a Tiger Woods drive.

Alan Shepard was a person who believed totally in the American dream and who lived the American dream. He was an icon of our culture and clearly a dominant figure of our time. We will miss him. In New Hampshire, we will especially miss him because we are very proud of him. We are a small State. At that time we had less than 1 million people, and here it is, with less than 1 million people, we sent the first person in space and he was from New Hampshire. Great pride.

I express my sorrow to his family and join with all Americans in thanking him for what he did for our Nation, to restore our pride in ourselves and to establish once again that we are a nation that is unique, filled with people who are unique, who, when we pull together to take on a task, no matter how daunting, such as putting a person on the Moon and putting a person in space, will always succeed.

Mr. President, I yield the floor.

Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3274

(Purpose: To authorize the local law enforcement block grant program)

Mr. GREGG. Mr. President, I send to the desk an amendment on behalf of Senator DEWINE and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for Mr. DEWINE, for himself and Mr. LEAHY, proposes an amendment numbered 3274.

Mr. GREGG. 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 printed in today's RECORD under ''Amendments Submitted.'')

Mr. GREGG. Mr. President, I ask unanimous consent the amendment be agreed to.

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

The amendment (No. 3274) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. GREGG. Mr. President, I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3275

(Purpose: To prohibit the Administrator of the Environmental Protection Agency from implementing or enforcing the public water system treatment requirements related to the copper action level of the national primary drinking water regulations for lead and copper until certain studies are completed)

Mr. KERREY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nebraska [Mr. KERREY], for himself and Mr. HAGEL, proposes an amendment numbered 3275.

Mr. KERREY. 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 135, after line 11, insert the following:

SEC. 423. TEMPORARY PROHIBITION ON IMPLEMENTATION OR ENFORCEMENT OF PUBLIC WATER SYSTEM TREATMENT REQUIREMENTS FOR COPPER ACTION LEVEL.

(a) IN GENERAL.—None of the funds made available by this or any other Act for any fiscal year may be used by the Administrator of the Environmental Protection Agency to implement or enforce the national primary drinking water regulations for lead and copper in drinking water promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.), to the extent that the regulations pertain to the public water system treatment requirements related to the copper action level, until—

(1) the Administrator and the Director of the Centers for Disease Control and Prevention jointly conduct a study to establish a reliable dose-response relationship for the adverse human health effects that may result from exposure to copper in drinking water, that—

(A) includes an analysis of the health effects that may be experienced by groups within the general population (including infants) that are potentially at greater risk of adverse health effects as the result of the exposure;

(B) is conducted in consultation with interested States;

(C) is based on the best available science and supporting studies that are subject to peer review and conducted in accordance with sound and objective scientific practices; and

(D) is completed not later than 30 months after the date of enactment of this Act; and

(2) based on the results of the study and, once peer reviewed and published, the 2 studies of copper in drinking water conducted by the Centers for Disease Control and Prevention in the State of Nebraska and the State of Delaware, the Administrator establishes an action level for the presence of copper in drinking water that protects the public health against reasonably expected adverse effects due to exposure to copper in drinking water.

(b) CURRENT REQUIREMENTS.—Nothing in this section precludes a State from implementing or enforcing the national primary drinking water regulations for lead and copper in drinking water promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.) that are in effect on the date of enactment of this Act, to the extent that the regulations pertain to the public water system treatment requirements related to the copper action level.

Mr. KERREY. Mr. President, this amendment is offered by myself and my colleague from Nebraska, Senator HAGEL. We intend to talk on it for a brief period of time and then we will withdraw the amendment.

I offered this amendment in a similar fashion on the HUD and independent agencies appropriations bill. We, since that time, entered into negotiations with the Environmental Protection Agency and it is possible that the problems we have in Nebraska will be resolved. It is also possible that the issue does not get resolved. If that is the case, I want to alert my colleagues that there will be an opportunity to vote on this amendment at some point, if Senator HAGEL and I and the rest of the Nebraska delegation are not able to get satisfaction from the Environmental Protection Agency. As I said, they are attempting to work with us at this point to try to resolve this problem.

The problem simply stated is that, under the rulemaking of the Safe Drinking Water Act, there was established a lead and copper rule. Under the procedures of the Safe Drinking Water Act, these rules get reviewed every 6 years, so it is an appropriate time—it has been 7 years—an appropriate time for us to be reevaluating the science supporting the rule itself. That is essentially what we are challenging to begin with.

There is not a single city in Nebraska that has copper in excess of 1.3 milligrams in its water supply. So, you say, what is the problem? The problem is that if water sits in copper pipes overnight, the first draw on that water will produce copper in excess of 1.3 milligrams in some of our systems. Thus, our cities are being asked to invest millions of dollars to take care of the problem by removing the copper in a manner that is acceptable to the EPA. That will become a very critical part of this issue, because the EPA tells us what is and is not acceptable to take care of a problem that, as I said, has not produced a public health problem in Nebraska. We don't have a public health problem in Nebraska. We don't have any public health people saying we believe there is a clear and present problem with copper, a problem such as exists with lead. With lead, there is a public health problem, although not in Nebraska. With copper, we have no public health problem. What we have, instead, is a scientific evaluation by EPA which has caused them to say we should not allow any more than 1.3 milligrams per liter of copper in drinking water. And as a consequence, all across the country EPA is asking cities to invest substantial amounts of money to treat and reduce the concentration of copper below 1.3 milligrams.

I have a chart here. Some statements have been made by other institutions in regard to what is a safe amount of copper, which I would like to read, just to establish that there is a significant amount of dispute on the science of this. Not a small amount of dispute, but a significant amount.

The World Health Organization has established 2 milligrams per liter as their standard for copper in drinking water. That is 60 percent higher than 1.3 milligrams per liter.

In Canada, they have declared 5.3 milligrams per day as the lowest oral dose at which local GI irritation was seen.

The National Academy of Sciences in 1977 said:

> Limited data are available on the chronic toxicity of copper. The hazard from dietary intakes of up to 5 milligrams per day appear to be quite low.

A longer statement, made in 1994 by the Centers for Disease Control in regards to a study in Nebraska—this study is currently being peer reviewed, which EPA needs to have in order to make a final determination:

> . . . at the time of the survey, people were not experiencing GI related to the level of [copper] in their drinking water, even though 51 of the selected homes had [copper] drinking water levels that were greater than two times the EPA action level the year prior to the study. . .

There is a significant amount of scientific disagreement as to what the standard ought to be. Again, we are not experiencing a public health problem. If we are experiencing a public health problem, let's get after it and deal with it. That is what the Safe Drinking Water Act is all about. If you don't have a public health problem, you should not, in my judgment, be requiring the municipalities to make an investment that produces no benefit. That is basically what we are talking about here.

The municipalities have a limited amount of money. They have to go to their taxpayers to pay for any treatments to drinking water. We go to taxpayers through the state revolving loan fund. We then provide funds to the States and the States and municipalities make the determination: How do we spend our money so as to maximize the public health in our community?

The states and the municipalities are telling us that they don't see a public health problem with copper, but they are willing to try to work with the Environmental Protection Agency to solve this problem.

Mr. President, first of all, we have asked the Environmental Protection Agency to allow the National Academy of Sciences to impanel a study group to evaluate the science that underlies this standard—a peer reviewed evaluation—and come back and say, ''This is our current estimate of the situation, our current estimate based upon reviewing all the science, particularly the peer-reviewed science that is out there; this is what we see the current situation to be.''

Allow EPA, in short, to do what the Safe Drinking Water Act says it is supposed to do, which is to review these regulations once every 6 years. It has been 7 years. There is plenty of evidence that would indicate it is time for EPA to review this standard, including other people's evaluations, and as I said, the presence of an overwhelming fact, which is that we are not experiencing public health problems in Nebraska.

In our negotiations—Senator HAGEL, Congressmen BEREUTER, CHRISTENSEN and BARRETT—we had a meeting yesterday with EPA. We are asking EPA to empower and to contract with the National Academy of Sciences to do a study of the science underlying this rule to determine whether 1.3 milligrams per liter is reasonable. If we get a ''yes'' on that request, which we don't have at the moment—as I said, my colleagues may be spared the opportunity of coming down here and voting on this amendment.

There is another problem we are experiencing with EPA. Again, we talked with region 7, and we talked, as well, with Administrator Browner, and perhaps we can get true flexibility. We have asked for flexibility in dealing with this problem. I will describe for my colleagues one of the things the Nebraska department of health asked the Environmental Protection Agency for, in terms of flexibilities in implementing this rule, and the answer from EPA was no. They asked if it would be OK if the State of Nebraska paid for the removal of copper piping and copper fixtures, get rid of the copper altogether as a solution to this problem. The answer from EPA was that this is not one of the acceptable solutions that is on their list.

Eliminating the copper was not an acceptable solution to the EPA, Mr. President, nor was it acceptable to engage in a significant public health campaign to help people understand—and to ask them to flush, once a day, the water in their systems to remove the copper that leached into the water after sitting overnight in the pipes—especially in smaller communities where you have a relatively small audience. EPA was saying things like, ''Well, yeah, but somebody could get up in the middle of the night and have to go to the bathroom and maybe forget and take a drink of water.''

This is the sort of reason given to people to support legislation like the Safe Drinking Water Act? We want the Government to be a positive force in keeping our people safe, but when we hear rationale like this, we scratch our heads and wonder whether or not it is all worthwhile.

We seem to frequently run into this sort of inability to bring common sense to the process. I am hopeful that Administrator Browner—she was very positive yesterday—I am hoping Administrator Browner will, first of all, ask the National Academy of Sciences to do a study of the underlying science, which is overdue given the conflicting analyses we have seen; and, second, to direct region 7 to work with us to get a flexible plan that enables us, bottom line, to have our cities and our States saying to us, ''We have identified a solution here; we have a means of dealing with this; here is what it is going to cost us; we are willing to make this investment.''

Understand, at the community level where they are drinking the water, they are saying, ''There are public health problems that are much larger than this. We don't have anyone getting sick from copper. We understand you all think we ought to be getting sick at these levels, but we are not. We are willing to work with you and willing to make an investment, but we want that investment to be justified. We want the cost to track somehow with the benefit. We want to be able to say here is the benefit we are getting with the cost of the expenditure itself.''

I am pleased to inform my colleagues, at the conclusion of Senator HAGEL's and my remarks on this, we are prepared to withdraw this amendment and not put you through the process of voting on this at this time. But if we are not able to get a satisfactory answer from Administrator Browner, I inform my colleagues there will be an opportunity to vote on this amendment.

My guess is that any of you out there who have municipalities that are discussing this with the Environmental Protection Agency—I guarantee you, all you have to do is talk to your colleagues in Minnesota and ask them how it worked. They implemented the EPA plans for copper removal, and it hasn't worked in nearly half of the 130 water systems they were forced to treat. They did everything the EPA told them to do to reduce copper levels and it didn't work. They still have the problem and are now scratching their heads and trying to figure out what they are going to do next.

Mr. President, I appreciate the indulgence of the Senator from South Carolina and the Senator from New Hampshire and other colleagues. I look forward to coming to the floor and saying that this issue is satisfactorily resolved. Administrator Browner, I believe, is making a good-faith effort, but we have a ways to go before we are certain we don't have to come back and appeal to our colleagues, who are likely experiencing similar things, to give us a change in the law that will give us time to allow these scientific studies to be reviewed, and possibly, this rule revised.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Nine-and-a-half minutes remain for the proponents. The Chair recognizes the junior Senator from Nebraska.

Mr. HAGEL. Thank you, Mr. President.

Mr. President, I rise to support this amendment sponsored by my good friend and colleague, the senior Senator from Nebraska, Senator KERREY.

As Senator KERREY has very directly stated, this amendment is an attempt to bring some much-needed common sense—common sense, Mr. President, common sense—to the EPA regulatory process. We are not in any way attempting to amend the Safe Drinking Water Act.

I commend my colleague from Rhode Island, the distinguished chairman of the Environment and Public Works Committee, Senator CHAFEE, for his hard work in crafting this bill over the years and having brought it up to date and focused on what is important, and that is to protect the safety of our drinking water. It is important that we be clear on this point. We are not attempting to amend the Public Works Committee's hard efforts, the Safe Drinking Water Act. No attempt is being made to amend the Safe Drinking Water Act.

What we are asking here is EPA delay the enforcement of copper regulations until the completion of scientific studies that are already underway. Regulations imposed by the EPA on copper levels in drinking water are unrealistic and will impose financial hardships on a number of communities in Nebraska. Is it too much to ask—really, is it too much to ask—that scientific studies be completed before costs are imposed? Mr. President, that is just common sense.

The town of Hastings, NE, population 23,000, will be forced to pay over $1 million in the first year to comply with these onerous regulations and $250,000 the year after that. More than 60 Nebraska water systems face similar financial burdens because of the EPA's enforcement of these copper regulations.

The most incredible part of this issue is that the EPA has not proven that there is a health risk. As my friend, Senator KERREY, said, they want to prove it; they want to tell us we have it, but they can't make the scientific link. The EPA used case studies to set these copper levels, some of which are over 40 years old, and often included only a few people. One EPA case study from 1957 refers to 15 nurses, 10 of which got sick after drinking cocktails

with between 5.3 and 32 milligrams of copper—very strong scientific evidence.

Yet, a 1994 interim study conducted by the Centers for Disease Control and Prevention found that EPA's copper standard seriously exaggerated health effects in Nebraska due to water consumption. In comparison, the CDC study conducted in 1994 to examine almost 200 households in Nebraska in a controlled, scientific way, found no relationship between the copper concentrations and illness.

One of the problems in Nebraska, Mr. President, is that copper does not come from the city's water system. It comes from copper pipes—copper pipes—in individual homes. Yet only six of the homes tested, in Hastings, NE, had copper levels above the EPA standards. And for those six homes, the EPA is going to force the people of the entire town in Nebraska to spend millions of dollars to change the system.

This is folly. This is nonsense. This is one of the most clear examples of EPA zealousness that I think I have ever seen.

The State of Nebraska has attempted to make its case with the EPA but has been repeatedly dismissed. The State suggested allowing residents to let the water run in the taps for a short period of time before using water for drinking. Nebraska's Department of Health and Human Services would have used a public education program to ensure that this ''flushing'' method was done correctly. Residents already did this on their own and copper levels dropped to nearly zero—copper levels dropped to nearly zero—after letting the tap run for a few seconds. The State also said it would pay to replace the copper plumbing for affected households.

The attorney general of the State of Nebraska has filed a lawsuit to try to block the EPA enforcement of these regulations until we have some sound science. And the Governor, Governor Nelson, is involved.

The attitude of the EPA toward the people of Nebraska has been one of supreme arrogance. Some of my colleagues may wonder why this is such a problem in Nebraska. Why haven't they heard about this in their States?

Well, Nebraska is unique, not only because we play decent football, Mr. President, but also because we rely, almost exclusively, on groundwater for our water supplies. Because of this, some towns and cities in Nebraska do not have a central water system but a number of systems that feed into the main system.

For these towns of Nebraska, treating drinking water means treating each individual well, which drastically increases costs. And for what? The people of Nebraska do not want unsafe drinking water; of course they don't. If there was a real health risk, they would pay to have the water treated. But when the scientific evidence shows no health risk, when the EPA rejects every commonsense alternative—many of what my colleague from Nebraska talked about—what are the people of Nebraska to do? They have turned to their congressional delegation. They have turned to their Congress and asked for help.

The Constitution gives Congress the authority to decide whether or not Federal agencies can spend the money of the American taxpayers, what they spend it on, and why they spend it. Too often we have neglected this authority and let Federal agencies run right over the top of the American people, the very people who pay the bills—the taxpayers. But we don't have a voice. That is why Senator KERREY and I are on the floor today.

We are here to bring the case of the people of Nebraska to the Senate, as our colleagues are doing in the House. We have no other recourse, Mr. President. Again, we are not attempting to amend the Safe Drinking Water Act. We are asking to change the regulations so that we have some ability, some flexibility to wait until we have sound science. What an outrageous request. What an outrageous request.

Mr. President, dealing with the EPA is like wandering around in the Land of Oz, this mystical land. But we wish to pull back the curtain and get to some reality and common sense. It is my hope, as is the hope of my friend and colleague, the senior Senator from Nebraska, that our colleagues will listen to this plea and will assist us in this effort. We are grateful for an opportunity to tell our story—a real story.

Thank you. I yield the floor.

The PRESIDING OFFICER (Ms. SNOWE). Who yields time?

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Madam President, I ask unanimous consent that letters in support for this amendment from the National Governors' Association, the Central Nebraska Mayor's Association, the League of Nebraska Municipalities, the city of Columbus, the city of Hastings, the village of Snyder, and the village of Fairmont be printed in the RECORD.

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

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, July 16, 1998.

Hon. BOB KERREY,
U.S. Senate, Senate Hart Office Building, Washington, DC.

DEAR SENATOR KERREY: We are writing to share our concerns about the lead and copper rule promulgated by the U.S. Environmental Protection Agency (EPA) under the Safe Drinking Water Act. Communities in many states, particularly smaller communities, face substantial costs under this rule. We understand that serious questions have been raised about the rule, including the justification for the current action level, the cost effectiveness of the rule, and the replicability of the sampling procedures used under the rule. We understand that the rule may also interfere with the implementation of other pending regulations, such as the Disinfectant/Disinfection Byproducts Rule. Such interference could have serious adverse health consequences.

In the face of these uncertainties, we urge you to take steps to ensure that the lead and copper rule is based on the best available, peer-reviewed science and is subject to risk assessment, comparative risk assessment, and risk management techniques that include analyses of costs and benefits. The Governors have recommended that for all regulations with a substantial potential impact on public health or the economy, the regulatory agency should be required to certify that the regulation is likely to produce benefits that justify the costs. In determining that the benefits justify the costs, the agency should consider the full scope of qualitative and quantitative costs and benefits, exercise sound judgment, use realistic assumptions, weigh all reasonable alternatives, and strike an appropriate balance between costs and benefits.

We would appreciate your assistance in ensuring that EPA satisfies these recommendations in the case of the lead and copper rule. Thank you for your consideration of this important issue.

Sincerely,

E. BENJAMIN NELSON,
Chair, Committee on Natural Resources.
MARC RACICOT,
Vice Chair, Committee on Natural Resources.

CENTRAL NEBRASKA MAYOR'S ASSOCIATION,
June 8, 1998.

Hon. ROBERT KERREY,
Hart Building,
Washington, DC.

DEAR SENATOR KERREY: We are writing to convey to you the solid support of four major Nebraska communities for the recent efforts by the Nebraska congressional delegation regarding the lead and copper rule designation in the Safe Drinking Water Act. In an April 24, 1998 letter to USEPA, Nebraska's congressional delegation unanimously urged bringing common sense and good scientific evidence to the copper rule. We support that position and encourage you to continue pressing this issue in our behalf, as well as that of many other Nebraska communities.

As you are well aware, epidemiological evidence generated by the Centers for Disease Control indicates that the drinking water standards for copper are arbitrarily established at levels far below those believed to pose any threat to human health. Incredibly, the level established by USEPA is less than the recommended daily minimum amount of cooper for human consumption, established by another federal agency. What is more unnerving, is the fact that cities are being mandated to make significant changes to their water delivery systems, not because of the source of supply, or because of the water systems themselves, but because of the copper water services in private homes. This of course can be solved by running the water for a few seconds each morning before taking any water for drinking purposes, which, we suspect, is a universal practice. Viewed another way, does USEPA have any evidence whatsoever that anyone is consuming water with ''unaccepted levels'' of copper in it?

We believe that USEPA has strayed from its original mandate of ensuring a clean environment. Instead, communities throughout the country are confronted with the hypertechnical wanderings of a bureaucratic juggernaut, promulgating unreasonably stringent environmental standards that lack good scientific evidence, ignore practical testing procedures, and are totally devoid of any common sense.

It is particularly vexing to deal with unreasonable standards which will cost Nebraskans millions of dollars while providing no apparent benefit. Cities are asked by their populations to provide essential services that enhance the quality of life of their citizens. Dollars are tight and public scrutiny is high. The waste of time, effort, and precious dollars on misguided notions like the copper rule for drinking water, is totally unacceptable. Please continue and intensify your efforts to bring good scientific evidence to these and other rules, regulations and standards of USEPA.

Thank you again for your interest in this matter.

Sincerely,

KEN GRADY,
Mayor of Grand Island.
JAMES D. WHITAKER,
Mayor of North Platte.
J. PHILLIP ODOM,
Mayor of Hastings.
PETER S. ————,
Mayor of Kearney.

LEAGUE OF
NEBRASKA MUNICIPALITIES,
Lincoln, NE, July 17, 1998.

Senator BOB KERREY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KERREY: Thanks for your attempted heroics late (verrrrry late) last night on behalf of Nebraska municipal water distribution systems. The staff at the League of Nebraska municipalities informed me that you used considerable debating skills and knowledge of procedure to try to amend a measure to give Nebraskans some relief from the EPA Copper Rule. It is not that often anymore that you get to see good debating skills put to use in legislative process, but you apparently made Nebraska look good.

Again, I appreciate all the work that you and your staff have put in on this issue. As you know, and very effectively communicated, compliance with this regulation will cost Nebraskans millions of dollars for little or no health benefit. Nebraska municipal officials are not against the protection of public health. They live in the very communities that they serve. But meeting the ''at the tap-first draw'' copper standard seems to be throwing money away.

Sincerely,

JIM VAN MARTER,
League President,
Mayor, Holdrege, Nebraska.

COLUMBUS, NE,
July 10, 1998.

Hon. ROBERT KERREY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KERREY: On behalf of the City of Columbus, I would like to lend our support to your amendment to place a prohibition on the enforcement of the Copper Ruling by the Environmental Protection Agency (EPA).

From all indications, this ruling appears unsupported by scientific evidence. If this should be enforced, it will cost our city thousands of dollars.

I ask that you give us every consideration in fighting this ruling. We appreciate your leadership in helping us concerning this matter.

Sincerely,

GARY GIEBELHAUS,
Mayor.

HASTINGS, NE,
July 10, 1998.

Re Copper regulations.

Hon. TRENT LOTT,
Rayburn Building,
Washington, DC.

DEAR SENATOR LOTT: I am writing to you on behalf of the citizens and water rate payers of the City of Hastings, Nebraska, an agricultural community of 22,000 people located in the south central part of the state. The drinking water system for our community is operated by our local Board of Public Works. Tests of drinking water (taken in private homes) indicate that the levels of copper in the water barely exceeds the action level for copper established pursuant to the 1986 Safe Drinking Water Act. The State of Nebraska has issued an order to the City, directing implementation of costly ''optimal corrosion control treatment''.

USEPA's active level for copper in drinking water is based upon two outdated (one is at least 40 years old) and unreliable studies. Recent epidemiological evidence generated by the Centers for Disease Control indicates that the drinking water standards for copper are arbitrarily established at levels far below those believed to pose any threat to human health. It is most noteworthy that the level established by USEPA is less than the federally recommended daily minimum amount of copper for human consumption. In fact, the amount of copper in a multiple vitamin tablet exceeds the USEPA's action level.

Senator, we, and many other communities around the country, are being directed by government to expand millions of dollars on our water systems in just a few short years, with literally no reasonable expectation of benefit to public health. This makes absolutely no sense at all. We would hope that you agree that it is foolish to act on poor information, when good information is readily attainable. We need your help. (Our water department, which operates at a loss most years, estimates that installation of the required modifications will cost $1,000,000 initially, with an added operations expense of approximately $250,000 per year.)

Nebraska Senator Robert Kerrey and Chuck Hagel have introduced legislation which would prohibit USEPA's implementation or enforcement of this rule until more reliable studies can be completed and evaluated. The expected time frame for obtaining this much more reliable information is less than 30 months.

We ask that you join our Nebraska Delegation in its efforts to gain a reprieve which makes eminent sense. In our estimation, there are no risks associated with taking the time to get the facts straight. We do not know of even one copper related illness, belly ache or sniffle in the more than one hundred year history of this county. I can tell you without fear of contradiction, that if we had the one million dollars and more to spend, the public health and quality of life in our community would be much better served by spending that money on fire trucks and police cars.

Public health and safety are the top priority of Hastings city government. We, and many other units of local government are on the front line. But we have precious few resources and dollars for this effort. Please help prevent the bureaucratic misdirection of our dollars and resources, so that we can do what is best for our community.

You can undoubtedly discern from the tone of this letter, that I am already convinced that further studies will show that the action level for copper is unreasonably low. My limited review of available data, and information provided by those knowledgeable on the matter, unanimously support this conviction. Please rest assured, however, that Hastings will expeditiously comply with whatever standard emanates from the more current studies. We have faith in good science. Recent history shows that Congress shares that faith.

Thank you for your interest in this matter.

Sincerely,

J. PHILLIP ODOM,
Mayor of Hastings.

SNYDER, NE,
July 14, 1998.

Senator ROBERT KERREY,
Hart Building,
Washington, DC.

DEAR SENATOR KERREY: I am sending this letter to inform you of the costs of a small town to comply with the copper rule. The population of the Village of Snyder is 280, and we have a water budget of $31,000.00 for this fiscal year. Snyder also has two (2) wells, according to our engineer our capital expenses would be $30,000.00 for building modification and equipment purchases. The ongoing operational costs including chemicals, training, administrative, and repairs/maintenance would cost $12,000.00. The first year would cost the Village $42,000.00, and require us to budget an additional $12,000.00 per year. If we have to use bonds to pay for the capital costs, there will be additional expenses.

This does not include the cost of a corrosion control study as required by the administrative order. Our engineer estimated between $3,000.00 and $3,500.00, or the quarterly notices that we have to publish. There is also the cost of additional water testing that we are required to perform.

Although, the easy answer is to raise rates it is not always the best one.

I would like to thank you for your efforts to help us.

I am enclosing a separate cost breakdown.

Sincerely,

JOEL D. HUNKE,
Chairperson,
Village Board of Trustees.

Enclosure.

Village of Snyder estimated cost for compliance lead and copper administrative order

Capital expenses:	
1. Modify well house buildings at $10,000/building	$20,000
2. Purchase equipment at $5,000/well	10,000
Total capital expenses	$30,000
Ongoing operational costs:	
1. Chemicals at $0.10/1,000 gallons of water 1997 production was 44,675,000 gallons	4,468
2. Monitoring, testing, training, administrative $3,000/yr for 1st well and $2,500/yr for 2nd well	5,500
3. Repairs and Maintenance $1,000/well/year	2,000
Total operational costs	11,968
Grand total	41,968

FAIRMONT, NE,
July 13, 1998.

Re Lead and copper ruling.

Senator ROBERT KERREY,
Hart Building,
Washington, DC.

DEAR SENATOR KERREY: The Fairmont Village Board of Trustees would like to thank you for your efforts to assist municipal water systems in Nebraska which are currently under Administrative Order for violation of copper standards in drinking water.

I am enclosing a letter from our engineers pertaining to the costs if Fairmont would

have to comply with the Administrative Order. In review it would cost the village $45,000 for the capital outlay and approximately $18,000 annually for ongoing operations costs.

Our village board believes that the copper action level is excessively stringent, has an excessive safety margin and is not supported by sound scientific data and studies. The ruling requires the village to expend public funds for monitoring and treatment of public water supply system of the Village in order to correct contaminations which occur within the service lines and plumbing systems owned by private persons or entities, and our board does not feel that public funds should be used in this manner.

Thank you for your assistance in this matter and if you need additional information, please contact our office or the League of Nebr. Municipalities.

Sincerely,

DAVID R. SEGGERMAN,
Chairperson, Fairmont Village Board of Trustees.

Enclosure.

JOHNSON ERICKSON O'BRIEN,
Wahoo, NE, July 8, 1998.

Re Lead and copper rule estimated cost for compliance.

LINDA CARROLL,
Clerk,
Fairmont, NE.

DEAR LINDA: This letter is in response to recent requests that we have gotten regarding the cost of compliance with the Lead and Copper Rule.

Every case will be different, but I believe that the following will provide a good general guideline for determining how much it will cost to deal with the Lead and Copper Rule.

C. In general, most well buildings are not set up to provide adequate space or provide an appropriate environment for use as a chemical feed room. Depending on the building site conditions and the layout, we believe it is likely that the well building will need to be expanded and rough cost for the building modifications would be $10,000 per well (POE).

D. The type of chemical treatment that will be necessary for each well will depend on the detailed chemical analyses of the well water. However, for planning purposes, we would estimate that the cost for chemical feed equipment and electrical modifications needed could be approximately $5,000/well (POE) and the raw cost of chemical would be approximately 10¢/1,000 gallons of water pumped.

E. In addition, to the chemical cost, it would be anticipated that considerable additional cost/time will be involved in the daily monitoring of the chemical feed systems, testing, and administrative time involved in maintaining records, etc. It would appear reasonable to assume that the costs could be around $3,000/yr. for the first well, and maybe $2,500 for each added well.

F. Also, I would expect that repairs and maintenance costs could be $1,000/well/year to keep pumps and controls updated/operational.

In conclusion, we believe that costs for Lead and Copper Rule compliance would be:

A. Capital Expenditure Costs
1. Building Modification: $10,000/well (POE)
2. Equipment Costs: $5,000/well (POE)
Total: $15,000/well (POE)

B. Ongoing Operational Costs
1. Chemical Costs: 10¢/1,000 gal. pumped
2. Operational/Administrative Costs: $3,000/yr. 1st well (POE) $2,500/yr. each added well (POE)
3. Repairs/Maintenance: $1,000/yr./well (POE)

If you have any questions regarding this letter or if you need anything further from us, please feel free to advise.

Sincerely,

RON BOTORFF.

A. Village of Fairmont has 3 wells @$15,000.00=$45,000.00 Capital set up.

B. Village of Fairmont 1997 water use 75,000,000 gallons÷1,000 @10¢=7,500.00 Chemical Cost.

Operation/Admin—1 well @$3,000.00+2 wells @$2,500.00=8,000.00 Oper/Admin.

Repairs & Maint. 3 wells @$1,000.00=3,000.00 Rep. & Maint.

In review, the capital expenditure for the Village of Fairmont would be approximately $45,000.00 and annual expenditures for ongoing operational costs would be approximately $18,500.

Mr. KERREY. Madam President, I am prepared to yield back the remainder of my time. I do not know if—Senator CHAFEE is probably not going to speak because I told him we would withdraw the amendment.

I say to the Senator from New Hampshire, if you don't want to take the additional 10 minutes, I will ask unanimous consent to withdraw the amendment.

Mr. GREGG. I have no objection to the Senator from Nebraska withdrawing the amendment.

Mr. KERREY. Do we need to yield back time in opposition?

The PRESIDING OFFICER. Yes, the Senator should yield back his time.

Mr. GREGG. I will yield back our time.

AMENDMENT NO. 3275 WITHDRAWN

Mr. KERREY. I ask unanimous consent that the amendment offered by myself and Senator HAGEL be withdrawn.

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

The amendment (No. 3275) was withdrawn.

The PRESIDING OFFICER. Who seeks recognition?

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. What is the parliamentary status now?

The PRESIDING OFFICER. Amendments are in order.

AMENDMENT NO. 3276

(Purpose: To condition the availability of funds for United States diplomatic and consular posts in Vietnam)

Mr. KERRY. Madam President, therefore, I send an amendment to the desk and ask for its immediate consideration on behalf of myself, Senator JOHN MCCAIN, and Senator BOB KERREY.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Massachusetts [Mr. KERRY] for himself, Mr. MCCAIN and Mr. KERREY, proposes an amendment numbered 3276.

Mr. KERRY. I ask that reading of the amendment be dispensed with.

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

The amendment is as follows:

Beginning on page 96, strike line 23 and all that follows through line 12 on page 100 and insert the following:

SEC. 405. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to pay for any cost incurred for—

(1) opening or operating any United States diplomatic or consular post in the Socialist Republic of Vietnam that was not operating on July 11, 1995,

(2) expanding any United States diplomatic or consular post in the Socialist Republic of Vietnam that was operating on July 11, 1995, or

(3) increasing the total number of personnel assigned to United States diplomatic or consular posts in the Socialist Republic of Vietnam above the levels existing on July 11, 1995,

unless the President certifies within 60 days the following:

(A) Based upon all information available to the United States Government, the Government of the Socialist Republic of Vietnam is fully cooperating in good faith with the United States in the following:

(i) Resolving discrepancy cases, live sightings, and field activities.

(ii) Recovering and repatriating American remains.

(iii) Accelerating efforts to provide documents that will help lead to fullest possible accounting of prisoners of war and missing in action.

(iv) Providing further assistance in implementing trilateral investigations with Laos.

(B) The remains, artifacts, eyewitness accounts, archival material, and other evidence associated with prisoners of war and missing in action recovered from crash sites, military actions, and other locations in Southeast Asia are being thoroughly analyzed by the appropriate laboratories with the intent of providing surviving relatives with scientifically defensible, legal determinations of death or other accountability that are fully documented and available in unclassified and unredacted form to immediate family members.

Mr. KERRY. Madam President, are we operating under a time agreement on this?

The PRESIDING OFFICER. Twenty minutes evenly divided.

Mr. KERRY. Twenty minutes equally divided.

Madam President, I yield myself such time as I may use. I ask that the Chair let me know when I have used 7 minutes.

Madam President, for the past 3 years we have had language in the appropriations bill that prohibits funding for the expansion of our diplomatic presence in Vietnam unless the President of the United States certifies that Vietnam is cooperating on the POW/MIA issue.

The fact is that the standard currently in law requires a tough certification by the President. The President has to certify that Vietnam is fully cooperating. The President has to certify that in good faith Vietnam is cooperating in four specific areas: resolving discrepancy cases, live sightings and field activities, remains recovery and repatriation, providing documents, and assisting in the trilateral investigations with Laos.

That is a fair and a sensible standard, Madam President. However, section 405

of the pending bill that has been put into the bill creates a whole new standard. It creates a standard of significant increased capacity for subjectivity and for distortion and, frankly, for an unreasonableness, which, if adopted, would set back our relationship and our capacity to build the progress and relationship not just on POW/MIA but on human rights and other issues where we have been making progress.

The amendment that I offer with Senator MCCAIN from Arizona and Senator BOB KERREY from Nebraska would strike section 405, replacing it with the language in the current law that requires a certification from the President, and requires the same standard of certification that we have had over the course of the last years.

In our judgment, section 405 will not only undo much of the cooperation that we have but could conceivably set back our capacity to be able to find answers on the POW/MIA issue. We believe it would undermine the policy of normalization and it would create an unreasonable certification standard in an effort to prevent the expansion of our diplomatic presence and, thus, our relationship.

Current law requires the President to certify whether or not Vietnam is cooperating in good faith. I want the Senate to know that the President made that certification on March 4 of this year, as he has for the past 2 years.

Section 405, however, in the legislation that we seek to strike, incorporates a standard that requires the President to somehow say that they are fully forthcoming, fully cooperating in good faith, and the words ''fully forthcoming'' present all kinds of complications about what is possible to give, what is not possible, what documents somebody may have, whether or not it is possible to give them, and raises issues that the POW/MIA committee and those who have been involved in this issue for a long period of time have argued for some period of time and resolve with the language that is currently in the law.

Over the many years that I have been involved in this issue, we have always had a struggle over this central question of what they have, what they don't have, who may have it, who has control of it, and if you get caught in the total subjectivity of a standard that no one in the intelligence community or elsewhere believes they can possibly meet, all we do is create a mischief in the process.

There is no question that we need to keep pressing for documents. We are. We just had a whole new slug of documents turned over that we are in the process of translating. We discovered new items from many of these unilateral turnovers of documents. The point is, they are happening because there is a cooperative effort, because we are engaged in marching down a road together in order to try to assert the truth here.

I think we also have to recognize that just as we deem certain documents pertaining to the military and to our country's national security as being classifiable or sensitive, so do they. We may not view it the same way, but clearly they are going to present, and their agencies—whether the defense agency, the interior agency—will argue that one document or another represents a security risk. So we have to work through the process of that. If we hold ourselves accountable to a standard where we are subject to some agency or bureaucrat being less than forthcoming in that regard about a document we don't even know they have, it seems to me we are creating an impossible situation and an impossible standard.

In addition to that, section 405 also adds other new conditions to the process. It requires Vietnam to resolve hearsay reports which pertain to the possible or confirmed prisoner of war/missing in action. Apart from the question of how anyone resolves a hearsay report, this requirement would add an enormous burden to both the American and Vietnamese teams, who are on the ground, who are pursuing nonhearsay reports. They are already tasked on a very clear schedule of trying to determine every single nonhearsay report, absolutely certain evidence they have, which requires them to go out into the field, interview, dig, do a whole host of other very time-consuming efforts. To suggest that every single hearsay report has got to be resolved to the exclusion of the confirmed reports that they are already pursuing is to, again, raise this to a standard of absurdity.

The fact is, we have made enormous progress on the POW/MIA issue precisely because of Vietnamese cooperation. In the last 5 years, American and Vietnamese teams have concluded 30 joint field activities in Vietnam; 233 sets of remains have been repatriated, and 97 have been identified.

The PRESIDING OFFICER. The Senator has used 7 minutes.

Mr. KERRY. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. It is my understanding I have 10 minutes.

The PRESIDING OFFICER. That is correct.

Mr. SMITH of New Hampshire. I yield myself 7 minutes at this point.

I rise to support the committee language that is in the bill before us with respect to Vietnam. I urge my colleagues on both sides of the aisle to listen carefully to the debate between myself and my colleague from Massachusetts.

It seems that we can depend on three things anymore in America—death, taxes, and the fact that Senators KERRY and MCCAIN will somehow oppose any language that I try to support in regard to the POW/MIA issue.

Senator KERRY said that this is not workable, that the term ''fully forthcoming'' is not workable. Of course it is workable. It is workable because the language says that the President's judgment, the President's own judgment, is based on information available to the U.S. Government. There is nothing unworkable about that language at all. It is very workable. The President has continued to certify the very language that the Senator from Massachusetts wants to revert back to, which was language that I helped to write and put in the bill last year. We are simply upgrading it a little bit. That is not anything to be concerned about. The President still does the certification. It is his judgment. No one is changing that. I might not agree with the President's judgment from time to time, but he has the right to make that judgment under the law. That is the issue here.

I hope the Senators and their staffs who are monitoring this debate will look at section 405 to see what the Senator from Massachusetts is striking—it is found on page 96 of the committee bill—because it is reasonable. I think most Senators will resist the effort to strike it. It is reasonable.

Senator GREGG and the committee support this language. The committee language continues a certification process that was begun in 1995 when the President established full diplomatic relations with Vietnam. It has continued, through this year, when the President issued his latest certification in March. Now, whether or not we agree or disagree with the President's certification is not the issue. I happen to disagree. I didn't believe he should have certified based on the evidence. But he did, and he has the right to do that under the law.

What the committee has done is to further modify the language in an appropriate manner based on developments and communications from the executive branch over the last year. Each time, in the end, the President has complied with the certification process. I have no doubt he will do it this time. In fact, let me refer to the President's own words when he issued the most recent certification in March of this year.

> In making this determination, I wish to reaffirm my continuing personal commitment to the entire POW/MIA community, especially to the immediate families, relatives, friends, and supporters of these brave individuals, and to reconfirm that the central, guiding principle of my Vietnam policy is to achieve the fullest possible accounting of our prisoners of war and missing in action.

That is the President. I have that document right here, signed by the President of the United States.

I ask unanimous consent this document be printed in the RECORD.

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

[Presidential Determination No. 98–16]

MEMORANDUM FOR THE SECRETARY OF STATE

Subject: Vietnamese Cooperation in Accounting for United States Prisoners of War and Missing in Action (POW/MIA).

As provided under section 609 of the Departments of Commerce, Justice, and State,

the Judiciary, and Related Agencies Appropriations Act, 1998, Public Law 105–119, I hereby determine, based on all information available to the United States Government, that the Government of the Socialist Republic of Vietnam is fully cooperating in good faith with the United States in the following four areas related to achieving the fullest possible accounting for Americans unaccounted for as a result of the Vietnam War:

(1) resolving discrepancy cases, live sightings, and field activities;

(2) recovering and repatriating American remains;

(3) accelerating efforts to provide documents that will help lead to the fullest possible accounting of POW/MIAs; and

(4) providing further assistance in implementing trilateral investigations with Laos.

I further determine that the appropriate laboratories associated with POW/MIA accounting are thoroughly analyzing remains, material, and other information, and fulfilling their responsibilities as set forth in subsection (B) of section 609, and information pertaining to this accounting is being made available to immediate family members in compliance with 50 U.S.C. 435 note.

I have been advised by the Department of Justice and believe that section 609 is unconstitutional because it purports to use a condition on appropriations as a means to direct my execution of responsibilities that the Constitution commits exclusively to the President. I am providing this determination as a matter of comity, while reserving the position that the condition enacted in section 609 is unconstitutional.

In making this determination I have taken into account all information available to the United States Government as reported to me, the full range of ongoing accounting activities in Vietnam, including joint and unilateral Vietnamese efforts, and the concrete results we have attained as a result.

Finally, in making this determination, I wish to reaffirm my continuing personal commitment to the entire POW/MIA community, especially to the immediate families, relatives, friends, and supporters of these brave individuals, and to reconfirm that the central, guiding principle of my Vietnam policy is to achieve the fullest possible accounting of our prisoners of war and missing in action.

You are authorized and directed to report this determination to the appropriate committees of the Congress and to publish it in the Federal Register.

WILLIAM J. CLINTON.

Mr. SMITH of New Hampshire. For the Senator from Massachusetts and others now to basically prevent the committee from updating the language based on the President's own words, and based on the words of Sandy Berger and others, sends a terrible message, a message that I simply do not understand, for the life of me, why we have to fight this battle day in and day out, year in and year out, on the floor of the Senate. There is nothing wrong with this language, I say to my colleague, with all respect. The President still has the right to certify. And he does in spite of the fact that I disagree, many times, with his reasoning for the certification.

To prevent the committee from updating this language sends, I think, a terrible message to the Government of Vietnam: It is OK, do whatever you want. Go ahead, provide us documents, don't provide us documents; provide us access, don't provide us access, it doesn't matter. The families of 2,000-plus American service personnel still unaccounted for, don't worry about it. Our Nation's veterans, we no longer attach the same priorities to the POW/MIA effort in our development of relations with Vietnam which we had in the last 3 years. Don't worry about that. Let's go ahead, pursue lines of trade, sell oil, buy oil, whatever. Set up a full diplomatic mission. Don't worry about these things. Don't worry about POW/MIA. That is a side issue that is not really important.

That is reason alone for the Senators and my colleagues to table this amendment. Don't send this kind of message to the families. God knows they have been through enough. They support the language in the committee bill. That should be enough right there. These are the people who have suffered. It hasn't been Senator SMITH; it hasn't been others on the Senate floor—well, in some cases, there has been great suffering by some of my colleagues in the Vietnam war. But it is the families of the missing who want this message. We should do it for them, if for no other reason. They have been in touch with me as recently as this morning. They passionately object to what the Senator from Massachusetts is trying to do. They have told me that.

I ask unanimous consent that their statements be printed in the RECORD immediately following my remarks.

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

(See Exhibit 1.)

Mr. SMITH of New Hampshire. I have statements from the League of Families, the Alliance of Families, from 70 former POWs, from major veterans groups, including the American Legion. And I know that others support what we are doing, like the National Vietnam Veterans Coalition, and many others support the language and support the committee process.

So I hope that we will defeat this effort.

EXHIBIT 1

NATIONAL LEAGUE OF FAMILIES OF AMERICAN PRISONERS AND MISSING IN SOUTHEAST ASIA,
Washington DC, July 23, 1998.

Hon. BOB SMITH,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR SMITH: The POW/MIA families strongly support the language currently in the Commerce, State, Justice appropriations bill as the best way to motivate the Socialist Republic of Vietnam government to account for Americans still missing from the Vietnam War.

The League is not surprised that the Clinton Administration, faced with another Congressional certification requirement, prefers broad language that is politically easier to finesse, than specific criteria that must be met. However, at the League's 29th Annual Meeting, U.S. Ambassador to Vietnam, the Honorable Douglas ''Pete'' Peterson, expressed frustration that the language was too broad, requiring either certification of full cooperation or nothing, leaving no room for incremental judgments.

The League's position is based upon past and current official assessments of what Vietnam can do unilaterally to account for missing Americans. Unilateral actions do not simply mean support for joint field operations, a necessary process in the longer term, but steps by the government of Vietnam to locate and return identifiable remains and provide relevant documents that are still being withheld.

Congress has the ability to stand behind those who serve—past, present and future—by retaining the language in the Committee's bill. Efforts by Senators John Kerry and John McCain to remove this language may be well-intended, but are illogical. There is no risk that Vietnam will halt bilateral POW/MIA cooperation and risk achieving their priority mission of MFN. By retaining the Committee's language, Congress can signal it recognizes that more can and should be done by Vietnam on this issue of stated highest national priority to the Clinton Administration and understandable importance to the American people.

Please stand with the POW/MIA families and America's veterans and oppose the Kerry/McCain amendment to remove relevant POW/MIA language.

Respectfully,

ANN MILLS GRIFFITHS,
Executive Director.

