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Senate

The Senate met at 9:45 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by Bishop Kenneth Ulmer, of the Faithful Central Missionary Baptist Church in Los Angeles, CA.

We are pleased to have you with us.

PRAYER

The guest Chaplain, Dr. Kenneth C. Ulmer, offered the following prayer:

O God our help in ages past; our strength, our hope, our joy for years to come. Father, we give You thanks and praise for the consistency of Your faithfulness. Morning by morning You have showered us with new mercies and new expressions of Your grace, and for that we say thank You. As Jehovah Shalom You have given us Your peace in a world of confusion. As Jehovah Jireh You have provided us with the riches of Your grace and mercy. As Jehovah Rohi, You have been the great shepherd of this Nation. Lord, give us the ability to acknowledge the possibility of our own error, patience that we might listen to opposing opinions, and wisdom to learn from one another. Give us honesty that we might speak the truth in love and strength that we might not falter in the quest for truth and justice. Keep us humbled by the limitations of our own perspectives and encouraged by the magnitude of divine vision. When the tensions of our democracy would tend to divide us, keep us constantly aware of Your omnipotent ability to make us one as we celebrate the diversity within our unity. May we sense the sacredness of our call to leadership. O God, may integrity and uprightness preserve this Nation. As we faithfully serve its people may we so faithfully serve You. In the name of our Lord. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, the Senator from Mississippi, Senator LOTT, is recognized.

Mr. LOTT. I thank the President pro tempore. It is a pleasure to see the President pro tempore.

GREETING BISHOP KENNETH C. ULMER

Mr. LOTT. Mr. President, I am proud to extend the greetings of the Senate today to Bishop Kenneth Ulmer from Los Angeles, who delivered the morning prayer. Our Chaplain, Dr. Ogilvie, tells me he is one of the truly great emerging spiritual leaders of our Nation. Since his arrival 12 years ago at the Faithful Central Missionary Baptist Church, where Bishop Ulmer occupies the pulpit, the congregation has grown from one of 325 to one of over 3,500. Bishop Ulmer is recognized as one of California's most respected voices in promoting positive relationships between people of all races and backgrounds.

He is a member of the California attorney general's policy council on violence prevention and a member of the board of directors of the Rebuild Los Angeles Committee. I know all Senators join me in thanking Bishop Ulmer for joining us this morning.

SCHEDULE

Mr. LOTT. Mr. President, for the information of all Senators, this morning the Senate will conduct a period for morning business until 10:45 a.m., with Senator GRASSLEY to speak for up to 15 minutes and Senator HATCH for up to 45 minutes.

Following morning business, the Senate will resume consideration of the illegal immigration bill and the pending amendments. The yeas and nays are ordered on several of these amendments; however, those votes will not occur prior to the scheduled vote at 2:15.

As a reminder, at 2:15 p.m. today, there will be a cloture vote on the motion to proceed to the Whitewater resolution. The Senate will recess from the hours of 12:30 p.m., to 2:15 p.m. for the weekly policy conferences to meet. The Senate can expect rollcall votes to occur throughout the session today in order to make progress on the pending illegal immigration bill.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. INHOFE). Under the previous order, there will now be a period for morning business.

The Senator from Iowa is recognized for 15 minutes.

Mr. GRASSLEY. Mr. President, before I speak, I ask unanimous consent to yield to Senator THURMOND for the purpose of introducing bills without it cutting into my time.

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

Mr. THURMOND. I thank the able Senator very much.

(The remarks of Mr. THURMOND pertaining to the introduction of S. 1672 and S. 1673 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. GRASSLEY. Mr. President, I thank the Chair.

(The remarks of Mr. GRASSLEY pertaining to the introduction of S. 1674 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

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COMMANDER STUMPF

Mr. GRASSLEY. Mr. President, I want to speak on a subject that I have spoken before. This is the issue of the promotion of Navy Comdr. Robert Stumpf and his promotion to the rank of captain. This promotion has been denied by the Armed Services Committee. It was denied because of his suspected involvement in inappropriate behavior at the Tailhook convention.

I support the committee's decision to deny the promotion. I have spoken on this matter several times. Since my last speech, I have had a letter from Commander Stumpf's attorney. The attorney's name is Mr. Charles W. Gittins. Mr. Gittins thinks that the facts are the issue here. Of course, I disagree. In my mind, the facts are not at issue.

What do the facts mean? It is the answer to the question that gets Commander Stumpf in hot water.

Mr. President, I ask unanimous consent to have printed in the RECORD Mr. Gittins' letter to me.

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

WILLIAMS & CONNOLLY,
Washington, DC, April 4, 1996.

Hon. CHARLES E. GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRASSLEY: I am writing on behalf of my client, Commander Robert E. Stumpf, USN, who was the subject of your March 16, 1996 floor speech in the Senate. I applaud you for asking the five questions relevant to whether Commander Stumpf should be promoted because it is apparent that your colleagues have lost sight of those important attributes in the political infighting over Bob Stumpf's promotion.

Had you researched the answers to the five questions that you ''asked'', and put the answers as well as the questions in the Congressional Record, I am sure that you would have embarrassed your colleagues with the truth. Moreover, I am sure that if you had researched the answers before you went to the floor to give the speech, your speech would have been one of unequivocal support for Commander Stumpf's promotion.

Your first question, like the rest, can be answered by reference to the official records of the Court of Inquiry as well as by reference to Commander Stumpf's Official Military Personnel File. Commander Stumpf's record is clearly among the finest in the Navy. Two Navy Captain selection boards now have selected Commander Stumpf for promotion to Captain. In order to do so, the Boards were required to find that Commander Stumpf was among those ''best qualified'' from among those officers who the board found were ''fully qualified.'' Further, Commander Stumpf's performance in combat, illuminated by the many citations for bravery and heroism awarded him by the United States, abundantly proves that the promotion boards were correct in their judgment of Commander Stumpf's performance.