NATIONAL ALLIANCE OF FAMILIES,
Bellevue, WA, July 21, 1998.

Hon. ROBERT SMITH,
Dirksen Building,
Washington, DC.

DEAR SENATOR SMITH: The membership of the National Alliance of Families strongly opposes any effort to weaken the Committee's language which is already in the Commerce, Justice, and State, the Judiciary Appropriations Bill No. S.2260 for the fiscal year 1999 in respect to the POW/MIA Accounting (Sec. 405).

We support your efforts on behalf of our loved ones who still remain Prisoner of War and/or Missing in Action from the Vietnam War.

Thank you for your generous and strong dedication to those men who have served their Country these many years.

Sincerely,

DOLORES APODACA ALFOND,
National Chairperson.

AN OPEN LETTER TO PRESIDENT CLINTON FROM FORMER U.S. POWS

AMERICAN DEFENSE INSTITUTE,
Alexandria, VA, July 10, 1995.

The Honorable WILLIAM J. CLINTON,
President of the United States,
The White House, Washington, DC.

DEAR MR. PRESIDENT: As former U.S. Prisoners of war during the Vietnam Conflict, we are writing to request you not to establish normal diplomatic relations with Vietnam until you can certify that there has been full disclosure and cooperation by Hanoi on the POW/MIA issue. While we appreciate Vietnam's support for U.S. crash site recovery and archival research efforts, we know firsthand Vietnam's ability to withhold critical information while giving the appearance of cooperation. We were all subjected to such propaganda activity during the war, and we would be the least surprised if Hanoi was continuing to use similar tactics in its dealings with the United States.

Of particular concern to us are the several hundred POW/MIA cases involving our fellow servicemen who were captured or lost in enemy-controlled areas during the war, yet they still have not been accounted for by Vietnam. We understand that much of the fragmentary information provided by Vietnamese officials to date indicates they could do more to resolve these cases.

Some of our fellow servicemen became missing during the same incidents which we survived. They have not been accounted for. Some were captured and never heard from again. They have not been accounted for. Some were known to have been held in captivity for several years and their ultimate fate has still not been satisfactorily resolved. They have not been accounted for. Still others were known to have died in captivity, yet their remains have not been repatriated to the United States. They have not been accounted for.

Finally, we remain deeply concerned with reports from U.S. and Russian intelligence sources that maintain several hundred unidentified American POWs were held separately from us during the war, in both Laos and Vietnam, and were not released by Hanoi during Operation Homecoming in 1973. Many of these reports have yet to be fully investigated.

America deserves straightforward answers if Vietnam really wants normalized diplomatic and economic relations. If Vietnam truly has nothing to hide on the POW/MIA issue, then why have they not released their wartime politburo and prison records on American POWs and MIAs? Why have they not fully disclosed other military records on POWs and MIAs?

We would only be compounding a national tragedy if we normalized relations with Hanoi before you, as Commander in Chief, can tell us Hanoi is being fully forthcoming in accounting for our missing comrades.

Perhaps more than any other group of Americans, we want to put the war behind us. But it must be done in an honorable way. We, therefore, ask you to send a clear message to Hanoi that America expects full cooperation and disclosure on American POWs and MIAs before agreeing to establish diplomatic and special trading privileges with Vietnam.

Sincerely,

John Peter Flynn, Lt Gen, USAF (ret).
Robinson Risner, Brig Gen, USAF (ret).
Sam Johnson, Member of Congress.
Eugene ''Red'' McDaniel, CAPT, USN (ret).
John A. Alpers, Lt Col, USAF (ret).
William J. Baugh, Col, USAF (ret).
Adkins, C. Speed, MAJ, USA (ret).
F.C. Baldock, CDR, USN (ret).
Carroll Beeler, CAPT, USN (ret).
Terry L. Boyer, Lt Col, USAF (ret).
Cole Black, CAPT, USN (ret).
Paul G. Brown, LtCol, USMC (ret).
David J. Carey, CAPT, USN (ret).
John D. Burns, CAPT, USN (ret).
James V. DiBernado, LtCol, USMC (ret).
F.A.W. Franke, CAPT, USN (ret).
Wayne Goodermote, CAPT, USN (ret).
Jay R. Jensen, Lt Col, USAF (ret).
James M. Hickerson, CAPT, USN (ret).
James F. Young, Col, USAF (ret).
J. Charles Plumb, CAPT, USN (ret).
Larry Friese, CDR, USN (ret).
Julius Jayroe, Col, USAF (ret).
Bruce Seeber, Col, USAF (ret).
Konrad Trautman, Col, USAF (ret).
Lawrence Barbay, Lt Col, USAF (ret).
Ron Bliss, Capt, USAF (ret).
Arthur Burer, Col, USAF (ret).
James O. Hivner, Col, USAF (ret).
Gordon A. Larson, Col, USAF (ret).
Robert Lewis, MSgt, USAF (ret).
James L. Lamar, Col, USAF (ret).
Armand J. Myers, Col, USAF (ret).
Terry Uyeyama, Col, USAF (ret).
Richard D. Vogel, Col, USAF (ret).
Ted Guy, Col, USAF (ret).
Paul E. Galanti, CDR, USN (ret).
Laird Guttersen, Col, USAF (ret).
Lawrence J. Stark, Civ.
Michael D. Benge, Civ.
Marion A. Marshall, Lt Col, USAF (ret).
Richard D. Mullen, CAPT, USN (ret).
Philip E. Smith, Lt Col, USAF (ret).
William Stark, CAPT, USN (ret).
David F. Allwine, MSgt, USAF (ret).
Bob Barrett, Col, USAF (ret).
Jack W. Bomar, Col, USAF (ret).
Larry J. Chesley, Lt Col, USAF (ret).
C.D. Rico, CDR, USN (ret).
Robert L. Stirm, Col, USAF (ret).
Bernard Talley, Col, USAF (ret).
Paul Montague, Civ.
Leo Thorsness, Col, USAF (ret).
Robert Lerseth, CAPT, USN (ret).
Ray A. Vodhen, CAPT, USN (ret).
Richard G. Tangeman, CAPT, USN (ret).
John Pitchford, Col, USAF (ret).
Steven Long, Col, USAF (ret).
Brian Woods, CAPT, USN (ret).
Dale Osborne, CAPT, USN (ret).
Ralph Galati, Maj, USAF (ret).
Ronald M. Lebert, Lt Col, USAF (ret).
Harry T. Jenkins, CAPT, USN (ret).
John C. Ensch, CAPT, USN (ret).
Render Crayton, CAPT, USN (ret).
Henry James Bedinger, CDR, USN (ret).
Brian D. Woods, CAPT, USN (ret).
Read B. Mecleary, CAPT, USN (ret).
Ted Stier, CDR, USN (ret).
James L. Hutton, CAPT, USN (ret).
John H. Wendell, Lt Col, USAF (ret).
John W. Clark, Col, USAF (ret).
Carl B. Crumpler, Col, USAF (ret).
Verlyne W. Daniels, CAPT, USN (ret).
Roger D. Ingvalson, Col, USAF (ret).

THE AMERICAN LEGION,
Washington, DC, September 18, 1997.

Hon. JUDD GREGG,
Chairman, Subcommittee on Commerce, Justice, State, and Judiciary, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR SENATOR GREGG: The American Legion urges you and your colleagues to retain in conference the Senate-passed language on the POW/MIA Issue and U.S. relations with Vietnam (Sec. 406) in the Commerce, Justice, State, and Judiciary Appropriations bill for the Fiscal Year beginning October 1, 1997.

As you know, Section 406 states no funds will be made available for U.S. diplomacy with Vietnam, beyond what existed prior to July 11, 1995, until President Clinton certifies to Congress that Vietnam is ''fully cooperating'' on the POW/MIA issue based on a ''formal assessment of all information available to the U.S. Government.''

This new certification will be critical in view of the Senate's findings this past April, during the debate that took place during Pete Peterson's confirmation hearing as Ambassador to Vietnam. Most importantly, The President's certification last year was ''seriously flawed'' and not the result of a careful and thorough analysis of the facts.

Section 406 is vital to letting communist Vietnam know that their full cooperation, which includes unilateral cooperation, in accounting for our missing and captured personnel from the Vietnam War is still a precondition to full normalization of relations.

At The American Legion's 79th National Convention earlier this month, our delegates unanimously reaffirmed our policy that insists on the fullest cooperation before any further favorable actions towards Vietnam be taken.

Again, we urge you in the strongest possible terms, to retain the Senate-passed language on the POW/MIA issue.

Thank you for your continuing cooperation and support.

ANTHONY G. JORDAN,
National Commander.

The PRESIDING OFFICER. The Senator's 7 minutes have expired.

Mr. SMITH of New Hampshire. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. Madam President, I yield myself 2 minutes.

Senator MCCAIN is chairing a committee; otherwise, he would be here. Senator HAGEL also wanted to speak in favor of my amendment, but he had to go away for a moment. I don't know if he will return in time.

Let me say to colleagues that for the families and for the legitimate concerns of all those groups that want to make sure that this process is working properly, they can look with pride to the fact that we are engaged in the most expensive, most thorough, most effective, most extraordinary and comprehensive effort to provide for the accounting of the missing in the history of human warfare.

No country has ever before, in all of human history, gone to the lengths that we have gone to, to try to account for our missing and our lost in the course of a war. That is what we are doing today. There is, in the current law, a requirement that the President certify that, based upon all information available to the U.S. Government, that Vietnam is fully cooperating in good faith with the United States in resolving discrepancy cases, live sightings, field activities, recovering and repatriating American remains, accelerating efforts to help provide documents that would lead to the fullest possible accounting of prisoners of war and the missing in action, providing further assistance in implementing trilateral investigations with Laos, and recovering all archival eyewitness accounts, and so forth.

That is the current law. What the Senator from New Hampshire seeks to do is place a whole lot of new hoops in, some of which can't be met because the intelligence community itself is divided over it. Then they have a whole new way of arguing, saying that, gee, we are not doing the job. There is even a requirement in his section 405 about a specific document that has to be resolved, the main intelligence directorate and ministry of defense of the Soviet Union document of 1971. This has been analyzed extensively by our intelligence community. Let me just say that document has been found to be in error, inaccurate. And to have us now argue about it is a waste of the time, I think, of the standard.

I reserve the remainder of my time.

Mr. SMITH of New Hampshire. Madam President, with all due respect of my colleague, on that last point, this is a document entitled the Comprehensive Report of the U.S.-Russia Joint Commission on POWs/MIAs, of which Senator John KERRY is a member, and I am, as well as others. In that document, which Senator KERRY signed, is this phrase:

There is debate within the U.S. side of the commission as to whether the numbers cited in these reports are plausible. The U.S. Government has concluded that there probably is more information in Vietnamese party and military archives that could shed light on these documents. But, to date, such information has not been provided by the Vietnamese government.

That is an absolute statement signed by Senator KERRY, which goes exactly in the opposite direction of what the Senator is trying to do by striking the language. It says simply that the Vietnamese have not provided all of the information. This commission says so and it was signed by the Senator himself. So I do not understand how the Senator can sign one document and come to the floor and try to strike all the language that supports the document that he signed. I think the whole matter is just subject to great criticism in that regard alone.

In addition, I have a letter from Sandy Berger, the President's National Security Adviser, that says, ''Vietnam's full faith efforts in cooperating on this issue are essential to the development of the relationship.''

We have that in our language. In addition, there is another letter from Mr. Berger, dated April 10, 1997. The previous one was August 15, 1997. The same point: We will continue efforts already underway to require additional information on these documents, the 735 document, including access to this document, and on and on and on—all of these relating directly to the language.

In addition, the Senator from Arizona, who I understand is supporting the Senator from Massachusetts, said on the floor of the Senate on April 10, Madam President:

I thank [the Senator from New Hampshire] because if it had not been for him, this very important letter from the White House would not have come to our leader signed by Sandy Berger, Assistant to the President for National Security Affairs. It lays out a very important set of priorities for further actions that need to be taken by the United States and by the Vietnamese so that we can finally put this difficult chapter behind us.

That is exactly what we are doing in this language, laying out this series of priorities. It is updating it and laying out the priorities. I urge my colleagues to simply look at 405 and respect the wishes of the families and veterans groups and others, and please keep the language in there for the sake of those people who have suffered so much throughout this process.

I yield the floor.

Mr. KERRY. Madam President, I yield myself the balance of time. My colleagues know there is nobody in the U.S. Senate more committed to finding out what happened than our colleague, Senator JOHN MCCAIN, who spent 6 years-plus of his life in a prison in Vietnam. Senator MCCAIN understands very clearly, as others of us do, that a few years ago, there were 196 individuals on the list of last known alive in Vietnam. In the last few years, because of our efforts, we have determined the fate for all but 43 of those 196. The Defense Department is opposed to the language the Senator from New Hampshire has put in the bill because they say it will set back our effort to get the answers on the other 43. The administration is opposed to it. I believe that, in good conscience, the Senate should be opposed to that language because it will set back our efforts and set back our progress.

Mr. GREGG. Has all time expired?

The PRESIDING OFFICER. Yes.

Mr. GREGG. I move to table the Kerry amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

At the moment, there is not a sufficient second.

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

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

Mr. GREGG. Madam President, I move to table the Kerry amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The vote will occur in sequence at a later time.

Who seeks recognition?

Mr. GREGG. Madam President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENTS NOS. 3277, 3278, AND 3279, EN BLOC

Mr. GREGG. Madam President, I send amendments to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. GREGG), for himself and Mr. HOLLINGS, proposes amendments numbered 3277, 3278, and 3279 en bloc.

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

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

The amendments are as follows:

AMENDMENT NO. 3277

TITLE V—INDEPENDENT AGENCIES

FEDERAL COMMUNICATIONS COMMISSION

On page 105, at the end of line 22, insert the following: ''*Provided further*, That any two stations of that are primary affiliates of the same broadcast network within any given designated market area authorized to deliver a digital signal by November 1, 1998 must be guaranteed access on the same terms and conditions by any multichannel video provider (including off-air, cable and satellite distribution).''

AMENDMENT NO. 3278

At the end of title IV, insert the following new sections:

SEC. . None of the funds appropriated or otherwise made available by this Act of any other Act for fiscal year 1999 or any fiscal year thereafter may be expended for the operation of a United States consulate or diplomatic facility in Jerusalem unless such consulate or diplomatic facility is under the supervision of the United States Ambassador to Israel.

SEC. . None of the funds appropriated or otherwise made available by this Act of any other Act for fiscal year 1999 or any fiscal year thereafter may be expended for the publication of any official government document which lists countries and their capital cities unless the publication identifies Jerusalem as the capital of Israel.

SEC. . For the purposes of the registration of birth, certification of nationality, or issuance of a passport of a United States citizen born in the city of Jerusalem, the Secretary of State shall, upon request of the citizen, record the place of birth as Israel.

AMENDMENT NO. 3279

At the end of the bill insert the following new title:

TITLE —

SECTION 1. SHORT TITLE.

This title may be cited as the ''National Whale Conservation Fund Act of 1998''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the populations of whales that occur in waters of the United States are resources of substantial ecological, scientific, socio-economic, and esthetic value;

(2) whale populations—

(A) form a significant component of marine ecosystems;

(B) are the subject of intense research;

(C) provide for a multimillion dollar whale watching tourist industry that provides the public an opportunity to enjoy and learn about great whales and the ecosystems of which the whales are a part; and

(D) are of importance to Native Americans for cultural and subsistence purposes;

(3) whale populations are in various stages of recovery, and some whale populations, such as the northern right whale (Eubaleana glacialis) remain perilously close to extinction;

(4) the interactions that occur between ship traffic, commercial fishing, whale watching vessels, and other recreational vessels and whale populations may affect whale populations adversely;

(5) the exploration and development of oil, gas, and hard mineral resources, marine debris, chemical pollutants, noise, and other anthropogenic sources of change in the habitat of whales may affect whale populations adversely;

(6) the conservation of whale populations is subject to difficult challenges related to—

(A) the migration of whale populations across international boundaries;

(B) the size of individual whales, as that size precludes certain conservation research procedures that may be used for other animal species, such as captive research and breeding;

(C) the low reproductive rates of whales that require long-term conservation programs to ensure recovery of whale populations; and

(D) the occurrence of whale populations in offshore waters where undertaking research, monitoring, and conservation measures is difficult and costly;

(7)(A) the Secretary of Commerce, through the Administrator of the National Oceanic and Atmospheric Administration, has research and regulatory responsibility for the conservation of whales under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.); and

(B) the heads of other Federal agencies and the Marine Mammal Commission established

under section 201 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1401) have related research and management activities under the Marine Mammal Protection Act of 1972 or the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(8) the funding available for the activities described in paragraph (8) is insufficient to support all necessary whale conservation and recovery activities; and

(9) there is a need to facilitate the use of funds from non-Federal sources to carry out the conservation of whales.

SEC. 3. NATIONAL WHALE CONSERVATION FUND.

Section 4 of the National Fish and Wildlife Establishment Act (16 U.S.C. 3703) is amended by adding at the end the following:

''(f)(1) In carrying out the purposes under section 2(b), the Foundation may establish a national whale conservation endowment fund, to be used by the Foundation to support research, management activities, or educational programs that contribute to the protection, conservation, or recovery of whale populations in waters of the United States.

''(2)(A) In a manner consistent with subsection (c)(1), the Foundation may—

''(i) accept, receive, solicit, hold, administer, and use any gift, devise, or bequest made to the Foundation for the express purpose of supporting whale conservation; and

''(ii) deposit in the endowment fund under paragraph (1) any funds made available to the Foundation under this subparagraph, including any income or interest earned from a gift, devise, or bequest received by the Foundation under this subparagraph.

''(B) To raise funds to be deposited in the endowment fund under paragraph (1), the Foundation may enter into appropriate arrangements to provide for the design, copyright, production, marketing, or licensing, of logos, seals, decals, stamps, or any other item that the Foundation determines to be appropriate.

''(C)(i) The Secretary of Commerce may transfer to the Foundation for deposit in the endowment fund under paragraph (1)—

''(I) any amount (or portion thereof) received by the Secretary under section 105(a)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375(a)(1)) as a civil penalty assessed by the Secretary under that section; or

''(II) any amount (or portion thereof) received by the Secretary as a settlement or award for damages in a civil action or other legal proceeding relating to damage of natural resources.

''(ii) The Directors of the Board shall ensure that any amounts transferred to the Foundation under clause (i) for the endowment fund under paragraph (1) are deposited in that fund in accordance with this subparagraph.

''(3) It is the intent of Congress that in making expenditures from the endowment fund under paragraph (1) to carry out activities specified in that paragraph, the Foundation should give priority to funding projects that address the conservation of populations of whales that the Foundation determines—

''(A) are the most endangered (including the northern right whale (Eubaleana glacialis)); or

''(B) most warrant, and are most likely to benefit from, research managment, or educational activities that may be funded with amounts made available from the fund.

''(g) In carrying out any action on the part of the Foundation under subsection (f), the Directors of the Board shall consult with the Administrator of the National Oceanic and Atmospheric Administration and the Marine Mammal Commission.''.

Mr. GREGG. Madam President, I ask unanimous consent that the amendments be agreed to.

The PRESIDING OFFICER. Is there objection?

If there is no further debate, without objection, the amendments are agreed to en bloc.

The amendments (Nos. 3277, 3278, and 3279), en bloc, were agreed to.

Mr. GREGG. Madam President, I move to reconsider the vote by which the amendments were agreed to.

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

The motion to lay on the table was agreed to.

Mr. GREGG. Madam President, to bring our colleagues up to speed, we now are down to four amendments which are still to be debated and on which votes may be ordered. We presently have votes ordered on at least three amendments. We are waiting for our colleagues who have these amendments in order to come to the floor and make their presentations. It looks as if we will begin voting probably in an hour or so, I hope. There will be a sequence of votes that will be at least three long, potentially six.

Madam President, I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3280

(Purpose: To express the sense of the Senate regarding the impact of Japan's recession on the economies of East and Southeast Asia and the United States)

Mr. LIEBERMAN. Madam President, I have an amendment which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], for himself, Mr. THOMAS, Mr. GRAHAM, Mr. LUGAR, Mr. BINGAMAN, Mr. MACK, Mr. DURBIN, Mr. INHOFE, Mr. KOHL, Mr. REID, Mr. BREAUX and Mr. BROWNBACK, proposes an amendment numbered 3280.

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

The PRESIDING OFFICER (Mr. SMITH of New Hampshire). Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title VI, insert the following new section:

SEC. 6___. SENSE OF THE SENATE REGARDING JAPAN'S RECESSION.

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

(1) The United States and Japan share common goals of peace, stability, democracy, and economic prosperity in East and Southeast Asia and around the world.

(2) Japan's economic and financial crisis represents a new challenge to United States-Japanese cooperation to achieve these common goals and threatens the economic stability of East and Southeast Asia and the United States.

(3) A strong United States-Japanese alliance is critical to stability in East and Southeast Asia.

(4) The importance of the United States-Japanese alliance was reaffirmed by the President of the United States and the Prime Minister of Japan in the April 1996 Joint Security Declaration.

(5) United States-Japanese bilateral military cooperation was enhanced with the revision of the United States Guidelines for Defense Cooperation in 1997.

(6) The Japanese economy, the second largest in the world and over 2 times larger than the economy in the rest of East Asia, has been growing at a little over 1 percent annually since 1991 and is currently in a recession with some forecasts suggesting that it will contract by 1.5 percent in 1998.

(7) The estimated $574,000,000,000 of problem loans in Japan's banking sector and other problems associated with an unstable banking sector remain the major roadblock to economic recovery in Japan.

(8) The recent weakness in the yen, following a 10 percent depreciation of the yen against the dollar over the last 5 months and a 45 percent depreciation since 1995, has placed competitive price pressures on United States industries and workers and is putting downward pressure on China and the rest of the economies in East and Southeast Asia to begin another round of competitive currency devaluations.

(9) Japan's current account surplus has increased by 60 percent over the last 12 months from 71,579,000,000 yen in 1996 to 114,357,000,000 yen in 1997.

(10) A period of deflation in Japan would lead to lower demand for United States products.

(11) The unnecessary and burdensome regulation of the Japanese market constrains Japanese economic growth and raises costs to business and consumers.

(12) Deregulating Japan's economy and spurring economic growth would ultimately benefit the Japanese people with a higher standard of living and a more secure future.

(13) Japan's economic recession is slowing the growth of the United States gross domestic product and job creation in the United States.

(14) Japan has made significant efforts to restore economic growth with a 16,000,000,000,000 yen stimulus package that includes 4,500,000,000,000 yen in tax cuts and 11,500,000,000,000 yen in government spending, a Total Plan to restore stability to the private banking sector, and joint intervention with the United States to strengthen the value of the yen in international currency markets.

(15) The people of Japan expressed deep concern about economic conditions and government leadership in the Upper House elections held on July 12, 1998.

(16) The Prime Minister of Japan tendered his resignation on July 13, 1998, to take responsibility for the Liberal Democratic Party's poor election results and to acknowledge the desire of the people of Japan for new leadership to restore economic stability.

(17) Japan's economic recession is having an adverse effect on the economy of the United States and is now seriously threatening the 9 years of unprecedented economic expansion in the United States.

(18) Japan's economic recession is having an adverse effect on the recovery of the East and Southeast Asian economies.

(19) The American people and the countries of East and Southeast Asia are looking for a demonstration of Japanese leadership and

close United States-Japanese cooperation in resolving Japan's economic crisis.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the President, the Secretary of the Treasury, and the United States Trade Representative should emphasize the importance of financial deregulation, including banking reform, market deregulation, and restructuring bad bank debt as fundamental to Japan's economic recovery; and

(2) the President, the Secretary of the Treasury, the United States Trade Representative, the Secretary of Commerce, and the Secretary of State should communicate to the Japanese Government that the first priority of the new Prime Minister of Japan and his Cabinet should be to restore economic growth in Japan and promote stability in international financial markets.

Mr. LIEBERMAN. Mr. President, I rise today to offer this bipartisan amendment, a sense-of-the-Senate resolution expressing our concern about the impact of Japan's recession on the economies of East Asia, Southeast Asia and the United States, and particularly appealing to the members—our colleagues and friends—of the Liberal Democratic Party in Japan, which is meeting tomorrow to choose their new president, who will in turn become the next Prime Minister of Japan—to be mindful of the very profound and friendly concern that we have in the U.S. Senate about the condition of the Japanese economy, about its impact on the people of Japan, of Asia, and indeed, of the United States.

I am privileged to offer this bipartisan amendment on behalf of Senators THOMAS, GRAHAM, LUGAR, BINGAMAN, BROWNBACK, DURBIN, KOHL, REID, MACK, BREAUX and INHOFE.

For almost a half century, the United States has worked with Japan for the common goals of peace, stability, democracy and prosperity in East Asia and the world. However, in the face of the deepening Asian economic crisis, this alliance currently faces what may be its toughest challenge yet.

So far, the United States has survived the Asian crisis relatively unscathed, thanks to our long-lived boom economy. But I fear that good fortune may now be ending. By some estimates, worldwide GDP growth will drop from 3.7 percent this year to 2.4 percent next year. Analysts have attributed plummeting commodity prices to the Asian crisis in this country and throughout the world. A major dropoff in demand for U.S. products in Asia has pushed the trade deficit well beyond expectations to a record $15.75 billion—15 and three-quarters billion—this May. Industrial production in OECD countries like the United States has fallen from 5 percent to 2 percent and is expected to fall further again to 1 percent.

The slide of Asian currencies against the dollar has put serious competitive pressures on our exports and another round of competitive devaluations would have devastating consequences on our industries and our workers.

Unquestionably, Mr. President, if the Asian recession continues, its impact on our economy will worsen and millions of Americans will feel what is happening in Japan and Asia.

This bipartisan resolution emphasizes that the strong recovery of the Japanese economy, which remains by far the largest in Asia, comprising fully two-thirds of the Asian economy, will make or break the region. With every subsequent analysis, the economic picture in Japan darkens.

Japan's financial system has fundamental flaws which have only recently been brought to light, but which most everyone now acknowledges, and the wide scope of their ramifications continues to unsettle and surprise economists. Bad bank loans in Japan account for $574 billion in debt in banks in Japan which claimed to be solvent only recently, a problem which is perpetuated by a weak auditing system. Formal and informal barriers severely restrict free competition, often holding foreign market share in certain sectors down below 5 percent. The yen continues to fall, down 45 percent against the dollar since 1995. Further devaluation of the yen could lead to a devaluation of the Chinese yuan, an event which would have significant ramifications, and bad ones, for the entire global economy, particularly for us in the United States.

All of these factors have led to substantial and understandable dissatisfaction among the Japanese people which they expressed earlier this month, with surprising clarity to many people, in a historic election for the Upper House of Parliament. The ruling Liberal Democratic Party lost 17 of its 61 seats and the primary opposition party, the Democratic Party of Japan, picked up nine members to reach a total of 47 seats in the Upper House. These election results should be taken very seriously in the United States. The situation is bad in Japan, the people of Japan know it, and without change, it will get worse.

It is today axiomatic that we live and work in a global economy. When an economic crisis of this magnitude hits a country as large and significant as Japan, the entire world feels the impact; particularly we feel it. Japan is, after all, our second largest trading partner. Japan imported almost $66 billion of American goods last year. That is more than four times the import of American goods into China, in spite of its much larger population. With 40 percent of American total agricultural product going abroad, the Asian economic crisis is, of course, having a very negative impact on American farmers.

It is no surprise that we are suffering along with East Asia. Without a rally by the Asian economies, American growth will fall off. By all accounts, a stable Japan is the first significant step to a broader Asian recovery.

Mr. President, I do want to indicate to my colleagues and the managers of the bill, I am prepared to yield the floor at any point if anyone wishes to proceed. If the managers have other business they want to do at this time, I am prepared to put the rest of my statement in the RECORD. If not, I will be equally prepared to proceed. I thank the managers, noting the nod from the Democratic floor manager.

Japan has taken steps to address its economic troubles. Economic stimulus packages and structural reform committees have been set in place. However, both the vast extent of the reforms necessary and the current political turnover including the resignation of Prime Minister Hashimoto after the election returns, which I have just described, make it imperative that we in the United States place our full support behind the forces of change, bold change, in Japan, lest they lose momentum.

Swift reform hopefully will be a priority in relations between our two nations. We know, of course, the President has been in touch with the leadership of Japan. Secretary Rubin has done the same.

And it seems only proper, and in some sense is necessary, that the Congress of the United States make clear its broad-based concern for the current economic condition of Japan—and here on the eve of the Liberal Democratic Party elections tomorrow, it is our deep hope, our plea, that change be implemented.

So today, along with the distinguished group of Members of both parties, whose names I mentioned earlier, I am pleased to offer this resolution to express to our President and to the Government of Japan that the Senate of the United States is following Japan's economic performance with increasing anxiety and is very concerned about the pressure that Japan's current economic crisis is putting on our overall bilateral relationship.

While we applaud efforts in Japan in assessing the damage and beginning the reform, we need to maintain a strong position supporting the implementation of those reforms, even though we know they will be painful. The resolution that we submit today cites a number of fundamental reforms crucial to recovery in Japan and Asia, including deregulation of the Japanese economy, liberating the creative, innovative forces that are there, improvement of market access for foreign entities wishing to do business in Japan, enforcement of fair trade, and particularly bold and substantial banking reform.

These are all actions which will increase the competitiveness of the Japanese market and of Japanese companies, providing greater opportunities for foreign investment in Japan and for the success of individual Japanese and foreign entrepreneurs.

Mr. President, a more open and healthy Japanese economy is fundamental to the recovery of the entire Asian region.

Seeing no one else on the floor, Mr. President, I ask unanimous consent for 1 more minute to complete this statement.

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

Mr. LIEBERMAN. I thank the Chair.

Long into the foreseeable future, Japan will remain one of our most important economic trading partners and strategic allies in the world, sharing our common goals of regional and worldwide prosperity and peace. The importance of our alliance, though, compels us to speak out and place our support behind the most innovative reform efforts in Japan and push for a swift resolution of the economic crisis there.

Earlier this week, the House passed a similar resolution with the overwhelming support of 391 Members—only 2 opposed. Given the urgency of the issue and the value of a unified congressional position, I urge my colleagues to support this bipartisan resolution.

I thank the Chair and yield the floor.

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

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. We yield back all time. Does the Senator wish a vote?

Mr. LIEBERMAN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. I suggest the absence of a quorum.

The PRESIDING OFFICER. Under the previous order, the amendment is now set aside.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GREGG. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. GREGG. Mr. President, at this time I ask unanimous consent that we now proceed with the four previously ordered votes, two minutes to debate prior to each vote, and that the three succeeding votes be limited to 10 minutes in duration.

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

Mr. GREGG. I thank the Chair.

AMENDMENT NO. 3272

The PRESIDING OFFICER. The order of business is the Nickles amendment numbered 3272. There are 2 minutes of debate equally divided.

Who yields time?

Mr. GREGG. Mr. President, I ask unanimous consent that all time on the Nickles amendment be yielded back.

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

The question is on agreeing to the Nickles amendment No. 3272.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 47, as follows:

[Rollcall Vote No. 230 Leg.]

YEAS—53

Abraham	Faircloth	McCain
Allard	Frist	McConnell
Ashcroft	Gramm	Murkowski
Bennett	Grams	Nickles
Bond	Grassley	Roberts
Boxer	Gregg	Roth
Breaux	Hagel	Santorum
Burns	Helms	Sessions
Byrd	Hollings	Shelby
Campbell	Hutchinson	Smith (NH)
Chafee	Hutchison	Smith (OR)
Cochran	Inhofe	Snowe
Conrad	Inouye	Stevens
Coverdell	Jeffords	Thomas
Craig	Kempthorne	Thurmond
Domenici	Kyl	Warner
Dorgan	Lott	Wyden
Enzi	Lugar	

NAYS—47

Akaka	Feinstein	Lieberman
Baucus	Ford	Mack
Biden	Glenn	Mikulski
Bingaman	Gorton	Moseley-Braun
Brownback	Graham	Moynihan
Bryan	Harkin	Murray
Bumpers	Hatch	Reed
Cleland	Johnson	Reid
Coats	Kennedy	Robb
Collins	Kerrey	Rockefeller
D'Amato	Kerry	Sarbanes
Daschle	Kohl	Specter
DeWine	Landrieu	Thompson
Dodd	Lautenberg	Torricelli
Durbin	Leahy	Wellstone
Feingold	Levin	

The amendment (No. 3272) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I ask unanimous consent the next vote on the Bingaman amendment, No. 3273, be passed over and put at the end of the list.

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

AMENDMENT NO. 3276

Mr. GREGG. Mr. President, I believe the next vote will be on my motion to table.

The PRESIDING OFFICER. The pending question is now the Kerry amendment, numbered 3276. Under the previous order, there will now be 2 minutes of debate equally divided.

Who yields time?

Mr. KERRY. I yield 30 seconds to the Senator from Arizona.

Mr. MCCAIN. Who goes first, proponents or opponents?

The PRESIDING OFFICER. The Senator from Arizona has been given 30 seconds.

Mr. MCCAIN. All right. Mr. President, this would prevent the opening of a consulate in South Vietnam. At least once a year, sometimes more often, we have to vote on whether we want to make progress on relations with Vietnam or whether we want to go back to a situation which existed for many years after the war. This would prevent the opening of a consulate in South Vietnam. It would basically prohibit us from being able to make progress on the resolution of the POW/MIA issue, which every objective observer in the Pentagon says has been going along well, and it would, frankly, inhibit our ability to reach a full accounting.

I recommend we vote for the Kerry amendment.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. I yield myself the remainder of the time.

We have the most extensive effort to account for our service people in the history of human warfare, and that effort would be significantly set back by the language the Senator from New Hampshire has put in place because the cooperation of the Vietnamese would be affected by the judgments he asks the President to make.

We keep in place the current law. The current law has worked effectively. Of 196 people we last knew to be alive in Vietnam, we have received information that has told the families of what happened to all but 43 of them. We want the answers for those other 43. The way to do that is by continuing with the current law, not the new language of the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire has 1 minute.

Mr. SMITH of New Hampshire. Mr. President, there is nothing inappropriate at all about continuing the updating of the certification process. The President of the United States still must certify. This does not change that. This does not, as the Senator from Arizona said, close down the consulate at all. It simply says the process, ongoing, is to continue to have the Vietnamese participate fully and cooperate fully with accounting for MIAs. That is all it is.

We have had correspondence from Mr. Berger on this matter. We have had comments from Senator KERRY himself, and Senator MCCAIN, on the floor, indicating this is a process that should work—forward. So there is absolutely no reason to oppose it.

I point out, 70 former POWs have supported what I am doing in a letter, as does the American Legion, as does the League of Families, the Alliance of Families, and VVA, and many others.

I think the evidence is there to say this does not interrupt certification and the amendment of the Senator from Massachusetts should be tabled.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the motion to lay on the table amendment No. 3276. The yeas and nays have been ordered.

The Senators are advised this will be a 10-minute vote.

The clerk will call the roll.

The bill clerk called the roll.

The result was announced, yeas 34, nays 66, as follows:

[Rollcall Vote No. 231 Leg.]

YEAS—34

Ashcroft	Feingold	Lott
Bennett	Frist	Moseley-Braun
Bond	Gramm	Nickles
Brownback	Grams	Reid
Byrd	Grassley	Roberts
Campbell	Gregg	Santorum
Collins	Hatch	Sessions
Coverdell	Helms	Smith (NH)
Craig	Hutchinson	Snowe
D'Amato	Hutchison	Thurmond
Enzi	Inhofe	
Faircloth	Kempthorne	

NAYS—66

Abraham	Feinstein	Mack
Akaka	Ford	McCain
Allard	Glenn	McConnell
Baucus	Gorton	Mikulski
Biden	Graham	Moynihan
Bingaman	Hagel	Murkowski
Boxer	Harkin	Murray
Breaux	Hollings	Reed
Bryan	Inouye	Robb
Bumpers	Jeffords	Rockefeller
Burns	Johnson	Roth
Chafee	Kennedy	Sarbanes
Cleland	Kerrey	Shelby
Coats	Kerry	Smith (OR)
Cochran	Kohl	Specter
Conrad	Kyl	Stevens
Daschle	Landrieu	Thomas
DeWine	Lautenberg	Thompson
Dodd	Leahy	Torricelli
Domenici	Levin	Warner
Dorgan	Lieberman	Wellstone
Durbin	Lugar	Wyden

The motion to lay on the table the amendment (No. 3276) was rejected.

CHANGE OF VOTE

Mr. COVERDELL. On rollcall vote 231, I voted no. It was my intention to vote yea. Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

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

(The foregoing tally has been changed to reflect the above order.)

Mr. GREGG. I ask unanimous consent to vitiate the yeas and nays on the underlying amendment.

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

Mr. GREGG. Mr. President, I ask unanimous consent that the underlying amendment be agreed to.

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

The amendment (No. 3276) was agreed to.

Mr. KERRY. I move to reconsider the vote.

The PRESIDING OFFICER. Without objection, motion to lay on the table is agreed to.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3280

The PRESIDING OFFICER. The pending question is now the Lieberman amendment No. 3280. Under the previous order, there will be 2 minutes of debate equally divided.

Mr. LIEBERMAN. Mr. President, little more than 24 hours from now, the members of the Liberal Democratic Party will be meeting in Japan to choose their new head, who will in turn become the next Prime Minister of Japan. In that sense, this resolution, which I have been privileged to introduce with a bipartisan group of cosponsors, the principal cosponsor being Senator THOMAS of Wyoming, the chairman of the Asian Subcommittee of Foreign Relations, this resolution could not come at a better time. It recognizes the importance of our bilateral relationship with Japan, perhaps the most important bilateral relationship we have. It notes the economic crisis in Japan and the way in which it is beginning to affect our economy. Commodity prices are dropping; our import-export balance is being affected; our trade deficit is going up.

It appeals to the leadership of our great ally, Japan, as the Liberal Democratic Party meets tomorrow, to not just choose a new leader but to choose a new bold course which will directly address the economic crisis in that country which is now affecting us. I urge a strong bipartisan vote on this as a message to our friends in Japan.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I don't doubt the sincerity of our dear colleague, who is one of our more respected Members, in offering a sense-of-the-Senate resolution that the Japanese ought to promote economic growth. However, I have to say, having been here to almost midnight last night, it makes little sense to me that we are going to have a 100–0—if everybody is here—rollcall vote on this sense-of-the-Senate resolution when nobody is opposed to Japan having economic growth.

I don't know how we are going to pass the appropriations and adjourn and keep the Government running if we are going to continue to do this. It is not just Democrats, it is Republicans as well.

We are for the amendment, but why we have to have a rollcall vote on it, I don't understand.

I yield the floor.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment numbered 3280. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 2, as follows:

[Rollcall Vote No. 232 Leg.]

YEAS—98

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

NAYS—2

Kerrey	Wellstone

The amendment (No. 3280) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3273

Mr. GREGG. Mr. President, I ask unanimous consent to vitiate the vote on No. 3273, the Bingaman amendment.

The PRESIDING OFFICER (Mr. INHOFE). Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3273, AS MODIFIED

Mr. HOLLINGS. Mr. President, on behalf of the distinguished Senator from New Mexico, I send a modification to the desk.

The PRESIDING OFFICER. The amendment is modified.

The amendment (No. 3273), as modified, is as follows:

At the appropriate place, insert:

No funds may be used under this Act to process or register any application filed or submitted with the Patent and Trademark Office under the Act entitled ''An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes,'' approved July 5, 1946, commonly referred to as the Trademark Act of 1946, as amended, after the date of enactment of this Act for a mark identical to the official tribal insignia of any federally recognized Indian tribe for a period of one year from the date of enactment of this Act.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 3273), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3281

(Purpose: To eliminate the potential for fraud in the investor visa program)

Mr. GREGG. Mr. President, I send an amendment to the desk on behalf of Mr. BUMPERS.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for Mr. BUMPERS, proposes an amendment numbered 3281.

Mr. GREGG. 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. .

(a) Add the following at the end of 8 U.S.C. 1153(b)(5)(C):

(iv) Definition:

(A) As used in this subsection the term ''capital'' means cash, equipment, inventory, other tangible property, and cash equivalents, but shall not include indebtedness. Nothing in this subsection shall be construed to exclude documents, such as binding contracts, as evidence that a petitioner is in the process of investing capital as long as the capital is not in the form of indebtedness with a payback period that exceeds 21 months;

(B) Assets acquired, directly or indirectly, by unlawful means (such as criminal activities) shall not be considered capital for the purposes of this subsection. A petitioner's sworn declaration concerning lawful sources of capital shall constitute presumptive proof of lawful sources for the purposes of this subsection, although nothing herein shall preclude further inquiry, prior to approval of conditional lawful permanent resident status.

(b) This section shall not apply to any application filed prior to July 23, 1998.

Mr. GREGG. I ask unanimous consent that the amendment be agreed to.

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

The amendment (No. 3281) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. GREGG. Mr. President, for the information of our colleagues, we now turn to the Smith amendment. Under the terms of the agreement, there will be 40 minutes of debate on this amendment. I expect we will begin voting on final passage and on the Smith amendment no earlier than 3 o'clock and no later than 3:15.

Mr. SMITH of Oregon addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. Is the Chair prepared to receive an amendment?

The PRESIDING OFFICER. We are prepared. Under the previous order, there will be 20 minutes equally divided and then 20 minutes on the second-degree amendment.

Mr. GREGG. Will the Senator from Oregon yield?

Mr. SMITH of Oregon. Yes.

Mr. GREGG. As I understand, there has been an agreement reached between the parties here that there will be 40 minutes of debate equally divided between the Senator from Oregon, who will control half of that time, and the Senator from Massachusetts, who will control half of that time. Is that correct?

Mr. SMITH of Oregon. That is correct.

Mr. GREGG. I ask unanimous consent that be the procedure under which we function.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3258

(Purpose: To establish a system of registries of temporary agricultural workers to provide for a sufficient supply of such workers and to amend the Immigration and Nationality Act to streamline procedures for the admission and extension of stay of nonimmigrant agricultural workers, and for other purposes)

Mr. SMITH of Oregon. 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 Oregon [Mr. SMITH], for himself, Mr. WYDEN, Mr. CRAIG, Mr. GRAHAM, Mr. GORTON, Mr. BUMPERS, Mr. HATCH, Mr. MCCONNELL, Mr. MACK, Mr. KEMPTHORNE, Mr. SANTORUM, Mr. FAIRCLOTH, and Mr. THURMOND, proposes an amendment numbered 3258.

Mr. SMITH of Oregon. 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 printed in today's RECORD under ''Amendments Submitted.'')

Mr. SMITH of Oregon. Mr. President, I rise today along with Senators WYDEN, CRAIG, GRAHAM of Florida, BUMPERS, GORTON, HATCH, MCCONNELL, MACK, KEMPTHORNE, SANTORUM, FAIRCLOTH, and THURMOND to offer the Agricultural Jobs, Opportunity, Benefits and Security Act of 1999, also known as AgJOBS. Our bill will create a streamlined guest worker program to allow a reliable supply of legal, temporary, agricultural workers.

Why is this necessary? Currently, in this country, we have a process for guest workers that is terribly broken. The H–2A program, if I could show you graphically, has a 6-page application for each worker, with 325 pages of instructions as to how to fill it out. As a consequence, all of the foreign workers who are in this country are here either illegally or having been grandfathered in through earlier amnesties.

It is estimated by the GAO that 40 percent of those who are here are illegal. As a consequence of that, the GAO has said there is not a farm labor supply problem because we have all these illegal aliens here. I am simply saying, and I am doing it on a bipartisan basis, we owe this country something better than a system that relies upon illegal immigration. We ought to give these foreign workers the dignity of being here under law, with some basic human standards and some benefits to which they ought to be entitled when they are here. It is for that reason that Senator WYDEN and I have approached the farm community and asked them to give as much as they can, to help economically to fix this program. I believe they have responded. It is for that reason there are so many Republicans and Democrats on this bill.

I know there are still some misgivings. I know my friend from Massachusetts has misgivings; the Senators from California do. But what we want to do is get this bill to a conference committee with some place markers so we can provide a forum where this can be further refined. Let me tell you the kinds of features Senator WYDEN and I share in a common desire to ultimately change American law in a very fundamental way in order to avoid a very large crisis for consumers, for farm employers, and for farm workers.

We are proposing in this bill the establishment of a national registry which will replace the current system that so few are able to use, even if they could afford to use it. This is going to be a registry for domestic workers only, in a way that will allow farmers to know where they can go for workers and where they can have legal status. In exchange for this, there will be added to the current system—we are going to preserve all the basic rights that are guaranteed; all the labor guarantees that are there will remain there. We are going to have a prevailing wage rate, something that reflects a level that the agricultural community can afford, and also one that gives probably in excess of 1.5 million farm workers a pay raise. We are not talking about the minimum wage, we are talking about a prevailing wage plus 5 percent.

In addition to that, we are talking about a transportation allowance and a housing allowance. These are things that we owe those who come here to this country to do agricultural work. These are things which my friends on the left have been asking for, for a long, long time. I am here to say the time is now to say yes. We are saying yes to that. We are doing it on a basis, though, that recognizes the economics of the farmer also, because the truth is, most of the agricultural employers in this country are not big corporate farms, they are mom and pop who are trying to make a bottom line. They do not even control, in most cases, the price that they get for their commodities.

We believe—Senator WYDEN and I and Senator GRAHAM of Florida, who has been so helpful on this, and others on the Democrat side—that we have found the middle ground here that wins for consumers but, more important, wins for agricultural workers and also for farmers.

With that, I yield time to my colleague from Oregon, whose help I appreciate very much, Senator WYDEN.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I hope this amendment is just the beginning of the debate on agricultural labor. But I believe that the legislation before the Senate is based on three principles that can last well into the 21st century and be in the interests of both farm workers and farm employers.

The first principle on which this amendment is based is that the U.S. worker must come first—that U.S. workers, for example, when they participate in the registry, will have the right of first refusal to any available farm job in our country, and that the Federal Government is required to notify those workers about available positions.

Second, this amendment brings before the Senate specific changes proposed over the years by the Farm Worker Justice Fund to improve working conditions for the farm workers in our country.

Third, it will replace the current dysfunctional system for administering this program with one that is modern and is based on the use of computer technology.

At every step along the way, this package tries to address specific concerns raised by worker advocates, as well as those advocating for the growers. My colleague, Senator SMITH, talked about the registry. If a U.S. worker participates in the registry, that worker is entitled to benefits that U.S. workers are not entitled to today, such as housing and transportation. And the registry also seeks to address the concerns of growers, specifically, by saying that when a grower utilizes this registry, the grower can then be certain that there is a presumption that their workers are legal.

The last point I would like to raise, because I know many of my colleagues want to speak and have important questions, deals with exactly the number of people involved in farm labor in our country. This is the centerpiece of the question. We have heard a lot of talk on the floor of the Senate about a guest worker program. There are very few legal guest workers. There are 1.6 million farm workers in our country and perhaps 25,000 guest workers who are here legally under the current program. The 1.6 million farm workers, who work on those farms, have virtually no legal entitlements other than to the minimum wage. So what this legislation does is it potentially extends basic worker protections to a far greater share of that 1.6 million pool of workers, save 25,000. It will create a circumstance in which hundreds of thousands more farm workers get access to housing and transportation and other benefits that they do not have today.

I know this is a new concept, but it is an important one because what this amendment seeks to do is to change the nature of the system so we can make sure the bulk of our workers are legal in America. The General Accounting Office made the judgment that there was no shortage of workers in America, but they concluded that way because they counted illegal workers. Right now, any grower can tell you that their workers may appear to be legal, but that the Social Security Administration often rejects more than half of the Social Security numbers filed. So what we have is a situation with growers caught between being penalized because they cannot find legal workers or being felons because their workers are not legal.

I believe workers deserve better and growers deserve better. That is what this amendment does. I appreciate Senator SMITH giving me this time from the allotment that he has.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I join with my colleagues from Oregon, both of my colleagues from Oregon, and certainly the Senator from Florida, who have worked with us to craft the legislation that is now before you.

For several years, I have tried to deal with the H–2A problem, only to be unsuccessful. I must tell you, Mr. President, I have watched the problem grow across America in a most inhumane way because the workforce is needed and the workers come. They come across our borders illegally, they are subjected to inhumane environments, in many instances, and, as a result, a great problem has grown, not only for a workforce seeking work, but also for the individual or individuals who provide the work, American agriculture. We have here a rare opportunity. It is an opportunity to fix a problem before it truly becomes a crisis on both sides. And in fixing that problem, my colleagues from Oregon and Florida, and myself involved, have attempted to approach it in a very commonsense way. That is to avoid the conflicts for millions of Americans, and recognizes, as Senator WYDEN just said, that the American worker should come first, but in a state of near full employment where the unemployable, or those who choose not to work, are the only ones remaining. Clearly, we are at a point of crisis, and we must offer that opportunity to farm labor, to those who are willing to, and under a condition now that I think is much more presentable.

Growers want and need a stable and predictable workforce, a legal workforce. They don't like playing around the edges of illegality. Let us make this workforce legal under the conditions that have been spelled out in this legislation. I think that provides a good, fair, market-based compensation. Prevailing wage is the wage issue here, and that is as it should be.

Unemployed workers, and those hoping to move from welfare to work, want and need to be matched up with decent jobs. That is what our society ought to be directed toward. American citizens should have first claim, as I said, to American jobs, but all workers would rather be working legally and hope for protection of basic labor standards.

These goals are not always met. In fact, current Federal law and its bureaucratic implementation are hurting growers and workers which have created a system that has created a monstrous bureaucracy. The Senator from Oregon talks of the multitude of pages necessary and in an attempt to determine who is and who isn't legal, of course, the employer oftentimes being held liable.

This is why I am pleased I can join with my colleagues in proposing what I think is phenomenally constructive reform in the H–2A Agricultural Guest Worker Program. Failure to fix or replace this program means the Federal Government is completely ignoring the needs of a significantly changed agricultural labor market.

Many employers who meet legal standards of diligence when they hire a worker really have no idea if the next raid by the Immigration and Naturalization Service will scare off their workforce and their crops will rot in the field. That is not an exaggeration. Just a few weeks ago that happened in the State of Georgia, just to our south: One county, a raid; the rest of the county was cleared out of a workforce which left crops rotting in the fields. It is an issue in Georgia, in Florida, in Idaho, in Oregon, in New York, in Kentucky—all over the country where this particular type of work force is necessary.

California growers and local officials have made a real effort to address this shortfall with welfare-to-work efforts—which does not appear to be helping.

The GAO study that has helped prompt the kind of urgency that the Senators from Oregon spoke to estimated that as many as 600,000 farm workers, or 37 percent of the 1.6 million, are not legally authorized to work in the United States—600,000. That is a problem, a very big problem, a problem created by laws and by a Department of Labor, and I am pleased that they have worked with us to resolve this issue.

As workers disappear from U.S. fields—and crops stay there, instead of moving to stores and consumers—U.S. food will be replaced by foreign imported food.

This means a mainstay in our economy—the U.S. agriculture industry—is threatened with a major breakdown. And our families are threatened with an increased risk to their health and safety because of food-borne diseases.

Also, the current H–2A program has been a red-tape nightmare. Even when growers meet all deadlines, GAO found that DOL misses its statutory deadlines 40 percent of the time.

The current H–2A program has been completely ineffective as a means of obtaining temporary and seasonal workers—supplying only about 24,000 out of 1.6 million farm workers.

In the 1996 Immigration Law, and in appropriations over recent years, Congress has made it a priority to secure our borders and crack down on illegal immigration.

What is needed is a bipartisan effort to reform the current H–2A system, having the following components:

Creation of a new, voluntary national registry of migrant farmworkers to

which growers can turn for workers they know are legal.

If enough domestic workers cannot be supplied through the registry, growers could apply for legal guest workers through an expedited, reformed H–2A program.

The new program would resemble current H–2A, but it would have faster turnaround, less red tape, and greater certainty for employers.

It would also have continued protection for workers, and greater flexibility for employers, related to conditions of employment, such as housing, transportation, and market-based wages.

I invite my colleagues to support me in this important endeavor.

Mr. President, again, I appreciate the bipartisan work that has gone into this initiative and that we were able to bring it promptly to the floor. I hope there is a strong majority, a bipartisan vote in the Senate to move it to conference.

I yield the floor.

Mr. KENNEDY. Mr. President, I see my friend and colleague from California. How much time does she need?

Mrs. BOXER. Sixty seconds.

Mr. KENNEDY. I yield a minute to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you, Mr. President. I rise today to say that what we have in front of us is a major rewrite of the Guest Worker Program. This particular proposal has had no hearings.

I have talked with my colleagues, of whom I am very fond, on both sides of the issue, and I am getting different responses. One says it will vastly increase illegal immigration; the other says it will control it.

One says it will depress agricultural workers' wages; and the other one says, no, it is going to get better.

One says it will take away housing from farm workers; the other says it will get better.

What is the impact on American workers? We don't know. I say to my good friends on both sides, something like this ought not be rushed away. I have 60 seconds to talk. My colleague from California, who has been a leader on this issue, is going to have 4 minutes or 5 minutes. This is wrong. We really ought to do this in the right way: send it to the committee and have a full hearing.

I yield back my time to my colleague. I thank him.

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

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I request up to 10 minutes of time from the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon has 3½ minutes remaining.

Mr. SMITH of Oregon. I have been informed by the managers of the bill that we have now available on both sides until 3 o'clock. Senator KENNEDY and I have agreed we will split it evenly. I believe there is more time.

The PRESIDING OFFICER. Is there objection to the request?

Mr. KENNEDY. Reserving the right to object, and I will not. As I understand it, what we were going to do is divide the total time evenly, from the time the amendment was laid down until the time of the vote; am I correct?

Mr. SMITH of Oregon. The Senator is correct.

The PRESIDING OFFICER. That is correct. We are treating it as a unanimous consent request, and there is no objection.

Mr. SMITH of Oregon. Mr. President, before Senator GRAHAM speaks, I ask unanimous consent that the amendment that we intended to send actually be sent, and that the amendment we will be voting on will be the one with the changes which we all understand are there.

The PRESIDING OFFICER. The Senate will be properly informed. There are an extra 5 minutes to each side. The Senator from Oregon has 8 minutes 39 seconds remaining. The Senator from Florida.

Mr. GRAHAM. Thank you, Mr. President.

Mr. President, the current system is broken. Let me just give a few examples of that collapse. According to the General Accounting Office report issued the end of 1997, there were 600,000 illegal agricultural workers in the United States—600,000. In my State of Florida, a major agricultural production State, in 1997 the number of H–2A visas, the visas that would create a legal status for an alien agricultural worker, were four; not 400 or 4,000, but four.

Third, the American worker is disadvantaged under the current system. As an example, if an American agricultural worker is employed by an American farmer, the American farmer must pay Social Security and other employment taxes on the wages earned by that American farm worker. But if the American farmer employs a non-U.S. farm worker, those taxes do not have to be collected and, thus, there is an incentive to employ the foreign worker before employing the American worker.

Farmers are in a sea of complexity. There is a process under the current law in which a farmer can make an application for an H–2A worker. Supposedly, that application is to be processed within 20 days. In 1996, more than one-third of the applications failed to meet that 20-day processing period, and so the farmer was not able to get a signal as to whether his request for legal foreign workers would be met.

This fails the foreign worker. It fails the foreign workers by forcing most of them into an illegal status where they lack the respect and protection that a legal program would provide.

If I could give one example: In August of 1992, after Hurricane Andrew hit south Dade County, FL—a major agricultural production area—there was concern about a public health epidemic and therefore there was the desire to have people immunized against a variety of potential diseases.

The public health officials found it extremely difficult to get the agricultural workers to come forward to be immunized for their own protection and the protection of the general public because they knew they were illegal and were afraid that, by presenting themselves for an immunization shot, they would be making themselves subject to deportation. That is the kind of fear and terror in which we have over 600,000 human beings in the United States, who are harvesting our food, live on a daily basis.

Finally, the current system fails the American consumer. We have the opportunity in this country and have had historically access to the best food produced under the most sanitary conditions and the most affordable food in the world. But if we have many more instances, as the Senator from Idaho talked about occurred recently in Georgia, where a major crop rots on the field because of the inability to secure a legal workforce, we will be denying the American consumer what we have traditionally assumed is an American birthright.

Mr. President, the current system is broken. The Senator from Oregon and others, who have joined together in this bipartisan effort, have attempted to understand what those problems are that contributed to the brokenness of the current system and to present a series of prescriptions to correct that.

We look forward to working with our colleagues in a process of refining the proposal that we have made, but we believe this represents a significant step forward in terms of protecting the rights of American workers, of creating a legal workforce for the American farmer, and particularly the interest of the American consumer.

Thank you.

AMENDMENT NO. 3258, AS MODIFIED

Mr. SMITH of Oregon. Mr. President, I could not hear the rule on my unanimous consent request. And I send a modified amendment to the desk.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Just reserving the right to—is that the modification that we talked about before?

Mr. SMITH of Oregon. It is, I say to the Senator.

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

The text of the amendment (No. 3258), as modified, follows:

At the appropriate place, insert the following new title:

TITLE ___—TEMPORARY AGRICULTURAL WORKERS

SEC. ___01. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Agricultural Job Opportunity Benefits and Security Act of 1998''.

(b) TABLE OF CONTENTS.—The table of contents of this title is as follows:

SEC. ___02. DEFINITIONS.

In this title:

(1) ADVERSE EFFECT WAGE RATE.—The term ''adverse effect wage rate'' means the rate of pay for an agricultural occupation that is 5-percent above the prevailing rate of pay for that agricultural occupation in an area of intended employment, if the average hourly equivalent of the prevailing rate of pay for the occupation is less than the prior year's average hourly earnings of field and livestock workers for the State (or region that includes the State), as determined by the Secretary of Agriculture. No adverse effect wage rate shall be more than the prior year's average hourly earnings of field and livestock workers for the State (or region that includes the State), as determined by the Secretary of Agriculture.

(2) AGRICULTURAL EMPLOYMENT.—The term ''agricultural employment'' means any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or section 3121(g) of the Internal Revenue Code of 1986 and the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.

(3) ELIGIBLE.—The term ''eligible'' as used with respect to workers or individuals, means individuals authorized to be employed in the United States as provided for in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1188).

(4) EMPLOYER.—The term ''employer'' means any person or entity, including any independent contractor and any agricultural association, that employs workers.

(5) JOB OPPORTUNITY.—The term ''job opportunity'' means a specific period of employment for a worker in one or more specified agricultural activities.

(6) PREVAILING WAGE.—The term ''prevailing wage'' means with respect to an agricultural activity in an area of intended employment, the rate of wages that includes the 51st percentile of employees in that agricultural activity in the area of intended employment, expressed in terms of the prevailing method of pay for the agricultural activity in the area of intended employment.

(7) REGISTERED WORKER.—The term ''registered worker'' means an individual whose name appears in a registry.

(8) REGISTRY.—The term ''registry'' means an agricultural worker registry established under section ___03(a).

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Labor.

(10) UNITED STATES WORKER.—The term ''United States worker'' means any worker, whether a United States citizen, a United States national, or an alien who is authorized to work in the job opportunity within the United States other than an alien admitted pursuant to section 101(a)(15)(H)(ii)(a) or 218 of the Immigration and Nationality Act, as in effect on the effective date of this title.

SEC. ___03. AGRICULTURAL WORKER REGISTRIES.

(a) ESTABLISHMENT OF REGISTRIES.—

(1) IN GENERAL.—The Secretary of Labor shall establish and maintain a system of registries containing a current database of eligible United States workers who seek to perform temporary or seasonal agricultural work and the employment status of such workers—

(A) to ensure that eligible United States workers are informed about available agricultural job opportunities;

(B) to maximize the work period for eligible United States workers; and

(C) to provide timely referral of such workers to temporary and seasonal agricultural job opportunities in the United States.

(2) COVERAGE.—

(A) SINGLE STATE OR GROUP OF STATES.—Each registry established under paragraph (1) shall include the job opportunities in a single State, or a group of contiguous States that traditionally share a common pool of seasonal agricultural workers.

(B) REQUESTS FOR INCLUSION.—Each State requesting inclusion in a registry, or having any group of agricultural producers seeking to utilize the registry, shall be represented by a registry or by a registry of contiguous States.

(b) REGISTRATION.—

(1) IN GENERAL.—An eligible individual who seeks employment in temporary or seasonal agricultural work may apply to be included in the registry for the State or States in which the individual seeks employment. Such application shall include—

(A) the name and address of the individual;

(B) the period or periods of time (including beginning and ending dates) during which the individual will be available for temporary or seasonal agricultural work;

(C) the registry or registries on which the individual desires to be included;

(D) the specific qualifications and work experience possessed by the applicant;

(E) the type or types of temporary or seasonal agricultural work the applicant is willing to perform;

(F) such other information as the applicant wishes to be taken into account in referring the applicant to temporary or seasonal agricultural job opportunities; and

(G) such other information as may be required by the Secretary.

(2) VALIDATION OF EMPLOYMENT AUTHORIZATION.—No person may be included on any registry unless the Attorney General has certified to the Secretary of Labor that the person is authorized to be employed in the United States.

(3) WORKERS REFERRED TO JOB OPPORTUNITIES.—The name of each registered worker who is referred and accepts employment with an employer pursuant to section ___05 shall be classified as inactive on each registry on which the worker is included during the period of employment involved in the job to which the worker was referred, unless the worker reports to the Secretary that the worker is no longer employed and is available for referral to another job opportunity. A registered worker classified as inactive shall not be referred pursuant to section ___05.

(4) REMOVAL OF NAMES FROM A REGISTRY.—The Secretary shall remove from all registries the name of any registered worker who, on 3 separate occasions within a 3-month period, is referred to a job opportunity pursuant to this section, and who declines such referral or fails to report to work in a timely manner.

(5) VOLUNTARY REMOVAL.—A registered worker may request that the worker's name be removed from a registry or from all registries.

(6) REMOVAL BY EXPIRATION.—The application of a registered worker shall expire, and the Secretary shall remove the name of such worker from all registries if the worker has not accepted a job opportunity pursuant to this section within the preceding 12-month period.

(7) REINSTATEMENT.—A worker whose name is removed from a registry pursuant to paragraph (4), (5), or (6) may apply to the Secretary for reinstatement to such registry at any time.

(c) CONFIDENTIALITY OF REGISTRIES.—The Secretary shall maintain the confidentiality of the registries established pursuant to this section, and the information in such registries shall not be used for any purposes other than those authorized in this title.

(d) ADVERTISING OF REGISTRIES.—The Secretary shall widely disseminate, through advertising and other means, the existence of the registries for the purpose of encouraging eligible United States workers seeking temporary or seasonal agricultural job opportunities to register.

SEC. ___04. EMPLOYER APPLICATIONS AND ASSURANCES.

(a) APPLICATIONS TO THE SECRETARY.—

(1) IN GENERAL.—Not later than 21 days prior to the date on which an agricultural employer desires to employ a registered worker in a temporary or seasonal agricultural job opportunity, the employer shall apply to the Secretary for the referral of a United States worker through a search of the appropriate registry, in accordance with section ___05. Such application shall—

(A) describe the nature and location of the work to be performed;

(B) list the anticipated period (expected beginning and ending dates) for which workers will be needed;

(C) indicate the number of job opportunities in which the employer seeks to employ workers from the registry;

(D) describe the bona fide occupational qualifications that must be possessed by a worker to be employed in the job opportunity in question;

(E) describe the wages and other terms and conditions of employment the employer will offer, which shall not be less (and are not required to be more) than those required by this section;

(F) contain the assurances required by subsection (c); and

(G) specify the foreign country or region thereof from which alien workers should be admitted in the case of a failure to refer United States workers under this title.

(2) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—

(A) IN GENERAL.—An agricultural association may file an application under paragraph (1) for registered workers on behalf of its employer members.

(B) EMPLOYERS.—An application under subparagraph (A) shall cover those employer members of the association that the association certifies in its application have agreed in writing to comply with the requirements of this title.

(b) AMENDMENT OF APPLICATIONS.—Prior to receiving a referral of workers from a registry, an employer may amend an application under this subsection if the employer's need for workers changes. If an employer amends an application on a date which is later than 21 days prior to the date on which the workers on the amended application are sought to be employed, the Secretary may

delay issuance of the report described in section ___05(b) by the number of days by which the filing of the amended application is later than 21 days before the date on which the employer desires to employ workers.

(c) ASSURANCES.—The assurances referred to in subsection (a)(1)(F) are the following:

(1) ASSURANCE THAT THE JOB OPPORTUNITY IS NOT A RESULT OF A LABOR DISPUTE.—The employer shall assure that the job opportunity for which the employer requests a registered worker is not vacant because a worker is involved in a strike, lockout, or work stoppage in the course of a labor dispute involving the job opportunity at the place of employment.

(2) ASSURANCE THAT THE JOB OPPORTUNITY IS TEMPORARY OR SEASONAL.—

(A) REQUIRED ASSURANCE.—The employer shall assure that the job opportunity for which the employer requests a registered worker is temporary or seasonal.

(B) SEASONAL BASIS.—For purposes of this title, labor is performed on a seasonal basis where, ordinarily, the employment pertains to or is of the kind exclusively performed at certain seasons or periods of the year and which, from its nature, may not be continuous or carried on throughout the year.

(C) TEMPORARY BASIS.—For purposes of this title, a worker is employed on a temporary basis where the employment is intended not to exceed 10 months.

(3) ASSURANCE OF PROVISION OF REQUIRED WAGES AND BENEFITS.—The employer shall assure that the employer will provide the wages and benefits required by subsections (a), (b), and (c) of section ___07 to all workers employed in job opportunities for which the employer has applied under subsection (a) and to all other workers in the same occupation at the place of employment.

(4) ASSURANCE OF EMPLOYMENT.—The employer shall assure that the employer will refuse to employ individuals referred under section ___05, or terminate individuals employed pursuant to this title, only for lawful job-related reasons, including lack of work.

(5) ASSURANCE OF COMPLIANCE WITH LABOR LAWS.—

(A) IN GENERAL.—An employer who requests registered workers shall assure that, except as otherwise provided in this title, the employer will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer.

(B) LIMITATIONS.—The disclosure required under section 201(a) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1821(a)) may be made at any time prior to the time the alien is issued a visa permitting entry into the United States.

(6) ASSURANCE OF ADVERTISING OF THE REGISTRY.—The employer shall assure that the employer will, from the day an application for workers is submitted under subsection (a), and continuing throughout the period of employment of any job opportunity for which the employer has applied for a worker from the registry, post in a conspicuous place a poster to be provided by the Secretary advertising the availability of the registry.

(7) ASSURANCE OF CONTACTING FORMER WORKERS.—The employer shall assure that the employer has made reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any eligible worker the employer employed during the previous season in the occupation at the place of intended employment for which the employer is applying for registered workers, and has made the availability of the employer's job opportunities in the occupation at the place of intended employment known to such previous worker, unless the worker was terminated from employment by the employer for a lawful job-related reason or abandoned the job before the worker completed the period of employment of the job opportunity for which the worker was hired.

(8) ASSURANCE OF PROVISION OF WORKERS COMPENSATION.—The employer shall assure that if the job opportunity is not covered by the State workers' compensation law, that the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

(d) WITHDRAWAL OF APPLICATIONS.—

(1) IN GENERAL.—An employer may withdraw an application under subsection (a), except that, if the employer is an agricultural association, the association may withdraw an application under subsection (a) with respect to one or more of its members. To withdraw an application, the employer shall notify the Secretary in writing, and the Secretary shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

(2) LIMITATION.—An application may not be withdrawn while any alien provided status under this title pursuant to such application is employed by the employer.

(3) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by an employer under any other law or regulation as a result of recruitment of United States workers under an offer of terms and conditions of employment required as a result of making an application under subsection (a) is unaffected by withdrawal of such application.

(e) REVIEW OF APPLICATION.—

(1) IN GENERAL.—Promptly upon receipt of an application by an employer under subsection (a), the Secretary shall review the application for compliance with the requirements of such subsection.

(2) APPROVAL OF APPLICATIONS.—If the Secretary determines that an application meets the requirements of subsection (a), and the employer is not ineligible to apply under paragraph (2), (3), or (4) of section ___08(b), the Secretary shall, not later than 7 days after the receipt of such application, approve the application and so notify the employer.

(3) REJECTION OF APPLICATIONS.—If the Secretary determines that an application fails to meet 1 or more of the requirements of subsection (a), the Secretary, as expeditiously as possible, but in no case later than 7 days after the receipt of such application, shall—

(A) notify the employer of the rejection of the application and the reasons for such rejection, and provide the opportunity for the prompt resubmission of an amended application; and

(B) offer the applicant an opportunity to request an expedited administrative review or a de novo administrative hearing before an administrative law judge of the rejection of the application.

(4) REJECTION FOR PROGRAM VIOLATIONS.—The Secretary shall reject the application of an employer under this section if the employer has been determined to be ineligible to employ workers under section ___08(b) or subsection (b)(2) of section 218 of the Immigration and Nationality Act (8 U.S.C. 1188).

SEC. ___05. SEARCH OF REGISTRY.

(a) SEARCH PROCESS AND REFERRAL TO THE EMPLOYER.—Upon the approval of an application under section ___04(e), the Secretary shall promptly begin a search of the registry of the State (or States) in which the work is to be performed to identify registered workers with the qualifications requested by the employer. The Secretary shall contact such qualified registered workers and determine, in each instance, whether the worker is ready, willing, and able to accept the employer's job opportunity and will commit to work for the employer at the time and place needed. The Secretary shall provide to each worker who commits to work for the employer the employer's name, address, telephone number, the location where the employer has requested that employees report for employment, and a statement disclosing the terms and conditions of employment.

(b) DEADLINE FOR COMPLETING SEARCH PROCESS; REFERRAL OF WORKERS.—As expeditiously as possible, but not later than 7 days before the date on which an employer desires work to begin, the Secretary shall complete the search under subsection (a) and shall transmit to the employer a report containing the name, address, and social security account number of each registered worker who has committed to work for the employer on the date needed, together with sufficient information to enable the employer to establish contact with the worker. The identification of such registered workers in a report shall constitute a referral of workers under this section.

(c) NOTICE OF INSUFFICIENT WORKERS.—If the report provided to the employer under subsection (b) does not include referral of a sufficient number of registered workers to fill all of the employer's job opportunities in the occupation for which the employer applied under section ___04(a), the Secretary shall indicate in the report the number of job opportunities for which registered workers could not be referred, and promptly transmit a copy of the report to the Attorney General and the Secretary of State, by electronic or other means ensuring next day delivery.

SEC. ___06. ISSUANCE OF VISAS AND ADMISSION OF ALIENS.

(a) IN GENERAL.—

(1) NUMBER OF ADMISSIONS.—The Secretary of State shall promptly issue visas to, and the Attorney General shall admit, a sufficient number of eligible aliens designated by the employer to fill the job opportunities of the employer—

(A) upon receipt of a copy of the report described in section ___05(c);

(B) upon receipt of an application (or copy of an application under subsection (b));

(C) upon receipt of the report required by subsection (c)(1)(B); or

(D) upon receipt of a report under subsection (d).

(2) PROCEDURES.—The admission of aliens under paragraph (1) shall be subject to the procedures of section 218A of the Immigration and Nationality Act, as added by this title.

(3) AGRICULTURAL ASSOCIATIONS.—Aliens admitted pursuant to a report described in paragraph (1) may be employed by any member of the agricultural association that has made the certification required by section ___04(a)(2)(B).

(b) DIRECT APPLICATION UPON FAILURE TO ACT.—

(1) APPLICATION TO THE SECRETARY OF STATE.—If the employer has not received a referral of sufficient workers pursuant to section ___05(b) or a report of insufficient workers pursuant to section ___05(c), by the date that is 7 days before the date on which the work is anticipated to begin, the employer may submit an application for alien workers directly to the Secretary of State, with a copy of the application provided to the Attorney General, seeking the issuance of visas to and the admission of aliens for employment in the job opportunities for

which the employer has not received referral of registered workers. Such an application shall include a copy of the employer's application under section ___04(a), together with evidence of its timely submission. The Secretary of State may consult with the Secretary of Labor in carrying out this paragraph.

(2) EXPEDITED CONSIDERATION BY SECRETARY OF STATE.—The Secretary of State shall, as expeditiously as possible, but not later than 5 days after the employer files an application under paragraph (1), issue visas to, and the Attorney General shall admit, a sufficient number of eligible aliens designated by the employer to fill the job opportunities for which the employer has applied under that paragraph.

(c) REDETERMINATION OF NEED.—

(1) REQUESTS FOR REDETERMINATION.—

(A) IN GENERAL.—An employer may file a request for a redetermination by the Secretary of the needs of the employer if—

(i) a worker referred from the registry is not at the place of employment on the date of need shown on the application, or the date the work for which the worker is needed has begun, whichever is later;

(ii) the worker is not ready, willing, able, or qualified to perform the work required; or

(iii) the worker abandons the employment or is terminated for a lawful job-related reason.

(B) ADDITIONAL AUTHORIZATION OF ADMISSIONS.—The Secretary shall expeditiously, but in no case later than 72 hours after a redetermination is requested under subparagraph (A), submit a report to the Secretary of State and the Attorney General providing notice of a need for workers under this subsection.

(2) JOB-RELATED REQUIREMENTS.—An employer shall not be required to initially employ a worker who fails to meet lawful job-related employment criteria, nor to continue the employment of a worker who fails to meet lawful, job-related standards of conduct and performance, including failure to meet minimum production standards after a 3-day break-in period.

(d) EMERGENCY APPLICATIONS.—Notwithstanding subsections (b) and (c), the Secretary may promptly transmit a report to the Attorney General and Secretary of State providing notice of a need for workers under this subsection for an employer—

(1) who has not employed aliens under this title in the occupation in question in the prior year's agricultural season;

(2) who faces an unforeseen need for workers (as determined by the Secretary); and

(3) with respect to whom the Secretary cannot refer able, willing, and qualified workers from the registry who will commit to be at the employer's place of employment and ready for work within 72 hours or on the date the work for which the worker is needed has begun, whichever is later.

(e) REGULATIONS.—The Secretary of State shall prescribe regulations to provide for the designation of aliens under this section.

SEC. ___07. EMPLOYMENT REQUIREMENTS.

(a) REQUIRED WAGES.—

(1) IN GENERAL.—An employer applying under section ___04(a) for workers shall offer to pay, and shall pay, all workers in the occupation or occupations for which the employer has applied for workers from the registry, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate.

(2) PAYMENT OF PREVAILING WAGE DETERMINED BY A STATE EMPLOYMENT SECURITY AGENCY SUFFICIENT.—In complying with paragraph (1), an employer may request and obtain a prevailing wage determination from the State employment security agency. If the employer requests such a determination, and pays the wage required by paragraph (1) based upon such a determination, such payment shall be considered sufficient to meet the requirement of paragraph (1).

(3) RELIANCE ON WAGE SURVEY.—In lieu of the procedure of paragraph (2), an employer may rely on other information, such as an employer-generated prevailing wage survey and determination that meets criteria specified by the Secretary.

(4) ALTERNATIVE METHODS OF PAYMENT PERMITTED.—

(A) IN GENERAL.—A prevailing wage may be expressed as an hourly wage, a piece rate, a task rate, or other incentive payment method, including a group rate. The requirement to pay at least the prevailing wage in the occupation and area of intended employment does not require an employer to pay by the method of pay in which the prevailing rate is expressed, except that, if the employer adopts a method of pay other than the prevailing rate, the burden of proof is on the employer to demonstrate that the employer's method of pay is designed to produce earnings equivalent to the earnings that would result from payment of the prevailing rate.

(B) COMPLIANCE WHEN PAYING AN INCENTIVE RATE.—In the case of an employer that pays a piece rate or task rate or uses any other incentive payment method, including a group rate, the employer shall be considered to be in compliance with any applicable hourly wage requirement if the average of the hourly earnings of the workers, taken as a group, the activity for which a piece rate, task rate, or other incentive payment, including a group rate, is paid, for the pay period, is at least equal to the required hourly wage.

(C) TASK RATE.—For purposes of this paragraph, the term ''task rate'' means an incentive payment method based on a unit of work performed such that the incentive rate varies with the level of effort required to perform individual units of work.

(D) GROUP RATE.—For purposes of this paragraph, the term ''group rate'' means an incentive payment method in which the payment is shared among a group of workers working together to perform the task.

(b) REQUIREMENT TO PROVIDE HOUSING.—

(1) IN GENERAL.—An employer applying under section ___04(a) for registered workers shall offer to provide housing at no cost (except for charges permitted by paragraph (5)) to all workers employed in job opportunities to which the employer has applied under that section, and to all other workers in the same occupation at the place of employment, whose permanent place of residence is beyond normal commuting distance.

(2) TYPE OF HOUSING.—In complying with paragraph (1), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or, in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation.

(3) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

(4) LIMITATION.—Nothing in this subsection shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

(5) CHARGES FOR HOUSING.—

(A) UTILITIES AND MAINTENANCE.—An employer who provides housing to a worker pursuant to paragraph (1) may charge an amount equal to the fair market value (but not greater than the employer's actual cost) for maintenance and utilities, or such lesser amount as permitted by law.

(B) SECURITY DEPOSIT.—An employer who provides housing to workers pursuant to paragraph (1) may require, as a condition for providing such housing, a deposit not to exceed $50 from workers occupying such housing to protect against gross negligence or willful destruction of property.

(C) DAMAGES.—An employer who provides housing to workers pursuant to paragraph (1) may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

(6) HOUSING ALLOWANCE AS ALTERNATIVE.—

(A) IN GENERAL.—In lieu of offering housing pursuant to paragraph (1), subject to subparagraphs (B) through (D), the employer may on a case-by-case basis provide a reasonable housing allowance. An employer who offers a housing allowance to a worker pursuant to this subparagraph shall not be deemed to be a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance.

(B) LIMITATION.—At any time after the date that is 3 years after the effective date of this title, the governor of the State may certify to the Secretary that there is not sufficient housing available in an area of intended employment of migrant farm workers or aliens provided status pursuant to this title who are seeking temporary housing while employed at farm work. Such certification may be canceled by the governor of the State at any time, and shall expire after 5 years unless renewed by the governor of the State.

(C) EFFECT OF CERTIFICATION.—If the governor of the State makes the certification of insufficient housing described in subparagraph (A) with respect to an area of employment, employers of workers in that area of employment may not offer the housing allowance described in subparagraph (A) after the date that is 5 years after such certification of insufficient housing for such area, unless the certification has expired or been canceled pursuant to subparagraph (B).

(D) AMOUNT OF ALLOWANCE.—The amount of a housing allowance under this paragraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State in which the employment occurs, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

(c) REIMBURSEMENT OF TRANSPORTATION.—

(1) TO PLACE OF EMPLOYMENT.—A worker who is referred to a job opportunity under section ___05(a), or an alien employed pursuant to this title, who completes 50 percent of the period of employment of the job opportunity for which the worker was hired, may apply to the employer for reimbursement of the cost of the worker's transportation and subsistence from the worker's permanent place of residence (or place of last employment, if the worker traveled from such place) to the place of employment to which the worker was referred under section ___05(a).

(2) FROM PLACE OF EMPLOYMENT.—A worker who is referred to a job opportunity under section ___05(a), or an alien employed pursuant to this title, who completes the period of employment for the job opportunity involved, may apply to the employer for reimbursement of the cost of the worker's transportation and subsistence from the place of employment to the worker's permanent place of residence.

(3) LIMITATION.—

(A) AMOUNT OF REIMBURSEMENT.—Except as provided in subparagraph (B), the amount of reimbursement provided under paragraph (1) or (2) to a worker or alien shall not exceed the lesser of—

(i) the actual cost to the worker or alien of the transportation and subsistence involved; or

(ii) the most economical and reasonable transportation and subsistence costs that would have been incurred had the worker or alien used an appropriate common carrier, as determined by the Secretary.

(B) DISTANCE TRAVELED.—No reimbursement under paragraph (1) or (2) shall be required if the distance traveled is 100 miles or less.

(d) CONTINUING OBLIGATION TO EMPLOY UNITED STATES WORKERS.—

(1) IN GENERAL.—An employer that applies for registered workers under section ___04(a) shall, as a condition for the approval of such application, continue to offer employment to qualified, eligible United States workers who are referred under section ___05(b) after the employer receives the report described in section ___05(b).

(2) LIMITATION.—An employer shall not be obligated to comply with paragraph (1)—

(A) after 50 percent of the anticipated period of employment shown on the employer's application under section ___04(a) has elapsed; or

(B) during any period in which the employer is employing no aliens in the occupation for which the United States worker was referred; or

(C) during any period when the Secretary is conducting a search of a registry for job opportunities in the occupation and area of intended employment to which the worker has been referred, or other occupations in the area of intended employment for which the worker is qualified that offer substantially similar terms and conditions of employment.

(3) LIMITATION ON REQUIREMENT TO PROVIDE HOUSING.—Notwithstanding any other provision of this title, an employer to whom a registered worker is referred pursuant to paragraph (1) may provide a reasonable housing allowance to such referred worker in lieu of providing housing if the employer does not have sufficient housing to accommodate the referred worker and all other workers for whom the employer is providing housing or has committed to provide housing.

(4) REFERRAL OF WORKERS DURING 50-PERCENT PERIOD.—The Secretary shall make all reasonable efforts to place a registered worker in an open job acceptable to the worker, including available jobs not listed on the registry, before referring such worker to an employer for a job opportunity already filled by, or committed to, an alien admitted pursuant to this title.

SEC. ___08. ENFORCEMENT AND PENALTIES.

(a) ENFORCEMENT AUTHORITY.—

(1) INVESTIGATION OF COMPLAINTS.—

(A) IN GENERAL.—The Secretary shall establish a process for the receipt, investigation, and disposition of complaints respecting an employer's failure to meet a condition specified in section ___04 or an employer's misrepresentation of material facts in an application under that section. Complaints may be filed by any aggrieved person or any organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure or misrepresentation, as the case may be. The Secretary shall conduct an investigation under this paragraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

(B) STATUTORY CONSTRUCTION.—Nothing in this title limits the authority of the Secretary of Labor to conduct any compliance investigation under any other labor law, including any law affecting migrant and seasonal agricultural workers or, in the absence of a complaint under this paragraph, under this title.

(2) WRITTEN NOTICE OF FINDING AND OPPORTUNITY FOR APPEAL.—After an investigation has been conducted, the Secretary shall issue a written determination as to whether or not any violation described in subsection (b) has been committed. The Secretary's determination shall be served on the complainant and the employer, and shall provide an opportunity for an appeal of the Secretary's decision to an administrative law judge, who may conduct a de novo hearing.

(b) REMEDIES.—

(1) BACK WAGES.—Upon a final determination that the employer has failed to pay wages as required under this section, the Secretary may assess payment of back wages due to any United States worker or alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act employed by the employer in the specific employment in question. The back wages shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

(2) FAILURE TO PAY WAGES.—Upon a final determination that the employer has failed to pay the wages required under this title, the Secretary may assess a civil money penalty up to $1,000 for each failure, and may recommend to the Attorney General the disqualification of the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act for a period of time determined by the Secretary not to exceed 1 year.

(3) OTHER VIOLATIONS.—If the Secretary, as a result of an investigation pursuant to a complaint, determines that an employer covered by an application under section ___04(a) has—

(A) filed an application that misrepresents a material fact; or

(B) failed to meet a condition specified in section ___04,

the Secretary may assess a civil money penalty not to exceed $1,000 for each violation and may recommend to the Attorney General the disqualification of the employer for substantial violations in the employment of any United States workers or aliens described in section 101(a)(15)(ii)(a) of the Immigration and Nationality Act for a period of time determined by the Secretary not to exceed 1 year. In determining the amount of civil money penalty to be assessed or whether to recommend disqualification of the employer, the Secretary shall consider the seriousness of the violation, the good faith of the employer, the size of the business of the employer being charged, the history of previous violations by the employer, whether the employer obtained a financial gain from the violation, whether the violation was willful, and other relevant factors.

(4) PROGRAM DISQUALIFICATION.—

(A) 3 YEARS FOR SECOND VIOLATION.—Upon a second final determination that an employer has failed to pay the wages required under this title or committed other substantial violations under paragraph (3), the Secretary shall report such determination to the Attorney General and the Attorney General shall disqualify the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act for a period of 3 years.

(B) PERMANENT FOR THIRD VIOLATION.—Upon a third final determination that an employer has failed to pay the wages required under this section or committed other substantial violations under paragraph (3), the Secretary shall report such determination to the Attorney General, and the Attorney General shall disqualify the employer from any subsequent employment of aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act.

(c) ROLE OF ASSOCIATIONS.—

(1) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf an application is filed by an association acting as its agent is fully responsible for such application, and for complying with the terms and conditions of this title, as though the employer had filed the application itself. If such an employer is determined to have violated a requirement of this section, the penalty for such violation shall be assessed against the employer who committed the violation and not against the association or other members of the association.

(2) VIOLATION BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application on its own behalf as an employer is determined to have committed a violation under this subsection which results in disqualification from the program under subsection (b), no individual member of such association may be the beneficiary of the services of an alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act in an occupation in which such alien was employed by the association during the period such disqualification is in effect, unless such member files an application as an individual employer or such application is filed on the employer's behalf by an association with which the employer has an agreement that the employer will comply with the requirements of this title.

SEC. ___09. ALTERNATIVE PROGRAM FOR THE ADMISSION OF TEMPORARY H–2A WORKERS.

(a) AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.—

(1) ELECTION OF PROCEDURES.—Section 214(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(1)) is amended—

(A) by striking the fifth and sixth sentences;

(B) by striking ''(c)(1) The'' and inserting ''(c)(1)(A) Except as provided in subparagraph (B), the''; and

(C) by adding at the end the following new subparagraph:

''(B) Notwithstanding subparagraph (A), in the case of the importing of any nonimmigrant alien described in section 101(a)(15)(H)(ii)(a), the importing employer may elect to import the alien under the procedures of section 218 or section 218A, except that any employer that applies for registered workers under section ___04(a) of the Agricultural Job Opportunity Benefits and Security Act of 1998 shall import nonimmigrants described in section 101(a)(15)(H)(ii)(a) only in accordance with section 218A. For purposes of subparagraph (A), with respect to the importing of nonimmigrants under section 218, the term 'appropriate agencies of Government' means the Department of Labor and includes the Department of Agriculture.''.

(2) ALTERNATIVE PROGRAM.—The Immigration and Nationality Act is amended by inserting after section 218 (8 U.S.C. 1188) the following new section:

''ALTERNATIVE PROGRAM FOR THE ADMISSION OF TEMPORARY H–2A WORKERS

''SEC. 218A. (a) PROCEDURE FOR ADMISSION OR EXTENSION OF ALIENS.—

''(1) ALIENS WHO ARE OUTSIDE THE UNITED STATES.—

''(A) CRITERIA FOR ADMISSIBILITY.—

''(i) IN GENERAL.—An alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act shall be admissible under this section if the alien is designated pursuant to section ___06 of the Agricultural Job Opportunity Benefits and Security Act of 1998, otherwise admissible under this Act, and the alien is not ineligible under clause (ii).

''(ii) DISQUALIFICATION.—An alien shall be ineligible for admission to the United States or being provided status under this section if the alien has, at any time during the past 5 years—

''(I) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

''(II) otherwise violated a term or condition of admission to the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

''(iii) INITIAL WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—An alien who has not previously been admitted to the United States pursuant to this section, and who is otherwise eligible for admission in accordance with clauses (i) and (ii), shall not be deemed inadmissible by virtue of section 212(a)(9)(B).

''(B) PERIOD OF ADMISSION.—The alien shall be admitted for the period requested by the employer not to exceed 10 months, or the ending date of the anticipated period of employment on the employer's application for registered workers, whichever is less, plus an additional period of 14 days, during which the alien shall seek authorized employment in the United States. During the 14-day period following the expiration of the alien's work authorization, the alien is not authorized to be employed unless an employer who is authorized to employ such worker has filed an extension of stay on behalf of the alien pursuant to paragraph (2).

''(C) ABANDONMENT OF EMPLOYMENT.—

''(i) IN GENERAL.—An alien admitted or provided status under this section who abandons the employment which was the basis for such admission or providing status shall be considered to have failed to maintain nonimmigrant status as an alien described in section 101(a)(15)(H)(ii)(a) and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

''(ii) REPORT BY EMPLOYER.—The employer (or association acting as agent for the employer) shall notify the Attorney General within 7 days of an alien admitted or provided status under this Act pursuant to an application to the Secretary of Labor under section ___06 of the Agricultural Job Opportunity Benefits and Security Act of 1998 by the employer who prematurely abandons the alien's employment.

''(D) ISSUANCE OF IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—

''(i) IN GENERAL.—The Attorney General shall cause to be issued to each alien admitted under this section a card in a form which is resistant to counterfeiting and tampering for the purpose of providing proof of identity and employment eligibility under section 274A.

''(ii) DESIGN OF CARD.—Each card issued pursuant to clause (i) shall be designed in such a manner and contain a photograph and other identifying information (such as date of birth, sex, and distinguishing marks) that would allow an employer to determine with reasonable certainty that the bearer is not claiming the identity of another individual, and shall—

''(I) specify the date of the alien's acquisition of status under this section;

''(II) specify the expiration date of the alien's work authorization; and

''(III) specify the alien's admission number or alien file number.

''(2) EXTENSION OF STAY OF ALIENS IN THE UNITED STATES.—

''(A) EXTENSION OF STAY.—If an employer with respect to whom a report or application described in section ___06(a)(1) of the Agricultural Job Opportunity Benefits and Security Act of 1998 has been submitted seeks to employ an alien who has acquired status under this section and who is present in the United States, the employer shall file with the Attorney General an application for an extension of the alien's stay or a change in the alien's authorized employment. The application shall be accompanied by a copy of the appropriate report or application described in section ___06 of the Agricultural Job Opportunity Benefits and Security Act of 1998.