Your second question, concerning leadership and discipline, are equally well answered by the Navy's official records. All you needed to do was read them. Commander Stumpf was described by senior officers who testified at his Court of Inquiry as ''among the finest leaders that they have had the opportunity to work with.'' In this regard, you may wish to read the testimony of Vice Admiral Kihune and Rear Admiral McGowan, two officers with personal and daily observation of Commander Stumpf in positions of responsibility. You may also wish to read the statement of Captain Dennis Gillespie, USN, Commander Stumpf's commander in combat during Desert Storm. Commander Stumpf's leadership was nowhere more vigorously tested than in combat, where he personally led 9 carrier air wing airstrikes without losing a single aircraft. Discipline? How much discipline does it take to fly a combat aircraft at 500 miles an hour into the face of anti-aircraft fire and surface to air missiles while still managing to put bombs on target. I submit that there is no greater demonstration of discipline.

Does Commander Stumpf set a good example? If not, why was Commander Stumpf chosen to lead the Blue Angels in the first place? The singular purpose of the Blue Angels is to provide a good example of the Navy for public consumption. Perhaps you saw Commander Stumpf perform at the airshow in Iowa. If so, you could not help but be impressed with the example Commander Stumpf sets. The fact that he was returned to command of the Blue Angels by the Navy even after he was subjected to an embarrassing Navy Court of Inquiry speaks volumes about the type example Commander Stumpf sets. Moreover, his press conference following the Court's decision made clear Commander Stumpf's agenda—at that press conference Commander Stumpf said he would thereafter take no more questions about Tailhook. His job was to ''make the Navy look good. And that what [he] intend[ed] to do''

Your question four is self-evident by Commander Stumpf's performance in combat. How many leaders who flew 22 combat missions can say that they brought back every plane that they started the mission with? Moreover, the junior officers who testified for the government, pursuant to grants of testimonial and transactional immunity, each stated unequivocally that Commander Stumpf was an outstanding role model, one who was universally recognized as superior throughout the Navy and the strike-fighter community, and one they would gladly follow into combat. There simply is no higher praise for a military officer. There has never been any evidence adduced, in the Committee, in the Court of Inquiry, or in subsequent reviews conducted by the Navy or the Committee, that Commander Stumpf is anything but an outstanding role model.

Finally, Commander Stumpf has over and over throughout his career proven his integrity. Commander Stumpf has been forthcoming about Tailhook and his involvement therein. The Secretary of the Navy personally questioned Commander Stumpf closely on these issues and determined that Commander Stumpf was not culpable for any misconduct, either by him or his subordinates, at Tailhook. Secretary Dalton confirmed that Commander Stumpf was ''appropriately selected for promotion and that he should be promoted.'' Until you raised the question of Commander Stumpf's integrity, there has never been any insinuation that Commander Stumpf was other than forthright and honest in all of his dealings throughout his Navy career. If you have specifics in mind, please feel free to communicate them to me. I will be glad to have Commander Stumpf respond.

If your five questions are the measuring stick that the Senate intends to follow on all future officer nominations, I applaud your standard. If you intend to apply that standard to Commander Stumpf, it would do you and your colleagues well to actually read the records before you draw conclusions about Commander Stumpf, or any other officer who presents to the Committee or the Senate similarly situated.

What has diminished the credibility of the Committee and the Senate with the public in Commander Stumpf's case is ignorance of, or intentional lack of familiarity with, the unalterable fact that Commander Stumpf did not conduct himself in any way inappropriately at the 1991 Tailhook Symposium. That is a fact that cannot be ignored, even on the floor of the United States Senate.

Sincerely,

CHARLES W. GITTINS.

Mr. GRASSLEY. I am opposed to what Commander Stumpf and his attorney are doing for three reasons. First, they want us to believe that this is a legal issue. Commander Stumpf seems to have the mistaken notion that a promotion to captain in the Navy is an inalienable right.

He sees the committee erecting a barrier between himself and that right. So he has hired a fancy lawyer to reclaim that right under the law.

Well, sadly, I am afraid that Commander Stumpf may be in for a big disappointment. As Senator NUNN put it, ''It is well known that nomination proceedings are not criminal trials. They are not formal evidentiary proceedings.''

A promotion is not guaranteed under the law. In fact, as we all know, it must be earned, and not only earned, but confirmed by the Senate.

This, Mr. President, brings me to my second point. Each Senator must make a subjective judgment about a candidate's character. We have to examine the entire record, and then we have to pick and choose.

Sadly, Commander Stumpf and his lawyer somehow believe that the Senate should not sit in judgment of a nominee's character. Two Navy captain selection boards and Secretary of the Navy Dalton decided that Commander Stumpf should be promoted. End of the story for them. The Senate should somehow butt out.

Again, Senators NUNN and COATS have laid this misguided idea to rest. They put it this way: ''The Senate has a constitutional responsibility to give advice and consent on military promotions.''

That is our constitutional duty. We look at the evidence, and we make judgment calls. We know it is not an exact science. It is an imperfect system, but most of the time it seems to work.

This brings me to the third source of my concern. Those who are pushing the Stumpf promotion want us to think he is a victim of political correctness. Mr. President, that is pure, 100 percent, grade-A, Navy baloney. I happen to believe that Commander Stumpf's problems run much deeper than that. They go right to the core of his character. His behavior at the 1991 Tailhook convention raises questions about his ability to lead.

Mr. President, I am not holding Commander Stumpf to some arbitrary standard dreamed up by this Senator. I am holding him to the military's own standards.

The military standards are laid out in a document entitled ''Military Leadership, Field Manual 22–100.'' Those principles are described on pages 5 through 8 of the document. This is an exact quote from the document:

No aspect of leadership is more powerful than setting a good example.

So, Mr. President, I feel obliged to ask this very simple question: Did Commander Stumpf set a good example at Tailhook? A former Naval officer, writing in the Washington Times recently, answered that question. I want to quote directly from the April 1, 1996, article:

Officers throughout the Navy—particularly Naval aviators like Commander Stumpf—were well aware that the Tailhook convention had become an increasingly grotesque event before it finally suffered public scrutiny in 1991.

That Commander Stumpf finds himself having been caught in the fallout is a result of the poor judgment he showed in participating when many of his contemporaries had stopped doing it years before.

That says it all, Mr. President.

Commander Stumpf's behavior also raises questions about his willingness to accept responsibility. The military leadership manual states that a leader must do two things: First, seek responsibility and, second, take responsibility for his or her actions. By seeking and accepting responsibility, a leader can build trust within his or her military unit.

Clearly, Commander Stumpf is eagerly and aggressively seeking greater responsibility. He has an aggressive lobbying campaign going to get himself promoted. He is doing a good job of that lobbying.

Unfortunately, he is not very good at accepting criticism for his past mistakes. It seems like he is trying to evade responsibility.

Commander Stumpf claims he did not witness the really obscene behavior at his squadron's Tailhook party. It happened after he left, and if he did not see it, he is not responsible, so he claims. Commander Stumpf's ship ran aground when he was not on the bridge. That is what he wants us to believe. He wants us to believe that his junior officers are to blame. In effect, he is saying that.

Commander Stumpf's reasoning is flawed, and it is inconsistent with naval tradition and leadership and the responsibility that is placed on leaders in the military manual. The ship's captain is always responsible if the ship runs aground.

When something like this happens, the manual says a leader should never try to evade responsibility by blaming others. When a commander tries to shift the blame to others, the manual says that undermines trust and respect within any military organization. Evading responsibility is not the sign of a topnotch military commander.

When Commander Stumpf first got in hot water, he should have acknowledged his mistake and taken corrective action.

Mr. President, Commander Stumpf needs to face the music and take responsibility for his actions.

I ask unanimous consent to have that part of the manual printed in the RECORD.

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

THE PRINCIPLES OF LEADERSHIP

The 11 principles of Army leadership are excellent guidelines and provide the cornerstone for action. They are universal and represent fundamental truths that have stood the test of time. Developed in a 1948 leadership study, the principles were first included in leadership doctrine in 1951. Use these principles to assess yourself and develop an action plan to improve your ability to lead. Examples throughout this manual give you ideas of how to apply these principles. Here is an explanation of each of the leadership principles.

KNOW YOURSELF AND SEEK SELF-IMPROVEMENT

To know yourself, you have to understand who you are and to know what your preferences, strengths, and weaknesses are. Knowing yourself allows you to take advantage of your strengths and work to overcome your weaknesses. Seeking self-improvement means continually developing your strengths and working on overcoming your weaknesses. This will increase your competence and the confidence your soldiers have in your ability to train and lead.

BE TECHNICALLY AND TACTICALLY PROFICIENT

You are expected to be technically and tactically proficient at your job. This means that you can accomplish all tasks to standard that are required to accomplish the wartime mission. In addition, you are responsible for training your soldiers to do their jobs and for understudying your leader in the event you must assume those duties. You develop technical and tactical proficiency through a combination of the tactics, techniques, and procedures you learn while attending formal schools (institutional training), in your day-to-day jobs (operational assignments), and from professional reading and personal study (self-development).

SEEK RESPONSIBILITY AND TAKE RESPONSIBILITY FOR YOUR ACTIONS

Leading always involves responsibility. You want subordinates who can handle responsibility and help you perform your mission. Similarly, your leaders want you to take the initiative within their stated intent. When you see a problem or something that needs to be fixed, do not wait for your leader to tell you to act. The example you set, whether positive or negative, helps develop your subordinates. Our warfighting doctrine requires bold leaders at all levels who exercise initiative, are resourceful, and take advantage of opportunities on the battlefield that will lead to victory. When you make mistakes, accept just criticism and take corrective action. You must avoid evading responsibility by placing the blame on someone else. Your objective should be to build trust between you and your leaders as well as between you and those you lead by seeking and accepting responsibility.

MAKE SOUND AND TIMELY DECISIONS

You must be able to rapidly assess situations and make sound decisions. If you delay or try to avoid making a decision, you may cause unnecessary casualties and fail to accomplish the mission. Indecisive leaders create hesitancy, loss of confidence, and confusion. You must be able to anticipate and reason under the most trying conditions and quickly decide what actions to take. Here are some guidelines to help you lead effectively:

Gather essential information before making your decisions.

Announce decisions in time for your soldiers to react. Good decisions made at the right time are better than the best decisions made too late.

Consider the short- and long-term effects of your decisions.

SET THE EXAMPLE

Your soldiers want and need you to be a role model. This is a heavy responsibility, but you have no choice. No aspect of leadership is more powerful. If you expect courage, competence, candor, commitment, and integrity from your soldiers, you must demonstrate them. Your soldiers will imitate your behavior. You must set high, but attainable, standards, be willing to do what you require of your soldiers, and share dangers and hardships with your soldiers. Your personal example affects your soldiers more than any amount of instruction or form of discipline. You are their role model.