''(B) LIMITATION ON FILING AN APPLICATION FOR EXTENSION OF STAY.—An application may not be filed for an extension of an alien's stay for a period of more than 10 months, or later than a date which is 3 years from the date of the alien's last admission to the United States under this section, whichever occurs first.

''(C) WORK AUTHORIZATION UPON FILING AN APPLICATION FOR EXTENSION OF STAY.—An employer may begin employing an alien who is present in the United States who has acquired status under this Act on the day the employer files an application for extension of stay. For the purpose of this requirement, the term 'filing' means sending the application by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of sending and receipt of the application. The employer shall provide a copy of the employer's application to the alien, who shall keep the application with the alien's identification and employment eligibility document as evidence that the application has been filed and that the alien is authorized to work in the United States. Upon approval of an application for an extension of stay or change in the alien's authorized employment, the Attorney General shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the application.

''(D) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY CARD.—An expired identification and employment eligibility document, together with a copy of an application for extension of stay or change in the alien's authorized employment, shall constitute a valid work authorization document for a period of not more than 60 days from the date of application for the extension of stay, after which time only a currently valid identification and employment eligibility document shall be acceptable.

''(E) LIMITATION ON AN INDIVIDUAL'S STAY IN STATUS.—An alien having status under this section may not have the status extended for a continuous period longer than 3 years unless the alien remains outside the United States for an uninterrupted period of 6 months. An absence from the United States may break the continuity of the period for which a nonimmigrant visa issued under section 101(a)(15)(H)(ii)(a) is valid. If the alien has resided in the United States 10 months or less, an absence breaks the continuity of the period if its lasts for at least 2 months. If the alien has resided in the United States 10 months or more, an absence breaks the continuity of the period if it lasts for at least one-fifth the duration of the stay.

''(b) STUDY BY THE ATTORNEY GENERAL.—The Attorney General shall conduct a study to determine whether aliens under this section depart the United States in a timely manner upon the expiration of their period of authorized stay. If the Attorney General finds that a significant number of aliens do not so depart and that a financial inducement is necessary to assure such departure, then the Attorney General shall so report to Congress and make recommendations on appropriate courses of action.''

(b) NO FAMILY MEMBERS PERMITTED.—Section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) is amended by striking ''specified in this paragraph'' and inserting ''specified in this subparagraph (other than in clause (ii)(a))''.

(c) CONFORMING AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 218 the following new item:

''Sec. 218A. Alternative program for the admission of H–2A workers.''.

(d) REPEAL AND ADDITIONAL CONFORMING AMENDMENTS.—

(1) REPEAL.—Section 218 of the Immigration and Nationality Act is repealed.

(2) TECHNICAL AMENDMENTS.—(A) Section 218A of the Immigration and Nationality Act is redesignated as section 218.

(B) The table of contents of that Act is amended by striking the item relating to section 218A.

(C) The section heading for section 218 of that Act is amended by striking ''ALTERNATIVE PROGRAM FOR''.

(3) TERMINATION OF EMPLOYER ELECTION.—Section 214(c)(1)(B) of the Immigration and Nationality Act is amended to read as follows:

''(B) Notwithstanding subparagraph (A), the procedures of section 218 shall apply to the importing of any nonimmigrant alien described in section 101(a)(15)(H)(ii)(a).''.

(4) MAINTENANCE OF CERTAIN SECTION 218 PROVISIONS.—Section 218 (as redesignated by paragraph (2) of this subsection) is amended by adding at the end the following:

''(d) MISCELLANEOUS PROVISIONS.—(1) The Attorney General shall provide for such endorsement of entry and exit documents of nonimmigrants described in section 101(a)(15)(H)(ii) as may be necessary to carry out this section and to provide notice for purposes of section 274A.

''(2) The provisions of subsections (a) and (c) of section 214 and the provisions of this section preempt any State or local law regulating admissibility of nonimmigrant workers.''.

(5) EFFECTIVE DATE.—The repeal and amendments made by this subsection shall take effect 5 years after the date of enactment of this title.

SEC. ___10. INCLUSION IN EMPLOYMENT-BASED IMMIGRATION PREFERENCE ALLOCATION.

(a) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.—Section 203(b)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(3)(A)) is amended—

(1) by redesignating clause (iii) as clause (iv); and

(2) by inserting after clause (ii) the following:

''(iii) AGRICULTURAL WORKERS.—Qualified immigrants who have completed at least 6 months of work in the United States in each of 4 consecutive calendar years under section 101(a)(15)(H)(ii)(a), and have complied with all terms and conditions applicable to that section.''.

(b) CONFORMING AMENDMENT.—Section 203(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(3)(A)) is amended by striking ''subparagraph (A)(iii)'' and inserting ''subparagraph (A)(iv)''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to aliens described in section 101(a)(15)(H)(ii)(a) admitted to the United States before, on, or after the effective date of this title.

SEC. ___11. MIGRANT AND SEASONAL HEAD START PROGRAM.

(a) IN GENERAL.—Section 637(12) of the Head Start Act (42 U.S.C. 9832(12)) is amended—

(1) by inserting ''and seasonal'' after ''migrant''; and

(2) by inserting before the period the following: '', or families whose incomes or labor is primarily dedicated to performing seasonal agricultural labor for hire but whose places of residency have not changed to another geographic location in the preceding 2-year period''.

(b) FUNDS SET-ASIDE.—Section 640(a) (42 U.S.C. 9835(a)) is amended—

(1) in paragraph (2), strike ''13'' and insert ''14'';

(2) in paragraph (2)(A), by striking ''1994'' and inserting ''1998''; and

(3) by adding at the end the following new paragraph:

''(8) In determining the need for migrant and seasonal Head Start programs and services, the Secretary shall consult with the Secretary of Labor, other public and private entities, and providers. Notwithstanding paragraph (2)(A), after conducting such consultation, the Secretary shall further adjust the amount available for such programs and services, taking into consideration the need and demand for such services.''.

SEC. ___12. REGULATIONS.

(a) REGULATIONS OF THE ATTORNEY GENERAL.—The Attorney General shall consult with the Secretary and the Secretary of Agriculture on all regulations to implement the duties of the Attorney General under this title.

(b) REGULATIONS OF THE SECRETARY OF STATE.—The Secretary of State shall consult with the Attorney General on all regulations to implement the duties of the Secretary of State under this title.

SEC. ___13. FUNDING.

If additional funds are necessary to pay the start-up costs of the registries established under section ___03(a), such costs may be paid out of amounts available to Federal or State governmental entities under the Wagner-Peyser Act (29 U.S.C. 49 et seq.). Except as provided for by subsequent appropriation, additional expenses incurred for administration by the Attorney General, the Secretary of Labor, and Secretary of State shall be paid for out of appropriations otherwise.

SEC. ___14. REPORT TO CONGRESS.

Not later than 3 years after the date of enactment of this Act and 5 years after the date of enactment of this Act, the Attorney General and the Secretaries of Agriculture and Labor shall jointly prepare and transmit to Congress a report describing the results of a review of the implementation of and compliance with this title. The report shall address—

(1) whether the program has ensured an adequate and timely supply of qualified, eligible workers at the time and place needed by employers;

(2) whether the program has ensured that aliens admitted under this program are employed only in authorized employment, and that they timely depart the United States when their authorized stay ends;

(3) whether the program has ensured that participating employers comply with the requirements of the program with respect to the employment of United States workers and aliens admitted under this program;

(4) whether the program has ensured that aliens admitted under this program are not displacing eligible, qualified United States workers or diminishing the wages and other terms and conditions of employment of eligible United States workers;

(5) whether the housing provisions of this program ensure that adequate housing is available to workers employed under this program who are required to be provided housing or a housing allowance; and

(6) recommendations for improving the operation of the program for the benefit of participating employers, eligible United States workers, participating aliens, and governmental agencies involved in administering the program.

SEC. ___15. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 180 days after the date of enactment of this title.

Mr. SMITH of Oregon. How much time is remaining?

The PRESIDING OFFICER. The Senator from Oregon has 3 minutes remaining.

Mr. SMITH of Oregon. We are going to reserve that for the Senator from Washington.

Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

Mr. President, in 1960, Edward R. Murrow shocked the Nation with his famous television documentary on the exploitation of farm workers in America. His report, ''Harvest of Shame,'' led to the repeal of the bracero program in 1964, under which 4.6 million Mexican workers had been brought to this country to harvest U.S. crops under harsh and abusive conditions.

I remember very clearly as a junior member on the Human Resources Committee the extensive hearings that we had and the travels that we took to many different parts of this country.

Yet here we are today considering an amendment that creates a new large-scale foreign agricultural worker program. Don't we ever learn? Have the special interests no shame.

A new bracero program would be harmful to American farmworkers, harmful to efforts to control illegal immigration, and harmful to the nation.

If the Senate votes for this amendment, it is voting for another ''harvest of shame.'' It is voting to let thousands of poor foreign farmworkers come here and stay permanently. This amendment opens the floodgates to foreign workers. It gives them permanent green cards if they work here for four consecutive harvests.

This amendment turns its back on years of efforts to improve conditions for America's farmworkers we admit under the current immigration laws.

A vast new guest worker program is completely unnecessary. As the General Accounting Office said in December: ''Ample supplies of farm labor appear to be available in most areas.''

I refer our colleagues to page 6 of the December publication of the GAO. It says:

> GAO's own analysis suggests, and many farm labor experts, government officials, and grower and farm labor advocates agree, that a widespread farm labor shortage has not occurred in recent years and does not now appear to exist. . . It found that 13 counties maintained annual double-digit unemployment rates, and 19 percent had rates above the national average.

The late Barbara Jordan and her Commission on Immigration Reform unanimously—unanimously—concluded that creating such a program would be a ''grievous mistake''. Every Federal immigration commission in modern times has concluded that agricultural guestworker programs should not be expanded. The Commission on Immigration Reform, the Commission on Agricultural Workers in 1992, and the Hesburgh Commission in 1981 all reached that conclusion.

The so-called protections in this amendment can be easily circumvented. The Department of Labor does not even have the authority to limit the issuance of visas if it finds that the employment of foreign labor is hurting U.S. workers. This bill strips all of the protections in the current program.

First, this amendment weakens the requirements to hire American farmworkers first. It requires the Department of Labor to set up a new high-tech registry in which growers post their jobs and American workers who register with the Labor Department can be matched with them. But all a company has to do is check the registry—if it can't get a worker right away, it can bring in a foreign worker. A check with the registry is the only recruitment an employer has to do, and we do not know if the registry will even work.

Most American farmworkers earn less than $12,000 a year. They don't have computers at home, where they can log onto the Internet and check the registry. In fact, many American farmworkers can't even afford telephones to call the registry. Until we know that a registry really can work, it is nothing but a gimmick that lets growers evade their responsibility to hire U.S. workers first.

This amendment also eliminates the requirement that growers must provide housing for the foreign workers they bring in. Even under the discredited bracero program, employers were required to provide housing.

But under this amendment, all growers have to provide is a housing voucher. What foreign worker can negotiate the American housing market? How can a farmworker from Mexico or the Caribbean find an apartment in rural America to rent for just a few weeks when he doesn't know his way around, can't speak English, and doesn't have a car? You can make the housing as generous as you want. But many of these workers are going to be homeless.

This amendment also weakens the wage standards and will depress the wages of American farmworkers already struggling to make ends meet. American farmworkers are the poorest of the working poor. I ask unanimous consent that an article from the New York Times be printed at this point in the RECORD.

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

[From the New York Times, July 19, 1998]

THE MIDDLE CLASS: WINNING IN POLITICS, LOSING IN LIFE

(By Louis Uchitelle)

The great American middle class, Politicians of the left and right court it. Policies, liberal and conservative, are proclaimed on its behalf. Health care reform was to have eased its cares. Tuition subsidies educate its children. President Clinton made a ''middle class tax cut'' a centerpiece of his election campaign.

Most voters see themselves as members of the middle class, so Newt Gingrich, the House Speaker, picked up the theme. When the Republican-controlled Congress finally passed a tax bill last year, he described it as the Republican ''fulfillment of what President Clinton promised—a middle class tax cut.''

But for all its mythic power, the middle class is finishing last in the race for improvement in the current economic boom. At the top and bottom of the economic ladder, wages are rising briskly. In the middle, they are rising slowly. This is unusual. While upper-income people often improve their lot faster than the middle class, lower-income workers hardly ever do.

The middle class of political exhortation and national myth isn't the same as the statistical middle of the wage scale, the place where progress is surprisingly slow. Half of the so-called middle class tax cuts enacted last year went to people earning more than $93,000. And while the median household earns almost $40,000 a year, the median individual wage is much lower: $11.13 an hour last month, or about $23,000 a year for a 40-hour work week.

It isn't that workers in this statistical middle—people earning roughly $23,000 to $32,000 a year for a 40-hour week—are visibly aggrieved because they are losing ground to their upper- and lower-earning fellow citizens. After all, their pay has gone up faster than the inflation rate over the last two years, even if the increase is not as great as the one experienced by lower- and upper-income workers.

''Everyone seems to be reacting to the favorable improvement in their pay,'' said Richard Curtin, director of consumer surveys at the University of Michigan. ''But the longer the expansion lasts, the more people will turn toward comparisons with other groups. That's when the grumbling and the wage demands begin. When you look across society, you are not really seeing that yet.''

THE MIDDLE-CLASS LIFE

Lots of things can help someone improve his lot in life, of course. A rising stock market, tax breaks, inheritance, government subsidies like Medicare and Social Security, extra hours on the job and overtime pay all pay roles, particularly for those at the top and bottom of the income ladder. The really wealthy often rely not on wages but on earnings from their investments. And many households put together the wages of two or three household members, bringing the median household income to nearly $40,000, which is enough to live a middle-class life in most of the United States.

By some estimates, a family of four must bring in at least $27,000 a year from one or more wage earners to maintain what John Schwarz, a political scientist at Arizona State University, describes as ''a minimally adequate standard of living.'' In pursuit of that goal, most people measure their standing in the work force by what they earn individually on the job.

The bottom 20 percent on the national wage scale, earning $14,500 a year or less for a 40-hour week, has gained the most ground over the last two years, once wages are adjusted for inflation. Upper-income Americans, those earning north of $75,000 a year, have gained almost us much as the low-income people in the same two-year stretch. The middle group has gained a little ground since 1996, but less than the others.

BREAKTHROUGH

Viewed over the full eight years of the current economic expansion, the middle has actually lost ground, while the top and the bottom have gained at roughly the same gradual pace. Once wages are adjusted for inflation, the low end, for the first time, has regained all the ground lost in the early 1990's and is now earning more than in 1989, when the last economic expansion ended and a recession set in, undercutting wages.

Workers earnings slightly more than the poorest group or, at the other extreme, somewhat less than the richest wage earners, also did better than those in the middle, although not as well as those at either extreme.

The breakthrough came this year. The low-end wage, a maximum of $6.99 an hour last month for the bottom 20 percent, was 20 cents higher than in 1989, adjusted for inflation, according to the Economic Policy Institute, which calculated the trends from data provided by the Labor Department's Bureau of Labor Statistics.

By comparison, the median wage, smack in the middle, was $11.13 an hour in June, or 17 cents lower than in 1989. The upper end, mostly peopled by well educated and skilled workers, seldom loses ground in any year. At the high end, the wage of $24.63 an hour today, adjusted for inflation, is 91 cents ahead of the comparable 1989 level.

There are reasons, of course, for the slide in the middle. Despite all the rhetorical emphasis on policies that favor the middle class, it is low-income workers who have gotten the extra nod from Washington in this economic expansion—particularly through a 90-cents-an-hour increase in the minimum wage since October 1996. It was an increase that the Democrats proposed and the Republicans in Congress finally favored.

The minimum reached $5.15 an hour last September, and the ripple effect has pushed up wages for workers earning as much as 50 cents an hour over the minimum. That is a big portion of the people in the lower 20 percent of the American work force.

''The higher minimum wage is the key factor that has lifted people at the bottom,'' said Edward Wolff, a labor economist at New York University, whose own earnings calculations produced roughly the same results as those of the Economic Policy Institute.

The economy has played a big role, too. A surge in growth over the last two years and a falling unemployment rate produced labor shortages that showed up first at the low end of the work force. Meanwhile, middle-level workers, while finding jobs easily enough, had more difficulty raising their wages. Mr. Wolff and other labor economists tick off the reasons.

Computers have diluted the demand for clerks, secretaries and other medium-skilled workers. Unions, once the powerful bargaining agents of middle Americans, are weak today. Rising imports have hurt workers who make the same goods in this country. Corporate downsizing spread in the 1990's through white-collar ranks, making middle-income people feel less secure in their jobs and more reluctant to push for raises. And a bigger percentage of the work force now has a college education or at least some college training, diluting the demand for them. The wages of people with only four years of college are no longer rising.

''While middle income people benefit from the tight labor market, they have a harder time digging themselves out of the wage hole,'' said Jared Bernstein, a labor economist at the Economic Policy Institute.

HARD TO HELP

They are also harder for government to help, says Edward Montgomery, the Labor Department's chief economist. A huge swath of people who earn roughly $23,000 to $55,000 a year—and pay more than 40 percent of all Federal income taxes—are much more on their own than lower-income workers. There are government-subsidized training programs, for example, to get unemployed people into the low end of the labor force. The minimum wage and the earned-income tax credit (a Republican initiative that rebates tax revenue to low-wage workers) put a floor under their income. But middle-level people depend much more on their own dealings with their employers to determine their situations.

''It is harder for government policies to reach these middle level people,'' Mr. Montgomery said. ''In a free enterprise society, we are hesitant to subsidize an employer for something he would do anyway.''

Mr. KENNEDY. This study shows that despite the extraordinary prosperity we have seen in the United States, the farmworkers are on the lowest rung—working the hardest—the lowest rung of the economic ladder and have moved backward in terms of their real purchasing power. They already suffer double-digit unemployment, and this amendment will make that crisis worse. It eliminates the requirement in current immigration law that foreign workers must be paid a wage that will not depress wages for American farmworkers.

Even if an American worker shows up early in a harvest, he will not be guaranteed the job if an employer has foreign workers. In fact, that is the way most American migrant farmworkers get their jobs—by just showing up. For years—for decades—they have travelled farm to farm at harvest time. They show up for the job, harvest after harvest.

Under current law, if an American worker shows up in the first half of a harvest, he gets the job, even if a foreign worker is already there. This is called the ''50 percent rule.'' Under this amendment, if that American worker is not on the new computer ''registry,'' he cannot get the job.

I am also concerned that this amendment will encourage illegal immigration. After spending billions of dollars to strengthen the Border Patrol to keep illegal immigrants out, it makes no sense to instruct the INS to cut a gaping hole in the border fence, and look the other way as illegal immigrants pour through.

We know from the hard lesson of past experiences that foreign agricultural

worker programs create patterns of illegal immigration that can't be stopped. The first workers to come here may be legal, have temporary work visas—but they create an endless chain of illegal immigration, as relatives, neighbors, and friends follow them into America.

In fact, under this amendment, if you work in this program for four years, you get a green card and can stay in America forever. An unlimited number of workers can enter under this reckless program. There is no cap. Hundreds of thousands of workers can come in, work four years, get green cards, and stay forever.

As Philip Martin, a leading agricultural labor economist at the University of California at Davis, has stated, when it comes to temporary foreign worker programs, ''There is nothing more permanent than a temporary worker.''

The original bracero program did not really end in 1964. It established a permanent, well-traveled path of illegal immigration. And three and a half decades later, we are still paying a price. A comprehensive joint study by the United States and Mexico, completed last year, put it this way:

History has shown that U.S.-sanctioned bracero recruitment in the 1950s oriented many Mexican workers toward the U.S. labor market instead of toward local jobs and development. This began a tradition of migration, raised expectations, and set into place a baseline of individuals and families who would eventually reside permanently in the U.S. Although meant to be a temporary supply of workers, an unintended consequence was to create a resident population.

This amendment adds to that problem, Mr. President. I think it will hurt America's vulnerable farmworkers and cause permanent damage to our immigration policies. I urge my colleagues to oppose it.

How much time remains?

The PRESIDING OFFICER. The Senator has 17 minutes remaining.

Mr. KENNEDY. I yield 7 minutes to the Senator from California.

Mrs. FEINSTEIN. I thank the Senator from Massachusetts.

Mr. President, I am really disappointed that this program is being ramrodded through on an appropriations bill. This program represents a huge new immigration program and no one should think to the contrary.

Fifty percent of all the people that are going to come in from other countries under this program will go to one State—California. California has not been afforded the time to do the analysis to see how this program would affect it. This program is a Trojan horse.

When I heard the testimony on a registry program on the Judiciary Committee I thought, ''Great idea; I want to support it.'' When the Senators made the announcement, I was a cosponsor. Then I saw that attached to the concept of the registry program was also a huge immigration program with no controls whatever, no way of asserting whether individuals go back, and as a matter of fact—and I will explain that shortly—setting up incentives for these people to remain in the country in a legal status. In California, this will mean literally tens of thousands of additional immigrants coming into the State. We currently have 2 million people in California in illegal status. This will only add to the number of illegal status.

Let me say how this will happen. Under the amendment, if the Department of Labor cannot find American workers—and there is no registry in place in California—this bill will go into play. The large agricultural associations will apply for 20,000, 30,000 permits at a time. The Department of Labor has 7 days to respond to that. If they don't respond to that huge number in that period of time, the permits are authorized and the foreign workers come in. There is no way of knowing who they are, whether they have any bona fide documents.

Additionally, once a worker is in this country for 10 months, they can apply for a 3-year extension. Therefore, you effectively are granting a stay of 3 years to someone who comes in. They then should return, and if they come back for one more year, they are here for all time. They gain legal status under this program. There are no caps on any numbers being brought in.

The major part of concern in this bill—and I want this in the RECORD, is section 6(b)1, the application to the Secretary of State that sets up this 7-day period when the employer submits the application for alien workers directly to the Secretary of State with a copy of the application provided to the Attorney General seeking the issuance of visas and the admission of aliens for employment in the job opportunities for which the employer has not received referral of registered workers.

Then there is an expedited consideration by the Secretary of 5 days.

It is physically impossible to consider 20 or 30,000 applications in 5 days. It is set up to permit the entry of large numbers of people about whom nothing will be known—whether they really will go home, whether they really will stay at the job, work at the job. I think this is going to make the Bracero Program look good in retrospect.

Now, what I object to is I would like to vote for something that would help what is becoming an increasing problem. That increasing problem is that increasingly farmers cannot find adequate labor to harvest their crops. In our State, you have these counties with 20 percent and 30 percent unemployment rates. It is amazing, but it is true. Unemployment rate is high, but the farmer cannot find the help. This is where the registry was supposed to help. But the registry and the importation program go into effect simultaneously. Consequently, if there is nobody on the registry, you have the opening to import 20, 30, 50, 75,000 workers with no limit. That is what I had hoped we would have the time to work out. We don't know whether the housing allowance will work in California. California isn't Oregon. Costs are much higher. Housing is unavailable.

AMENDMENT NO. 3282 TO AMENDMENT NO. 3258, AS MODIFIED

Mrs. FEINSTEIN. I send an amendment to the desk.

The PRESIDING OFFICER. The Chair would suggest that until the time has either been used or yielded back, an amendment is not in order.

Mrs. FEINSTEIN. All right.

Mr. KENNEDY. Mr. President, I think the proponent of the major amendment knew that this was going to be offered. I ask unanimous consent it be in order now to be able to offer the amendment.

Mr. SMITH of Oregon. We have no objection.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN] proposes an amendment numbered 3282 to amendment No. 3258.

The amendment is as follows:

On page 20, line 19, after the period, insert: ''Independent contractors, agricultural associations and such similar entities shall be subject to a cap on the number of H2–A visas that they may sponsor at the discretion of the Secretary of Labor.''

Mrs. FEINSTEIN. What this does, and I quote from the amendment:

Independent contractors, agricultural associations and such similar entities shall be subject to a cap on the number of H2–A visas that they may sponsor at the discretion of the Secretary of Labor.

This would give the Secretary of Labor the opportunity to see that there is a reasonable number attached to this limited processing time because with the limited processing time, if you apply for 50,000 people, as could well be the case in California, you would not be able to meet the processing deadline.

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

Mrs. FEINSTEIN. I thank the Chair. I yield the floor.

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. The Senator has 10 minutes remaining; opposing has 3 minutes remaining.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, it is hard to do justice to the topic in 5 minutes.

Let me say I think something is happening on the floor of the Senate that takes us backward as a nation. There have been many people that have given their sweat and tears and even blood to try and improve conditions for farm workers. There have been Senators in the past that have done that. This amendment really undercuts some of this very important work.

What we are saying in this amendment is essentially this: We are saying

to the growers, listen, you don't have to really worry about the market. If the growers can't find the workers, pay better wages and have better working conditions. How many more reports do we have to have, from Harvest of Shame, to reports today of working conditions? The wages and uncivilized working conditions of farm workers are a national disgrace. If the growers want to have people working for them, then just have civilized working conditions and decent wages.

What this amendment essentially says is that what we are going to do is actually add to the exploitation by enabling you growers to essentially rely on a new guest worker program. Mr. President, we don't need a new guest worker program. Senator KENNEDY talked about the GAO report. I heard the farm worker justice fund mentioned earlier. They don't talk about this as reform; they talk about it as deform. We have a very strange situation here. We are saying that the growers can't get the workers, and now what we have is a program that cuts payments for guest workers. This cuts the payments for the guest workers. So in order to attract more workers, we enable growers to rely on people coming in from other countries, and we cut their wages.

I don't call this reform. I don't call this a change for the better. What we are essentially doing is putting the Federal Government at the service of a sector—in this particular case the growers—as a source of cheap labor. It is a huge mistake. Now, if we want to do better by way of working conditions for legal workers, I am all for it. If we want to reform the Guest Worker Program, I am all for it. But that is not what this is about. This is a huge step backward.

I hear about the vouchers. I mean, I did a lot of organizing in rural communities. The question is whether there is any housing. What good does it do to have vouchers if there isn't adequate housing there? We no longer deal with that protection. Then, in addition, the three-fourths minimum work guarantee is eliminated.

Workers who used to travel long distances are now promised wages for at least three-fourths of the season for which they are being hired. That guarantee is no longer there. This essentially takes the Guest Worker Program backwards. It adds to exploitation. It undercuts the working conditions of farm workers, which are already atrocious in this country. I say to the growers, with all due respect, if you want to have more people working for you, pay decent wages, have civilized working conditions. We ought not to be asking the Federal Government to essentially move in and supply these growers with a form of cheap labor, exploited labor. This isn't reform, this is deform. I hope there will be a strong vote against it.

Mr. SMITH of Oregon addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. SMITH of Oregon. Mr. President, I yield the balance of our time to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, these agricultural workers are already here. The Senator from California spoke of 2 million illegal workers already here. But we would think from the remarks of the opponents of this amendment that somehow or another we were spoiling a very good system that gave high wages, a wonderful set of attractions, and only needed to be strengthened. We aren't, Mr. President.

We have a situation that makes a violator of the law out of almost every agricultural employer in the United States of America who needs labor on a seasonal basis. What we propose to do is to say that many of these workers, whatever their conditions, are infinitely superior to the country from which they came, which is the reason they are willing to pay good money to be smuggled across our borders, several of whom die in the desert in the attempt to hide during the time that they are here, not to claim any of the rights they might otherwise have.

Our proposal would make many of them legally here, with very real rights, with the ability to go home legally and to come back again legally, rather than to have to stay because of the difficulty of crossing the border. Mr. President, tens of thousands of words have been uttered on the floor of this Senate in the last 3 weeks about the plight of our farmers, with collapsed Asian markets and lower prices. Here, for once, we have an opportunity to do something tangible for our farm community, to give them the labor that they cannot get in any legal fashion from citizens, or others, to allow them to be law-abiding, as they wish to do; and instead we have an argument that we better keep the present system; we better keep a system in which there are millions of illegal farm workers here because we don't care to try something that allows this labor to be provided legally. That is the difference.

Do we want the labor that is there now, and will be there tomorrow, to be legal labor? Or do we think the present situation with all these illegals is perfectly fine? Yes or no; up or down. Let's allow these people to be here legally, to help us to improve their own lives legally.

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

Mr. KENNEDY. Mr. President, I understand we have 5 minutes.

The PRESIDING OFFICER. Five minutes remain.

Mr. KENNEDY. I yield a minute to Senator WYDEN.

Mr. WYDEN. I thank my colleague for his patience. It has been mentioned that this is in some way a bracero program. My friends, this is not. Under the Bracero Program, for example, there was no right of first refusal for U.S. workers to available jobs in our country. That is what is different here—U.S. workers first, first dibs on any available position.

Point No. 2: There has been discussion that this amendment would in some way increase illegal immigration. Right now, of the 1.6 million farm workers, perhaps a million of them are illegal. What we are advocating is an above-ground system that guarantees fundamental protections to legal workers. Some of our opponents, it seems to me, prefer an underground system that is going to keep thousands of those workers hidden in the back of a U-Haul trailer or the trunk of a car. That is not humane. We don't want those workers in the back of a U-Haul or in the trunk of a car. We want them participating in a legal, humane system that rewards both the workers and the growers. That is why this proposal makes sense. I hope it will receive strong support from our colleagues.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have talked to the managers of the bill about the acceptance of an amendment.

I ask unanimous consent that the pending amendment be temporarily set aside.

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

AMENDMENT NO. 3283 TO AMENDMENT NO. 3258

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 3283 to amendment No. 3258.

The amendment is as follows:

At the end of the amendment add the following:

SEC. . PRESIDENTIAL AUTHORITY.

In implementing this title, the President of the United States shall not implement any provision that he deems to be in violation of any of the following principles: where the procedures for using the program are simple and the least burdensome for growers; which assures an adequate labor supply for growers in a predictable and timely manner; that provides a clear and meaningful first preference for U.S. farm workers and a means for mitigating against the development of a structural dependency on foreign workers in an area or crop; which avoids the transfer of costs and risks from businesses to low wage workers; that encourages longer periods of employment for legal U.S. workers; and which assures decent wages and working conditions for domestic and foreign farm workers, and that normal market forces work to improve wages, benefits, and working conditions.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes.

Mr. President, as I have expressed, I have serious concerns about the development of this program. Similar kinds of programs have been considered and rejected by the Hesburgh Commission.

The Barbara Jordan Commission, which really had many thoughtful men and women on it, reviewed these kinds of programs and expressed the same kinds of concerns that I have expressed here briefly this afternoon. For that reason, as well as the very important adverse impact that I think it will have on wages; and because of its impact in terms of opening up some unpredictable, unknown, and uncertain aspects of immigration policy that I oppose this.

Having said all that, I commend my friends, Senator SMITH and Senator WYDEN. They have appeared before our committees on this issue. They have been enormously constructive and positive and responsive to those that had differing views on this. They have, brought a very considerable amount of thought to this issue and they have impressed me, as I know they have all Members, about their willingness to try and work this thing through in a constructive way. I intend to vote in opposition for the reasons outlined. But I want to work with them and see if we cannot respond to these kinds of concerns. Both of them have expressed their deep-seated concerns about these issues as well. We do have differences, but they have demonstrated on this issue, as in other areas, a willingness to try and find common ground. I thank them for their courtesies to date and for their willingness to continue to develop something that is going to be effective. I and others who share this view will look forward to working with them.

Mr. President, I am prepared to yield whatever time I have to the Senator from Oregon.

Mr. SMITH of Oregon addressed the Chair.

The PRESIDING OFFICER. The Senator has 40 seconds.

Mr. SMITH of Oregon. Mr. President, I thank the Senator from Massachusetts.

I join in the spirit of trying to work on this issue to resolve a situation that I truly believe is broken. If we don't succeed in this, we are frankly not going to say that we are content with the status quo. The status quo is not acceptable. These people are here in this country illegally. There ought to be a way in which they can be here legally to do this work, which they want to do, and which we need them to do in order to avoid a serious crisis on the American farm.

I ask my colleagues to support this amendment. It is historic. It is important. But it is also a work in progress. This bill represents progress.

I thank the President, and I yield the floor.

The PRESIDING OFFICER. All time has expired.

The question is on the Kennedy second-degree amendment.

Mr. GREGG addressed the Chair.

Mr. KENNEDY. Mr. President, I ask that the underlying amendment be modified with our amendment. I ask unanimous consent that be done.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

The amendments (Nos. 3282 and 3283) were agreed to.

Mr. KENNEDY. As I understand it, Mr. President, the proposal of the Senators from California and Massachusetts has been included in the underlying amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I thank the Chair.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. For the information of all of our Members, we will begin voting on this amendment and then proceed to final passage at approximately 3:30.

MODIFICATION TO AMENDMENT NO. 3261, AS MODIFIED, PREVIOUSLY AGREED TO

Mr. GREGG. Mr. President, I send to the desk on behalf of Senator SPECTER a technical modification to the Craig amendment numbered 3261.

''(2) Within funds appropriated in this Act for necessary expenses of the Offices of United States Attorneys, $1,500,000 shall be available for the Attorney General to hire additional assistant U.S. attorneys and investigators in the city of Philadelphia, Pennsylvania, for a demonstration project to identify and prosecute individuals in possession of firearms in violation of federal law.''

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

The amendment is so modified.

Mr. GREGG. Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GREGG. 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. GREGG. Mr. President, while we are waiting, I would like to take a moment. We are, hopefully, about to move to final passage after the vote on the Smith amendment is taken care of.

I would like to take a moment to thank the staff for the extraordinarily hard work they put into this. Both the majority staff and the minority staff spent countless hours bringing this bill forward. It is a complicated bill. They spent the last 3 or 4 days, almost, working on it. We have seen a lot of amendments. More than a little bit of intricate thought has gone into it. It has a very complex matrix of issues. And it could not possibly have been managed without the strong and professional support that we have received from the staff.

I would like to also specifically thank former minority clerk Scott Gudes, who has moved on but whose work for 12 years on this committee was extraordinary, and whom I very much enjoyed working with. His replacement, Lila Helms, is a great addition and has carried on Scott's exceptional work. Emelie East and Dereck Orr have also been great assets, I am sure, to the minority and to the majority, as a result of their efforts.

On my own staff, countless hours have been put in, and I especially thank Jim Morhard, who is clerk of the committee. I don't think he has seen his family, or anyone else, other than the inside of these walls for days and weeks. I very much appreciate his efforts and the expertise he has brought to this.

Along with him, the professional staff of Paddy Link, Kevin Linskey, Carl Truscott, Dana Quam, and Vas Alexopoulos have been extraordinary; Kris Pickler, and Jackie Cooney of my personal staff, and Virginia Wilbert, who have been extraordinary also, have not only put their oars in but have aggressively rowed this boat toward the shore. We hope it will arrive very soon.

It is really a team effort. And we have an extremely strong team, a team made up of Cal Ripkens and Ken Griffeys. We are very lucky to have them, and we thank them for all their time and effort.

I have been advised that the Democratic leader is willing to proceed with a vote at 3:15. We will begin voting on the Smith amendment at 3:15.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, let me thank Chairman GREGG in the first instance. I have had the occasion to handle several bills myself. I have watched it for over 30 years. Several Senators on our side of the aisle have remarked along with me in the back of the cloakroom that they have never seen a bill that was better managed and that Senator GREGG has done an outstanding job, which I want to note for the RECORD.

As the distinguished Senator stated, the staffs on both sides have just done an outstanding job. They worked around the clock. I have never seen this many amendments actually move in this short a time. It couldn't have been done, of course, without the folks here right at the front desk on both sides of the aisle.

Let me thank Jim Morhard, Kevin Linskey, Paddy Link, Carl Truscott, Dan Quam, and Virginia Wilbert, of the majority staff; and Lila Helms, Emelie East, and Dereck Orr. Actually, as Senator GREGG has pointed out, Lila has come in now to replace Scott Gudes, which is next to impossible. He was as good as there ever was. But she has already brought that statement into contest. She, Emelie East, and Dereck Orr have been working around the clock and have been doing a great job.

I am glad that the Senator from New Hampshire notes this for the RECORD. Too often we forget that we couldn't handle these bills without Scott Gudes, and Dereck Orr on our side of the aisle. I can tell you that.

Mr. GREGG. Mr. President, I ask unanimous consent that the managers'

amendments be in order notwithstanding the fact that they amend language already amended.

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

AMENDMENTS NOS. 3284 THROUGH 3321, EN BLOC

Mr. GREGG. I now send to the desk a series of amendments cleared by both managers on behalf of myself and Senator HOLLINGS. I further ask they be considered and adopted en bloc and motion to reconsider these amendments be laid upon the table.

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

The bill clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for himself and Mr. HOLLINGS, proposes amendments numbered 3284 through 3321, en bloc.

Mr. GREGG. I renew my unanimous consent request.

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

The amendments (Nos. 3284 through 3321) were agreed to, as follows:

AMENDMENT NO. 3284

TITLE I—DEPARTMENT OF JUSTICE

On page 2, line 24, insert ''forfeited'' after the first comma.

On page 45, line 17, strike ''13'' and insert ''286''.

On page 5 of the Bill, on lines 8 and 9, strike the following: ''National Consortium for First Responders'', and insert the following: ''National Domestic Preparedness Consortium''.

On page 27 of the Bill, on line 10, after the words ''unit of local government'', insert the words ''at the parish level''.

On page 29 of the Bill, on line 13 after ''Tribal Courts Initiative'', insert the following:

'', including $400,000 for the establishment of a Sioux Nation Tribal Supreme Court''

On page 51 of the Bill, after line 9, insert the following:

SEC. 121. Section 170102 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14072) is amended—

(1) in subsection (a)(2), by striking ''or'';

(2) in subsection (g)(3), by striking ''minimally sufficient'' and inserting ''State sexual offender''; and

(3) by amending subsection (1) to read as follows:

''(i) PENALTY.—A person who is—

''(1) required to register under paragraph (1), (2), or (3) of subsection (g) of this section and knowingly fails to comply with this section;

''(2) required to register under a sexual offender registration program in the person's State of residence and knowingly fails to register in any other State in which the person is employed, carries on a vocation, or is a student;

''(3) described in section 4042(c)(4) of title 18, United States Code and knowingly fails to register in any State in which the person resides, is employed, carries on a vocation, or is a student following release from prison or sentencing to probation; or

''(4) sentenced by a court martial for conduct in a category specified by the Secretary of Defense under section 115(a)(8)(C) of title I of Public Law No. 105–119, and knowingly fails to register in any State in which the person resides, is employed, carries on a vocation, or is a student following release from prison or sentencing to probation, shall, in the case of a first offense under this subsection, be imprisoned for not more than 1 year and, in the case of a second or subsequent offense under this subsection, be imprisoned for not more than 10 years.''.

On page 51 of the Bill, after line 9, insert the following:

SEC. 123. (a) IN GENERAL.—Section 200108 of the Police Corps Act (42 U.S.C. 14097) is amended by striking subsection (b) and inserting the following:

''(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend up to 24 weeks, but no less than 16 weeks, of training at a residential training center. The Director may approve training conducted in not more than 3 separate sessions.''.

(b) CONFORMING AMENDMENT.—Section 200108(c) of the Police Corps Act (42 U.S.C. 14097(c)) is amended by striking ''16 weeks of''.

(c) REAUTHORIZATION.—Section 200112 of the Police Corps Act (42 U.S.C. 14101) is amended by striking ''$20,000'' and all that follows before the period and inserting ''$50,000,000 for fiscal year 1999, $70,000,000 for fiscal year 2000, $90,000,000 for fiscal year 2001, and $90,000,000 for fiscal year 2002''.

TITLE II—DEPARTMENT OF COMMERCE AND RELATED AGENCIES

On page 66, line 5, strike the proviso ''*Provided further,* That $587,992,000 shall be made available for the Procurement, acquisition and construction account in fiscal year 1999:'' and insert in lieu thereof ''*Provided further,* That of the $10,500,000 available for the estuarine research reserve system, $2,000,000 shall be made available for the Office of response and restoration and $1,160,000 shall be made available for Navigation services, mapping and charting: *Provided further,* That of funds made available for the National Marine Fisheries Service information collectin and analyses, $400,000 shall be made available to continue Atlantic Herring and Mackerel studies: *Provided further,* That of the $8,500,000 provided for the interstate fisheries commissions, $7,000,000 shall be provided to the Atlantic States Marine Fisheries Commission for the Atlantic Coastal Cooperative Fisheries Management Act, $750,000 shall be provided for the Atlantic Coastal Cooperative Statistics Program, and the remainder shall be provided to each of the three interstate fisheries commissions (including the ASMFC): *Provided further,* That within the Procurement, Acquisition and Construction account that $3,000,000 shall be made available for the National Estuarine Research Reserve construction, and $5,000,000 shall be made available for Great Bay land acquisition.''

On page 72, line 15, after ''(3)(L)'', replace the brackets with parentheses around the phrase ''as identified by the Governor'' and on line 16, before the period add a quotation mark.

TITLE V—INDEPENDENT AGENCIES

SMALL BUSINESS ADMINISTRATION

On page 116, line 17, change ''1998'' and ''1999'' to ''2000''.

On page 117, line 6, strike ''to this appropriation and used for necessary expenses of the agency'' and insert in lieu thereof ''to and merged with the appropriations for salaries and expenses:''

On page 117, line 12, strike ''20(n)(2)(B)'' and insert in lieu thereof ''20(d)(1)(B)(ii)''.

AMENDMENT NO. 3285

(Purpose: To prohibit the publication of identifying information relating to a minor for criminal sexual purposes)

On page 51, between lines 9 and 10, insert the following:

SEC. 121. INTERNET PREDATOR PREVENTION.

(a) PROHIBITION AND PENALTIES.—Chapter 110 of title 18, United States Code, is amended by adding at the end the following:

''§ 2261. Publication of identifying information relating to a minor for criminal sexual purposes

''(a) DEFINITION OF IDENTIFYING INFORMATION RELATING TO A MINOR.—In this section, the term 'identifying information relating to a minor' includes the name, address, telephone number, social security number, or e-mail address of a minor.

''(b) PROHIBITION AND PENALTIES.—Whoever, through the use of any facility in or affecting interstate or foreign commerce (including any interactive computer service) publishes, or causes to be published, any identifying information relating to a minor who has not attained the age of 17 years, for the purpose of soliciting any person to engage in any sexual activity for which the person can be charged with criminal offense under Federal or State law, shall be imprisoned not less than 1 and not more than 5 years, fined under this title, or both.''.

(b) TECHNICAL AMENDMENT.—The analysis for chapter 110 of title 18, United States Code, is amended by adding at the end the following:

''2261. Publication of identifying information relating to a minor for criminal sexual purposes.''.

AMENDMENT NO. 3286

(Purpose: To require Internet access providers to make available Internet screening software)

On page 135, between lines 11 and 12, insert the following:

SEC. 620. (a) REQUIREMENT.—Section 230 of the Communications Act of 1934 (47 U.S.C. 230) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

''(d) OBLIGATIONS OF INTERNET ACCESS PROVIDERS.—

''(1) IN GENERAL.—An Internet access provider shall, at the time of entering into an agreement with a customer for the provision of Internet access services, offer such customer (either for a fee or at no charge) screening software that is designed to permit the customer to limit access to material on the Internet that is harmful to minors.

''(2) DEFINITIONS.—As used in this subsection:

''(A) INTERNET ACCESS PROVIDER.—The term 'Internet access provider' means a person engaged in the business of providing a computer and communications facility through which a customer may obtain access to the Internet, but does not include a common carrier to the extent that it provides only telecommunications services.

''(B) INTERNET ACCESS SERVICES.—The term 'Internet access services' means the provision of computer and communications services through which a customer using a computer and a modem or other communications device may obtain access to the Internet, but does not include telecommunications services provided by a common carrier.''.

''(C) SCREENING SOFTWARE.—The term 'screening software' means software that is designed to permit a person to limit access to material on the Internet that is harmful to minors.''.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to agreements for the provision of Internet access services entered into on or after the date that is 6 months after the date of enactment of this Act.

Mr. DODD. Mr. President, I rise today to offer an amendment designed to give parents a tool to help protect their children from pornography and sexual predators on the Internet. According to Wired magazine, there are

currently some 28,000 web sites containing hard- and soft-core pornography. And that number is growing at an alarming rate, it is estimated that 50 pornographic sites are added to the Internet each day.

Sadly, many of out children are, out of curiosity or by accident, exposed to such sites while surfing the web. They type in search terms as innocuous as ''toys''—only to find graphic images and language on their display terminal.

Mr. President, the Internet is profoundly changing the way we learn and communicate with people. Today, our children have unprecedented access to educational material through the Internet. It provides children with vast opportunities to learn about art, culture and history—the possibilities are endless.

However, this advanced technology also brings with it a dark side for our children. Many children who are browsing the net—often unaccompanied by an adult—come across material that is unsuitable for them, and is oftentimes sexually explicit.

Mr. President, every parent worries about strangers approaching their children in their neighborhood or on the playground at school. And they teach their children how to avoid these strangers. But, today, these strangers are literally inside our homes. They are only a mouse click away from our children. In our libraries and bookstores, we store reading material that is harmful to minors in areas accessible only to adults. Yet, in cyberspace, these same materials are as accessible to a child as his or her favorite bedtime story.