KNOW YOUR SOLDIERS AND LOOK OUT FOR THEIR WELL-BEING

You must know and care for your soldiers. It is not enough to know their names and hometowns. You need to understand what makes them ''tick'' and learn what is important to them in life. You need to commit time and effort to listen to and learn about your soldiers. When you show genuine concern for your troops, they trust and respect you as a leader. Telling your subordinates you care about them has no meaning unless they see you demonstrating care. They assume that if you fail to care for them in training, you will put little value on their lives in combat. Although slow to build, trust and respect can be destroyed quickly.

If your soldiers trust you, they will willingly work to help you accomplish missions. They will never want to let you down. You must care for them by training them for the rigors of combat, taking care of their physical and safety needs when possible, and disciplining and rewarding fairly. The bonding that comes from caring for your soldiers will sustain them and the unit during the stress and chaos of combat.

KEEP YOUR SUBORDINATES INFORMED

American soldiers do best when they know why they are doing something. Individual soldiers have changed the outcome of battle using initiative in the absence of orders. Keeping your subordinates informed helps them make decisions and execute plans within your intent, encourages initiative, improves teamwork, and enhances morale. Your subordinates look for logic in your orders and question things that do not make sense. They expect you to keep them informed and, when possible, explain reasons for your orders.

DEVELOP A SENSE OF RESPONSIBILITY IN YOUR SUBORDINATES

Your subordinates will feel a sense of pride and responsibility when they successfully accomplish a new task you have given them. Delegation indicates you trust your subordinates and will make them want even more responsibility. As a leader, you are a teacher and responsible for developing your subordinates. Give them challenges and opportunities you feel they can handle. Give them more responsibility when they show you they are ready. Their initiative will amaze you.

ENSURE THE TASK IS UNDERSTOOD, SUPERVISED, AND ACCOMPLISHED

Your soldiers must understand what you expect from them. They need to know what you want done, what the standard is, and

when you want it done. They need to know if you want a task accomplished in a specific way. Supervising lets you know if your soldiers understand your orders; it shows your interest in them and in mission accomplishment. Oversupervision causes resentment and undersupervision causes frustration.

When soldiers are learning new tasks, tell them what you want done and show how you want it done. Let them try. Watch their performance. accept performance that meets your standards; reward performance that exceeds your standards; correct performance that does not meet your standards. Determine the cause of the poor performance and take appropriate action.[1] When you hold subordinates accountable to you for their performance, they realize they are responsible for accomplishing missions as individuals and as teams.

BUILD THE TEAM

Warfighting is a team activity. You must develop a team spirit among your soldiers that motivates them to go willingly and confidently into combat in a quick transition from peace to war. Your soldiers need confidence in your abilities to lead them and in their abilities to perform as members of the team. You must train and cross train your soldiers until they are confident in the team's technical and tactical abilities. Your unit becomes a team only when your soldiers trust and respect you and each other as trained professionals and see the importance of their contributions to the unit.

EMPLOY YOUR UNIT IN ACCORDANCE WITH ITS CAPABILITIES

Your unit has capabilities and limitations. You are responsible to recognize both of these factors. Your soldiers will gain satisfaction from performing tasks that are reasonable and challenging but will be frustrated if tasks are too easy, unrealistic, or unattainable. Although the available resources may constrain the program you would like to implement, you must continually ensure your soldiers' training is demanding. Apply the battle focus process to narrow the training program and reduce the number of vital tasks essential to mission accomplishment. Talk to your leader; decide which tasks are essential to accomplish your warfighting mission and ensure your unit achieves Army standards on those selected. Battle focus is a recognition that a unit cannot attain proficiency to standard on every task, whether due to time or other resource constraints. Do your best in other areas to include using innovative training techniques and relooking the conditions under which the training is being conducted, but do not lower standards simply because your unit appears unable to meet them. Your challenge as a leader is to attain, sustain, and enforce high standards of combat readiness through tough, realistic multiechelon combined arms training designed to develop and challenge each soldier and unit.

SUMMARY

The factors and principles of leadership will help you accomplish missions and care for soldiers. They are the foundation for leadership action.

The factors of leadership are always present and affect what you should do and when you should do it. Soldiers should not all be led in the same way. You must correctly assess soldiers' competence, commitment, and motivation so that you can take the right leadership actions. As a leader, you must know who you are, what you know, and what you can do so that you can discipline yourself and lead soldiers effectively. Every leadership situation is unique. What worked in one situation may not work in another. You must be able to look at every situation and determine what action to take. You influence by what you say, write, and, most importantly, do. What and how you communicate will either strengthen or weaken the relationship between you and your subordinates.

The principles of leadership were developed by leaders many years ago to train and develop their subordinates. The principles have stood the test of time and the foremost test—the battlefield. Use the principles to assess how you measure up in each area and then develop a plan to improve your ability to lead soldiers.

[1] Kenneth H. Blanchard and Keith L. Kettler, ''A Suitable Approach to Leader Development.''

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

MEASURE PLACED ON THE CALENDAR—H.R. 3103

Mr. HATCH. Mr. President, I understand there is a bill due for its second reading.

The PRESIDING OFFICER. The Senator is correct.

The clerk will read the bill for the second time.

The legislative clerk read as follows:

A bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes.

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

The PRESIDING OFFICER. The bill will be placed on the calendar.

SOCIAL POLICY AND CIVIL RIGHTS

Mr. HATCH. Mr. President, I wish to continue the discussion about social policy and civil rights I began a short time ago.

Mr. President, I support the vigorous and sensible enforcement of our civil rights laws and make whole relief for the victims of discrimination. I support affirmative action involving outreach and recruitment. I support training and assistance open to all who are seeking to enhance their ability to compete, without regard to race, ethnicity, or gender. I oppose preferences in the award of benefits or impositions of penalties based in whole or in part on race, ethnicity, or gender.

Opposition to preferences should not be a device used, however inadvertently, to ignore the particular problems resulting from the legacy of prior and ongoing discrimination. Nor should opposition to preferences be used to weaken the kind of affirmative outreach and recruitment I mentioned earlier.

Conversely, I reject the cynical use of the affirmative action label as a means of throwing a protective shield over preferences, as President Clinton and his administration have repeatedly done.

This administration has pursued a pervasive policy of preference. The President's actions speak louder than his words. The Clinton administration has repeatedly cast its lot not on the side of equal opportunity for all Americans, but on the side of racial, gender, and ethnic preferences and equal results for groups.

Indeed, I find both President Clinton's July 19, 1995, speech on this issue and his administration's review of this issue an artful dodge of the real issues and a vigorous assault on the principle of equal opportunity for all Americans.

In his frequently gauzy July 19 speech, President Clinton never came to grips with the details of affirmative action preferences. He also repeats some false dichotomies long used by other tenacious defenders of preferences. He ignores the variety of ways preferences operate, and are defended, even under his own administration.

Moreover, he defines affirmative action with a combination of breadth and vagueness, allowing him to dodge the tough issues. He does not understand that preferences are not only wrong, they are terribly divisive.

Columnist Robert J. Samuelson has written:

The essence of Clinton-speak is that the president is often saying the opposite of what he is doing. On affirmative action, he deplores those ''who play politics with the issue . . . and divide the country.'' Yet, that describes Clinton exactly. His eager embrace of affirmative action guarantees that it will foment racial and gender rancor.

That was from the Washington Post of August 9, 1995.

He treats the web of local, State and Federal bureaucratic, legislative, and judicial rules and policies requiring the cause of preferences as if they were minor aberrations or barely in existence. They have, in fact, grown over the years, including under his policies.

For example, he claims that sometimes employers abuse the concept—as if local, State, and Federal governments have not been breathing down many employers' necks—playing the numbers game, pressuring and requiring consideration of race, ethnicity, and gender in their employment practices. Indeed, his administration has recently issued guidance concerning Federal employment which provides a shocking, broad-based series of rationales for preferences.

Moreover, the President, in my view, gives too much credit to affirmative action for progress in this country. The enactment and enforcement of antidiscrimination laws, a decrease in prejudice, and economic forces, in my view, have clearly played very important roles in such progress. Even his own task force admits, at least: ''It is very difficult * * * to separate the contribution of affirmative action from the contribution of antidiscrimination enforcement, decreasing prejudice, rising incomes and other forces.''

The four directives he has issued to his agencies are largely misleading or irrelevant, especially in light of his administration's overall actions. The President says, ''No quotas in theory or practice * * *'' but he supports a so-called flexible goal.

It is preferences we must oppose, however, not the label for one of the forms of preference. And the Clinton administration has strongly fostered preferences in various ways, as I will explain shortly, sometimes making use of numbers and sometimes not. Indeed, his administration has fostered outright quotas.

With respect to numerical objectives, whether they are labeled goals and timetables or quotas, the harm that occurs is the exercise of preference based on race, ethnicity, gender, or otherwise. It is such preference that is wrong, rather than the precise label we place on the mechanism of preference.

I think it is helpful to conceptualize the numbers approach as functioning along a continuum. At one end, the equal opportunity end, there is the requirement not to discriminate on the basis of irrelevant characteristics, the requirements to review selection processes to ensure that there is no bias and to recruit widely—and no numerical objective. At the other end is a requirement that does one of two things. First, it either establishes separate lists of those at least minimally qualified, based on race or gender, with alternate selection from these lists until a certain percentage is met, regardless of the relative rankings that would exist on a single list. Or, the requirement simply defines equal opportunity as essentially the proportional representation of various groups, and mandates or permits race or gender conscious selection procedures in order to meet that objective.

In between these two ends are various levels of coercive authority and sanctions that require or strongly encourage the use of preference. Thus, somewhere between these two opposites might be what is euphemistically described as a ''flexible goal and timetable.'' In fact, this differs little, as a practical matter, from what is otherwise known as a quota, except in the lack of explicitly separate lists. It might be that an employer is pressured to reach a certain percentage of designated groups in his work force over a period of time without the explicit creation of separate lists. Sanctions remain available, lurking not far in the background. If an employer or school believes that the failure to meet a goal will result in increased oversight, paperwork, and required explanations; the threat of contract debarment, loss of Federal aid, or a lawsuit by individuals, advocacy groups or the Government hanging overhead; or a contempt motion pursuant to a court order which is already in place, then the employer or school is going to try to meet that number, regardless of who is best qualified. If an employer or school does not believe that the Government intends for the number to be reached, they would have to ask, why did the Government put the number out there? If equal opportunity alone is all that is required, the Government can require that such opportunity be afforded without setting any numerical requirement. I also note that, when race, ethnicity, or gender is used as only one factor in a decision to hire, and that one factor tips the decision in favor of one person and against another, that is discrimination, that is a preference.

Thus, while some numerical objectives may be somewhat less coercive than others, they are no less objectionable. At best, we are speaking of matters of degree, not of kind. The Clinton Administration makes full use of the range of preferences.

President Clinton next says, ''no illegal discrimination of any kind including reverse discrimination.'' Mr. President, this is clearly a verbal slight of hand. The President never defined reverse discrimination. As the President and his legal advisors well know, the courts and executive bureaucracies, regrettably, have deemed a variety of reverse discrimination—preferences—as legal. His own task force, for example, speaks approvingly of the Supreme Court's 1979 Weber decision. That decision permits reverse discrimination in an employer's training program under title VII. The Weber decision is a crucial part of the reverse discrimination edifice in this country. So the President favors reverse discrimination under the name of affirmative action, at least so long as a court anywhere, or a bureaucrat, says its acceptable or might possibly say its acceptable. The congressional testimony, courtroom legal arguments, and policy guidance of his Justice Department amply confirm this.