Pornography and predators are now reaching our children, via the Internet, in the privacy and safety of their own homes and classrooms. This kind of access to our children is alarming, and this invasion of our children's privacy and innocence is unconscionable.

We, as a nation, have an obligation to ensure that surfing the web remains a safe and viable option for our children. We have a responsibility to make sure that they are able to learn and grow in an environment free of sexual predators and pornographic images. Clearly, there is no substitute for parental supervision. Yet, I think we can all agree that many parents know less about the Internet than their children. Parents are convinced of the Internet's educational value, but they feel anxious about their ability to supervise children while they use it.

In my view, it is important that we encourage parents and children to use the Internet together. But clearly, it is difficult for any adult to monitor children online all of the time.

Therefore, I believe we need to provide our parents with the tools to protect and guide our children. The amendment I offer today is a modest measure designed to provide one such tool. It would ensure that Internet access providers make screening software available to customers purchasing Internet access services.

The amendment would allow customers to have the opportunity to obtain—either for a fee or no charge, as determined by the provider—screening software that permits customers to limit access to material on the Internet that is harmful to minors. Like going to the pharmacy and being asked if you want a child-proof lid for a prescription medication, my bill would require that Internet access providers ask parents whether they would like to obtain screening software.

It is not a guarantee that children using the Internet would be protected from pornography and predators. And it is not a substitute for parental supervision. But it can be an extension of parental supervision—a tool we put in their hands to help protect their kids—much as we did when we voted to give parents the v-chip.

I hope my colleagues will endorse this amendment, and I urge its adoption.

AMENDMENT NO. 3287

(Purpose: To move Schuylkill County, PA from the Eastern District to the Middle District of Pennsylvania)

SEC. . TRANSFER OF COUNTY.

(a) Section 118 of title 28, United States Code, is amended—

(1) in subsection (a) by striking ''Philadelphia, and Schuylkill'' and inserting ''and Philadelphia''; and

(2) in subsection (b) by inserting ''Schuylkill,'' after ''Potter,''.

(b) EFFECTIVE DATE.

(1) IN GENERAL.—This section and the amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

(2) PENDING CASES NOT AFFECTED.—This section and the amendments made by this section shall not affect any action commenced before the effective date of this section and pending on such date in the United States District Court for the Eastern District of Pennsylvania.

(3) JURIES NOT AFFECTED.—This section and the amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving on the effective date of this section.

AMENDMENT NO. 3288

(Purpose: To require a report regarding the analysis of the United States Trade Representative with respect to any subsidies provided by the Government of the Republic of Korea to Hanbo Steel)

At the appropriate place in title VI, insert the following new section:

SEC. ___. REPORT ON KOREAN STEEL SUBSIDIES.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the United States Trade Representative (in this section referred to as the ''Trade Representative'') shall report to Congress on the Trade Representative's analysis regarding—

(1) whether the Korean Government provided subsidies to Hanbo Steel;

(2) whether such subsidies had an adverse effect on United States companies;

(3) the status of the Trade Representative's contacts with the Korean Government with respect to industry concerns regarding Hanbo Steel and efforts to eliminate subsidies; and

(4) the status of the Trade Representative's contacts with other Asian trading partners regarding the adverse effect of Korean steel subsidies on such trading partners.

(b) STATUS OF INVESTIGATION.—The report described in subsection (a) shall also include information on the status of any investigations initiated as a result of press reports that the Korean Government ordered Pohang Iron and Steel Company, in which the Government owns a controlling interest, to sell steel in Korea at a price that is 30 percent lower than the international market prices.

Mr. BYRD. Mr. President, this amendment addresses the continued problem of trade-distorting subsidies given by the Korean Government to its domestic steel industry. Unfair trade practices by the Korean Government are causing the U.S. steel industry—including one of West Virginia's largest employers, Weirton Steel Corporation—to lose millions of dollars. These losses impact U.S. communities, which must carry the burden of Korea's unfair practices by contending with a lower tax and job base.

I joined my colleagues in the Senate Steel Caucus in signing letters to U.S. Trade Representative (USTR) Charlene Barshefsky and U.S. Department of Commerce Secretary William Daley regarding violations by the South Korean Government of the World Trade Organization (WTO) Subsidy Code. Regrettably, the responses to those letters were not satisfactory.

My amendment would simply require the United States Trade Representative to report on Korean steel subsidies. Accurate information on unfair trade practices is vital to the future of the U.S. steel industry and its workers. This amendment would send the Korean Government a clear message that we expect our trading partners to adhere to fair trading practices, but, more importantly, it would send a message to American workers that this Congress is prepared to defend our own commercial interests and take action against the Korean Government's infringement upon U.S. rights under the WTO agreement.

U.S. imports of steel from South Korea have increased by nearly forty-five percent during the first four months of 1998. These surging Korean steel imports are possible due to the Korean government's continued use of illegal subsidies—subsidies that unfairly disadvantage the U.S. steel industry. The negative impact of these Korean subsidies cannot be ignored. Illegal foreign steel sales are severely undermining the economic stability in regions throughout our country that rely upon steel for jobs—literally taking money out of the pockets of these workers as well as their neighbors, who depend upon this industry for their livelihood.

For the U.S. steelworkers in the Upper Ohio Valley and throughout our nation, we must continue to pursue efforts to end the entry of foreign products into this country that unfairly place our domestic industries at risk. We must restore confidence in our trade laws.

I appreciate Members' support of this initiative.

AMENDMENT NO. 3289

(Purpose: To prohibit the use of funds for the enforcement in fiscal year 1999 of certain regulations regarding the Global Maritime Distress and Safety System (GMDSS) with respects to United States fishing industry vessels)

On page 135, between lines 11 and 12, insert the following:

SEC. 620. Notwithstanding any other provision of law, no funds appropriated or otherwise made available for fiscal year 1999 by this Act or any other Act may be obligated or expended for purposes of enforcing any rule or regulation requiring the installation or operation aboard United States fishing industry vessels of the Global Maritime Distress and Safety System (GDDSS).

GLOBAL MARITIME DISTRESS AND SAFETY SYSTEM

Mr. MURKOWSKI. Mr. President, this amendment will delay for one year the application of the Global Maritime Distress and Safety System, abbreviated as GMDSS, to fishing industry vessels. The purpose of the delay is to allow the Federal Communications Commission (FCC) the time to address a number of serious concerns that have recently come to light involving GMDSS for fishing industry vessels. Also Mr. President, let me make clear that the delay will not affect any other type of vessel.

GMDSS is a system created by the International Maritime Organization (IMO) under the Convention on the Safety of Life at Sea (SOLAS). It was intended to improve safety for large cargo and passenger vessels on international voyages. It is scheduled to go into effect on February 1 of next year. There is no doubt that GMDSS will indeed improve safety for these types of vessels.

Fishing vessels are very specifically not covered by SOLAS, but the FCC regulation requiring GMDSS for international passenger and cargo vessels is also being applied to large domestic fishing industry vessels anyway.

Because these types of vessels operate very differently, there are serious questions as to whether the system should be applied in the same way.

The most important of the questions that has been raised for the fishing industry involves the safety and well-being not of the fishing vessels required to carry GMDSS equipment, but of the smaller vessels that work around them.

One of the things that makes GMDSS attractive to large vessels on international voyages is that it is automated, using a feature called Digital Selective Calling (DSC). Because of this, when the large vessels switch to GMDSS on February 1, they will no longer be required to maintain a continuous watch on the two emergency frequencies used under the current system.

In the United States, the watchstanding requirement has been extended to the year 2005 for VHF Channel 16, but will cease on February 1 for 2182 kilohertz. These are the two frequencies used by small vessels, including the small fishing vessels that operate in and around the larger vessels that will be required to convert to GMDSS.

When a fishing vessel is in distress, the vessels closest to it and in the best position to render aid are other fishing vessels working in the same area.

But, Mr. President, what will happen when the small vessel sends out a distress call, only to find that the larger and better-equipped fishing vessels around it are no longer listening?

This is—obviously, and with very good reason—a major concern. Under the theory of GMDSS, contact with other vessels is to be replaced by contact with a shore station. That's all well and good on an international voyage, where it may eliminate confusion and speed up response. But for fishing vessels, it may very well slow response time—and believe me, Mr. President, in the frigid waters of the Bering Sea in the winter, every second counts toward life—or toward death. Because of this, there is a very real danger that shifting the largest and most capable vessels of the fleet to GMDSS may actually degrade safety for smaller, but far more numerous vessels operating in the same areas.

In fact, although the GMDSS system is supposed to replace ship-to-ship emergency communications with a unified ship-to-shore system maintained by the Coast guard, the fact is that the Coast Guard itself is not ready to implement it fully.

With the system scheduled to go into effect in just a few months, there are still major shore-based components that have not yet been installed. In Alaska, for example, the Coast Guard is only this summer starting the installation of medium-frequency receivers. And throughout the country, installation of VHF receivers has been delayed indefinitely—it is ''on hold.'' According to the Coast Guard's own task force on GMDSS, the VHF system will probably not be in place before 2003 at the earliest.

The fact that GMDSS was not designed for the fishing fleet is an issue itself. Most every mariner of any sort is familiar with SOLAS, and knows that it does not apply to fishing vessels. As a result, when the FCC published the proposed GMDSS rule in 1990, and when it made the rule final in 1992, the fishing industry was not made aware that it would be applied to fishing industry vessels, which are generally treated as a separate class of vessels under U.S. law.

Indeed, when the proposed GMDSS regulation was printed in the Federal Register in 1990, it specified that fishing vessels would not be included: ''Small ships, such as private fishing vessels and recreational yachts, are not affected by the proposed changes.'' This same statement is still being repeated, in an informational document about GMDSS that is currently offered on the FCC's Internet site.

Given this confusion, it is no wonder that the fishing industry's concerns did not surface sooner; most of the industry was unaware of the need to comment. This alone is a huge flaw in the way the rulemaking was conducted, but one that can be corrected given a little more time to explore and address the fishing industry's concerns.

Mr. President, the affected fishing industry vessels already carry all but one feature of the GMDSS system. They have VHF radios and single-side-band radios, EPIRBS, radars, radar transponders and hand-held VHF radios for their life rafts, and so forth. Each vessel already carries—at a guess—$20,000 to $30,000 worth of sophisticated communications equipment. The only thing they are lacking is the Digital Selective Calling (DSC) feature.

In a recent meeting with the Coast Guard and the FCC, we learned that there is no reason DSC could not be added to the existing equipment for a very reasonable cost—perhaps $5,000. However, the industry has indicated that electronics vendors have so far either declined to sell DSC as a separate component, or if they do, to offer a component warranty on it. Instead, they are insisting that the fishing industry purchase large consoles where all of the GMDSS equipment is pre-installed—at a cost of $50,000 to $60,000 dollars each. Because of the confined nature of the wheelhouse on the average vessel, significant structural changes may have to be made to fit the console in place, and of course, the existing $30,000 of equipment would have to be scrapped. That means, Mr. President, that the cost of outfitting these vessels may reach as much as $100,000—all to get a $5,000 piece of equipment on board. That, Mr. President, is why people get upset at their government. That, Mr. President, is just plain wrong.

These are just a few of the very serious issues that justify a delay for fishing industry vessels so that the rule can be re-examined and improved with better input from the industry. No one wants to see safety degraded in any way—including by mandating ''improvements'' that may be no such thing.

It may be that GMDSS is the way to go for fishing industry vessels as well as the large international cargo vessels and passenger liners it was designed for. If so, it should be adopted, and I'm sure it will be. But if not, we must take the time to listen first.

Mr. GREGG. Will the Senator from Alaska yield for a question?

Mr. MURKOWSKI. Mr. President, I am very happy to yield for a question from the distinguished manager.

Mr. GREGG. It is my understanding that this amendment will delay for one year the application of the GMDSS requirements for fishing industry vessels, but not other types of vessels. Is that the understanding of the Senator from Alaska?

Mr. MURKOWSKI. Mr. President, the manager is quite correct. This amendment will apply only to fishing industry vessels such as catcher-boats,

catcher-processors, mothership processors and fish tender vessels. Other types of vessels to which the rule applies, such as cargo and passenger ships, will not be affected.

Mr. GREGG. Is it the Senator's intention that the federal agencies involved would then use this period of time to further examine the issue of applying GMDSS requirements to the fishing industry?

Mr. MURKOWSKI. Once again, Mr. President, the distinguished manager is correct. Based on discussions with the two agencies directly involved in this matter, and with the fishing industry, it is evident that the industry has legitimate concerns and questions that have not been answered. The moratorium will allow the agencies the time to revisit the issue in the detail that it deserves. I hope they will take the opportunity either to reopen the rulemaking with respect to fishing industry vessels or to open a new rulemaking that specifically deals with such vessels, so that the unique characteristics of the fishing industry are considered.

Mr. GREGG. I thank the Senator. In my view this is a very legitimate goal and I join the Senator from Alaska in expressing the hope that the agencies will revisit this matter.

AMENDMENT NO. 3290

(Purpose: To provide for the payment of special masters, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. SPECIAL MASTERS FOR CIVIL ACTIONS CONCERNING PRISON CONDITIONS.

Section 3626(f) of title 18, United States Code, is amended—

(1) by striking the subsection heading and inserting the following:

''(f) SPECIAL MASTERS FOR CIVIL ACTIONS CONCERNING PRISON CONDITION.—''; and

(2) in paragraph (4)—

(A) by inserting ''(A)'' after ''(4)'';

(B) in subparagraph (A), as so designated, by adding at the end the following: ''In no event shall a court require a party to a civil action under this subsection to pay the compensation, expenses, or costs of a special master. Notwithstanding any other provision of law (including section 306 of the Act entitled 'An Act making appropriations for the departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1997,' contained in section 101(a) of title I of division A of the Act entitled 'An Act making omnibus consolidated appropriations for the fiscal year ending September 30, 1997' (110 Stat. 3009–201)) and except as provided in subparagraph (B), the requirement under the preceding sentence shall apply to the compensation and payment of expenses or costs of a special master for any action that is commenced, before, on, or after the date of enactment of the Prison Litigation Reform Act of 1995.''; and

(C) by adding at the end the following:

''(B) The payment requirements under subparagraph (A) shall not apply to the payment to a special master who was appointed before the date of enactment of the Prison Litigation Reform Act of 1995 (110 Stat. 1321–165 et seq.) of compensation, expenses, or costs relating to activities of the special master under this subsection that were carried out during the period beginning on the date of enactment of the Prison Litigation Reform Act of 1995 and ending on the date of enactment of this subparagraph.''.

AMENDMENT NO. 3291

(Purpose: To provide for the waiver of fees for the processing of certain visas for certain Mexico citizens and to require the continuing processing of applications for visas in certain Mexico cities)

On page 100, between lines 18 and 19, insert the following:

SEC. 407. (a) WAIVER OF FEES FOR CERTAIN VISAS.—

(1) REQUIREMENT.—

(A) IN GENERAL.—Notwithstanding any other provision of law and subject to subparagraph (B), the Secretary of State and the Attorney General shall waive the fee for the processing of any application for the issuance of a machine readable combined border crossing card and nonimmigrant visa under section 101(a)(15)(B) of the Immigration and Nationality Act in the case of any alien under 15 years of age where the application for the machine readable combined border crossing card and nonimmigrant visa is made in Mexico by a citizen of Mexico who has at least one parent or guardian who has a visa under such section or is applying for a machine readable combined border crossing card and nonimmigrant visa under such section as well.

(B) DELAYED COMMENCEMENT.—The Secretary of State and the Attorney General may not commence implementation of the requirement in subparagraph (A) until the later of—

(i) the date that is 6 months after the date of enactment of this Act; or

(ii) the date on which the Secretary sets the amount of the fee or surcharge in accordance with paragraph (3).

(2) PERIOD OF VALIDITY OF VISAS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if the fee for a machine readable combined border crossing card and nonimmigrant visa issued under section 101(a)(15)(B) of the Immigration and Nationality Act has been waived under paragraph (1) for a child under 15 years of age, the machine readable combined border crossing card and nonimmigrant visa shall be issued to expire on the earlier of—

(i) the date on which the child attains the age of 15; or

(ii) ten years after its date of issue.

(B) EXCEPTION.—At the request of the parent or guardian of any alien under 15 years of age otherwise covered by subparagraph (A), the Secretary of State and the Attorney General may charge a fee for the processing of an application for the issuance of a machine readable combined border crossing card and nonimmigrant visa under section 101(a)(15)(B) of the Immigration and Nationality Act provided that the machine readable combined border crossing card and nonimmigrant visa is issued to expire as of the same date as is usually provided for visas issued under that section.

(3) RECOUPMENT OF COSTS RESULTING FROM WAIVER.—Notwithstanding any other provision of law, the Secretary of State shall set the amount of the fee or surcharge authorized pursuant to section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 8 U.S.C. 1351 note) for the processing of machine readable combined border crossing cards and nonimmigrant visas at a level that will ensure the full recovery by the Department of State of the costs of processing all such combined border crossing cards and nonimmigrant visas, including the costs of processing such combined border crossing cards and nonimmigrant visas for which the fee is waived pursuant to this subsection.

(b) PROCESSING IN MEXICAN BORDER CITIES.—The Secretary of State shall continue, until at least October 1, 2003, or until all border crossing identification cards in circulation have otherwise been required to be replaced under section 104(b)(3) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (as added by section 116(b)(2) of this Act), to process applications for visas under section 101(a)(15)(B) of the Immigration and Nationality Act at the following cities in Mexico located near the international border with the United States: Nogales, Nuevo Laredo, Ciudad Acuna, Piedras Negras, Agua Prieta, and Reynosa.

AMENDMENT NO. 3292

(Purpose: To require a study and report on the adequacy of processing nonimmigrant visas by United States consular posts)

On page 100, between lines 18 and 19, insert the following:

SEC. 407. (a) The purpose of this section is to protect the national security interests of the United States while studying the appropriate level of resources to improve the issuance of visas to legitimate foreign travelers.

(b) Congress recognizes the importance of maintaining quality service by consular officers in the processing of applications for nonimmigrant visas and finds that this requirement should be reflected in any timeliness standards or other regulations governing the issuance of visas.

(c) The Secretary of State shall conduct a study to determine, with respect to the processing of nonimmigrant visas within the Department of State—

(1) the adequacy of staffing at United States consular posts, particularly during peak travel periods;

(2) the adequacy of service to international tourism;

(3) the adequacy of computer and technical support to consular posts; and

(4) the appropriate standard to determine whether a country qualifies as a pilot program country under the visa waiver pilot program in section 217 of the Immigration and Nationality Act (8 U.S.C. 1187).

(d)(1) Not later than 120 days after the date of enactment of this Act, the Secretary of State shall submit a report to Congress setting forth—

(A) the results of the study conducted under subsection (c); and

(B) the steps the Secretary has taken to implement timeliness standards.

(2) Beginning one year after the date of submission of the report required by paragraph (1), and annually thereafter, the Secretary of State shall submit a report to Congress describing the implementation of timeliness standards during the preceding year.

(e) In this section—

(1) the term ''nonimmigrant visas'' means visas issued to aliens described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)); and

(2) the term ''timeliness standards'' means standards governing the timely processing of applications for nonimmigrant visas at United States consular posts.

Mr. GRAHAM. Mr. President, I am introducing an amendment to the Commerce/Justice/State Appropriations bill regarding the Consular Service and the issuing of tourist visas.

I strongly endorse tight immigration controls and strict visa policies to ensure that illegal aliens and criminal activity do not cross our nation's borders.

At the same time, we must recognize the economic importance of tourism in

this country and ensure that legitimate foreign travelers are not penalized by an overwhelmed consular service.

To that end, I am asking the State Department to report to Congress on a regular basis the status of visa backlogs at our embassies worldwide and to conduct a study on whether the appropriate resources are being dedicated to the consular service.

Tourism is a $473 billion dollar business in the United States and our country's second largest employer, behind the health care industry.

We bring in more tourists to the U.S. than we send overseas, creating a $26 billion dollar trade surplus, equal in size to the car and auto parts trade deficit with Japan.

By the year 2007, less than ten years away, the World Tourism Organization predicts the U.S. tourism market will double to nearly $885 billion dollars.

We must make certain our consular services and visa procedures are streamlined, improved, and protective of national security interests in order to capitalize on the growing international tourism market.

I hope you can support me in requiring the State Department to study consular resources and report back on what improvements or resources are needed to make it the best in the world, a secure system that can help promote U.S. as an international destination.

AMENDMENT NO. 3293

On page 86, line 8, insert the following after the colon: ''*Provided further,* That not to exceed $2,400,000 shall only be available to establish an international center for response to chemical, biological, and nuclear weapons;''.

At the end to title VII, insert the following:

DEPARTMENT OF STATE

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

(RESCISSION)

Of the total amount of appropriations provided in Acts enacted before this Act for the Interparliamentary Union, $400,000 is rescinded.

AMENDMENT NO. 3294

(Purpose: Relating to arrearage payments to the United Nations)

(The text of the amendment (No. 3294) is printed in today's RECORD under ''Amendments Submitted.'')

AMENDMENT NO. 3295

(Purpose: To provide for reviews of criminal records of applicants for employment in nursing facilities and home health care agencies)

At the appropriate place in the bill, insert the following:

CRIMINAL BACKGROUND CHECKS FOR APPLICANTS FOR EMPLOYMENT IN NURSING FACILITIES AND HOME HEALTH CARE AGENCIES

SEC. ___. (a) AUTHORITY TO CONDUCT BACKGROUND CHECKS.—

(1) IN GENERAL.—A nursing facility or home health care agency may submit a request to the Attorney General to conduct a search and exchange of records described in subsection (b) regarding an applicant for employment if the employment position is involved in direct patient care.

(2) SUBMISSION OF REQUESTS.—A nursing facility or home health care agency requesting a search and exchange of records under this section shall submit to the Attorney General a copy of an employment applicant's fingerprints, a statement signed by the applicant authorizing the nursing facility or home health care agency to request the search and exchange of records, and any other identification information not more than 7 days (excluding Saturdays, Sundays, and legal public holidays under section 6103(a) of title 5, United States Code) after acquiring the fingerprints, signed statement, and information.

(b) SEARCH AND EXCHANGE OF RECORDS.—Pursuant to any submission that complies with the requirements of subsection (a), the Attorney General shall search the records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation for any criminal history records corresponding to the fingerprints or other identification information submitted. The Attorney General shall provide any corresponding information resulting from the search to the appropriate State or local governmental agency authorized to receive such information.

(c) USE OF INFORMATION.—Information regarding an applicant for employment in a nursing facility or home health care agency obtained pursuant to this section may be used only by the facility or agency requesting the information and only for the purpose of determining the suitability of the applicant for employment by the facility or agency in a position involved in direct patient care.

(d) FEES.—The Attorney General may charge a reasonable fee, not to exceed $50 per request, to any nursing facility or home health care agency requesting a search and exchange of records pursuant to this section to cover the cost of conducting the search and providing the records.

(e) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report to Congress on the number of requests for searches and exchanges of records made under this section by nursing facilities and home health care agencies and the disposition of such requests.

(f) CRIMINAL PENALTY.—Whoever knowingly uses any information obtained pursuant to this section for a purpose other than as authorized under subsection (c) shall be fined in accordance with title 18, United States Code, imprisoned for not more than 2 years, or both.

(g) IMMUNITY FROM LIABILITY.—A nursing facility or home health care agency that, in denying employment for an applicant, reasonably relies upon information provided by the Attorney General pursuant to this section shall not be liable in any action brought by the applicant based on the employment determination resulting from the incompleteness or inaccuracy of the information.

(h) REGULATIONS.—The Attorney General may promulgate such regulations as are necessary to carry out this section, including regulations regarding the security, confidentiality, accuracy, use, destruction, and dissemination of information, audits and recordkeeping, the imposition of fees necessary for the recovery of costs, and any necessary modifications to the definitions contained in subsection (i).

(i) DEFINITIONS.—In this section:

(1) HOME HEALTH CARE AGENCY.—The term ''home health care agency'' means an agency that provides home health care or personal care services on a visiting basis in a place of residence.

(2) NURSING FACILITY.—The term ''nursing facility'' means a facility or institution (or a distinct part of an institution) that is primarily engaged in providing to residents of the facility or institution nursing care, including skilled nursing care, and related services for individuals who require medical or nursing care.

(j) APPLICABILITY.—This section shall apply without fiscal year limitation.

Mr. KOHL. Mr. President, I rise today to express my gratitude to the managers for including an amendment offered by myself and Senator HARRY REID. The managers have worked hard to reach consensus on this legislation, and I commend them for their efforts.

I believe that this amendment will take another important step toward protecting our nation's elderly and disabled patients from abuse and neglect. The vast majority of employees in nursing homes and home health agencies work hard under stressful conditions to provide the highest quality care. However, there has been too many instances where people with criminal backgrounds and abuse histories have gained employment in long-term care facilities and subsequently abused patients in their care. This is inexcusable; Congress should take every step necessary to make sure that these facilities have the tools they need to screen potential employees.

During consideration of the Senate Budget Resolution, the Senate unanimously adopted my Sense of the Senate amendment, which expressed strong support for the establishment of a national background check system to weed out known abusers and people with violent criminal backgrounds. The amendment that is included in the manager's package today takes this one step further. This amendment authorizes nursing facilities and home health care agencies to utilize the FBI fingerprint background check system to screen potential employees. It is important to note that this amendment does not mandate that these facilities conduct the checks. It simply allows them to access the FBI system if they choose to do so.

Many States, nursing facilities and home care agencies have already taken steps to better screen their long-term care employees. This amendment will give them another tool to use in their efforts to screen out known abusers. However, our job does not end here. I still believe that Congress must act to establish a national registry that will coordinate abuse information between States, and require that all long-term care facilities utilize both the registry and the FBI system. I have been working for passage of such legislation, and I am pleased that the President has recently endorsed my idea as well. I look forward to working with the President and all of my colleagues in the future on this important effort.

It is vital that we continue to take steps to protect our most vulnerable citizens from abuse, neglect and mistreatment, especially at the hands of those who are charged with their care. I believe that this amendment is another step in that direction. Again, I

thank the managers for working with me in this effort. I yield the floor.

AMENDMENT NO. 3296

(Purpose: To prohibit the use of funds for foreign travel or foreign communications by officers and employees of the Antitrust Division of the Department of Justice)

On page 51, between lines 9 and 10, insert the following:

SEC. 121. None of the funds made available to the Department of Justice under this Act may be used for any expense relating to, or as reimbursement for any expense incurred in connection with, any foreign travel by an officer or employee of the Antitrust Division of the Department of Justice, if that foreign travel is for the purpose, in whole or in part, of soliciting or otherwise encouraging any antitrust action by a foreign country against a United States company that is a defendant in any antitrust action pending in the United States in which the United States is a plaintiff. *Provided, however,* That this section shall not: (1) limit the ability of the Department to investigate potential violations of United States antitrust laws; or (2) prohibit assistance authorized pursuant to 15 U.S.C. sections 6201–6212, or pursuant to a ratified treaty between the United States and a foreign government, or other international agreement to which the United States is a party.

Mr. GORTON. Mr. President, the Justice Department is out of control, Mr. President. Evidence appears to be mounting that officials at the Department's Antitrust Division have been traveling around the world urging foreign governments to join them in their witch hunt against Microsoft.

As far as this Senator is concerned, such action should be prohibited.

It seems the Administration is reaching out a helping hand to U.S. competitors overseas. While foreign governments work hard to protect their most important industries, our Justice Department is assisting those foreign governments in their efforts to keep one of America's most vibrant, innovative, and successful companies out of their markets.

In a letter sent last week to Attorney General Janet Reno, my colleagues Senators SESSIONS, ABRAHAM, and KYL raised some provocative questions about the activities of Justice Department officials overseas. They have learned that Joel Klein and his staff at the Department's Antitrust Division are busily recruiting their foreign counterparts in their war against Microsoft.

First and foremost, Mr. President, I'd like to know what Justice Department officials, whose work focuses exclusively on issues here at home, are doing traveling overseas at the taxpayers' expense. According to the letter, in the last six months, Joel Klein has traveled to Japan, Russell Pittman, Chief of the Competition Policy Section of the Antitrust Division has visited Brazil, Dan Rubinfeld, chief economist for the Antitrust Division has gone to Israel, and Deputy Assistant Attorney General Douglas Melamed spent a week in Paris in June.

At a time when Joel Klein has been complaining that his division does not have enough money or people to do its job effectively, he and his staff are traveling around the world on the Justice Department's dime. And they are using those foreign visits as a bully pulpit to tout the merits of their case against Microsoft and encouraging foreign governments to join in the attack.

This kind of activity is reprehensible. It is even more egregious when one notes that it is being financed by the American people—many of whom may wind up losing their jobs and their livelihood if Joel Klein is successful.

Here is the evidence my colleagues have compiled to date:

Joel Klein visited Japan to meet with the Japanese Fair Trade Commission last December. A month later, the Trade Commission raided Microsoft's Tokyo offices, confiscating thousands of company documents.

When Russell Pittman went to Brazil in May, he spoke publicly to senior Brazilian government officials responsible for antitrust enforcement in that country, outlining the Justice Department's case against Microsoft in detail. Nine days later, The Brazilian government announced its intention to begin legal proceedings against the company.

A quote from Mr. Pittman at this event is particularly troubling, and, I might add, somewhat ironic. He accused Microsoft of behaving ''like an arrogant monopolist, even acting arrogantly in its relations with the antitrust authorities, it will receive from these agencies what it deserves.'' Who is calling whom arrogant? A government bureaucrat on a taxpayer funded jaunt to Brazil? If the situation were not so serious, I would find this quote to be quite amusing, Mr. President.

In Israel in May, Dan Rubinfeld gave a public speech on the Department's case against Microsoft to an audience that included Israeli officials responsible for antitrust enforcement. He later met privately along with his sidekicks from the Federal Trade Commission with a group of Israeli government officials to outline the DOJ's complaint against Microsoft.

Not surprisingly, the Israeli government is now in discussions with Microsoft concerning its business practices in that country.

And finally, on June 8th, Douglas Melamed briefed the OECD's Competition Law and Policy Committee in Paris on the strengths of the Department's case against Microsoft. The OECD Committee includes officials from Europe, Japan, Canada, and Brazil.

I applaud Senators SESSIONS, ABRAHAM, and KYL for bringing this issue to light, Mr. President. It is just one in a series of steps by the Administration to tie the hands of successful U.S. companies.

Thousands of jobs in my home state of Washington are being put on the line by a contemptuous group of bureaucrats over at the Justice Department.

That is why I have decided to offer an amendment today to prohibit the Justice Department from soliciting or encouraging foreign governments to engage in antitrust against U.S. companies defending themselves against antitrust suits filed by the U.S. government here at home. My amendment is narrow in scope. It was carefully drafted to ensure that it is not overreaching.

It will simply ensure that Joel Klein and his staff at the Antitrust Division do not travel abroad at the expense of U.S. taxpayers for the purpose of encouraging foreign governments to attack successful U.S. businesses.

I assure my colleagues that I am very disappointed that this amendment is necessary at all. That U.S. government officials in this Administration are engaged in practices that serve no other purpose than to harm U.S. companies, their employees, their families of their employees, and the small businesses whose livelihoods depend on the success of those companies is truly disheartening.

I urge my colleagues to join me in condemning the actions of Antitrust Division officials and to pass this important amendment today. Attorney General Reno and Assistant Attorney General Klein need to know that their actions will not go unnoticed and that they cannot continue down their current path of denouncing U.S. businesses overseas.

Mr. HATCH. Mr. President, at the outset, let me say that I don't support the Department of Justice divulging confidential information to foreign governments in an attempt to encourage them, in any way, to take or threaten legal action against any U.S. company. I don't think the Department has done that. They assure me that they have not done that.

I am aware of the letter that was sent to the Department inquiring whether the Department has encouraged any foreign antitrust authority to take action against Microsoft. I await the Department's formal response to the letter sent by my colleagues. If—and I emphasize if—the Department of Justice was encouraging foreign countries to bring a cause of action against Microsoft—or any other American company—I would do all I can to put a stop to it. The Department of Justice has a responsibility to enforce U.S. antitrust laws—not Japan's, Brazil's or the European Union's. But having said that, the Department assures me they have done no such thing.

I have to say, though, that, if Microsoft's charges prove groundless, one could reasonably conclude that this appears to be an assault, albeit a faint one, by Microsoft, on the Department of Justice's ongoing efforts to investigate potential violations of U.S. antitrust laws. When I first heard about this allegation, I was surprised that this is the best ''offensive'' more that their team of lobbyists and Washington lawyers could come up with. I was expecting a much more innovative strategy, given the reported offensive

Microsoft has threatened to launch against the Department of Justice. As I said before, I too oppose efforts by our government to encourage or solicit any foreign government to take hostile actions against a U.S. company.

However, I had a concern that any such amendment not hinder the ability of the Antitrust Division to investigate violations of our—United States'—antitrust laws. And also it does not prohibit mutual assistance that the Department and its foreign counterparts provide to each other under a ratified treaty or as authorized by the International Antitrust Enforcement Assistance Act of 1994.

Mr. President, I want to thank Senator GORTON and his staff for his cooperation and willingness to work with me and ensure that the amendment does not have any such adverse impact. With this modification I am happy to lend my support to this amendment.

The International Antitrust Enforcement Assistance Act passed the Senate unanimously in 1994. Let me also say that my friend and colleague, Senator GORTON, did not object to it then. This statute provides the important authority for the Attorney General when a mutual assistance agreement is in place, to cooperate with foreign agencies in assisting each other's efforts to prevent illegal antitrust activities. Given the increasingly international scope of the antitrust laws, it is crucial that the enforcement agencies have sufficient legal authority and the necessary tools to obtain information located abroad that would help them protect American consumers and businesses from antitrust abuses.

Finally, I again want to thank Senator GORTON for his cooperation and willingness to work with me and I am happy that we were able to work out our concerns with this amendment.

AMENDMENT NO. 3297

(Purpose: to exempt orphans adopted by United States citizens from grounds of removal)

At the appropriate place in the bill, insert the following:

SEC. . EXCEPTION TO GROUNDS OF REMOVAL.

Section 237 of the Immigration and Nationality Act (8 U.S.C. 1227) is amended by adding at the end the following new subsection:

''(d) This section shall not apply to any alien who was issued a visa or otherwise acquired the status of an alien lawfully admitted to the United States for permanent residence under section 201(b)(2)(A)(i) as an orphan described in section 101(b)(1)(F)'', unless that alien has knowingly declined U.S. citizenship.

AMENDMENT NO. 3298

(Purpose: To prevent disclosure of personal and financial information of corrections officers in certain civil actions until a verdict regarding liability has been rendered)

At the appropriate place in title I of the bill, insert the following:

SEC. 1___. PROTECTION OF PERSONAL AND FINANCIAL INFORMATION OF CORRECTIONS OFFICERS.

Notwithstanding any other provision of law, in any action brought by a prisoner under section 1979 of the Revised Statutes (42 U.S.C. 1983) against a Federal, State, or local jail, prison, or correctional facility, or any employee or former employee thereof, arising out of the incarceration of that prisoner—

(1) the financial records of a person employed or formerly employed by the Federal, State, or local jail, prison, or correctional facility, shall not be subject to disclosure without the written consent of that person or pursuant to a court order, unless a verdict of liability has been entered against that person; and

(2) the home address, home phone number, social security number, identity of family members, personal tax returns, and personal banking information of a person described in paragraph (1), and any other records or information of a similar nature relating to that person, shall not be subject to disclosure without the written consent of that person, or pursuant to a court order.

AMENDMENT NO. 3299

(Purpose: To allow continued helicopter procurement by Border Patrol)

In the appropriate place, insert the following:

''*Provided further,* That the Border Patrol is authorized to continue helicopter procurement while developing a report on the cost and capabilities of a mixed fleet of manned and unmanned aerial vehicles, helicopters, and fixed-winged aircraft.''

AMENDMENT NO. 3300

(Purpose: To extend temporary protected status for certain nationals of Liberia)

At the appropriate place in the bill insert the following:

SEC. . EXTENSION OF TEMPORARY PROTECTED STATUS FOR CERTAIN NATIONALS OF LIBERIA.

(a) CONTINUATION OF STATUS.—Notwithstanding any other provision of law, any alien described in subsection (b) who, as of the date of enactment of this Act, is registered for temporary protected status in the United States under section 244(c)(1)(A)(iv) of the Immigration and Nationality Act (8 U.S.C. 1254a(c)(1)(A)(iv)), or any predecessor law, order, or regulation, shall be entitled to maintain that status through September 30, 1999.

(b) COVERED ALIENS.—An alien referred to in subsection (a) is a national of Liberia or an alien who has no nationality and who last habitually resided in Liberia.

Mr. REED. Mr. President, I rise to commend my colleagues for including an extension of Temporary Protected Status for Liberians until September 30, 1999 in the Fiscal Year 1999 Commerce, Justice, State Appropriations bill.

The histories of Liberia and the United States have been intertwined since 1847 when our nation's founding fathers helped freed American slaves found the sovereign state of Liberia. The first Liberians adopted the U.S. Constitution as a model and named the capital of the new country Monrovia, after President James Madison. Diplomatic, military and trade relations flourished between the two countries until the late 1980's.

Then, in December 1989, Liberia was engulfed by a civil war that would last for seven years and continue to boil below the surface. Over 150,000 people died and more than one-half of the population fled the country or was internally displaced. During the conflict, food production was halted and the country's infrastructure was destroyed.

Several thousand Liberians who were forced from their homes because of the civil war sought refuge in the United States. In 1991, the Attorney General determined that Liberia was experiencing an ongoing armed conflict which prevented Liberian nationals from safely returning home. She granted Liberians who were present in the United States on March 27, 1991 temporary protected status (TPS), which provides temporary relief from deportation. Because the conflict in Liberia continued to rage, the Attorney General extended TPS each year for the next six years. Furthermore, conditions in Liberia deteriorated to such an extent in 1996, that the Attorney General ''redesignated'' TPS for Liberians who arrived after March 27, 1991 but were living in the United States on June 1, 1996. Never before in history had the Attorney General been compelled to redesignate a state for TPS.

Recently, however, the Attorney General declared that TPS would end for all Liberians on September 28, 1998. It is true that on July 19, 1997, Liberians elected former warlord Charles Taylor president and 300 international observers deemed the election free and fair. It is also true that this new government has pledged to rebuild the economy and reconcile the ethnic factions.

However, there are signs which indicate that Liberia is not as safe and stable as many would like to believe. In early December 1997, a prominent opposition leader was assassinated. Furthermore, a newspaper and two radio stations were temporarily shut down by the government.

A pastor of a church in my home state of Rhode Island had a conversation just yesterday with an individual who just returned from Liberia who stated that people in Liberia are afraid to criticize the government in any way. The secret police sweep neighborhoods at night, people disappear and bodies mingle with garbage under a bridge in Monrovia.

I would also like to relay the comments of Bishop Arthur Kulah to my colleagues who may wish to know why TPS is still needed. Bishop Kulah is a United Methodist leader who lost his parents and two brothers in the civil war. He recently spoke with Liberians living in Rhode Island and when they asked if it would be safe to return when TPS was terminated, he replied, ''People who have been fighting for ten years will not suddenly change. It may be quiet and then flare up overnight. The disarmament was not complete. People still have guns.''

This weekend the Liberian community in Rhode Island will celebrate the 151st anniversary of Liberia's independence. They will celebrate the history and culture of their country and look forward to the day when they can safely go home. But that time is not now, Mr. President. They came to this country seeking peace and security. We have an obligation to offer them refuge until it is truly safe to go back.

AMENDMENT NO. 3301

(Purpose: To provide for the adjustment of status of certain asylees in Guam)

At the appropriate place in the bill, insert the following:

SEC. ___. ADJUSTMENT OF STATUS OF CERTAIN ASYLEES IN GUAM.

(a) ADJUSTMENT OF STATUS

(1) EXEMPTION FROM NUMERICAL LIMITATIONS.—The numerical limitation set forth in section 209(b) of the Immigration and Nationality Act (8 U.S.C. 1159(b)) shall not apply to any alien described in subsection (b).

(2) LIMITATION ON FEES.—

(A) IN GENERAL.—Any alien described in subsection (b) who applies for adjustment of status to that of an alien lawfully admitted for permanent residence under section 209(b) of that Act shall not be required to pay any fee for employment authorization or for adjustment of status in excess of the fee imposed on a refugee admitted under section 207(a) of that Act for employment authorization or adjustment of status.

(B) EFFECTIVE DATE.—This paragraph shall apply to applications for employment authorization or adjustment of status filed before, on, or after the date of enactment of this Act.

(b) COVERED ALIENS.—An alien described in subsection (a) is an alien who was a United States Government employee, employee of a nongovernmental organization based in the United States, or other Iraqi national who was moved to Guam by the United States Government in 1996 or 1997 pursuant to an arrangement made by the United States Government, and who was granted asylum in the United States under section 208(a) of the Immigration and Nationality Act (8 U.S.C. 1158(a)).

AMENDMENT NO. 3302

(Purpose: To focus resources of the Department of Justice on prosecuting violations of federal gun laws)

On page 9, beginning on line 15, strike ''Attorneys.'' and insert the following: ''Attorneys: *Provided further,* That of the total amount appropriated, not to exceed $3,000,000 shall remain available to hire additional assistant U.S. Attorneys and investigators to enforce Federal laws designed to keep firearms out of the hands of criminals, and the Attorney General is directed to initiate a selection process to identify two (2) major metropolitan areas (which shall not be in the same geographic area of the United States) which have an unusually high incidence of gun-related crime, where the funds described in this subsection shall be expended.''

AMENDMENT NO. 3303

(Purpose: Relating to information infrastructure grants of the National Telecommunications and Information Administration)

On page 72, between lines 16 and 17, insert the following:

SEC. 209. (a)(1) Notwithstanding any other provision of this Act, the amount appropriated by this title under ''NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION'' under the heading ''INFORMATION INFRASTRUCTURE GRANTS'' is hereby increased by $9,000,000.

(2) The additional amount appropriated by paragraph (1) shall remain available until expended.

(b)(1) Notwithstanding any other provision of this Act, the aggregate amount appropriated by this title under ''DEPARTMENT OF COMMERCE'' is hereby reduced by $9,000,000 with the amount of such reduction achieved by reductions of equal amounts from amounts appropriated by each heading under ''DEPARTMENT OF COMMERCE'' except the headings referred to in paragraph (2).

(2) Reductions under paragraph (1) shall not apply to the following amounts:

(A) Amounts appropriated under ''NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION'' under the heading ''PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION'' and under the heading ''INFORMATION INFRASTRUCTURE GRANTS''.

(B) Amounts appropriated under any heading under ''NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY''.

(C) Amounts appropriated under any heading under ''NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION''.

(c)(1) Notwithstanding any other provision of this Act, the second proviso under ''NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION'' under the heading ''INFORMATION INFRASTRUCTURE GRANTS'' shall have no force or effect.

(2) Notwithstanding any other provision of law, no entity that receives telecommunications services at preferential rates under section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)) or receives assistance under the regional information sharing systems grant program of the Department of Justice under part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796h) may use funds under a grant under the heading referred to in paragraph (1) to cover any costs of the entity that would otherwise be covered by such preferential rates or such assistance, as the case may be.

AMENDMENT NO. 3304

(Purpose: To amend the International Emergency Economic Powers Act to clarify the conditions under which export controls may be imposed on agricultural products)

At the appropriate place, insert the following new section:

SEC. ___. AGRICULTURAL EXPORT CONTROLS.

The International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) is amended—

(1) by redesignating section 208 as section 209; and

(2) by inserting after section 207 the following new section:

''SEC. 208. AGRICULTURAL CONTROLS.

''(a) IN GENERAL.—

''(1) REPORT TO CONGRESS.—If the President imposes export controls on any agricultural commodity in order to carry out the provisions of this Act, the President shall immediately transmit a report on such action to Congress, setting forth the reasons for the controls in detail and specifying the period of time, which may not exceed 1 year, that the controls are proposed to be in effect. If Congress, within 60 days after the date of its receipt of the report, adopts a joint resolution pursuant to subsection (b), approving the imposition of the export controls, then such controls shall remain in effect for the period specified in the report, or until terminated by the President, whichever occurs first. If Congress, within 60 days after the date of its receipt of such report, fails to adopt a joint resolution approving such controls, then such controls shall cease to be effective upon the expiration of that 60-day period.

''(2) APPLICATION OF PARAGRAPH (1).—The provisions of paragraph (1) and subsection (b) shall not apply to export controls—

''(A) which are extended under this Act if the controls, when imposed, were approved by Congress under paragraph (1) and subsection (b); or

''(B) which are imposed with respect to a country as part of the prohibition or curtailment of all exports to that country.

''(b) JOINT RESOLUTION.—

''(1) IN GENERAL.—For purposes of this subsection, the term 'joint resolution' means only a joint resolution the matter after the resolving clause of which is as follows: 'That, pursuant to section 208 of the International Emergency Economic Powers Act, the President may impose export controls as specified in the report submitted to Congress on _____.', with the blank space being filled with the appropriate date.