Indeed, his own administration has vigorously sought to expand the rationales for permitting reverse discrimination. Let us not forget: the Clinton administration was on the losing side in the Supreme Court's 1995 Adarand case. The Clinton administration argued for a double standard based on race and ethnicity in the Federal Government's award of contracts and in Federal Government policy generally. President Clinton managed to omit that fact from his July 19, 1995, speech. President Clinton defended his administration's outrageous defense of racial preferences in layoffs in the Piscataway case.

Next comes the President's clumsiest and most transparent cynicism: ''no preference for people who are not qualified for any job or other opportunity.'' This is a longstanding dodge by the ardent defenders of preference and reverse discrimination. Of course, the problem with preferential policies is that they favor the lesser qualified over the better qualified.

Finally, the President says, as soon as ''the [particular affirmative action] program has succeeded it must be retired.'' We have heard that for at least 25 years. What does the President mean by an affirmative action program succeeding? He does not say, directly. But a careful review of his speech, his task force's rationale for affirmative action, including preferences, and his Justice Department guidance, makes it clear—he does not mean equal opportunity for individuals. The repeated reference, as justification for affirmative action, to various statistical disparities makes clear that affirmative action succeeds in this administration when equality of result—proportionality—has been reached. Indeed, his Justice Department's February 29, 1996 guidance to Federal agencies justifying preferences and reverse discrimination in Federal employment authorizes those agencies to maintain proportionality almost continually.

Despite misleading disclaimers, that memorandum is a wide-ranging defense not only of reverse discrimination well beyond current Supreme Court precedent. It is a thinly veiled defense of quota hiring.

I should also point out that President Clinton takes the Adarand decision as if it is the final guidance on preferences. It is not. His own task force knows better: ''The Court's decision concerned what is constitutionally permissible, which is a necessary but not sufficient consideration in judging whether a measure is a wise public policy.'' There is the question of what is right. In my view, if a business has been discriminated against by a government entity, it should have a remedy. But to prefer another business because it is owned by a member of the same group, over an innocent business owner who belongs to a different group, is wrong.

If one believes that rights inhere in individuals, not in groups, one has to oppose this latter type of program, a contract preference based on race, ethnicity, or gender. The Clinton administration celebrates it. Just listen to the Clinton task force's rationalization: race-conscious contract procurement programs ''cause only a minor diminution of opportunity for non-minority firms. In that respect, current programs are balanced and equitable in the large.'' So much for individual rights. So much for equal opportunity for every individual. No reasonable person would accept such a rationale if the victims were minority firms, and properly so.

The Clinton administration should tell Tom Stewart of Spokane, WA, who testified before the Senate Judiciary Constitution Subcommittee, that contract preferences generally cause only minor loss of opportunity. His guardrail firm has lost $10 to $15 million over 15 years because of preferences—reverse discrimination to anyone else but this President and other defenders of preference and reverse discrimination. Mr. Stewart has numerous letters from prime contractors saying he was low

bidder but could not be retained because of set-aside requirements—the preferences, if you will.

Or tell it to Lance McKinney, the president of Atherton Construction Co. of Salt Lake City, UT, who was not even permitted to bid on certain contracts because of his race. These requirements are far more pervasive in local, State, and Federal governments than the President admits. Even one contract lost because of race is one too many, but the Clinton administration breezily understates the scope of the problem.

The President condescendingly tries to bundle off concern about preferences and reverse discrimination to economic uncertainty in the white middle class. The President thinks the real problems with racial, ethnic, and gender set-asides are those of fronts and fraud. President Clinton just does not get it. He is out of touch with mainstream America. The real problem with racial, ethnic, and gender preferences, including in contract awards, is that they are fundamentally unfair. Preferences and reverse discrimination should be ended, not tinkered with.

The principle of equal opportunity demands that we avoid new forms of discrimination. We must not create new victims of discrimination in the name of affirmative action—something the President's own administration has, in the large, fostered and defended.

Ted Van Dyk, a former assistant to Vice President Hubert Humphrey has written:

> The civil-rights fighters of the 1950s and early 1960s can only be shocked that the more recent Democrats, including the president, have taken that struggle for opportunity and transformed it into an attempt at guaranteed outcomes. Hence the official and unofficial, gender and ethnic quotas imposed in staffing the administration.

Mr. Van Dyk has also noted—and keep in mind he was former assistant to Vice President Hubert Humphrey, who helped to write the act of 1964.

Mr. Van Dyk has also noted,

> Affirmative action was intended as nothing more than a late footnote to central civil rights and social legislation of the early and mid-1960s meant to remove from American life discrimination against—or for—any person or group. The objective of a generation of civil-rights fighters of all races and colors had been to give every American an equal chance at the starting line—but not a guaranteed outcome at the finish line.
>
> My old boss Hubert Humphrey, principal sponsor of the 1964 Civil Rights Act, made clear during congressional debate that quotas, racial preferences, set-asides and other discriminatory measures were totally at odds with the justice sought through the act. Title VII of the act, in fact, explicitly bans preferences by race, gender, ethnicity and religion.
>
> No one could have predicted then that affirmative action would be transformed into a quasi-entitlement or that well-meaning next-generation leaders, including President Clinton and Hillary Rodham Clinton, would insist on rigid racial, gender and ethnic quotas in filling federal appointments.

These quotes are from the Washington Post, March 9, 1995 edition.