''(2) INTRODUCTION.—On the day on which a report is submitted to the House of Representatives and the Senate under subsection (a), a joint resolution with respect to the export controls specified in such report shall be introduced (by request) in the House of Representatives by the chairman of the Committee on International Relations, for himself and the ranking minority member of the Committee, or by Members of the House designated by the chairman and ranking minority member; and shall be introduced (by request) in the Senate by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. If either House is not in session on the day on which such a report is submitted, the joint resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

''(3) REFERRAL.—All joint resolutions introduced in the House of Representatives and in the Senate shall be referred to the appropriate committee.

''(4) DISCHARGE OF COMMITTEE.—If the committee of either House to which a joint resolution has been referred has not reported the joint resolution at the end of 30 days after its referral, the committee shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter.

''(5) CONSIDERATION IN SENATE AND HOUSE OF REPRESENTATIVES.—A joint resolution under this subsection shall be considered in the Senate in accordance with the provisions of section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of expediting the consideration and passage of joint resolutions reported or discharged pursuant to the provisions of this subsection, it shall be in order for the Committee on Rules of the House of Representatives to present for consideration a resolution of the House of Representatives providing procedures for the immediate consideration of a joint resolution under this subsection which may be similar, if applicable, to the procedures set forth in section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976.

''(6) PASSAGE BY 1 HOUSE.—In the case of a joint resolution described in paragraph (1), if, before the passage by 1 House of a joint resolution of that House, that House receives a resolution with respect to the same matter from the other House, then—

''(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.

''(c) COMPUTATION OF TIME.—In the computation of the period of 60 days referred to in subsection (a) and the period of 30 days referred to in paragraph (4) of subsection (b), there shall be excluded the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or because of an adjournment of Congress sine die.''.

AMENDMENT NO. 3305

On page 101, line 17, insert after the period: ''*Provided,* That, of this amount, $1,400,000 shall be available for Student Incentive Payments.''

Mrs. HUTCHISON. Mr. President, I rise to explain a provision included in the Commerce, Justice, State appropriations bill manager's amendment and to convey my thanks to Senator GREGG and Senator HOLLINGS for including it. This provision directs funding for the Student Incentive Payment (SIP) program for FY99.

I am very concerned about language in the Administration's budget calling for a four-year phase-out of SIP, beginning in FY99. These payments are used to help students at state maritime schools defray the cost of their education. In exchange for an annual stipend while they are in school, these students incur a 6 year obligation in the Navy and Merchant Marine Reserve. They represent an important element of the Navy's professional mariners and a cadre of trained professionals available in the event of a national emergency when activation of the Ready Reserve Fleet is required.

I commend the subcommittee for sharing my concern. The subcommittee report reflects this concern by calling upon MARAD to report on the willingness of the Navy to pay for the program. However, I understand that discussions between the Navy and MARAD are still on-going which, while encouraging, may mean that the incoming class at state maritime academies may not be able to take advantage of SIP as their classmates ahead of them have, and those behind them hopefully will. If we are going to ensure continuity, we have to fund SIP for another year in this bill.

This provision restores SIP funding in the FY99 budget, preserving the program in order to allow the Navy to assume the funding responsibility beginning in FY2000. I am pleased that we have bought more time for MARAD and the Navy to negotiate the transfer of financial responsibility for this program. I am very hopeful that we will have a negotiated continuation of SIP under the Navy in FY2000 and beyond. I thank the Chairman for working with me to ensure this result.

AMENDMENT NO. 3306

(Purpose: To require certain new employees in the Office of the United States Trade Representative to work exclusively on investigating the acts, policies, and practices of the Canadian Wheat Board and whether the acts, policies, or practices cause material injury to the United States grain industry, and for other purposes)

At the appropriate place in title VI, insert the following new section:

SEC. ___. INVESTIGATION OF PRACTICES OF CANADIAN WHEAT BOARD.

(a) IN GENERAL.—Notwithstanding any other provision of law, not less than 4 of the new employees authorized in fiscal years 1998 and 1999 for the Office of the United States Trade Representative shall work on investigating pricing practices of the Canadian Wheat Board and determining whether the United States spring wheat, barley, or durum wheat industries have suffered injury as a result of those practices.

(b) SCOPE OF INVESTIGATION.—The purpose of the investigation described in subsection (a) shall be to determine whether the practices of the Canadian Wheat Board constitute violations of the antidumping or countervailing duty provisions of title VII of the Tariff Act of 1930 or the provisions of title II or III of the Trade Act of 1974. The investigation shall include—

(1) a determination as to whether the United States durum wheat industry, spring wheat industry, or barley industry is being materially injured or is threatened with material injury as a result of the practices of the Canadian Wheat Board;

(2) a determination as to whether the acts, policies, or practices of the Canadian Wheat Board—

(A) violate, or are inconsistent with, the provisions of, or otherwise deny benefits to the United States under, any trade agreement, or

(B) are unjustifiable or burden or restrict United States commerce;

(3) a review of home market price and cost of acquisition of Canadian grain;

(4) a determination as to whether Canadian grain is being imported into the United States in sufficient quantities to be a substantial cause of serious injury or threat of serious injury to the United States spring wheat, barley, or durum wheat industries; and

(5) a determination as to whether there is harmonization in the requirements for cross-border transportation of grain between Canada and the United States.

(c) ACTION BASED ON RESULTS OF THE INVESTIGATION.—

(1) IN GENERAL.—If, based on the investigation conducted pursuant to this section, there is an affirmative determination under subsection (b) with respect to any act, policy, or practice of the Canadian Wheat Board, appropriate action shall be initiated under title VII of the Tariff Act of 1930, or title II or III of the Trade Act of 1974.

(2) CORRECTION OF HARMONIZATION PROBLEMS.—If, based on the investigation conducted pursuant to this section, there is a determination that there is no harmonization for cross-border grain transportation between Canada and the United States, the United States Trade Representative shall report to Congress regarding what action should be taken in order to harmonize cross-border transportation requirements.

(d) REPORT.—Not later than 6 months after the date of enactment of this Act, the United States Trade Representative shall report to Congress on the results of the investigation conducted pursuant to this section.

(e) DEFINITION OF GRAIN.—For purposes of this section, the terms ''Canadian grain'' and ''grain'' include spring wheat, durum wheat, and barley.

AMENDMENT NO. 3307

(Purpose: To preserve and enhance local FM radio service for underserved counties)

On page 135, between lines 11 and 12, insert the following:

SEC. 620. (a) IN GENERAL.—Section 331 of the Communications Act of 1934 (47 U.S.C. 331) is amended by adding at the end the following:

''(c) FM TRANSLATOR STATIONS.—(1) It may be the policy of the Commission, in any case in which the licensee of an existing FM translator station operating in the commercial FM band is licensed to a county (or to a community in such county) that has a population of 700,000 or more persons, is not an integral part of a larger municipal entity, and lacks a commercial FM radio station licensed to the county (or to any community within such county), to extend to the licensee—

''(A) authority for the origination of unlimited local programming through the station on a primary basis but only if the licensee abides in such programming by all rules, regulations, and policies of the Commission regarding program material, content, schedule, and public service obligations otherwise applicable to commercial FM radio stations; and

''(B) authority to operate the station (either omindirectionally or directionally, with facilities equivalent to those of a station operating with maximum effective radiated power of less than 100 watts and maximum antenna height above average terrain of 100 meters) if—

''(i) the station is not located within 320 kilometers (approximately 199 miles) of the United States border with Canada or with Mexico;

''(ii) the station provides full service FM stations operating on co-channel and first adjacent channels protection from interference as required by rules and regulations of the Commission applicable to full service FM stations; and

''(iii) the station complies with any other rules, regulations, and policies of the Commission applicable to FM translator stations that are not inconsistent with the provisions of this subparagraph.

''(2) Notwithstanding any rules, regulations, or policies of the Commission applicable to FM translator stations, a station operated under the authority of paragraph (1)(B)—

''(A) may accept or receive any amount of theoretical interference from any full service FM station;

''(B) may be deemed to comply in such operation with any intermediate frequency (IF) protection requirements if the station's effective radiated power in the pertinent direction is less than 100 watts;

''(C) may not be required to provide protection in such operation to any other FM station operating on 2nd or 3rd adjacent channels;

''(D) may utilize transmission facilities located in the county to which the station is licensed or in which the station's community of license is located; and

''(E) may utilize a directional antennae in such operation to the extent that such use is necessary to assure provision of maximum possible service to the residents of the county in which the station is licensed or in which the station's community of license is located.

''(3)(A) A licensee may exercise the authority provided under paragraph (1)(A) immediately upon written notification to the Commission of its intent to exercise such authority.

''(B)(i) A licensee may submit to the Commission an application to exercise the authority provided under paragraph (1)(B). The Commission may treat the application as an application for a minor change to the license to which the application applies.

''(ii) A licensee may exercise the authority provided under paragraph (1)(B) upon the granting of the application to exercise the authority under clause (i).''.

(b) CONFORMING AMENDMENT.—The section heading of that section is amended to read as follows:

''SEC. 331. VERY HIGH FREQUENCY STATIONS AND AM AND FM RADIO STATIONS.''.

(c) RENEWAL OF CERTAIN LICENSES.—(1) Notwithstanding any other provision of law, the Federal Communications Commission may renew the license of an FM translator station the licensee of which is exercising authority under subparagraph (A) or (B) of section 331(c)(1) of the Communications Act

of 1934, as added by subsection (a), upon application for renewal of such license filed after the date of enactment of this Act, if the Commission determines that the public interest, convenience, and necessity would be served by the renewal of the license.

(2) If the Commission determines under paragraph (1) that the public interest, convenience, and necessity would not be served by the renewal of a license, the Commission shall, within 30 days of the date on which the decision not to renew the license becomes final, provide for the filing of applications for licenses for FM translator service to replace the FM translator service covered by the license not to be renewed.

AMENDMENT NO. 3308

(Purpose: To provide for a study of sediment control at Grand Marais, Michigan)

At the appropriate place in title II, insert the following:

SEC. 2___. SEDIMENT CONTROL STUDY.

Of the amounts made available under this Act to the National Oceanic and Atmospheric Administration for operations, research, and facilities that are used for ocean and Great Lakes programs, $50,000 shall be used for a study of sediment control at Grand Marais, Michigan.

AMENDMENT NO. 3309

(Purpose: To establish certain limitations with respect to build-out and moving costs of the Patent and Trademark Office)

On page 62, lines 3 through 16, strike ''That if the standard build-out'' and all that follows through ''covered by those costs.'' and insert the following: ''That the standard build-out costs of the Patent and Trademark Office shall not exceed $36.69 per occupiable square foot for office-type space (which constitutes the amount specified in the Advanced Acquisition program of the General Services Administration) and shall not exceed an aggregate amount equal to $88,000,000: *Provided further*, That the moving costs of the Patent and Trademark Office (which shall include the costs of moving furniture, telephone, and data installation) shall not exceed $135,000,000: *Provided further*, That the portion of the moving costs referred to in the preceding proviso that may be used for alterations that are above standard costs may not exceed $29,000,000.''.

AMENDMENT NO. 3310

(Purpose: To require that reports submitted to the Committee on Appropriations concerning matters within the jurisdiction of the Committee on the Judiciary also be submitted to the Committee on the Judiciary)

On page 51, line 9, add a new section 121:

''SEC. 121. For fiscal year 1999 and thereafter, for any report which is required or authorized by this act to be submitted or delivered to the Committee on Appropriations of the Senate or of the House of Representatives by the Department of Justice or any component, agency, or bureau thereof, or which concerns matters within the jurisdiction of the Committee on the Judiciary of the Senate or of the House of Representatives, a copy of such report shall be submitted to the Committees on the Judiciary of the Senate and of the House of Representatives concurrently as the report is submitted to the Committee on Appropriations of the Senate or of the House of Representatives.''

AMENDMENT NO. 3311

(Purpose: To amend the Immigration and Nationality Act to eliminate, for alien battered spouses and children, certain restrictions rendering them ineligible to apply for adjustment of status, suspension of deportation, and cancellation of removal, and for other purposes)

At the end of the bill, add the following:

TITLE ___—VAWA RESTORATION ACT

SEC. ___01. SHORT TITLE.

This title may be cited as the ''VAWA Restoration Act''.

SEC. ___02. REMOVING BARRIERS TO ADJUSTMENT OF STATUS FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) IN GENERAL.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended—

(1) in subsection (a), by inserting ''of an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1) or'' after ''The status'';

(2) in subsection (a), by adding at the end the following: ''An alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1) who files for adjustment of status under this subsection shall pay a $1,000 fee, subject to the provisions of section 245(k).'';

(3) in subsection (c)(2), by striking ''201(b) or a special'' and inserting ''201(b), an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1), or a special'';

(4) in subsection (c)(4), by striking ''201(b))'' and inserting ''201(b) or an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1))'';

(5) in subsection (c)(5), by inserting ''(other than an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1))'' after ''an alien''; and

(6) in subsection (c)(8), by inserting ''(other than an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1)'' after ''any alien''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to applications for adjustment of status pending on or after the date of the enactment of this title.

SEC. ___03. REMOVING BARRIERS TO CANCELLATION OF REMOVAL AND SUSPENSION OF DEPORTATION FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) IN GENERAL.—

(1) SPECIAL RULE FOR CALCULATING CONTINUOUS PERIOD FOR BATTERED SPOUSE OR CHILD.—Paragraph (1) of section 240A(d) of the Immigration and Nationality Act (8 U.S.C. 1229b(d)(1)) is amended to read as follows:

''(1) TERMINATION OF CONTINUOUS PERIOD.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), for purposes of this section, any period of continuous residence or continuous physical presence in the United States shall be deemed to end when the alien is served a notice to appear under section 239(a) or when the alien has committed an offense referred to in section 212(a)(2) that renders the alien inadmissible to the United States under section 212(a)(2) or removable from the United States under section 237(a)(2) or 237(a)(4), whichever is earliest.

''(B) SPECIAL RULE FOR BATTERED SPOUSE OR CHILD.—For purposes of subsection (b)(2), the service of a notice to appear referred to in subparagraph (A) shall not be deemed to end any period of continuous physical presence in the United States.''.

(2) EXEMPTION FROM ANNUAL LIMITATION ON CANCELLATION OF REMOVAL FOR BATTERED SPOUSE OR CHILD.—Section 240A(e)(3) of the Immigration and Nationality Act (8 U.S.C. 1229b(e)(3)) is amended by adding at the end the following:

''(C) Aliens whose removal is canceled under subsection (b)(2).''.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 587).

(b) MODIFICATION OF CERTAIN TRANSITION RULES FOR BATTERED SPOUSE OR CHILD.—

(1) IN GENERAL.—Subparagraph (C) of section 309(c)(5) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note) (as amended by section 203 of the Nicaraguan Adjustment and Central American Relief Act) is amended—

(A) by amending the subparagraph heading to read as follows:

''(C) SPECIAL RULE FOR CERTAIN ALIENS GRANTED TEMPORARY PROTECTION FROM DEPORTATION AND FOR BATTERED SPOUSES AND CHILDREN.—''; and

(B) in clause (i)—

(i) by striking ''or'' at the end of subclause (IV);

(ii) by striking the period at the end of subclause (V) and inserting ''; or''; and

(iii) by adding at the end the following:

''(VI) is an alien who was issued an order to show cause or was in deportation proceedings prior to April 1, 1997, and who applied for suspension of deportation under section 244(a)(3) of the Immigration and Nationality Act (as in effect before the date of the enactment of this Act).''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note).

SEC. ___04. ELIMINATING TIME LIMITATIONS ON MOTIONS TO REOPEN REMOVAL AND DEPORTATION PROCEEDINGS FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) REMOVAL PROCEEDINGS.—

(1) IN GENERAL.—Section 240(c)(6)(C) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(6)(C)) is amended by adding at the end the following:

''(iv) SPECIAL RULE FOR BATTERED SPOUSES AND CHILDREN.—There is no time limit on the filing of a motion to reopen, and the deadline specified in subsection (b)(5)(C) does not apply, if the basis of the motion is to apply for adjustment of status based on a petition filed under clause (iii) or (iv) of section 204(a)(1)(A), clause (ii) or (iii) of section 204(a)(1)(B), or section 240A(b)(2) and if the motion to reopen is accompanied by a cancellation of removal application to be filed with the Attorney General or by a copy of the self-petition that will be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen.''

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 587).

(b) DEPORTATION PROCEEDINGS.—

(1) IN GENERAL.—Notwithstanding any limitation imposed by law on motions to reopen deportation proceedings under the Immigration and Nationality Act (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)), there is no time limit on the filing of a motion to reopen such proceedings, and the deadline specified in section 242B(c)(3) of the Immigration and Nationality Act (as so in effect) does not apply, if the basis of the motion is to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act, clause (ii) or (iii) of section 204(a)(1)(B) of such Act, or section 244(a)(3) of such Act (as so in effect) and if the motion to reopen is accompanied by a cancellation of removal application to be filed with the Attorney General or by a copy of the self-petition that will be filed with the

Immigration and Naturalization Service upon the granting of the motion to reopen.

(2) APPLICABILITY.—Paragraph (1) shall apply to motions filed by aliens who—

(A) are, or were, in deportation proceedings under the Immigration and Nationality Act (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)); and

(B) have become eligible to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act, clause (ii) or (iii) of section 204(a)(1)(B) of such Act, or section 244(a)(3) of such Act (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)) as a result of the amendments made by—

(i) subtitle G of title IV of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 1953 et seq.); or

(ii) section ___03 of this title.

AMENDMENT NO. 3312

(Purpose: To amend the Violence Against Women Act of 1994 to ensure greater protection of elderly women)

On page ___, after line ___, insert the following:

SEC. ___. (a) IN GENERAL.—Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 2001 (42 U.S.C. 3796gg)—

(A) in subsection (a)—

(i) by inserting ‘‘, including older women’’ after ‘‘combat violent crimes against women’’; and

(ii) by inserting ‘‘, including older women’’ before the period; and

(B) in subsection (b)—

(i) in the matter before subparagraph (A), by inserting ‘‘, including older women’’ after ‘‘against women’’;

(ii) in paragraph (6), by striking ‘‘and’ after the semicolon;

(iii) in paragraph (7), by striking the period and inserting ‘‘; and’’; and

(iv) by adding at the end the following:

‘‘(8) developing, through the oversight of the State administrator, a curriculum to train and assist law enforcement officers, prosecutors, and relevant officers of Federal, State, tribal, and local courts in recognizing, addressing, investigating, and prosecuting instances involving elder domestic abuse, including domestic violence and sexual assault against older individuals.’’;

(2) in section 2002(c)(2) (42 U.S.C. 3796gg-1), by inserting ‘‘and elder domestic abuse experts’’ after ‘‘victim services programs’’; and

(3) in section 2003 (42 U.S.C. 3796gg-2)—

(A) in paragraph (7), by striking ‘‘and’ after the semicolon;

(B) in paragraph (8), by striking the period and inserting ‘‘; and’’; and

(C) by adding at the end the following:

‘‘(9) the term ‘elder’ has the same meaning as the term ‘older individual’ in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002); and

‘‘(10) the term ‘domestic abuse’ means an act or threat of violence, not including an act of self-defense, committed by—

‘‘(A) a current or former spouse of the victim;

‘‘(B) a person related by blood or marriage to the victim;

‘‘(C) a person who is cohabitating with or has cohabitated with the victim;

‘‘(D) a person with whom the victim shares a child in common;

‘‘(E) a person who is or has been in the social relationship of a romantic or intimate nature with the victim; and

‘‘(F) a person similarly situated to a spouse of the victim, or by any other person; if the domestic or family violence laws of the jurisdiction of the victim provide for legal protection of the victim from the person.’’.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to grants beginning with fiscal year 1999.

Mr. DURBIN. Mr. President, I rise today to introduce this amendment with my distinguished colleagues Senators COLLINS, JEFFORDS, REID, HARKIN, MIKULSKI, CLELAND, and GRAHAM.

Unfortunately for some, domestic violence is a life long experience. Those who perpetrate violence against their family members do not desist because the family member grows older. In fact, in some cases, the abuse may become more severe as the victim ages becoming more isolated from the community with their removal from the workforce. Other age-related factors such as increased frailty may increase a victim's vulnerability. it also is true that older victims' ability to report abuse is frequently confounded by their reliance on their abuser for care or housing.

Every seven minutes in Illinois, there is an incidence of elder abuse. Several research studies have shown that elder abuse is the most under reported familial crime. It is even more under reported than child abuse with only between one in eight and one in fourteen incidents estimated to be reported. Seniors who experience abuse worry they will be banished to a nursing home if they report abuse. They also must struggle with the ethical dilemma of reporting abuse by their children to the authorities and thus increasing their child's likelihood of going to jail. Shame and fear gag them so that they remain ‘‘silent victims.’’

The Commerce-Justice-State Appropriations bill funds the STOP law enforcement state grants program. This program provides funding for services and training for officers and prosecutors for dealing with domestic violence. This training needs to be sensitive to the needs of all victims, young and old. However, the images portrayed in the media of the victims of domestic violence generally depict a young woman, with small children. Consequently, may people including law enforcement officers may not readily identify older victims as suffering domestic abuse. The victims themselves may also be reluctant to report such abuse. Many older women were raised to believe that family business is a private matter. Problems within families were not to be discussed with anyone, especially strangers or counselors. Only a handful of domestic abuse programs throughout the country are reaching out to older women.

This amendment seeks to improve the STOP grants program by making it more sensitive to the needs of the nations seniors. We know that great improvements have taken place since the Violence Against Women Act was first passed. One of the most successful programs is the law enforcement and prosecutor training program, which received over $200 million in FY 1998. This bill would increase that level to $210 million. Improvement in this program can be made with respect to identifying abuse among all age groups especially seniors who are often overlooked. When the abuser is old, there may be a reticence on the part of law enforcement to deal with this person in the same way that they might deal with a younger person. Who wants to send an ‘‘old guy’’ to jail? However, lack of action jeopardizes the victim further because then the abuser has every reason to believe that there are no consequences for their actions. Another common problem is differentiating between injuries related to abuse and injuries arising from aging, frailty or illness. too many older women's broken bones have been attributed to disorientation, osteoporosis or other age-related vulnerabilities without any questions being asked to make sure that they are not the result of abuse.

With the greying of America, the problems of elder domestic abuse in all its many ugly manifestations, is likely to grow. I believe that we need to take a comprehensive look at our existing family violence programs and ensure that these programs serve seniors and are sensitive and knowledgeable of elder domestic abuse.

I am pleased to be joined by Senators REID, HARKIN, CLELAND, MIKULSKI, GRAHAM, JEFFORDS, and COLLINS in offering this amendment, which focuses attention on the needs of the ‘‘forgotten older victims of domestic violence.’’

Mr. BIDEN. Mr. President, the Violence Against Women Act of 1994 included vital provisions to protect abused immigrant women—so they wouldn't have to choose to stay in an abusive marriage or be deported from America

This has helped a relatively small number of battered women—a few thousand each year—but it was important that we—on a bipartisan basis—took this moral step.

Since 1994, we have found other ways in which we in effect force women to remain in abusive marriages and rely on their abusive husbands for their immigration status.

This amendment restores the protections of the original Violence Against Women Act in four key ways:

By ensuring that battered women are included in the narrow immigration provision already included in this bill.

By preventing the roughly 1500 women per year who complete the full process of proving that they are in fact battered from being deported solely because of some arbitrary limits.

By allowing the Immigration and Naturalization Service to permit a battered woman to remain in the U.S. even though she has left the country for a brief period—provided that she has an understandable reason (such as

in the case of a woman who was literally taken to Mexico against her will).

And by requiring the Immigration and Naturalization Service to give a battered woman an opportunity to prove that she was battered and eligible for Violence Against Women Act relief before deporting her under an order issued without her notice.

This is an important amendment—even though it will affect a modest number of battered women. I am pleased that this amendment is cosponsored by Senators ABRAHAM, KENNEDY, LEAHY, WELLSTONE and others. I am also pleased that this amendment has been accepted and will be adopted by the full Senate unanimously.

Ms. COLLINS. Mr. President, I rise today to support the amendment introduced by my distinguished colleague from Illinois, Senator DURBIN, to strengthen the capability of our law enforcement community to protect older women from violence.

There is no conduct less consistent with the precepts of a civilized society than the physical abuse of those unable to defend themselves. Our recognition of this has led to an aggressive and ongoing campaign against child abuse, and it must lead to an equally strong response to domestic violence directed at older Americans.

Mr. President, at a 1995 hearing in Portland, Maine, chaired by my predecessor, Senator Cohen, elder abuse was aptly described as ''society's secret shame.'' Family violence, particularly when directed at the elderly, was a major concern of Senator Cohen, and I welcome the opportunity to continue his efforts to combat this intolerable mistreatment of older Americans.

Mr. President, earlier this year my home state released its crime statistics for 1997. I was cheered by the wonderful news that crime fell by 8.7% from 1996, to the lowest rate in at least 20 years. Hidden behind this positive statistic, however, was one that was very disquieting, namely, that domestic violence increased by 7.8%. Ironically, at the same time as we are becoming less likely to be harmed by strangers, many of our neighbors face an increasing threat from members of their own households.

National data demonstrate that cases of domestic elder abuse, which includes neglect as well as physical abuse, are steadily increasing. From 1986 to 1996, the number of cases went from 117,000 to 293,000, an increase of 150%. Furthermore, there is widespread agreement that this type of abuse is greatly underreported. For example, although the number of reported cases in 1994 was 241,000, the National Center on Elder Abuse estimates that the true number of cases was 818,000.

Mr. President, while these numbers indicate a serious and growing problem, all of the statistics in the world do not describe the problem as eloquently as the words of a single victim. At the Maine hearing, one such victim told what happened to her at the hands of her husband after her children left home.

[T]hings got really bad. I had two broken wrists, cracked ribs, held down with his knee on my chest with a knife at my throat. I was made to crawl across the floor with a gun resting on my head, ready to fire. I've been choked until I was limp, and then he would drop me on the floor with a kick. I've been spit on, thrown through a window, dragged into the lake as he said he was going to drown me.

Astonishingly, but not atypically, the witness was married to her husband for 44 years.

Mr. President, this type of treatment cannot be tolerated. As a cosponsor of the Durbin amendment, I sincerely hope that my colleagues will take this modest step to enhance the ability of the law enforcement community to protect this vulnerable segment of our society.

AMENDMENT NO. 3313

(Purpose: To modify the membership of the Federal-State Joint Board on universal service)

On page 72, between lines 16 and 17, insert the following:

SEC. 209. (a) IN GENERAL.—Section 254(a) of the Communications Act of 1934 (47 U.S.C. 254(a)) is amended—

(1) by striking the second sentence in paragraph (1);

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

''(2) MEMBERSHIP OF JOINT BOARD.—

''(A) IN GENERAL.—The Joint Board required by paragraph (1) shall be composed of 9 members, as follows:

''(i) 3 shall be members of the Federal Communications Commission;

''(ii) 1 shall be a State-appointed utility consumer advocate nominated by a national organization of State utility consumer advocates; and

''(iii) 5 shall be State utility commissioners nominated by the national organization of State utility commissions, with at least 2 such commissioners being commissioners of commissions of rural States.

''(B) CO-CHAIRMEN.—The Joint Board shall have 2 co-chairmen of equal authority, one of whom shall be a member of the Federal Communications Commission, and the other of whom shall be one of the 5 members described in subparagraph (A)(iii). The Federal Communications Commission shall adopt rules and procedures under which the co-chairmen of the Joint Board will have equal authority and equal responsibility for the Joint Board.

''(C) RURAL STATE DEFINED.—In this paragraph, the term 'rural State' means any State in which the 1998 high-cost universal service support payments to local telephone companies exceeds 90 cents on a per loop per month basis.''.

(b) FCC TO ADOPT PROCEDURES PROMPTLY.—The Federal Communications Commission shall adopt rules under section 254(a)(2)(B) of the Communications Act of 1934 (47 U.S.C. 254(a)(2)(B)), as added by subsection (a) of this section, within 30 days after the date of enactment of this Act.

(c) RECONSTITUTED JOINT BOARD TO CONSIDER UNIVERSAL SERVICE.—The Federal-State Joint Board established under section 254(a)(1) of the Communications Act of 1934 (47 U.S.C. 254(a)(1)) shall not take action on the Commission's Order and Order on Reconsideration adopted July 13, 1998, (CC Docket No. 96–45; FCC 98–160) relating to universal service until—

(1) the Commission has adopted rules under section 254(a)(2)(B) of the Communications Act of 1934 (47 U.S.C. 254(a)(2)(B)); and

(2) the co-chairmen of the Joint Board have been chosen under that section.

Mr. BROWNBACK. Mr. President, I have offered an amendment that would provide rural States with a stronger representation on the Federal-State Joint Board on Universal Service (Joint Board).

Such a change is necessary because critical universal telephone service issues have been mishandled by the Joint Board since the passage of the Telecommunications Act of 1996.

The Joint Board was intended to provide the States with an opportunity to help craft national universal service policy because the States are more experienced in dealing with these issues than their national counterparts.

The Act created the Joint Board and required the Board to make recommendations concerning how the Federal Communications Commission (FCC) should implement the universal service provisions contained in the Act.

However, the Joint Board was chaired by former FCC Chairman Reed Hundt, and the Board made recommendations that undermine rural interests and put upward pressure on rural residential telephone rates.

The Joint Board needs greater representation from the States, especially rural States. My amendment would do the following:

Add an additional State Utility Commissioner to the Joint Board.

Require that two of the five State Utility Commissioners serving on the Board represent rural States.

Require that one of the State Commissioners and one of the FCC Commissioners serve as Co-Chairmen of the Joint Board.

Mr. President, this amendment would ensure that rural interests are adequately represented on the Joint Board, and that the recommendations made to the FCC are consistent with the universal service goals of the Act.

Mr. President, I have been very frustrated with the manner in which universal service issues have been addressed by the Joint Board and the FCC since the passage of the Act. Although it is the most important part of universal service, the high-cost piece has been getting the short shrift.

The FCC has just referred a number of critical high-cost issues back to the Joint Board for its consideration. This amendment is critical because rural communities across the country need to be effectively represented on the Board as it reviews these issues. The States, especially rural States, have the most experience dealing with the high-cost issues, and the recommendations of the Joint Board must adequately reflect their input and their expertise.

AMENDMENT NO. 3314

(Purpose: To provide for the nonpoint pollution control program of the Coastal Zone Management program of the National Oceanic and Atmospheric Administration)

At the appropriate place in title II, insert the following:

SEC. 2___. NONPOINT POLLUTION CONTROL.

(a) IN GENERAL.—In addition to the amounts made available to the National Oceanic and Atmospheric Administration under this Act, $3,000,000 shall be made available to the Administration for the nonpoint pollution control program of the Coastal Zone Management program of the Administration.

(b) PRO RATA REDUCTIONS.—Notwithstanding any other provision of law, a pro rata reduction shall be made to each program in the Department of Commerce funded under this Act in such manner as to result in an aggregate reduction in the amount of funds provided to those programs of $3,000,000.

NONPOINT POLLUTION CONTROL

Mr. TORRICELLI. Mr. President, I would like to thank Senators GREGG and HOLLINGS for accepting this amendment to the Commerce, Justice, State and Judiciary Appropriations Bill which directs $3 million to the implementation of nonpoint pollution control plans in the Coastal Zone Management Program.

I rise to draw this country's attention to the national significance of our coasts as an integral part of our national infrastructure. As we approach the next century, we must treat them like our roads, schools, and technology, as the foundation of economic development, job creation, and current prosperity. Our coasts are a central element of the tourism industry which nationally employs 14.4 million people and contributes over 10% to our GDP, making it the second-largest sector in the economy.

With more than 50% of the nation's population living within 50 miles of the shore, our coastal areas are heavily used resources under severe environmental pressures from land development and associated activities as well as seasonal pressures from summer vacationers. For example, over 400,000 people live in the immediate vicinity of the Barnegat Bay estuary in New Jersey; in the summer that number doubles to 800,000. The popularity of Barnegat Bay has caused non-point source pollution from runoff and storm water discharges resulting in blooms of brown tide algae in 1995, 1997, and as recently as last month. Polluted runoff is the major reason why pfiesteria and hazardous algal blooms frequently close rivers, kill fish and make people sick. Nationwide, 40% of our waters are not fit for fishing and swimming; 30% of our shellfish beds are closed or restricted for harvest; and 2500 beaches were declared unsafe for swimming in 1996.

Created in the 1970's, the Coastal Zone Management (CZM) Program is a voluntary partnership between the federal government and coastal states and territories to preserve and restore our coastal areas. The program encourages the wise use of land and water resources through the preparation of special area management plans to protect natural resources while providing for coastal dependent economic growth.

Section 6217 of the 1990 Coastal Zone Reauthorization Amendments requires states and territories with approved coastal zone management programs to develop and implement coastal nonpoint pollution plans. Through prior federal assistance, 29 plans (see attachment) have been conditionally approved and are ready for implementation. (In addition, Texas, Georgia, and Ohio, recently entered the CZM program and will also be working to develop nonpoint runoff plans.) The premise behind this amendment is simple: the federal government must continue to support those who have developed nonpoint pollution plans and are now ready to implement them. These funds are an investment in our future, an investment that will pay dividends not just for our towns and states, but for the entire country and for generations to come.

I ask unanimous consent that the list of states with approved plans be entered into the RECORD.

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

STATES AND TERRITORIES WITH APPROVED COASTAL NONPOINT POLLUTION PLANS

Alabama	New Hampshire
Alaska	New Jersey
American Samoa	New York
California	North Carolina
Connecticut	Northern Mariana Islands
Delaware	Oregon
Florida	Pennsylvania
Guam	Puerto Rico
Hawaii	Rhode Island
Louisiana	South Carolina
Maine	Virgin Islands
Maryland	Virginia
Massachusetts	Washington
Michigan	Wisconsin
Mississippi	

AMENDMENT NO. 3315

On page 34, line 20, insert the following: Strike ''65,960,000'' and insert ''66,960,000''.

On page 34, line 19, insert the following: Strike ''$119,960,000'' and insert ''$120,960,000''.

AMENDMENT NO. 3316

(Purpose: To provide for sentencing enhancements and amendments to the Federal Sentencing Guidelines for offenses relating to the abuse and exploitation of children, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. CHILD EXPLOITATION SENTENCING ENHANCEMENT.

(a) DEFINITIONS.—In this section:

(1) CHILD; CHILDREN.—The term ''child'' or ''children'' means a minor or minors of an age specified in the applicable provision of title 18, United States Code, that is subject to review under this section.

(2) MINOR.—The term ''minor'' means any individual who has not attained the age of 18, except that, with respect to references to section 2243 of title 18, United States Code, the term means an individual described in subsection (a) of that section.

(b) INCREASED PENALTIES FOR USE OF A COMPUTER IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant used a computer with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in any prohibited sexual activity.

(c) INCREASED PENALTIES FOR KNOWING MISREPRESENTATION IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant knowingly misrepresented the actual identity of the defendant with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in a prohibited sexual activity.

(d) INCREASED PENALTIES FOR PATTERN OF ACTIVITY OF SEXUAL EXPLOITATION OF CHILDREN.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on criminal sexual abuse, the production of sexually explicit material, the possession of materials depicting a child engaging in sexually explicit conduct, coercion and enticement of minors, and the transportation of minors; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement applicable to the offenses referred to in paragraph (1) in any case in which the defendant engaged in a pattern of activity involving the sexual abuse or exploitation of a minor.

(e) REPEAT OFFENDERS; INCREASED MAXIMUM PENALTIES FOR TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.—

(1) REPEAT OFFENDERS.—

(A) CHAPTER 117.—

(i) IN GENERAL.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

''§ 2425. Repeat offenders

''(a) IN GENERAL.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who

violates a provision of this chapter, after one or more prior convictions—

''(1) for an offense punishable under this chapter, or chapter 109A or 110; or

''(2) under any applicable law of a State relating to conduct punishable under this chapter, or chapter 109A or 110.

''(b) PUNISHMENT.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.''.

(ii) CONFORMING AMENDMENT.—The analysis for chapter 117 of title 18, United States Code, is amended by adding at the end the following:

''2425. Repeat offenders.''.

(B) CHAPTER 109A.—Section 2247 of title 18, United States Code, is amended to read as follows:

''§ 2247. Repeat offenders

''(a) IN GENERAL.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

''(1) for an offense punishable under this chapter, or chapter 110 or 117; or

''(2) under any applicable law of a State relating to conduct punishable under this chapter, or chapter 110 or 117.

''(b) PUNISHMENT.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.''.

(2) INCREASED MAXIMUM PENALTIES FOR TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.—

(A) TRANSPORTATION GENERALLY.—Section 2421 of title 18, United States Code, is amended by striking ''five'' and inserting ''10''.

(B) COERCION AND ENTICEMENT OF MINORS.—Section 2422 of title 18, United States Code, is amended—

(i) in subsection (a), by striking ''five'' and inserting ''10''; and

(ii) in subsection (b), by striking ''10'' and inserting ''15''.

(C) TRANSPORTATION OF MINORS.—Section 2423 of title 18, United States Code, is amended—

(i) in subsection (a), by striking ''ten'' and inserting ''15''; and

(ii) in subsection (b), by striking ''10'' and inserting ''15''.

(3) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(A) review the Federal sentencing guidelines relating to chapter 117 of title 18, United States Code; and

(B) upon completion of the review under subparagraph (A), promulgate such amendments to the Federal sentencing guidelines as are necessary to provide for the amendments made by this subsection.

(f) CLARIFICATION OF DEFINITION OF DISTRIBUTION OF PORNOGRAPHY.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines relating to the distribution of pornography covered under chapter 110 of title 18, United States Code, relating to the sexual exploitation and other abuse of children; and

(2) upon completion of the review under paragraph (1), promulgate such amendments to the Federal sentencing guidelines as are necessary to clarify that the term ''distribution of pornography'' applies to the distribution of pornography—

(A) for monetary remuneration; or

(B) for a nonpecuniary interest.

(g) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—In carrying out this section, the United States Sentencing Commission shall—

(1) with respect to any action relating to the Federal sentencing guidelines subject to this section, ensure reasonable consistency with other guidelines of the Federal sentencing guidelines; and

(2) with respect to an offense subject to the Federal sentencing guidelines, avoid duplicative punishment under the guidelines for substantially the same offense.

(h) AUTHORIZATION FOR GUARDIANS AD LITEM.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice, for the purpose specified in paragraph (2), such sums as may be necessary for each of fiscal years 1998 through 2001.

(2) PURPOSE.—The purpose specified in this paragraph is the procurement, in accordance with section 3509(h) of title 18, United States Code, of the services of individuals with sufficient professional training, experience, and familiarity with the criminal justice system, social service programs, and child abuse issues to serve as guardians ad litem for children who are the victims of, or witnesses to, a crime involving abuse or exploitation.

(i) APPLICABILITY.—This section and the amendments made by this section shall apply to any action that commences on or after the date of enactment of this Act.

AMENDMENT NO. 3317

On page 128, line 9, strike ''(1)'';

On page 129, line 3, strike ''(2)'' and insert in lieu thereof ''(b)''; on line 6, strike ''paragraph (1)'' and insert in lieu thereof ''subsection (a)''; on line 14, strike ''(3)'' and insert in lieu thereof ''(c)''; strike ''subsection'' and insert in lieu thereof ''section''.

On page 129, strike all of the subsection ''(b)'' beginning on line 18 to the end of the subsection on page 130.

AMENDMENT NO. 3318

(Purpose: To provide for funding for a firearm violation demonstration project)

On page 9, line 15, strike the period and insert the following: '':*Provided further,* That $2,300,000 shall be used to provide for additional assistant United States attorneys and investigators to serve in Philadelphia, Pennsylvania and Camden County, New Jersey, to enforce Federal laws designed to prevent the possession by criminals of firearms (as that term is defined in section 921(a) of title 18, United States Code), of which $1,500,000 shall be used to provide for those attorneys and investigators in Philadelphia, Pennsylvania and $800,000 shall be used to provide for those attorneys and investigators in Camden County, New Jersey.''.

AMENDMENT NO. 3319

(Purpose: To require the submission in advance of a certification to Congress before certain funds are disbursed for contributions to the United Nations)

On page 100, between lines 18 and 19, insert the following:

SEC. 407. Before any additional disbursement of funds may be made pursuant to the sixth proviso under the heading ''CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS'' in title IV of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (as contained in Public Law 105–119)—

(1) the Secretary of State shall, in lieu of the certification required under such sixth proviso, submit a certification to the committees described in paragraph (2) that the United Nations has taken no action during the preceding six months to increase funding for any United Nations program without identifying an offsetting decrease during the 6-month period elsewhere in the United Nations budget and cause the United Nations to exceed the reform budget of $2,533,000,000 for the biennium 1998–1999; and

(2) the certification under paragraph (1) is submitted to the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives at least 15 days in advance of any disbursement of funds.

AMENDMENT NO. 3320

At the appropriate place in Title IV, insert the following new section:

SEC. . BAN ON EXTRADITION OR TRANSFER OF U.S. CITIZENS TO THE INTERNATIONAL CRIMINAL COURT.

(a) None of the funds appropriated or otherwise made available by this or any other Act may be used to extradite a United States citizen to a foreign nation that is under an obligation to surrender persons to the International Criminal Court unless that foreign nation confirms to the United States that applicable prohibitions on reextradition apply to such surrender, or gives other satisfactory assurances to the United States that it will not extradite or otherwise transfer that citizen to the International Criminal Court.

(b) None of the funds appropriated or otherwise made available by this or any other Act may be used to provide consent to the extradition or transfer of a United States citizen by a foreign country that is under an obligation to surrender persons to the International Criminal Court to a third country, unless the third country confirms to the United States that applicable prohibitions on reextradition apply to such surrender, or gives other satisfactory assurances to the United States that it will not extradite or otherwise transfer that citizen to the International Criminal Court.

(c) DEFINITION.—As used in this section, the term ''International Criminal Court'' means the court established by agreement concluded in Rome on July 17, 1998.

AMENDMENT NO. 3321

(Purpose: To prohibit the availability of funds for the International Criminal Court unless the agreement establishing the Court is submitted to the Senate for its advice and consent to ratification as a treaty)

On page 100, between lines 18 and 19, insert the following new section:

SEC. 407. (a) None of the funds appropriated or otherwise made available by this or any other Act (including prior appropriations) may be used for—

(1) the payment of any representation in, or any contribution to (including any assessed contribution), or provision of funds, services, equipment, personnel, or other support to, the International Criminal Court established by agreement concluded in Rome on July 17, 1998, or

(2) the United States proportionate share of any assessed contribution to the United Nations or any other international organization that is used to provide support to the International Criminal Court described in paragraph (1),

unless the Senate has given its advice and consent to ratification of the agreement as a treaty under Article II, Section 2, Clause 2 of the Constitution of the United States.

Mr. GREGG. I very much appreciate the kind comments obviously of the

Senator from South Carolina. This bill has been a fairly complicated exercise, but its movement is entirely tied to the fact that the Senator from South Carolina brings to this floor extraordinary expertise and professionalism. It is a joy to work with him because his knowledge of how to move things around here is second to none and his history as to where some of the issues lie is equally dramatic, and so I greatly appreciate the chance to work with him. I thank him for all of his support and effort. This has been a bill that has moved forward as a result of the strong support of the Senator from South Carolina.

Mr. HOLLINGS. I thank our chairman. Has our managers' amendment been adopted?

Mr. GREGG. Yes.

Mr. HOLLINGS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Mr. President, the Manager's Amendment includes $800,000 to hire additional assistant U.S. attorneys and investigators in Camden County, New Jersey. This amendment builds on an initiative that was originally proposed by Senator SPECTER. At his request, the bill provides $1.5 million to hire additional assistant U.S. attorneys and investigators in Philadelphia to enforce federal laws designed to keep firearms out of the hands of criminals.

I appreciate Senator SPECTER's effort. I think that additional law enforcement funding will help stop the gun carnage on our streets. My amendment would expand this effort into Camden, which neighbors Philadelphia. I want to ensure that the crackdown in Philadelphia does not simply push gun criminals into Camden. Clearly, a cooperative effort will provide a more comprehensive solution for the entire region.

I want to thank Senator GREGG and Senator HOLLINGS for their help with this amendment.

Mr. MCCONNELL. Mr. President, will the distinguished manager of the bill, Senator GREGG, yield for a colloquy?

Mr. GREGG. I am happy to yield to the Senator from Kentucky for a colloguy.

Mr. MCCONNELL. Mr. President, the Communications Assistance for Law Enforcement Act of 1994 (CALEA) was intended to preserve the ability of law enforcement agencies to conduct court-approved wiretaps on new digital networks. Implementation of this important legislation is currently two-and-one-half years behind schedule because industry and law enforcement have not been able to reach agreement on technical standards required under CALEA. In March of this year, the Department of Justice, the FBI, industry, and privacy groups all agreed that the Federal Communications Commission (FCC) should resolve the technical capability standards dispute as envisioned under CALEA. The latest information I have from the FCC is that the Commission does not expect to issue a final electronic surveillance capability standard until late this year.

Does the Senator from New Hampshire agree that the FCC should make this decision?

Mr. GREGG. I believe that the FCC should move expeditiously to resolve this matter.

Mr. MCCONNELL. After the statutory compliance date—October 25, 1998—telecommunications carriers could be subject to fines of up to $10,000 per day for failure to deploy equipment to meet CALEA compliance standards that currently do not exist and will not exist until the FCC sets the standard. According to industry sources, telecommunications equipment manufacturers will need approximately two years after the FCC sets a final standard to develop technology to meet the new standard.

CALEA authorized the Attorney General to reimburse the industry up to $500 million for the costs directly associated with modifying equipment that was installed or deployed before January 1, 1995 (the statutory ''grandfather date''). Since January 1, 1995, a significant portion of all wireline switches, a majority of cellular switches, and virtually all personal communications services devices have been installed.

Mr. President, I am concerned that if the FCC sets a new CALEA technical capability standard and there is no change to the January 1, 1995 statutory grandfather date, industry may be required to retrofit that equipment at their own expense at a cost that could exceed hundreds of millions of dollars.

I do not think that the American people want to pay what could be considered an electronic surveillance tax running into the hundreds of millions of dollars. I know that the people in my state of Kentucky do not. I recognize that this is a complicated controversial issue, but I believe that Congress must act this year to adjust both the statutory compliance and grandfather dates contained in CALEA to allow the statute to work and avoid the prospect of an electronic surveillance tax on consumers.

I would like to work with the Chairman and the distinguished Ranking Member of the Subcommittee, Mr. HOLLINGS of South Carolina, to see if together, we can find a way to address this problem this year.

Mr. GREGG. I would be happy to work with the distinguished Senator and Senator HOLLINGS, the ranking member of the Subcommittee on Commerce, Justice, State, the Judiciary and Related Agencies on this issue.

Mr. MCCONNELL. I thank the Chairman, and I yield the floor.

REPEAL OF SECTION 110 IN CJS APPROPRIATIONS BILL

Mrs. MURRAY. Mr. President, I rise in strong support of the Commerce, State, Justice Appropriations measure. As a member of the Appropriations Committee, I can speak to the importance of this legislation and I commend Senator GREGG and Senator HOLLINGS for putting this bipartisan product together.

I could speak to many important provisions in this bill for my constituents. From fisheries to the cops on the street to export assistance, this bill is important to Washington state. But there is one provision in the bill that I wish to give special attention to today. And that's the language to repeal Section 110 of the 1996 Illegal Immigration Act.

The repeal of Section 110 is one of my highest priorities for the year. As a member of the Appropriations Committee, I do strongly support including the repeal in the Commerce, State, Justice Appropriations legislation.

Section 110 requires the Immigration and Naturalization Service to develop an automated entry and exit system for the purpose of documenting the entry and departure of ''every alien'' entering and leaving the United States. It was not until after Section 110 became law that Congress became aware of the full impact of this new language.

As currently written, Section 110 will have disastrous consequences for U.S. border communities whose economies are dependent on border travel, trade and tourism. For example, more than $1 billion dollars in economic activity is generated each day by legal crossings between the U.S. and Canada. More than 116 million people legally crossed the border from Canada in 1996. This travel and economic activity will be discouraged to the detriment of U.S. interests if we impose new restrictions and create additional bureaucratic delays along our shared borders.

Section 110 will have dire consequences for my entire state and particularly for the residents of Northwest Washington in Whatcom County. In my state, Section 110 will create an invisible barrier between neighbors, families and coworkers who happen to live on different sides of the border. More than $250 million dollars of annual economic activity in Washington state will be threatened. Border infrastructure which is already inadequate and overwhelmed at certain times of the year will be further burdened with new documentation requirements and traffic congestion certain to anger both American citizens and Canadian nationals. It is estimated that Section 110 will almost immediately create a 12 hour backup at the border in Blaine, Washington.

Section 110 is a ticking time bomb. It's really that simple. The INS does not have the technology, facilities or trained personnel to implement this language. The real explosive issue here is the cost to implement Section 110. The INS is silent on this issue. That's because it will cost billions of dollars to implement the Section 110 time bomb. Let's be very clear on this point, without changes this provision will cost billions of dollars not anticipated

by either the Congress or the American people.

Many of my constituents in Whatcom County will view the repeal of Section 110 as the most significant action taken by the Congress this year. Section 110 is the classic square peg solution for a round hole problem. That's why I've been fighting for more than a year to scrap the disastrous language.

Last year, I introduced the first Senate bill on this issue. My bill, S. 1205, the U.S.-Canada Economic Friendship Preservation Act of 1997 seeks to exempt Canadians from Section 110. The effort to fix the Section 110 problem has grown tremendously since the introduction of my bill. Communities across Washington state and virtually the entire Northern Border are working to preserve our close ties with our Canadian neighbors. Governors from Washington state, Michigan, Texas, Arizona and others are supporting the effort. Editorials endorsing the repeal of Section 110 have been written all across the country including The Bellingham Herald, The Seattle Post Intelligencer, The Los Angeles Times, The Washington Post, and The San Diego Union Tribune have all criticized Section 110. Numerous Chambers of Commerce and other business and community groups from all parts of the country are supporting the repeal Section 110 effort.

Various legislative efforts have garnered bipartisan and broad support. I am also an original cosponsor of Senator ABRAHAM's legislation addressing Section 110 and I compliment him for his leadership and advocacy on this issue. Senator ABRAHAM has been a champion in this effort; holding hearings along the border and in Washington, D.C. in his capacity as Chairman of the Immigration Subcommittee. I continue to believe the Senate in addition to passing the language in this bill should pass Senator ABRAHAM's stand alone bill on Section 110.

I commend my colleagues at the Appropriations Committee for taking this action to repeal Section 110. And I urge my colleagues to give this language strong and bipartisan support.

NOAA WEATHER RADIO COVERAGE IN SOUTH DAKOTA

Mr. JOHNSON. Mr. President, I rise today to update the Senate on my efforts to enhance statewide emergency warning systems in South Dakota. A person only has to open up a newspaper or watch the evening news to learn of the latest plight afflicting some region of the country. In recent years, our nation has been continuously ravaged by natural disasters, ranging from mudslides in California, massive flooding in the Midwest, as well as the annual hurricane and tornado seasons. These disasters have resulted in fatalities, enormous property damage, and has caused lingering disruptions of entire communities. This has never been more evident then this year, as our nation continues to feel the effects of the weather anomaly known as El Nino. Since August 1992, the National Oceanic and Atmospheric Administration (NOAA) has calculated that twenty-one weather-related disasters caused a staggering $90 billion in damages and resulted in over 900 fatalities.

South Dakota has by no means escaped Mother Nature's destructive path. Last year, South Dakota was plagued by severe weather conditions, beginning with record snowfalls in January and February, and the worst flooding in the state's history in April and May. Many residents were displaced from their homes, and the final cost for clean-up and assistance total in the millions of dollars. This year has been no different. Heavy rains have once again flooded homes and farmland in the northeast part of the state.

Recently, a tornado touched down with very little warning, completely destroying the town of Spencer, South Dakota. The Spencer disaster made me realize that additional efforts need to be made in order to provide citizens with the earliest possible warning of imminent danger. In my efforts to find new ways to update South Dakota's antiquated early warning system, it was brought to my attention that an immediate solution to upgrading the system would be the use of NOAA Weather Radios.

NOAA Weather Radios broadcast National Weather Service (NWS) warnings, watches, forecasts and other hazard information 24 hours a day. These NOAA Weather Radios automatically sound an alarm and turn themselves on when a severe weather warning or emergency information is issued for a specific county. These radios receive a signal that is broadcast from NWS transmitters located throughout the state. Seventy percent of South Dakota's population currently can receive these NOAA Weather Radio warnings. However, due to the rural nature and dispersed population of South Dakota, there are not enough NWS radio transmitters to provide total NOAA Weather Radio coverage. Many small towns who would be the beneficiaries of this warning system do not reside within range of one of the five NWS transmitters presently in South Dakota.

I have been working with NOAA and the South Dakota NWS to examine ways in which we can increase NOAA Weather Radio coverage so that 95 percent of South Dakota's population reside within range of a transmitter. I have met with Department of Commerce Under Secretary Dr. James Baker, who also is the Administrator of NOAA, to inquire about the requirements for attaining almost complete NOAA Weather Radio coverage for South Dakota. Following my discussions with Dr. Baker, I held several meetings throughout South Dakota with NWS representatives, emergency managers, and county officials to ascertain opportunities and resources already available in our state to augment our existing NOAA Weather Radio coverage.

The South Dakota NWS expects that eight additional transmitters would provide sufficient coverage. The South Dakota NWS currently is examining locations to position these additional transmitters, and they will be submitting their final report to NOAA and my office forthwith.

During consideration of the FY 1999 Commerce, Justice, State, and Judiciary Appropriations bill, I have worked with Senator GREGG and Senator HOLLINGS in examining all available options to acquire the funding necessary to purchase NOAA Weather Radio transmitters for counties that presently do not receive NOAA Weather Radio coverage, and to ensure that 95 percent of South Dakota's population is covered by NOAA Weather Radio.

Mr. President, I strongly believe that the modest funding necessary to complete this goal would go a long way in augmenting South Dakota's NOAA Weather Radio coverage. Although South Dakota is extremely well-prepared to deal with the impending tornado season, I believe it is my responsibility to use every resource available to address the consequences of weather-related events and work the losses associated with them.

I look forward to working with Senator GREGG, Senator HOLLINGS and the conferees to locate funding for additional NOAA Weather Radio transmitters for South Dakota, and I appreciate their willingness to work with me on this critically important issue.

Mr. WELLSTONE. Mr. President, I rise to discuss a provision contained in the Commerce/Justice/State Appropriations bill: ''Grants to Combat Violent Crime Against Women on Campuses,'' which provide $10 million a year to the Department of Justice for dissemination to colleges. I want to thank Senator GREGG, the Chairman of the Appropriations Subcommittee on Commerce, Justice, and State, for working with me to ensure that this provision becomes law.

In the 1980s, several high profile violent crimes on campuses raised concern about campus crime and security, resulting in the Student Right-to-Know and Campus Security Act (C.S.A.) in 1990. Though overall crime rates are declining, sexual assaults throughout the United States, including on college campuses, are on the rise. Studies tell us:

Twenty percent of college-aged women will be victims of sexual assault at some point during their college careers.

According to a 1995 study, 82 percent of rapes or sexual assaults in 1992–93 involved a person the victim knew.

Rape remains the most under reported violent crime in America, with approximately 1 in 6 rapes reported to police.

I am very concerned about sexual assault on college campuses. A 1991 survey of more than 6,000 college students

found that 42 percent of women students reported some form of sexual assault, including forcible sexual contact, attempted rape, and completed rape. This is simply unacceptable and we must do something to turn this around.

We have already taken an important step in addressing violence on campuses. Already included in the Higher Education Act are efforts to strengthen reporting so that we can get more accurate statistics and a national baseline study has been commissioned to look at the policies and procedures regarding sexual assault, and how effective they are.

That's a great start, but it's not enough. It's not enough to simply get better statistics. It's not enough to look at how sexual assaults are dealt with on campuses. We have to go further. We have to combat sexual assault on campuses. We have to end the violence. Even one victim of sexual assault is too many.

A critical component to addressing violence against women on campus is good collaboration among those who work with victims of sexual assault—campus police, local law enforcement, campus administrators, and victim services. We need to improve the coordinated response to violence on campuses. We need consistent enforcement and implementation of policies regarding sexual assault. We need enhanced communication between the campus and local community.

And in turn, this increased communication will result in more accurate statistics. According to a GAO report released last March, one of the reasons we don't have good statistics is that campuses have had trouble deciding how to include crimes reported to campus officials who are not campus police. It's not unusual for crimes on campus to be reported to local police and not reported in campus crime reports. Improving collaboration within and between campus and off-campus agencies will improve the statistics—and therefore give us a more realistic picture of violence on campuses. It will also improve services and care for victims.

The grant program we've created—Grants to Combat Violent Crime Against Women on Campuses—would make $10 million a year available to college campuses so that campus personnel and student organizations could work with campus administrators and police. The aim is to improve security and investigation methods to combat violence against women on campus and to improve victim services. These efforts may include partnerships with local criminal justice folks and community victim services organizations. Collaborating with community resources is especially critical when campuses have minimal victim support services and students are isolated from community support systems.

Some say, ''Why do this federally? Shouldn't schools do this themselves?'' But why should we be surprised that schools have yet to properly initiate these collaborations when communities haven't even started. We need to hold the line on violence everywhere, in schools and in communities. And the only way to overcome violence involves setting up collaborative programs, and that takes funds. That's what the federal government does when it is functioning best—get the ball rolling.

Campus safety is an educational access issue. Violence on campus is a huge barrier to education for many students who are in fear of being attacked because they feel unprotected on their own campuses. Without adequate prevention and protection services, many students—women in particular—continue to become victims of attacks, while others remain afraid to take night classes or to study late at the library. And victims of sexual assault may choose to leave school because they feel unprotected.

How are college women supposed to focus on their educations when one out of five college women will be a victim of sexual assault? And if it's not themselves personally, it will surely be their roommates, their classmates, their sorority sisters, or their friends. College is the time when many young people begin to break away from the protection of their families, a time of learning—both in the classroom and out—a time of freedom. But for many young women, it's also a time of trauma, a time of victimization, a time of violence. It's time to make campuses safe.

During the Higher Education Act Markup in the Senate, I reached a public agreement with Senator GREGG to work together to develop a Campus Safety Collaborative Grant Program. On May 6th, Senator GREGG agreed to the language I proposed, creating a $10 million grant program administered by the Department of Justice for collaborative grants to colleges in order to combat violence on campus. Consequently, the Senate Working Group—Senator JEFFORDS, KENNEDY, COATS, and DODD—adopted the language into the Manager's Substitute of the Higher Education Act. And I am very pleased that Senator GREGG has inserted funding for this program into the Commerce/State/Justice Appropriations Bill.

The Wellstone/Gregg Collaborative Grant Program states: ''enough is enough. It's time to end the violence.'' I thank Senator GREGG for all of his efforts, and I urge my colleagues to support this important provision.

IOWA COMMUNICATIONS NETWORK (ICN)

Mr. HARKIN. Mr. President, I understand that the intent of Section 254(h) of the Communications Act of 1934, commonly referred to as the Schools, Libraries and Rural Health Care Providers program or the ''E–Rate'' program, is to provide schools, libraries and health rural care providers with access to advanced telecommunications services. I believe that the Iowa Communications Network (ICN), a state run and owned communications network, as well as similarly situated entities, should be able to fully participate in the E–rate program. If the ICN is denied that opportunity by the Federal Communications Commission (FCC), Iowa schools will be unfairly and improperly placed at a disadvantage.

The FCC has said that an entity must be a common carrier to be a telecommunications carrier, as that term is used in Section 254(h) of the Communications Act of 1934, and to receive payments from the universal service fund for providing telecommunications service to schools, libraries and rural health care providers. The Universal Service Administrative Company is treating the ICN as a carrier for purposes of paying into the universal service fund, and ICN is, in fact, paying into the fund. The Iowa Utilities board, the local expert on this issue, has stated that the ICN functions as a common carrier under Iowa law, since the ICN serves all of its customers on equal terms and conditions. In light of these facts, does the center believe the ICN and other systems like it should be fully eligible to receive the benefits of the fund, including those available to telecommunications carriers?

Mr. MCCAIN. Given the statement of facts that the Senator has presented, it is my belief that it was clearly my intent and the intent of Congress that a State network organized and operated like the ICN is eligible to receive universal service fund support as a provider of telecommunications services under Section 254(h) of the Communications Act of 1934.

In addition to any action taken by the Federal Communications Commission, the Commerce Committee intends to further look into this issue. This program should treat all involved equally and not give any advantage to some while placing others at a disadvantage. Together, with the Ranking Member, we will do what is necessary and appropriate to deal with this matter.

Mr. HOLLINGS. I agree with Senator MCCAIN, the Chairman of the Commerce Committee, and Senator HARKIN that a State network organized and operated like the Iowa Communications Network is eligible to receive universal service fund support as a provider of telecommunications services under Section 254(h) of the Communications Act of 1934. I will certainly work with Senator MCCAIN and others if this issue arises in the Commerce Committee.

Mr. HARKIN. I appreciate your attention to this important issue.

ITC REGIONAL OFFICE

Ms. SNOWE. Mr. President, as the Senator from New Hampshire knows, I recently urged the Federal Trade Commission to reconsider their decision to close the Boston Regional Office and move all area activity for consumer protection and antitrust matters to New York City. The Boston office has

served the people of Maine—and the rest of New England—well for over 40 years and I am concerned that thee may be adverse consequences as the Boston office is uniquely situated in New England to focus on fraud and deception issues that target senior citizens, or for unsubstantiated advertising claims that affect consumers' pocketbooks.

The Boston office has been a leader in coordinating efforts to combat consumer fraud in the New England area, partnering with regional FBI and IRS officials in its efforts to detect fraud on the Internet. The office has also worked with Canadian officials on cross-border fraud. In addition, the office has been active in addressing false and unsubstantiated advertising claims that affect consumers' health and safety, for instance stopping a company from claiming that their calcium product prevented osteoporosis, or preventing misleading food safety claims for a food thawing tray, or stopping a company from selling water treatment devices that did not meet the claims made.

The Boston office has also worked with senior citizens to detect and avoid telemarketing fraud specifically targeted at them, and also spends a great deal of its time performing other consumer and business outreach and educational services, including educational outreach to the next generation of consumers—the schoolchildren throughout New England.

I hope that the FTC can be urged to first consider the findings of a GAO independent evaluation due out in September before they continue with their planned closure of the Boston Office in December.

Mr. GREGG. I understand your concern about the possible adverse effects the closure of the Boston Regional Office could have on the people of New England, and while we have not heard a groundswell of protest from the public for keeping the office open, the situation may well be that the office will not be missed until or if New Englanders can no longer get the response they expected when lodging consumer complaints. The GAO findings as to the effectiveness of the Boston office should certainly be considered by the FTC Commissioners as they plan their restructuring plan to maximize their resources to best serve the consumers of the U.S., and including the residents of New England. I thank the lady Senator from Maine for requesting the GAO Study so that the FTC can quantify the best use of their limited resources.

Ms. SNOWE. I thank the Senator from new Hampshire for all his assistance and fine work as Chairman of the Commerce, Justice, State and Judiciary Appropriations Subcommittee, and for his effectiveness in bringing about the passage of this legislation today.

PFIESTERIA

Mr. FAIRCLOTH. I wish to enter into a colloquy with Senator GREGG in order to emphasize the funding needs of North Carolina in regards to Pfiesteria and the expertise available to research this toxic microbe at N.C. State university.

Pfiesteria is a toxic microbe that kills fish and causes widespread fish disease. Its toxins are known to affect many species of commercially important finfish and shellfish.

Pfiesteria is also highly toxic to people—it causes subtle, but serious, impacts on human health. People who are exposed to toxic outbreaks of Pfiesteria, where fish are dead or filled with open bleeding sores from this creature's toxins, can be seriously hurt as well.

Medical studies have shown that fishermen and other people whom have been exposed to these toxic outbreaks have suffered profound memory loss and learning disabilities for months afterward. Laboratory workers exposed to airborne toxins from Pfiesteria have had other health impacts that have lingered for years, suggesting the potential for some long-term, lingering health problems for people in estuaries where toxic outbreaks occur.

Pfiesteria's toxins are extremely potent—People are hurt from these toxins if they have contact with the water, or even if they breathe the air over places where Pfiesteria is attacking fish. These toxins affect the human nervous system. They also strip the skin from fish, make deep bleeding sores, and suppress the immune system. Small amounts of the toxins can make fish very sick in three-five seconds and kill them in five minutes.

Pfiesteria was first discovered in 1991, as a major cause of fish kills in the Albemarle—Pamlico Estuary of North Carolina. This estuary is of great importance to the commercial fishing industry of this country. It is the second largest estuary on the U.S. mainland, and it supplies half of the total area used by fish from Maine to Florida as nursery ground. Recently, Pfiesteria also affected small numbers of fish in the largest estuary on the U.S. mainland, the Chesapeake Bay.

Pfiesteria, and its close relatives, have been confirmed in the mid-Atlantic and southeastern U.S. Toxic Pfiesteria and its close relatives are believed to be widely distributed in many warm temperate estuaries and coastal waters of the country and the world.

Pfiesteria thrives in polluted waters that are over-enriched in nutrients from sewage and other wastes. With exponential human population growth a reality for many coastal areas of our country, more of our people are living and working near waters where these toxic outbreaks occur.

Pfiesteria has affected the largest and second largest estuaries on the U.S. mainland with major economic impacts. Its toxic outbreaks have caused millions of dollars of damage to seafood, tourism, and other industries in coastal areas. Thus, Pfiesteria has become a high profile national issue for human health and the coastal economy. Its toxic outbreaks are expected to increase in coming years, associated with sewage and other wastes.

Pfiesteria can have potentially devastating impacts on our fish resources. Beyond easily detected fish kills, Pfiesteria affects fish at the population level by severely impairing their reproduction, the survival of their eggs and young, and their ability to fight disease.

Pfiesteria's impacts on human health are also serious: Imagine what it would be like to appear normal, but to have no idea of where you are, to be unable to put words into sentences, or to understand English. You have lucid moments in which you realize that something is terribly wrong; then you slide back down. As you begin to recover, you must take reading lessons to be able to read again. Imagine life style changes—that even after you are able to test normally for learning and memory, you must compensate because you have lost the ability to process information as quickly as you could before the illness occurred, and you do not recover it. Imagine not being able to strenuously exercise because when you try, you develop severe bronchitis or pneumonia. Consider what it would be like to be a fairly young, energetic person who must be on antibiotics more than a third of the year, five years after being affected . . . what it would be like to watch as increasingly potent antibiotics do not help you recover from the most recent, nearly constant illness, and to fear the prospect of reaching the point at which the most potent antibiotics no longer can help. This description characterizes the lives of several laboratory workers five to seven years following Pfiesteria toxin exposure.

In North Carolina, Pfiesteria has poisoned and killed millions of fish nearly every year from 1991, when scientists first discovered it, to the present. Last year, its toxic outbreaks also killed about 30,000 fish in Chesapeake waters.

Thus, the Albemarle-Pamlico, which is of such great importance to fisheries along the Atlantic Seaboard, has been hit hardest by Pfiesteria. North Carolina also has the world's foremost scientific expertise on Pfiesteria.

Dr. JoAnn M. Burkholder is a Professor of Aquatic Botany and Marine Sciences at North Carolina State University, and a Pew Fellow. She obtained a Bachelor of Science degree in zoology from Iowa State University, a Master of Science in aquatic botany from the University of Rhode Island, and a Ph.D. in botanical limnology from Michigan State University. Dr. Burkholder's research over the past 25 years has emphasized the nutritional ecology of algae, dinoflagellates, and seagrasses, especially the effects of cultural eutrophication on algal blooms and seagrass disappearance. Since co-discovering the toxic dinoflagellate,

Pfiesteria piscidia, in 1991, she has worked to characterize its complex life cycle and behavior, its stimulation by nutrient over-enrichment, and its chronic/sublethal as well as lethal impacts on commercially important finfish and shellfish in estuaries and aquaculture facilities.

Howard Glasgow is the Director of North Carolina State University Acquatic Botany Laboratories. He obtained a Bachelor of Science degree in Chemistry and a Bachelor of Arts degree in Marine Biology from the University of North Carolina at Wilmington. Mr. Glasgow is now finishing a Ph.D. degree in Marine Sciences from North Carolina State University. Before joining the Aquatic Botany Program at NCSU in 1990 Mr. Glasgow was President and CEO of Glasgow Electronics (North Carolina's 2nd largest electronics servicing and engineering organization) were in 1989 he was nominated Businessman of the year and appointed as a member of Who's Who In U.S. Executives. His scientific interests compliment Dr. Burkholder's, and together they have characterize Pfiesteria's complex life cycle and behavior. Including research describing Pfiesteria's responses to stimulation by nutrient over-enrichment, and its chronic/sublethal as well as lethal impacts on commercially valuable finfish and shellfish in estuaries and aquaculture facilities.

The researchers who discovered it as a major cause of fish kills in estuaries have been working with Pfiesteria at North Carolina State University for the past decade. Nearly all of the science articles that have been published on Pfiesteria—that is, nearly all of the information available about it—has been contributed by that laboratory.

Armed with this formidable expertise, these researchers are poised to make the most rapid and significant progress to understand and control Pfiesteria, so that our people, and our fisheries, do not continue to be seriously hurt by it.

Despite the demonstrated expertise of this laboratory on the Pfiesteria issue, very little federal funding support has reached it.

These researchers are well-known for their leadership role in providing information about Pfiesteria that is critically needed by coastal resource managers, policy makers, and fishermen and many other folk who utilize our estuaries. Their research laboratory is located in the heart of the area where toxic Pfiesteria outbreaks have been most severe.

The funding would also make it possible for the most experienced researchers to determine the environmental conditions that promote toxic activity by Pfiesteria, so that its toxic production can be significantly reduced, and so that we can develop effective management strategies to discourage Pfiesteria's growth.

This funding would make it possible to achieve rapid progress in identifying the suite of toxins that produced by Pfiesteria, so that improved tools can be developed to diagnose Pfiesteria toxin exposure in people, to ensure that seafood is safe for human consumption, and to develop medicines to reduce the impacts of Pfiesteria's toxins in people and help them recover.

Mr. GREGG. I appreciate you bringing this funding issue to my attention, and I will work with you on this matter. I agree with you that scientific talent available at N.C. State University should be funded.

Mr. HOLLINGS. I appreciate the dedication of researchers at the N.C. State University. Howevr, this dedication is not limited to that institution, and we also must recognize the expertise and important contribution of government and academic scientists throughout the Eastern United States in dealing with this problem. For example, researchers at the National Ocean Service laboratory at Charleston are playing a critical role in developing methods for detecting Pfiesteria toxins. The reduction of toxin outbreaks must rely on bringing our combined federal, state and academic resources to bear on the problem in a cooperative and cost effective manner.

JEFFERSON PARISH COMMUNICATIONS SYSTEM

Mr. BREAUX. Mr. President, I would like to engage in a colloquy with Senator GREGG, the distinguished Chairman of the Appropriations Subcommittee on Commerce, Justice, and State, the Judiciary and Related Agencies, Senator HOLLINGS, the Subcommittee's distinguished Ranking Member, and Senator LANDRIEU, my distinguished colleague from Louisiana, concerning an important public safety matter in Jefferson Parish, Louisiana.

As my colleagues know, the Jefferson Parish Sheriff's Office has gained attention as one of our nation's most innovative and accomplished law enforcement agencies. Unfortunately, the Sheriff's Office's has been stymied in the past by a grossly inadequate and outdated conventional 450 MHz UHF radio system that has threatened public safety. It simply cannot provide the secure and varied communications capabilities needed by the Jefferson Parish Sheriff's Office in order for it to communicate with various state and federal law enforcement agencies.

To meet its operational needs, the Sheriff's Department has pursued the purchase of a new 800 MHz communications system. This new system will enable the Sheriff's Office to maintain a high and secure level of communication with district personnel and others. Through better communication, each officer can patrol his or her reporting areas more effectively. The new system will also enable the Sheriff's Office to successfully communicate with residents and other public safety officials during emergency situations, such as natural disasters, which require coordination of state and federal efforts.

I would like to thank the Subcommittee for recognizing the importance of this project and for providing partial funding for this initiative in last year's appropriations bill. Unfortunately, Congress only provided half of what the Sheriff's Office needs to complete the new communications system. Now is the time for Congress to finish its commitment to fund this project.

Ms. LANDRIEU. Mr. President, I would like to join my colleague in thanking the Subcommittee for its action last year in providing funding for this vital initiative. I fully agree with my distinguished colleague that the completion of the new communications system for the Jefferson Parish Sheriff's Office is a high priority project that deserves funding under the FY 1999 COPS Technology Grant Program. The Sheriff's Department has committed to at least a 50-50 cost share with the federal government for this initiative which can serve as a national model. Further, the new communications system will help meet a clear public safety need by supporting interoperability and thus enhancing communication between the Jefferson Parish Sheriff's Department and a number of other local and national law enforcement and public safety agencies throughout the region. This interoperability will enhance the Sheriff's Department's effectiveness in combating crime and responding to area-wide public safety emergencies.

I would also like to add that funding is needed in order for the Sheriff's Office to meet FCC requirements and the procurement implementation schedule for the new system.

Mr. BREAUX. Given the importance of this project, I hope that the conferees will agree to provide funding for completion of the enhanced radio system for the Jefferson Parish Sheriff's Department.

Ms. LANDRIEU. I join my colleague from Louisiana in urging my distinguished colleagues to work in conference to finish the federal commitment we have made to this much-needed system.

Mr. GREGG. I would like to thank the Senators from Louisiana for understanding that the Subcommittee was unable to accommodate the entire request for funding in last year's appropriations bill. Funding for the completion of the new communications system for the Jefferson Parish Sheriff's Office in Jefferson Parish is a project worthy of attention in conference this year.

Mr. HOLLINGS. The Senators from Louisiana have highlighted an important issue. I agree with the distinguished Chairman that the completion of the communications system for the Jefferson Parish Sheriff's Office is a project that deserves consideration and I will give this matter my attention in conference.

Mr. BREAUX. The support from the distinguished Chairman and Ranking Member of the Subcommittee in this matter is greatly appreciated.

DATA SURVEY OF NARRAGANSETT BAY

Mr. CHAFEE. Mr. President, I want to engage in a colloquy with the chairman of the subcommittee, Senator GREGG.

On page 93 of the report accompanying the FY99 Commerce, Justice, State and the Judiciary Appropriations Act (S. Rept. 105–235) is a provision appropriating $1 million for a data survey of Narragansett Bay, to be conducted in conjunction with the Rhode Island Coastal Resources Management Council (CRMC). I would like to outline to the chairman my understanding of the purpose of these funds, and request his concurrence.

The $1 million appropriated for this project is to be used by CRMC for a Geographic Information System (GIS) software program to develop digital data on Narragansett Bay's resource conditions, availability and use. Advanced sonar technology would be employed to assess the Bay's bottom sediment types, habitat and use conflicts. A previous EPA study, the Narragansett Bay Critical Resource mapping project, was unable to collect data on bottom habitat, due to the limitations of research methods used at the time.

The data collected by this project would provide CRMC with information that, combined with input from other sources, would be helpful in determining appropriate sites for aquaculture leases, a function currently hindered by inadequate data and ongoing disputes over use. The data would also be useful in making several other decisions related to marine management issues. In addition, the project is intended to provide for studies relating to questions regarding environmentally sound and economically sustainable forms of aquaculture by the University of Rhode Island's Partnership for the Coastal Environment.

It is intended that the data collected and developed under this project not only be utilized by CRMC, but will also be made available to other Federal and State agencies as well as private fishery and conservation groups. I would like to briefly describe some of the entities that could potentially benefit from this data and ought to have access to it.

First, the National Marine Fisheries Service (NMFS) and the Rhode Island Department of Environmental Management (DEM) could use the data to identify existing essential fish habitats (EFH) not only in Narragansett Bay, but also in nearby Rhode Island and Block Island sounds. In addition, the Rhode Island Economic Development Corporation (RIEDC) ought to have access to the data in order to help establish suitable shipping lanes for larger vessels serving the cargo port at Quonset Point. Further, the data could be useful to NOAA's National Estuary Research Reserve NERR in selecting eelgrass restoration sites, identifying areas impacted by fishing gear, and areas suitable for habitat restoration. Finally, the data should be accessible to interested private fishery and conservation groups, such as the Rhode Island Shellfishermen's Association, the Ocean State Fisherman's Association and Save the Bay.

Let me also point out what this project is not intended for. This initiative is not aimed at giving preference to one group or interest over another in the use of, or issuance of permits in, Narragansett Bay and other marine resources in Rhode Island. Instead, it is simply intended to provide State and Federal authorities with the best possible information to assist them in making the most responsible public policy decisions not just on aquaculture permitting, but also on a variety of matters involving our precious natural resources.

I would ask Chairman GREGG if he concurs that the description I have provided on this funding is the Committee's intent?

Mr. GREGG. Yes, that is correct.

PATHOGEN RESEARCH RELATED TO BALLAST WATER

Mr. KOHL. I would like to thank the Senator from New Hampshire, the Chairman of the Subcommittee on Commerce, Justice, and State Appropriations, for his work on this bill. In particular, I appreciate his efforts to maintain funding for the Sea Grant College Program, which facilitates so much valuable research in the Great Lakes and other coastal areas of this country.

As this process moves forward, it is my hope that the conferees working on this bill will ultimately support and reiterate the language included in the House Committee report related to pathogen research and the Sea Grant College Program. Specifically, this language encourages the agency ''to conduct research related to the public health risks posed by pathogens released in ballast water discharges in ports around the country.''

While we know that pathogens from other regions of the world are sometimes present in the ballast tanks of ships that enter our ports, we have very little information about the public health risks posed by those pathogens. It is important that we improve our state of knowledge in this regard. The Sea Grant College Program and its network of about 300 universities are appropriately positioned to undertake this research. They are in this position due to their ongoing research on aquatic nuisance species and ballast water, as well as their affiliation with human health experts at their network universities.

Would the Senator from New Hampshire agree that this research on public health risks posed by pathogens in ballast water is important, and efforts should be made through the Sea Grant College Program to undertake such human health risk studies?

Mr. GREGG. I would concur with the Senator from Wisconsin that it is important to improve the state of understanding about the potential human health risks of pathogens that enter U.S. waters via ballast water, and that the Sea Grant College Program is an appropriate agency to conduct and facilitate such research.

Mr. KOHL. I appreciate the Senator's comments, and understanding of these concerns. Will the Senator be willing to support the inclusion of language in the conference report with regard to such research?

Mr. GREGG. While I can make no promises with regard to the final outcome of the conference, I will work with the Senator to address these concerns in the conference report.

SAFE SCHOOLS INITIATIVE

Mr. BIDEN. Mr. President, I would ask to engage the Senator from New Hampshire, Mr. GREGG, in a brief colloquy regarding a portion of the report which accompanies the bill, calling on the COPS office to direct $175 million to the Safe Schools Initiative, for the hiring of additional police officers to improve the safety of our school children. I strongly support the Committee's effort, lead by Chairman GREGG and ranking member HOLLINGS, to meet this highly important duty. I just wanted to get a clarification about the Committee's intent—is it the Committee's intent that D.A.R.E. police officers would be eligible to be funded under the Safe Schools Initiative?

Mr. GREGG. I appreciate the Senator's concern on this subject. The Committee believes that D.A.R.E. police officers would clearly quality under the Safe Schools Initiative. However, we are not yet ready to increase the D.A.R.E program above the FY 1998 level which has already been approved by the Office of Justice Programs. Of course, such decisions would be made at the local level—they decide the types of community police officers which would best accomplish the goals of the Safe Schools Initiative.

Mr. BIDEN. I thank the Senator for his interest in this matter and for his clarification of the Committee report.

WESTERN SLOPE DRUG ENFORCEMENT

Mr. CAMPBELL. Mr. President. I seek recognition to raise an important issue with the manager of this bill, Senator GREGG.

One area of growing concern in my home state of Colorado is the production, distribution and use of methamphetamines. To help law enforcement address this problem, I pushed for designation and funding of the Rocky Mountain HIDTA which is operating in many regions of the state, and secured additional funding in the Treasury subcommittee for a meth-amphetamine initiative through the Office of National Drug Control Policy. I also have supported budget increases for the Drug Enforcement Administration, but believe that agency can do much more, especially to help Western Colorado.

The Western Slope of Colorado is becoming a major drug transit point because of its close proximity to I–70, its easy access to trains, buses and planes,

and the large geographic areas which law enforcement officers have to patrol. The scope of the methamphetamine problem in this area recently was underscored by the Grand Junction Chief of Police, Gary Konzak. Chief Konzak informed me that ''the quality of life of this city and the safety of its citizens are in peril if significant and organized law enforcement resources are not deployed soon to combat this menace.''

Based on his almost 30 years of law enforcement in Chicago before coming to Colorado, Chief Konzak believes neighborhoods and communities in Western Colorado are vulnerable to degradation similar to what he witnessed when crack cocaine arrived in the Chicago area in the early and mid 1980s.

Mr. President, in Colorado the DEA operates a regional office in Denver and recently established a field office in Glenwood Springs. However, I believe the DEA can do much more to assist police chiefs and sheriffs in Mesa County, Montrose County and other counties on the Western Slope.

The bill we are considering today includes a significant increase in the DEA's budget for the coming fiscal year. The bill also includes $24.5 million and 100 agents specifically for the Methamphetamine Initiative to target and investigate methamphetamine trafficking, production and abuse.

Chief Konzak and other law enforcement officials throughout the Western Slope believe there is an urgent need for a DEA presence, through a field office or permanently assigned agents. I strongly support their request for assistance from the DEA and ask the Chairman for his support.

Mr. GREGG. I thank the senior Senator from Colorado for raising this important issue and for his work on the Commerce, Justice, State subcommittee to make DEA funding a main priority. I can appreciate his concern for the tragic ways methamphetamines can ravage communities, and commit to working with him in urging the DEA to establish a field office on the Western Slope of Colorado.

Mr. CAMPBELL. I thank the chairman for his support and look forward to working with him to address the methamphetamine problem on Colorado's Western Slope.

NEW JERSEY STATE POLICE

Mr. LAUTENBERG. Mr. President, I rise to confirm my understanding of a provision that will be included in the manager's amendment to the Commerce, Justice and State appropriation bill. I had proposed an amendment that would provide $1 million to equip New Jersey State Police vehicles with video cameras. It is my understanding, and I want to confirm this with Mr. GREGG, the distinguished Floor Manager of this legislation, that these funds will be made available by reallocating $1 million to the COPS Program. That $1 million would then be directed to the New Jersey State Police for video cameras in its vehicles, in the same manner that COPS Technology Program funds are directed to various programs on page 61 of the Committee Report to this legislation, e.g., $935,000 for the Missoula County, MT, mobile data terminals. Is my understanding correct?

Mr. GREGG. Yes.

Mr. LAUTENBERG. Is it also the understanding of the Senator that he will support the $1 million for the New Jersey State Police in a Conference Committee with the House?

Mr. GREGG. Yes.

Mr. LAUTENBERG. I would like to thank the distinguished Chairman of the Appropriations Subcommittee on Commerce, Justice, and State for his help with this matter. I appreciate his cooperation and I commend him for all of his hard work on this legislation. I know that it is difficult to accommodate the various requests from colleagues, and I think he and his excellent staff do it with grace and understanding. I also want to thank Senator HOLLINGS, the Ranking Member on the Subcommittee, it is always a pleasure to work with him and his fine staff.

The video cameras that will be funded under this provision will help the police document evidence which will assist prosecutors and also protect the innocent. With these cameras in place, people who are pulled over will think twice before acting violently toward the police. Additionally, the cameras will ensure that the troopers are following proper procedures when they make traffic stops.

In my home State of New Jersey, we must find ways to help resolve disputes and ease tensions between the police and the public they are sworn to protect. These cameras are an important step forward.

Again, I thank Senator GREGG and Senator HOLLINGS for their help in securing this critical funding.

ORGANIZATION FOR INTERNATIONAL ECONOMIC AND COOPERATION

Mr. DOMENICI. Mr. President, I rise today to address one of the international organizations funded in the Commerce, Justice, State, and the Judiciary Appropriations bill that is currently pending. I speak of the Organization for International Economic and Cooperation, or OECD, as it is known.

Mr. President, we live in an era where the pubic rightly demands both less government and higher quality services. This is an era where government downsizing and reform are expected of not just federal, state, and local governments, but also to international organizations.

One organization that has understood that less is better when it comes to government is OECD. The OECD was founded in 1961 as a successor to the Organization for European Economic Cooperation, which was formed to administer the Marshall Plan. As the situation in Europe has changed, so has the work of the OECD evolved. Its purpose today is to contribute to the world economy through economic cooperation among its member nations and beyond.

The OECD works on issues such as regulatory reform, electronic commerce and tax reform. With its first-rate studies and current information, OECD helps the United States and its other member nations to stay ahead of the curve in the fast-changing global economy. Its work offers policy makers important insight on what the United States can do to benefit from globalization and general economic liberalization.

At the same time, the OECD has understood that it, too, has to change. On its own initiative, the OECD has undertaken a significant process of reform, committing to cut its overall spending by ten percent. It is well on its way toward achieving this goal.

The distinguished Chairman of the Commerce, Justice, State, and the Judiciary Appropriations Subcommittee has put an emphasis on getting all international organizations to cut administrative costs. The pending bill reflects reductions in funding to those organizations that are above 15 percent in total administrative costs. Based on the State Department data available to the Subcommittee—a 1997 report which includes data only through 1995—the Subcommittee has reduced funding for the OECD. The OECD has indicated to me that its administrative costs are now only about 12.4 percent of its budget.

I urge the Department of State to provide the Subcommittee with more recent data so that those international organizations that have reduced their overall administrative costs can be appropriately reviewed for FY 1999 funding. For organizations that have pursued reform, such as the OECD, I hope the Subcommittee will reconsider the Administration's budget request for inclusion in the final bill.

WATERLINE EXTENSION PROJECT

Mr. CLELAND. Mr. President, I would first like to thank my distinguished colleagues, the Chairman Senator GREGG and Ranking Member Senator HOLLINGS, for their leadership and superb management of this bill. I would like to take a moment to express my support for a matter of great importance to me, specifically obtaining funding for a Waterline Extension Project in Georgia. The project would involve providing $1,000,000 in Economic Development Administration (EDA) Public Works (Title I) funds for construction of an extended 16-inch water line (16,000 L.F.) along Macon Road (U.S. Highway 80) from Muscogee County into Talbot County. I understand that a proposal for this project was submitted to the EDA, but the application was denied. Apparently, the application was rejected because the project did not identify any, or a significant number of, near term new jobs. However, I have been assured that, although one industry alone would not fulfill the new job requirement, the waterline would allow several new industries to locate in the area which will

more than meet the new job requirement. In fact, there have been commitments in writing from three businesses of their intent to locate in the newly developed industrial site. Talbot County is one of the most economically depressed counties in Georgia. In fact, in 1994, Talbot County had approximately 25% of its population living below the poverty line, ranking near the bottom of the state. If funded, the waterline would provide the vital infrastructure needed to serve potential industrial sites located in Talbot County and bring with it much needed opportunities for employment in well paying jobs. Senator HOLLINGS, I understand that Committee policy prohibits earmarking EDA funding for individual projects. Is that accurate?

Mr. HOLLINGS. My colleague is correct.

Mr. CLELAND. I thank the Senator. I understand that although projects are not earmarked, language is provided in the bill about projects intended to provide favorable recommendations to the EDA, if the project meets EDA criteria. Is my understanding correct?

Mr. GREGG. The Senator from Georgia is correct.

Mr. CLELAND. I thank the Senator. I understand that the EDA has stated a willingness to meet with County and City officials to review and reconsider the proposal at any time. Given the importance of this project and the apparent discrepancy between the information provided by local officials and the information cited by EDA in rejecting the proposal, I urge that the EDA give prompt consideration of any such request for a meeting. Further, assuming that the job-creating potential of the waterline Extension Project can be verified, I ask the distinguished Chairman and Ranking Member if they would agree that this is the kind of project Congress intended for EDA to give favorable consideration to in its public works construction program?

Mr. HOLLINGS. The Senator is correct.

Mr. GREGG. With the information provided, I believe the Senator's understanding is correct.

Mr. CLELAND. I, along with residents of Talbot and Muscogee Counties, thank my colleagues for their understanding and support and believe that this project would provide a critical economic boost to this region.

SWORDFISH CONSERVATION INITIATIVE

Mr. GREGG. I wish to enter into a colloquy with Senator FAIRCLOTH in order to address his concerns about the conservation of swordfish.

The National Marine Fisheries Service is in the process of implementing several management measures to ensure sustainable use of the Atlantic swordfish resource. The rampant importation of undersized Atlantic swordfish harvested by foreign fishing vessels is one of the most serious problems facing domestic and international management of this highly migratory species. The Congress recognizes the significance of this effort and, through the leadership of Senator FAIRCLOTH, this appropriations subcommittee provided $500,000 in this fiscal year for NMFS to fully address this specific concern.

The Committee intends that NMFS will utilize this particular appropriation to implement changes in our current system in order to prevent importation of Atlantic swordfish not harvested in a manner that is consistent with recommendations under the International Convention for the Conservation of Atlantic Tunas (ICCAT).

I ask my colleague from North Carolina to elaborate upon the intent of the Committee in its initiative to address Atlantic swordfish importation problems.

Mr. FAIRCLOTH. The United States has taken a firm conservation position with respect to ICCAT management recommendations. Our domestic fishermen comply with a tightly managed quota designed to rebuild this stock through international cooperation. Through efforts of the NMFS and our fishermen, we harvest only the annual amount specified for the American fishery, and we abide by the minimum swordfish size requirement of 33 lbs. Indeed, despite our harvest of less than five percent of the total Atlantic swordfish catch, the United States is working within the system to manage this resource in a sustainable fashion.