The Washington Post of September 1, 1995, reports:

> A divided Montgomery County School Board has refused to overturn a school system decision denying two Asian kindergartners admission into a French immersion program because the transfer would upset the ethnic balance at their neighborhood elementary school.

Only after a public uproar was this particular denial overturned. How does the President feel about this general policy? Will his administration enforce equal opportunity in the Montgomery County schools?

The Washington Post of October 30, 1995, reported:

> Principal Inez Sadler's Valley View Elementary School in Prince George's County, Maryland faced a shortage of 50 students for its Talented and Gifted program, but she could not choose from any of the 67 students on a waiting list. The reason: all 67 students on the list are African American, while all 50 available slots are reserved for children of other races.

This is pursuant to a court-ordered desegregation remedy originating in a 23-year-old lawsuit.

In San Francisco, as part of a 12-year-old consent decree, Chinese-American youngsters are being discriminated against in favor of whites, blacks, Hispanics, Koreans, or Japanese for entry to Lowell High School—and there is discrimination in the treatment among these groups as well. This is in the Los Angeles Times, July 13, 1995 edition.

Only in the past few weeks has there been the possibility of some change in those policies.

A 12-year-old girl was denied admission to Boston Latin School recently because she ran afoul of racial preferences.

Does the President believe these practices are right? Should his administration have been doing something about it?

Some of these examples point out something else President Clinton is oblivious to: Preferences hurt all of those outside the preferred groups in any given instance, not just white males. That is the dodge that they hide behind all the time. We are finding they are hurting everybody.

Once we draw a line based on race, ethnicity, or gender, we create new victims of discrimination.

When Miami Dade Community College, for example, offers five faculty fellowships for males of African descent, white males are not the only victims. Females of African descent are discriminated against, as are Asians and Hispanics. But this program is fully consistent with the administration's actual policies.

If President Clinton is truly concerned about equal opportunity, he should straighten out the policies of his own administration.

He could start with the Department of Justice, which of course, as chairman of the Judiciary Committee, I have the responsibility of overviewing. That is one reason why I am taking time to make this statement today.

In 1994, the Clinton administration switched sides in a reverse discrimination case in Piscataway, NJ.

In the Piscataway case, the Piscataway Board of Education decided to reduce the size of its Business Education Department. The choice was between laying off a white female or a black female with equivalent seniority.

Normally, the tiebreaker between two equally senior employees facing a layoff is undertaken in a race-neutral manner, by drawing lots. But Piscataway had an affirmative action plan, which required that the tie be broken on the basis of race in favor of the black teacher. In 1989, the white teacher was discharged.

The Bush Justice Department brought a lawsuit in January 1992 challenging this racially discriminatory layoff under title VII of the 1964 Civil Rights Act. In June 1993, the Clinton administration, then in power, filed two briefs advancing its then position that the race-based layoff was illegal.

Then, stunningly, after the district court ruled in favor of the United States and the white teacher who had intervened in the case in her own behalf, and granted her relief, the Clinton administration flip-flopped and abandoned its earlier position. It, in effect, switched sides and argued against the white teacher in favor of a policy of racial discrimination. It argued to deprive the victim of discrimination of the very relief it had engineered.

The district court's straightforward legal analysis and finding in favor of the discriminatorily discharged teacher was challenged by the Clinton administration's strained legal arguments in its ideological drive to go beyond Supreme Court precedent to further its policies of reverse discrimination.

The advocates of racial preference argue that such preferences can be justified as an effort to enhance racial diversity in a work force.

I have many problems with the administration's position in this case. Let me mention one. I am deeply disturbed by the sweeping rationale DOJ advanced in support of the preference in this case. In its amicus brief—or friend of the court brief—the Department of Justice relied on Justice Steven's concurring opinion in Johnson, which defended preferences by public and private employers in very broad terms, including increasing the diversity of a work force for its own sake.

If the open-ended view taken in DOJ's brief prevails, what is left of the actual language of title VII? Title VII's language bans discrimination in employment because of race. Narrow exceptions to title VII's plain language in Weber and Johnson, unfortunate as they are, do not extend as far as the facts in Piscataway. The Clinton administration's rationale in Piscataway, it seems to me, turns the statute upside down. It is an open invitation to widespread discrimination.

President Clinton should have repudiated the Justice Department's extreme position in this case. Instead, he endorsed it. Now, he tries to claim he opposes reverse discrimination? In Piscataway, he advocates it. The court of appeals in that case has recently rejected the administration's effort to participate further in the case. I hope it upholds the lower court, notwithstanding the Clinton administration's change of heart.

Moreover, the Justice Department largely echoed its Piscataway brief in the wide-ranging rationales it will accept for preferential hiring in the Federal Government. The Justice Department's claim that whenever an employer can produce statistics, anecdotes, or expert testimony, it can justify racial, ethnic, and gender preferences in order to meet its operational needs is a giant leap down the wrong road for this country. The President should repudiate this memorandum and start over again. He has had to countermand the Justice Department in a pornography case and a religious liberty case, so I am not suggesting anything new for this President.

Let me be clear: I favor racial diversity and integration. The question is, how does an employer achieve it? I believe the proper way of doing so is recruiting widely, including among those who traditionally do not apply for a job, and then hiring on a nondiscriminatory basis, letting the numbers then fall where they may. We should not seek to achieve diversity by trumping the principle of equal opportunity for individuals.

The Clinton administration, in contrast, believes diversity can and should be reached by discrimination and preferences, even in cases involving layoffs, as in the Piscataway case. Indeed, as I mentioned earlier, its brief in this case, after changing sides, together with its recent guidance to Federal agencies, embraces multiple, sweeping rationales for reverse discrimination with little limit, at least in the context of hiring, promotion, and remarkably, layoff.