Unfortunately, however, not all countries are playing by the rules. Several foreign nations are allowing the harvest of swordfish smaller than the American minimum legal size. Further, this ''black market'' swordfish often time find its way into our restaurants and fish markets, and we are effectively undermining our resource rebuilding programs and our ability to compete in the marketplace by allowing this situation to continue.

I concur with my colleague from New Hampshire that it is time for us to reign in this illegal activity—to enforce our fishery regulations equally across the board—and protect our domestic fishermen who are operating just as we have asked them to. The intent of the Congress in the swordfish conservation initiative is to arm NMFS with the financial resources necessary to develop a program to restrict the importation of Atlantic swordfish that are below the United States minimum size. I understand NMFS is examining a number of possible management options, including dealer permits, country of origin documentation requirements, and the designation of restricted ports of entry for Atlantic swordfish to facilitate inspections.

I encourage them to continue in their deliberations, communicate fully with our fishermen, and implement a program to address our resource and equitability concerns.

OECD DEVELOPMENT CENTER

Mrs. HUTCHISON. Mr. President, the OECD Development Center works to promote market-opening reforms in developing nations and has provided valuable research and resources to policy makers and analysts in developed nations and developing countries alike. the OECD Development Center was established at the initiative of the United States in 1962, and we have played a leadership role in the Center ever since. I believe it is important to note the OECD Development Center's contribution as a bridge between OECD nations and emerging economies around the world.

Mr. GREGG. I appreciate and understand the remarks of the Senator from Texas in support of the OECD Development Center and the important role it performs.

BROADCASTING ACTIVITIES

Mr. BIDEN. Mr. President, I would like to briefly discuss the funding levels for international broadcasting in this legislation. I am disappointed by the considerable reductions in the Senate bill in this account. We have important priorities in this account. Radio Free Asia, Radio Free Europe/Radio Liberty (RFE/RL), and the Voice of America are critical instruments of American foreign policy. For a relatively modest cost, these broadcasting agencies project American values and promote American ideals. RFE/RL was of critical importance during the Cold War in undermining the tight control on information imposed by the communist states in Eastern Europe and Eurasia. Although the Cold War is over, RFE/RL still have an important function in a region where independent media are not yet firmly established, and, in many countries, is barely adequate. I authored the legislation in 1994 which created Radio Free Asia—which broadcasts news about local events to China and the other dictatorships in the region—and I want to ensure that it has the necessary resources so that it can perform its function.

It is my understanding that Committee has assumed that the bill fully funds Radio Free Asia at the requested level of $19.4 million. Is that the understanding of the Chairman?

Mr. GREGG. That is correct.

Mr. BIDEN. I appreciate that clarification. I understand that the Chairman and Ranking Member have a very tight allocation this year, but I hope that they will do what they can to try to restore the funds that were reduced in the Committee mark for broadcasting activities.

Mr. GREGG. I will say to the Senator from Delaware that I will do my best, within the allocation, to provide additional resources to this account.

Mr. HOLLINGS. I share the view of the chairman that we will do what we can on this account.

Mr. BIDEN. Additionally, I would note that the Committee report makes reference to the fact that the statute authorizing Radio Free Asia provides for a sunset a year from now. That is true, but the Senator from New Hampshire should understand that, in my view, it is quite likely that Radio Free Asia will be reauthorized next year. I plan to introduce such legislation early

in the next Congress, and I would expect that it would be included as part of next year's Foreign Relations Authorization Act.

Mr. GREGG. I am grateful for that information from the Senator from Delaware. I know that he is a strong advocate of Radio Free Asia as well as the other broadcasting services. I look forward to working with him on this issue as the bill goes to conference and in the coming years.

JOINT MARINE AQUACULTURE EDUCATION PROJECT

Ms. SNOWE. Mr. President, I would like to engage the Chairman of the Commerce, Justice, State, and the Judiciary Appropriations Subcommittee, Senator GREGG, in a colloquy.

Mr. GREGG. Mr. President, I would be pleased to join the Senator from Maine in a colloquy.

Ms. SNOWE. Mr. President, S. 2260 provides funding for the National Oceanic and Atmospheric Administration to support a joint marine aquaculture education project in Maine. The committee report lists the project sponsor in Maine as the Island Institute, but the actual sponsor is the Teel Cove Sea Farm. While Teel Cove is associated with the Island Institute, the two organizations are separate entities. In this case, Teel Cove is the chief sponsor of the project in Maine and should be listed as the recipient in the bill or report. I believe that this was the committee's intention. I would like to ask Senator GREGG if his understanding of this matter is consistent with mine, and also whether he would be willing to take appropriate action to ensure that a correction will be made and Teel Cove will be designated as the project sponsor in Maine.

Mr. GREGG. Mr. President, I agree with Senator SNOWE on this point. Teel Cove is the intended recipient and I will make sure that this matter is clarified before the conference on this legislation is completed.

Ms. SNOWE. Mr. President, I thank Senator GREGG for his statement and his agreement to address this matter. I would also like to ask Senator GREGG if my understanding is correct that the bill before us provides the Administration's full request for funding of the State of Maine's Atlantic salmon recovery plan.

Mr. GREGG. Mr. President, this bill does provide the Administration's requested level of funding for the Maine Atlantic salmon recovery plan.

Ms. SNOWE. Mr. President, I thank the subcommittee chairman, Senator GREGG, for his clarifications and assistance.

FISHING CAPACITY REDUCTION PROGRAM

Mr. WYDEN. I thank the Subcommittee Chairman for including $50,000 in the Committee Appropriations report for a potential loan to fund an innovative fishing capacity reduction program on the Pacific Coast. The program, if it receives the approval of fishermen on the West Coast, would be the first capacity reduction program to be ultimately funded by the fishing industry itself.

To comply with the requirements of section 504(b) of the Federal Credit Reform Act (2 U.S.C. 661c), an appropriation is required to cover the potential cost to the government for a debt obligation. My request assumed that the maximum potential cost to the government likely to be determined for the loan would be one percent, which would allow a loan of $5 million based on the $50,000 appropriated by the Committee. It is my understanding that if the Secretary of Commerce finds that the potential default rate for the loan is less than one percent, the loan amount would be accordingly higher than the $5,000,000 authorized by the report. For example, if the potential default rate for a future Pacific Coast buyback is determined to be one-half of one percent, the loan could be as high as $10,000,000 based on the appropriated $50,000. Is my understanding correct?

Mr. GREGG. Yes, the Senator's understanding is correct.

Mr. WYDEN. Further, I would like to clarify to the Chairman in my request, I was seeking credit authority for a maximum loan of $35 million. Is it the Chairman's understanding that if the Secretary of Commerce finds there is a potential default rate low enough for a loan of $35 million, that a loan of $35 million could be made?

Mr. GREGG. Yes, this is my understanding.

Mr. WYDEN. I thank the Chairman for this clarification and his recognition of the opportunity presented by the Pacific Coast plan.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (NOAA) WEATHER RADIO COVERAGE IN SOUTH DAKOTA

Mr. JOHNSON. Mr. President, recently, a tornado touched down with very little warning, completely destroying the town of Spencer, South Dakota. The Spencer disaster made me realize that every effort needs to be made in order to provide citizens with the earliest possible warning of imminent danger. In my efforts to find new ways to update South Dakota's antiquated early warning system, it was brought to my attention that an immediate solution to upgrading the system would be the use of NOAA Weather Radios.

NOAA Weather Radios broadcast National Weather Service (NWS) warnings, watches, forecasts and other hazard information 24 hours a day. These NOAA Weather Radios automatically sound an alarm and turn themselves on when a severe weather warning or emergency information is issued for a specific county. These radios receive a signal that is broadcast from NWS transmitters located throughout the state. Seventy percent of South Dakota's population currently can receive these NOAA Weather Radio warnings. However, due to the rural nature and dispersed population of South Dakota, there are not enough NWS radio transmitters to provide total NOAA Weather Radio coverage. Many small towns who would be the beneficiaries of this warning system do not reside within range of one of the five NWS transmitters presently in South Dakota.

I have been working with NOAA and the South Dakota NWS to examine ways in which we can increase NOAA Weather Radio coverage so that 95 percent of South Dakota's population reside within range of a transmitter. I have met with Department of Commerce Under Secretary Dr. James Baker, who also is the Administrator of NOAA, to inquire about the requirements for attaining almost complete NOAA Weather Radio coverage for South Dakota. Following my discussions with Dr. Baker, I held several meetings throughout South Dakota with NWS representatives, emergency managers, and county officials to ascertain opportunities and resources already available in our state to augment our existing NOAA Weather Radio coverage.

The South Dakota NWS expects that eight additional transmitters would provide sufficient coverage. The South Dakota NWS currently is examining locations to position these additional transmitters, and they will be submitting their final report to NOAA and my office forthwith.

I hope I will have an opportunity to work with members of the conference committee for the Commerce, Justice, State, and Judiciary Appropriations bill in order to acquire the funding necessary to purchase NOAA Weather Radio transmitters for counties that presently do not receive NOAA Weather Radio coverage, and to ensure that 95% population of South Dakota's population is covered by NOAA Weather Radio.

Mr. President, I strongly believe that the modest funding necessary to complete this goal would go a long way in augmenting South Dakota's NOAA Weather Radio coverage. Although South Dakota is extremely well-prepared to deal with the impending tornado season, I believe it is my responsibility to use every resource available to address the consequences of weather-related events and work the losses associated with them.

I ask Senator HOLLINGS, do you support my efforts to enhance statewide emergency warning systems in South Dakota through the acquisition of additional NOAA Weather Radio transmitters?

Mr. HOLLINGS. Yes, I support the efforts of the Senator from South Dakota, and I appreciate your bringing the situation in South Dakota to the Senate's attention. I will work to locate funding for this important initiative.

Mr. JOHNSON. I thank the Senator for his support. With the prediction of a highly volatile hurricane season expected in your region of the country, I am sure the Senator is aware of the immediate warning that NOAA Weather Radios provide emergency managers

and residents of his state in preparing for an oncoming storm, and how invaluable this early warning is in mitigating the loss of lives and property. Mr. Chairman, will you support my proposed efforts to increase NOAA Weather Radio coverage in South Dakota?

Mr. GREGG. I will work with Senator HOLLINGS and Senator JOHNSON to locate funding for additional NOAA Weather Radio transmitters for South Dakota.

Mr. JOHNSON. I thank the Chairman for his support, and I deeply appreciate your and the Senator from South Carolina's willingness to work with me on this critically important issue.

SHEA'S PERFORMING ARTS CENTER

Mr. MOYNIHAN. Mr. President, I rise to enter into a colloquy with my colleagues, Senator D'Amato, and the distinguished managers of the Commerce, State, and Justice appropriations bill. Mr. President, we have in Buffalo a wonderful old theater, known now as Shea's Performing Arts Center. It opened in 1926 as motion pictures made their ascendance in the nation's entertainment industry, and was also the site of numerous stage productions. As Buffalo's population shifted to the suburbs or elsewhere, Shea's fell on hard times and was almost demolished in the 1970s. But citizens banded together, formed a non-profit group, and began restoration efforts. Today Shea's is on the National Register of Historic Places and is a cornerstone of Buffalo's downtown. I would ask the managers of the bill if they would encourage the Economic Development Administration to consider an application from Shea's Performing Arts Center and provide a grant if warranted.

Mr. D'AMATO. I also hope that the Economic Development Administration will see the merit in awarding a grant to Shea's. In addition to restoration and preservation efforts, the theater needs to be expanded backstage so that it can accommodate the large touring musicals and other productions that people would flock to downtown Buffalo to see. If Shea's were able to accommodate and present the biggest and best in live entertainment, it would be a tremendous boost for Buffalo's economy. I too hope my colleagues will encourage EDA to give every consideration to an application from Shea's.

Mr. GREGG. As I would like to be of assistance to my colleagues from New York, I do encourage the EDA to consider such an application from Shea's Performing Arts Center within all applicable procedures and guidelines, and to fund it if warranted.

Mr. HOLLINGS. I too suggest that EDA consider and fund an application from Shea's if the application has merit and meets all applicable procedures and guidelines.

Mr. MOYNIHAN. I am deeply appreciative of my distinguished colleagues from New Hampshire and South Carolina.

Mr. D'AMATO. I also thank my colleagues for their help.

ERIE, PA, NATIONAL WEATHER SERVICE OFFICE

Mr. SPECTER. Mr. President, I have sought recognition to comment on the Senate Appropriations Committee's decision to provide funding to reopen the Erie National Weather Service office at least in part starting this Fall. Congressman ENGLISH and I were in Erie in April for meetings with local officials and residents on this important issue and our appropriations success is a direct result of that visit. During that visit, I once again heard the troubling litany of severe weather incidents in Erie, which include blizzards and tornadoes which went unreported and put thousands of residents at risk.

I am pleased that Chairman GREGG was able to fulfill part of my request regarding the National Weather Service's activities in the Erie area and wanted to confirm with him that it is our understanding that pursuant to the language in this bill, the agency will undertake mitigation activities which will include having Weather Service personnel in the Erie office 7 days a week, 24 hours a day, for 6 months beginning October 1, 1998.

I will continue to focus with Congressman ENGLISH and Senator SANTORUM on our goal of reopening the Erie office permanently and ensuring that the office is equipped with the most advanced forecasting equipment available in the federal government. The six-month reopening of the office represents a good interim fix and I thank the Chairman for his help.

Mr. GREGG. I concur with my colleague from Pennsylvania as to my understanding of the agency's intentions. The bill before us provides sufficient funds to reopen the Erie office for six months on an around-the-clock staffing basis as part of the effort to mitigate any degradation of service since the Erie office was closed in 1996. I was pleased to be able to provide at least some of the funds he requested and look forward to working with him on this issue as this bill moves to conference with the House of Representatives.

ESSENTIAL FISH HABITAT

Mr. KEMPTHORNE. Mr. President, I wish to engage the Senator from New Hampshire, the Subcommittee chairman of Commerce, Justice, State and the Judiciary and the Senator from South Carolina, the Ranking Member of that Subcommittee in a colloquy.

As chairman of the Drinking Water Fisheries and Wildlife Subcommittee of the Environment and Public Works Committee, I am concerned that the National Marine Fisheries Service's guidelines on essential fish habitat have exceeded the scope of congressional intent. In 1996, Congress amended the Magnuson-Stevens Fishery Conservation and Management Act. The National Marine Fisheries Service's interpretation of a provision in that Act concerns me, the States and a diverse range of affected businesses and citizens throughout the country.

Mr. GREGG. The intent of the original provision was to establish procedures to gather information on essential fish habitat, wherever possible encouraging interagency coordination when other administration programs complemented the EFH goal.

Mr. KEMPTHORNE. As my distinguished colleague points out, the original provision was limited, focusing on increased efficiency and, wherever appropriate, information coordination. Congress did not intend to authorize a provision that created a sweeping new regulatory program.

Concerns have been raised about the complexity of the NMFS ''essential fish habitat'' regulations not add a new level of regulation in addition to what is required under the endangered Species Act.

Mr. GREGG. I appreciate the concerns of the Senator. The report accompanying this bill raises issues about the essential fish habitat program.

Mr. HOLLINGS. I am aware of the report language accompanying the Commerce, Justice, State and the Judiciary Appropriations bill, and I did not object to the inclusion of that language. The EFH provisions of the Magnuson-Stevens Act are intended to address growing concerns over the loss of habitat essential to the health of marine fisheries, including many commercially and recreationally valuable stocks.

Mr. KEMPTHORNE. As envisioned by NMFS, essential fish habitat covers much of the coastal, marine, and estuarine waters of the United States, and it includes some inland habitat for anadromous species. The broad definition of ''essential fish habitat'' raised concerns that NMFS will apply the EFH virtually everywhere.

In addition, serious concerns have been raised by nonfishing interests regarding their lack of participation in the development of these guidelines. Nonfishing interests were not heavily involved in the development of the guidelines. But when NMFS issued the proposal, a coalition of groups felt that their participation should have been solicited.

Mr. GREGG. It is my understanding that since the NMFS regulation was proposed, that community has offered comments. Given the scope of the EFH proposal, and the wide-ranging impacts on nonfishing entities, I believe the agency should take the view of all entities into consideration.

Mr. KEMPTHORNE. I agree. They object to the scope of the proposed EFH program and are concerned that it will subject activities, including land development, agriculture, water supply, forestry, and mining, to the jurisdiction of the Fishery Management Councils under the Magnuson-Stevens Fishery Conservation and Management Act. Ideally, these guidelines, along with the comments submitted by nonfishing interests, will be thoroughly reviewed and, if necessary, republished

by the NMFS. Congress should carefully watch this situation.

Mr. GREGG. The report accompanying this bill directs the General Accounting Office to review the National Marine Fishery Service's implementation of the Magnuson-Stevens Act, including the essential fish habitat provisions. Congress should receive a thorough report on this matter, and I look forward to receiving the results of the GAO's review.

Mr. KEMPTHORNE. I thank the chairman.

PHARMACY RECORD KEEPING

Mr. HATCH. For some time, I have been disturbed over reports that the Drug Enforcement Administration has been imposing multiple, substantial fines for what amount to minor pharmacy record-keeping violations. I am referring to cases in which no unauthorized person obtain control of controlled substances.

Violations of sections 842(a)(5) and (10) of the Controlled Substances Act can result in penalties of $25,000 per violation. I understand that between 1989 and 1997, $50 million in such fines have been assessed.

These provisions of the law adopt a strict liability standard for all record-keeping violations, even a minor error such as a mis-recording of a zipcode, or the insertion of a ditto mark.

While we all favor strong regulation of controlled substances, a rule of reason should prevail here.

For that reason, I am supportive of the thrust of the language contained in sections 118 and 199 of S. 2260.

Section 118 adopts a ''knowingly'' standard, rather than a strict liability standard.

Section 119 gives the courts discretion in assessing a fine, unlike current law which is not permissive. In addition, this section lowers the maximum penalty per occurrence from $25,000 to $500.

In combination, sections 118 and 119 may provide more correction than is warranted. For example, by adding a scienter requirement, while at the same time lowering the maximum fine, we may be creating an atmosphere in which sloppy record keeping is encouraged.

Overall, however, I am supportive of the work of the Committee in this area of long-standing concern to the Congress, drug wholesalers, pharmacies and drug stores. We should not be using this part of the statute as a ''cash cow'' to line the government's coffers.

I will not offer an amendment to these sections at this time. However, I am hopeful that I may work with my colleagues in the Senate and the House to address these concerns in conference.

Mr. GREGG. I appreciate the concerns raised by the Senator from Utah. As you know, we inserted this provision after learning of several cases in which large fines were imposed for realtively minor violations of the Controlled Substances Act. We will be glad to work with you and our House colleagues during the conference, and we appreciate your forebearance in not offering an amendment at this time.

COURTHOUSE SECURITY RENOVATIONS

Mr. LEVIN. Mr. President, I wish to engage the distinguished Chairman of the subcommittee in a brief colloquy regarding the very important issue of Federal courthouse security. As I am sure the Chairman is aware, each day Federal courthouses across the country must temporarily detain thousands of prisoners awaiting trials, hearings and interviews. The facilities must be secure because the courthouses are occupied by members of the public and the judiciary. For example, the U.S. Marshal's Service, which oversees Federal courthouse security, recommends that larger courthouses be equipped with a secure garage area referred to as a ''sally port'' where prisoners can be transferred to the courthouse by van or bus, a detention facility where prisoners can be temporarily held, secure interview rooms where prisoners can be questioned by Assistant U.S. Attorneys, and if possible some separate secure hall or corridor through which a violent or dangerous prisoner can be transferred to a courtroom apart from the public and the judiciary.

Mr. GREGG. I am aware of the security needs of the various courthouses.

Mr. LEVIN. Mr. Chairman, it has come to my attention that many of the older Federal courthouses do not have proper facilities to adequately secure prisoners and assure the safety of the public and the judiciary. For example, in my own state of Michigan the U.S. Courthouse in Detroit, which is a large older courthouse, is in desperate need of security improvements. The building contains no sally ports, and prisoners are transferred from vans and buses in the same modern ventilation systems that control the spread of air bourne diseases such as tuberculosis. Also, there are no interview rooms in which defendants or prisoners acting as witnesses for the Government can be questioned by Assistant U.S. Attorneys or their own counsel. This has led to difficulties for the local U.S. Attorney, and the U.S. Marshal, who has been forced to use extra members of his staff that are needed elsewhere to instead guard meeting rooms while the interviews take place. Moreover, the Detroit courthouse has no secure corridor to transfer prisoners from the detention cells to the courtrooms so that dangerous prisoners must be transferred in the same halls that are used by the public. Finally Mr. Chairman, the Marshal's Service has informed me that there is also a problem with many newly constructed courthouses, which cannot be opened because insufficient money is available to equip the building with a minimum level of security systems such as security cameras and monitors. I want to commend the Chairman and ranking member for appropriating money specifically for courthouses in Detroit and Grand Rapids. However, I would ask that more money be made available for courthouse security projects.

Mr. GREGG. I am aware of the problems you have raised with respect to courthouse security, and you have made a strong argument on behalf of increased funding for courthouse security projects. I would like very much to fund more courthouse security projects such as those in Michigan. Unfortunately, we are operating under tight budgetary constraints. While there are many deserving projects, the Committee could only fund a limited number. I will continue to work with you in the coming year to solve this serious problem of courthouse security.

SMALL BUSINESS ADMINISTRATION'S OFFICE OF ADVOCACY

Mr. KERRY. Mr. President, as Ranking Democrat on the Committee on Small Business, I wish to express my support for funding the Small Business Administration's Office of Advocacy at the full requested level of $1.4 million for FY 1999. The Office of Advocacy plays a vital role in the Federal government by conducting research on issues of particular importance to small business. Recently these issues have included, among other things, access to capital, procurement policy and the cost of Federal regulations. Small businesses are 99 percent of America's businesses; they created more than 90 percent of new jobs in recent years. The research performed by the Office of Advocacy is an important tool for policy makers and legislators who focus on the nation's small businesses. It deserves to be funded at the full $1.4 million, as requested by the Administration.

Since the Office is typically funded from the SBA's general salaries and expenses account without specific designation, I ask for clarification from my colleagues, Senators GREGG and HOLLINGS, Commerce, State, Justice Appropriations Subcommittee Chairman and Ranking Member, respectively. Was it the Subcommittee's intent to fund the Office of Advocacy's economic research function at $1.4 million?

Mr. GREGG. Mr. President, the bill assumes funding of the Economic Research Division of SBA's Office of Advocacy at $1.4 million for FY 1999. This Subcommittee believes the office has provided good service to the small business community. Much of that work is also useful for Congress and other policymakers.

Mr. HOLLINGS. Mr. President, I concur with Subcommittee Chairman GREGG. The work of the Office of Advocacy is important to lawmakers and policymakers alike. It was our intent that the Office of Advocacy receive FY 1999 funding at the full requested amount of $1.4 million.

Mr. HATCH. Mr. President, I see my colleague from New Jersey Senator TORRICELLI, and the distinguished bill manager on the floor. I would like to briefly engage them in a colloquy on

the amendment offered by the Senator from New Jersey, relating to model guidelines on bounty hunters to be published by the Attorney General.

I understand the concerns of Senator TORRICELLI in this matter. None of us want to see abuses by bounty hunters. I am also sure that he does not wish to do any thing to adversely affect the bail bond industry, which has served our criminal justice system well in providing release of non-dangerous criminal defendants pending trial.

Mr. TORRICELLI. I say to the Chairman of the Judiciary Committee that that is a correct interpretation of my intent.

Mr. HATCH. I continue to have some concerns about my colleague's amendment in this respect. However, I believe that these concerns could be resolved during conference. Would the Senator agree to work with me to address this issue?

Mr. TORRICELLI. I would be glad to assure Senator HATCH that I will work with him to ensure that the product that emerges from conference resolves both of our concerns.

Mr. GREGG. Mr. President, I, too, would like to say that I am committed to working during conference with both Senator HATCH and Senator TORRICELLI to address the Judiciary Committee Chairman's concerns.

Mr. HATCH. Mr. President, I thank my colleagues for their consideration, and look forward to working with them on this.

HIGH-TECHNOLOGY ASSISTANCE FOR SMALL- TO MEDIUM-SIZED MANUFACTURERS

Mr. GREGG. Mr. President, my home State of New Hampshire leads the nation in the percentage of private sector employees in high technology jobs. The high technology business in New Hampshire has made the State economy strong and has helped lower the unemployment rate. I am pleased with the investment that high technology companies have made in my state. I am concerned, however, that the benefits to the State from these industries do not reach the more rural areas of New Hampshire. Much of the benefits of the high technology growth have been concentrated in the southern, more urban parts of the State. The more rural areas in the north are not growing as quickly or realizing the benefits of new, innovative technology as widely.

It recently came to my attention that the University of Hew Hampshire's Wittemore School of Business Small Development Center (NH SBDC) has come up with a plan to help the rural areas in New Hampshire take advantage of New Hampshire's technology industries' growth. The NH SBDC proposes to launch a model program to provide technical assistance to small-medium-sized manufacturers (SMMs) in rural areas, which will allow them to benefit from the innovative technology being utilized in other parts of the state. New Hampshire's program could serve as a model for other states that are experiencing similarly slow growth in rural areas. Among the services that NH SBDC intends to provide are: linking rural SMMs to high technology companies; identifying SMMs that have the greatest potential for implementing economic development in rural areas; and helping SMMs identify critical paths to success in their areas.

The NH SBDC would like to implement this plan with funds from the Small Business Administration (SBA). The SBA often funds projects similar to this and, in fact, currently has a successful program in place called the SBA 7(j) program that provides funding for training and technical assistance to rural areas. If the SBA and the NH SBDC work together to develop the plan outlined by NH SBDC, I believe that it could have a significant positive impact on New Hampshire's rural manufacturers. The knowledge gained from this innovative concept can eventually help all States overcome similar problems in rural areas.

I urge the SBA to accommodate the NH SBDC's request for assistance with this project. I look forward to working with the SBA to ensure that this program can be launched to help rural companies all over the United States benefit from the innovative technologies that are used in more urban areas.

Mr. BYRD. Mr. President, I want to applaud the Chairman of the Subcommittee, Senator GREGG of New Hampshire, and the subcommittee's Ranking Member, Senator HOLLINGS of South Carolina, for their work on the Commerce-Justice-State Appropriations bill. They have crafted a good piece of legislation that will help to meet a variety of needs across the country.

One of the important and pressing issues addressed in this legislation is school safety. During the past several months, we have seen several tragic incidents of school violence. These acts are not limited to specific geographic regions or family backgrounds, nor do they have a single catalyst. Those who have committed such cowardly acts have done so for different reasons, at different times, in different schools. But these acts of school violence have at least one thing in common—they have spurred all of us to take a closer look at what can be done to better protect our children at school.

In this Commerce-Justice-State legislation, the Senate offers one new tool in that effort. We have earmarked $210 million in the bill for a new national safe schools initiative geared to assist community-level efforts.

Parents should not have to worry, when they put their children on the bus to school in the morning, that those children will not return home safely in the afternoon. In an effort to provide local school districts with more resources to reduce the levels of violence in our classrooms, I supported this initiative to strengthen local violence prevention and technology efforts.

Within the $210 million, $25 million will assist communities in developing and implementing local school safety approaches. Another $10 million is for the National Institute of Justice to develop new, more effective safety technologies and communications systems that can provide communities with quick access to the information they need to identify potentially violent youths.

Perhaps most important is the $175 million for the Community Oriented Policing Services Program to increase community policing in and around schools. This would be an extension of the COPS program which has been widely hailed as a successful deterrent to crime. In West Virginia, some school districts already partner with the local police department to have what they call ''police resource officers'' in the schools. Officers and educators alike believe that having a familiar police presence in the hallways and a cruiser in the parking lot helps to reduce violence at school.

Ensuring that our classrooms are safe demands that we do everything possible to find safe places for our children to learn and play and grow. While there is no single answer or solution to this pressing problem, the funding in this bill is an important step toward that common goal.

Mr. President, also in this legislation is an amendment I added on behalf of the thousands of families in West Virginia's Upper Ohio Valley and throughout the country who rely on the steel industry for their livelihoods. These are the people who work in the shops and in the mills, and who pay the taxes, and whose sweat keeps America running. My amendment calls for a report by the United States Trade Representative on trade subsidies provided by the South Korean government to its domestic steel industry. Illegal foreign steel subsidies are severely undermining the economic stability in regions throughout our country—literally taking money out of the pockets of American families and putting it into the accounts of foreign governments.

The American steel industry for too long has been forced to compete in an international marketplace that was unbalanced by foreign subsidies, especially those of the South Korean government. By offering this amendment, I want to send a clear message: the United States will not allow foreign governments to undercut fair trading practices. This Congress is prepared to defend our country's commercial interests and take action when those interests are threatened.

West Virginia companies, like Weirton Steel, should not be expected to compete in a marketplace that places unfair obstacles in their paths. When foreign governments subsidize industries, they tip the playing field, change the rules, and make it unfair. Those overseas subsidies directly impact the jobs and livelihoods of working men and women and their families

here at home, as we have seen in Weirton.

FUNDING FOR GUN PROSECUTION PROJECTS

Mr. HATCH. Mr. President, I appreciate the manager of the bill accepting the amendment I filed to the Commerce-Justice-State appropriations bill, S. 2660, which directs the Attorney General to identify two major metropolitan areas besieged by gun-related crime and to initiate vigorous federal gun prosecution projects in those districts. The amendment directs $3,000,000 in funding for hiring additional prosecutors and investigators to ensure that criminals bearing guns are not released due to a lack of prosecutorial resources.

The inspiration for this amendment is ''Project Exile,'' an extraordinarily successful effort by the United States Attorney for the Eastern District of Virginia to rid Richmond of armed criminals by ''exiling'' all those who use firearms to commit a crime to federal prison, regardless of the number of weapons or quantities of drugs seized. ''Project Exile'' also made use of the media to deliver its message that ''An illegal gun will get you five years in federal prison.'' That message was plastered on billboards, a city bus, TV commercials, and business cards distributed by local police.

The results of ''Project Exile'' speak for themselves. In just one year, over 300 individuals were indicated under Project Exile and 363 guns were seized. More than 191 armed criminals were removed from Richmond's streets, including the members of a violent gang responsible for a number of murders. The average sentence for the individuals that have thus far been convicted and sentenced is 56.1 months. Moreover, homicides for the period from November, 1997 through May, 1998 were running more than 50% below the same period for the previous year and there was a corresponding reduction in the rate of gun carrying by criminals. ''Project Exile'' has effectively broken the spiral of violent crime in Richmond.

My colleague, the senior Senator from Idaho, introduced an amendment which was passed yesterday which seeks to set up a similar project in the Eastern District of Pennsylvania in Philadelphia. The senior Senator from Pennsylvania had earlier secured this funding in the committee report to this bill. It is important, however, that these projects be tested in a number of jurisdictions to ensure that their effectiveness can be measured in a wide range of circumstances. By setting up a number of test projects in different locales, we should be able to prove beyond any doubt that a truly determined and aggressive effort by law enforcement to rigorously enforce existing federal gun laws will have the effect of lowering the incidence of violent crime and will create safer communities for our citizens.

We don't need tougher gun control laws on abiding citizens to stem violent crime, we need to aggressively use the effective laws we have to take violent criminals off the streets. We saw yesterday where the Senate stands on issues such as mandatory trigger locks on guns and vicarious liability for gunowners, and I am glad that the Senate is devoting even more resources to targeting violent criminals who use guns. I urge my colleagues to support me in this effort.

Mr. MCCAIN. Mr. President, I want to thank the managers of this bill for their hard work in putting forth annual legislation which provides federal funding for numerous vital programs. The Senate will soon vote to adopt the Commerce, Justice, State Appropriations Bill for the Fiscal Year 1999. I intend to support this measure because it provides funding for fighting crime, enhancing drug enforcement, and responding to threats of terrorism. This further addresses the shortcomings of the immigration process, continues the operating of the judicial process, facilitates commerce throughout the United States, and fulfills the needs of the State Department and various other agencies.

However, I regret that I must again come forward this year to object to the millions of unrequested, low-priority, wasteful spending in this bill and its accompanying report. This year's bill has $361 million in pork-barrel spending. This is a slight improvement over last year's FY 98 Commerce, Justice, State Appropriations Bill, which contained $384.2 million in pork-barrel spending. However, $361 million is still an unacceptable amount of money to spend on low-priority, unrequested, wasteful projects. In short, Congress must curb its appetite for such unbridled spending.

The multitude of unrequested earmarks buried in this proposal will undoubtedly further burden the American taxpayers.

This statement highlighting wasteful and unnecessary spending in authorization and appropriations bills may appear to be a mere political ploy. This is not the case. $361 million spent on locality-specific, special interests, pork-barrel projects is not mere rhetoric. Wasteful spending of this amount warrants serious debate. Wasteful spending of this magnitude erodes the public's trust in our system of government.

Sunshine is often the best disinfectant. Congress and the American public must be made aware of the magnitude of wasteful spending endorsed by this body. While the amounts associated with each individual earmark may not seem extravagant, taken together, they represent a serious diversion of taxpayers' hard-earned dollars to low priority programs at the expense of numerous programs that have undergone the appropriate merit-based selection process. I take very strong exception to a large number of provisions in the bill before us today.

I have compiled a lengthy list of the numerous add-ons, earmarks, and special exemptions provided to individual projects in this bill. It would take a substantial amount of time to recite this list to you. Instead, I request unanimous consent to include this list in the RECORD. However, I will discuss some of the more troubling provisions of the Commerce, Justice, State Appropriations Bill in detail.

$12 million is earmarked for the Director of the United States Information Agency in the state of Hawaii, in order to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, and an additional $7 million dollars is earmarked for the East-West Center in Hawaii.

$3 million is earmarked in this bill to carry out the provisions of the North/South Center Act of 1991 in Florida, known as the North/South Center, and, an additional $500,000 is earmarked in this bill for the North/South Center in Florida.

$925,000 is set aside to allow the Utah State Olympic Public Safety Command to continue to develop and support a public safety program for the 2002 Winter Olympics.

$5 million is earmarked for the Utah Communication Agency Network for upgrades of security and communications infrastructure for law enforcement needed for the 2002 Winter Olympics.

An earmark of $750,000 to fund Chesapeake oyster research at Texas State University.

Why are we spending $22.5 million on the East-West and North/South Centers alone. What makes these centers so extraordinary that they receive specific earmarks in this Appropriations bill. I am not condemning the North/South or East-West Centers. Nor am I condemning the merits of the purposes they serve. I am simply condemning the manner which they are receiving scarce government funds.

I am sure there are other centers throughout the U.S. which serve the same or similar missions as the North-South and East-West Centers. Other well-deserving projects of merit and national necessity deserve to compete for the scarce funds gobbled up by locality specific earmarks such as the North/South and East-West Centers. Unfortunately, these projects will never receive fair deliberation if the Appropriations Committee pre-determines their fate by ''recommending'' and ''urging'' the Department to give special consideration to certain projects over others. In sum, it is patently unfair to divert scarce resources to pork-barrel, special interest projects, at the expense of well-deserving projects which would benefit the public as a whole.

The bill also contains language that directs the Immigration and Naturalization Service to expand the duty station in Grand Junction, Colorado. Moreover, this language directs the INS to open new duty stations in

Alamosa, Glenwood Springs, Craig, Durango, and Greely, Colorado. The Committee does not explain why specific sites are higher in priority than others, or why these sites are more deserving of funding. I fail to comprehend why these locations should receive such special attention while the rest of the nation must compete for funds in the appropriate merit-based selection process.

Mr. President, I will not deliberate much longer on this subject, but I strongly object to the wasteful spending in this Appropriations bill. How can we combat the American public's cynicism towards our governmental system when we continue to fund low-priority, wasteful pork-barrel projects?

I urge my colleagues on both sides of the Capitol and on both sides of the aisle to develop a better standard which curbs our habit of funneling hard-earned taxpayer dollars to locality-specific special interests. Commitment to the public good must continue to be our priority. We can only live up to this challenge by eliminating the practice of catering to low-priority special interests, at the expense of the average American.

As I have said in the past, I look forward to the day when Congress can present to the American people a budget that is both fiscally responsible and ends the practice of wasteful pork-barrel spending in Appropriations bills.

FOREIGN AFFAIRS AGENCIES

Mr. BIDEN. Mr. President, as we close debate on the Commerce, Justice, State appropriations bill, I would like to make a few comments on the funding for the foreign affairs agencies.

I want to express my appreciation to the Chairman and Ranking Member of the Subcommittee for their efforts to provide adequate funding for the foreign policy agencies within the tight allocation they have. The United States is a great military and economic power, with extensive interests overseas. To protect those interests, we need both a strong military and a strong diplomatic corps. ''Diplomatic readiness'' is more than a slogan; it represents a commitment to ensure that our diplomats, who stand on the front lines of our national defense, have the resources to perform the many tasks we entrust to them.

I commend the Committee for providing, in particular, the necessary funding to modernize the Department of State's information technology. The Department made some bad choices in previous years, and is now saddled with antiquated computer and telecommunications technology. Information is central to the task of diplomacy, and we are undermining our interests substantially unless we properly equip the Department with modern technology.

I'd like to say a few words about the Bureau of Export Administration in the Department of Commerce, which performs several functions that are vital to the national security of the United States. The managers of the bill before us were unable to find $2.5 million for three of those vital functions. I appeal to the managers to make every effort to find those funds in conference, so that we can continue to safeguard the national security as the American people expect us to do.

These important Export Administration needs are as follows:

Ten new positions (8 full-time equivalents) to fully staff Export Administration field offices, so that they can mount more intensive enforcement of U.S. controls over dual-use items that could otherwise be diverted to military or terrorist uses;

Three new positions (2 full-time equivalents) to enhance the enforcement regarding shipments to Hong Kong, so as to prevent or stop any diversion of strategically-controlled goods to China; and

Six positions (4 full-time equivalents) to maintain the Nonproliferation Export Control teams that help countries in the former Soviet Union to improve their export control systems.

The first two items, which require a total of $2.2 million, are self-explanatory. At a time when we have legitimate concerns regarding the possible Chinese diversion to military purposes of machine tools and high-speed computers, we must give the Bureau of Export Administration the funds and positions it needs to fully enforce U.S. law and regulations that control such exports and provide for follow-up monitoring of their overseas use.

The Nonproliferation Export Control teams require a word of further explanation. This function—which is part of the Cooperative Threat Reduction program—has proceeded for some years with funding from the Department of Defense and the Department of State. The Department of Commerce agreed last year, however, to assume the costs of its participation in that program. The State and Defense budgets no longer include funding for the Nonproliferation Export Control teams. If Commerce Department funds are not found for this purpose, this valuable program could well be lost.

What would we lose if the Nonproliferation Export Control teams were to go away? Those teams have performed incredibly well, fostering ties at the customs agent level and helping the former Soviet states to establish export control laws and institutions to can prevent the loss of sensitive goods and information to rogue states or terrorist groups.

For example, the Government of Ukraine wants a team to help brief members of its parliament on inadequacies in Ukraine's current law. The Government of Slovakia wants help in developing regulations to implement its new export control law. Export Administration's teams support these efforts in full cooperation with other U.S. departments and agencies.

I realize that resources are tight, but it would be a grave mistake, in my view, to let this valuable non-proliferation resource slip away from us. So I urge my colleagues, the managers of this bill, to find the $1.3 million needed to keep the Nonproliferation Export Control teams alive and well in Fiscal Year 1999. I also urge them to find the $1.2 million needed to improve our own export enforcement regarding dual-use goods that we must prevent from being used against U.S. interests. I realize these are small amounts in a bill that funds three large cabinet departments, but they could go a long way in advancing our non-proliferation interests.

In closing, I want to again express my appreciation to the managers of this bill. They had a very difficult task in balancing all the competing interests in this bill, and I believe they did an excellent job in balancing those interests.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GREGG. 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. GREGG. I ask unanimous consent that at 3:15 we begin the vote on the Smith amendment, to be followed by the vote on final passage.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3258, AS MODIFIED, AS AMENDED

Mr. GREGG. Mr. President, I ask for the yeas and nays on the Smith amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. I call for the regular order.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3258, as amended. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPECTER) is necessarily absent.

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

The result was announced—yeas 68, nays 31, as follows:

[Rollcall Vote No. 233 Leg.]

YEAS—68

Abraham	Domenici	Mack
Allard	Enzi	McCain
Ashcroft	Faircloth	McConnell
Baucus	Frist	Moynihan
Bennett	Gorton	Murkowski
Biden	Graham	Nickles
Bingaman	Gramm	Reid
Bond	Grams	Robb
Breaux	Grassley	Roberts
Brownback	Gregg	Roth
Bryan	Hagel	Santorum
Bumpers	Hatch	Sessions
Burns	Helms	Shelby
Campbell	Hollings	Smith (NH)
Chafee	Hutchinson	Smith (OR)
Cleland	Hutchison	Snowe
Coats	Inhofe	Stevens
Cochran	Jeffords	Thomas
Collins	Kempthorne	Thompson
Coverdell	Kerrey	Thurmond
Craig	Kyl	Warner
D'Amato	Lott	Wyden
DeWine	Lugar	

NAYS—31

Akaka	Glenn	Lieberman
Boxer	Harkin	Mikulski
Byrd	Inouye	Moseley-Braun
Conrad	Johnson	Murray
Daschle	Kennedy	Reed
Dodd	Kerry	Rockefeller
Dorgan	Kohl	Sarbanes
Durbin	Landrieu	Torricelli
Feingold	Lautenberg	Wellstone
Feinstein	Leahy	
Ford	Levin	

NOT VOTING—1

Specter

The amendment (No. 3258), as modified, as amended, was agreed to.

Mr. GREGG. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3322

(Purpose: To amend the Immigration and Nationality Act with respect to the requirements for the admission of nonimmigrant nurses who will practice in health professional shortage areas)

Mr. GREGG. Mr. President, I send an amendment to the desk on behalf of Senator DURBIN.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for Mr. DURBIN, proposes an amendment numbered 3322.

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

Mr. GREGG. I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Without objection, it is so ordered.

The amendment (No. 3322) was agreed to.

Mr. GREGG. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Regular order.

The PRESIDING OFFICER. If there are no further amendments, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. GREGG. 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.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPECTER) is necessarily absent.

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

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

[Rollcall Vote No. 234 Leg.]

YEAS—99

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

NOT VOTING—1

Specter

The bill (S. 2260), as amended, was passed.

(The text of the bill will be printed in a future edition of the RECORD.)

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

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

The motion to lay on the table was agreed to.

UNANIMOUS CONSENT AGREEMENT—MODIFICATION TO AMENDMENT NO. 3278 TO S. 2260

Mr. SHELBY. Mr. President, on behalf of Senator GREGG, I send amendment No. 3278 to the desk. I ask unanimous consent it be so modified.

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

The modified amendment follows:

At the end of title IV, insert the following new sections:

SEC. . None of the funds appropriated or otherwise made available by this Act or any other Act for fiscal year 1999 or any fiscal year thereafter should be expended for the operation of a United States consulate or diplomatic facility in Jerusalem unless such consulate or diplomatic facility is under the supervision of the United States Ambassador to Israel.

SEC. . None of the funds appropriated or otherwise made available by this Act of any other Act for fiscal year 1999 or any fiscal year thereafter may be expended for the publication of any official government document which lists countries and their capital cities unless the publication identifies Jerusalem as the capital of Israel.

SEC. . For the purposes of the registration of birth, certification of nationality, or issuance of a passport of the United States citizen born in the city of Jerusalem, the Secretary of State shall, upon request of the citizen, record the place of birth as Israel.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

PATIENT ACCESS TO ACUPUNCTURE SERVICES ACT OF 1998

Mr. HARKIN. Mr. President, I wanted to make a few comments on a bill that Senator MIKULSKI and I introduced just yesterday. The bill number is S. 2340. It is called the Patient Access to Acupuncture Services Act of 1998. It will provide limited coverage for acupuncture under Medicare and under the Federal Employees Health Benefits Program. It is an important bill that reflects an appropriate and needed response to both progress in science and to the demand for complementary and alternative treatments for pain and illness.

I acknowledge Senator MIKULSKI's strong support for the bill and for cosponsoring the bill. She has been a strong supporter of effective alternative therapies and has long realized and appreciated the importance and significance of such therapies to our health care system.

Mr. President, approximately 90 million Americans suffer from chronic illnesses, which, each year, cost society roughly $659 billion in health care expenditures, lost productivity and premature death. Despite the high costs of this care, studies published in the Journal of the American Medical Association reveal that the health care delivery system is not meeting the needs of the chronically ill in the United States.

Many of these Americans are looking desperately for effective, less costly alternatives therapies to relieve the debilitating pain they suffer. In 1990 alone, Americans spent nearly $14 billion out-of-pocket on alternative therapies. Harvard University researchers have found that fully one-third of Americans regularly use complementary and alternative medicine,