This is a recipe for the division, polarization, and balkanization of our people. It does not bring us together. The drafters of the 1964 Civil Rights Act, such as Hubert Humphrey, have shown us a better way. Instead, President Clinton is taking us far away from the principle of equal opportunity for individuals.

No matter how much the purveyors of preference try to candycoat or obfuscate their policies with euphemisms, they cannot mask the outright discrimination they are supporting. They cannot fool the American people.

Let me mention just some of the other manifestations of the Clinton administration's policy of preference. An August 10, 1994, memorandum to Assistant Secretaries of Defense for Force Management; Health Affairs; and Reserve Affairs and to the Deputy Under Secretaries of Defense for Requirements and Resources and for Readiness addressed the subject of improving representation. It is from the Under Secretary of Defense for Personnel and Readiness, Edwin Dorn.

The memorandum expresses concern about the job representation of, for example, minorities and women. That is a fair concern, and the issue becomes, how do you address that concern. The memorandum seems to call for recruitment of minorities and women as applicants for jobs, which I believe is entirely appropriate. But listen to how this concern is further addressed in the memorandum. Listen to how subtle pressure is placed on subordinates to put a premium, a preference, on irrelevant characteristics at the point of hiring or promotion.

The memorandum reads in part:

> Secretary Perry is holding me responsible for improving representation within the Office of Under Secretary of Defense for Personnel and Readiness. For this reason, I need to be consulted whenever you are confronting the possibility that any excepted position, or any career position at GS–15 level and higher, is likely to be filled by a candidate who will not enhance your organization's—and thus Personnel and Readiness's—diversity. By working together, we may be able to make faster progress. We know that there is a problem; it may be apparent even at our own staff meetings . . .

Notice that whenever there is a mere possibility that a person in one of the nonpreferred groups is even likely to be hired or promoted for any of the covered positions, race and gender must then come into play. The Defense Department may try to explain that any way it wishes. But the euphemistic phrase making faster progress, as a practical matter, means: if you are about to hire or promote a male or a nonminority, presumably on the basis of merit, do not do it until you check with your superiors and we may well prefer someone else on the basis of race or gender to improve our numbers. Indeed, in the next paragraph, the memorandum states, ''I believe that the informal process outlined above will produce results. If not, we will need to employ a more formal approach involving goals, timetables and controls on hiring decisions.''

The problem to the Clinton administration is not discrimination. The problem to the Clinton administration is the absence of a particular proportion of each group. By singling out hiring and promotion of white males for special scrutiny, this office in DOD discriminates against them. While this approach is already a formal one—see me before you hire a white male—the threat of even more draconian measures makes it even more likely that his subordinates will make sure they are on board in their hiring to begin with.

Antidiscrimination laws already apply to the Defense Department to ensure equal opportunity. The Department is also certainly capable of recruiting widely for job applicants. But the Clinton administration is going well beyond this with its pervasive policy of preference.

If President Clinton is really serious about equal opportunity, he will repudiate that memorandum.

Let us take another example of the Clinton administration's drive toward equal results. The November 15, 1994, FAA Weekly Employee Newsletter states, ''More than half of the GS–15 management positions recently filled through the Air Traffic National Selection System were minorities and females. 'This is in line with Air Traffic's commitment to fill one out of every two vacancies with a diversity selection,' said acting Associate Administrator for Air Traffic, Bill Jeffers.'' Rather than achieve equal opportunity by recruiting widely and hiring fairly, without regard to irrelevant characteristics, the Clinton administration prides itself on a process, driven not by equal opportunity, but by equal results.

When asked at a congressional hearing on June 27, 1995, whether the administration opposes quotas, the President's Attorney General said yes. Yet, when asked about the propriety of this FAA policy, the Attorney General refused to answer three times, hiding behind the President's ongoing, long-running Adarand review. There was no excuse for failing to repudiate the FAA's policy if this administration was serious about equal opportunity, rather than treating it as a political problem to be managed with euphemisms and dodges.

President Clinton's omnibus health care bill in the last Congress provides yet another example of how this administration really views preferences and has sought to foster preferences and reverse discrimination. The Clinton health care proposal would have given a national council power to set limits on the number of medical students in various specialties and would have allocated funding among various medical training programs. The bill said that among the factors the national council must consider in allocating specialty slots is,

> . . . the extent to which the population of training participants in the program includes training participants who are members of racial or ethnic minority groups, [and] with respect to a racial or ethnic group represented among the training participants, the extent to which the group is underrepresented in the field of medicine generally and in various medical specialties.

It was not enough, then, that the medical school comply with title VI which bans racial and ethnic discrimination in programs receiving Federal aid. It was not enough to recruit widely for applicants. The Clinton administration wanted to tell medical schools that the more members of a particular group they enroll, the more likely it is that they will get a financial allocation. How many members of the groups? The bill did not say, a new twist on preferences and their encouragement. Mr. President, if you were a rational medical school administrator competing for scarce Federal dollars, and this bill had become law, how

would you react? Would you simply recruit widely and then select medical students on the basis of merit and talent, without regard to race or ethnicity? Or would you make sure that race and ethnicity play a role in the selection of students, as well? This is a financial incentive for preference.

The revised Clinton health bill, S. 2357, introduced in August 1994, actually added women to racial and ethnic groups in this preference provision. Of course, Federal law since 1972 already bans discrimination against women in federally assisted education programs. Instead of relying on our nondiscrimination laws which were written to protect these people and relying on recruitment of the right kind, the Clinton administration actually made this provision more preferential than it was less than a year before.

If President Clinton is so concerned about fairness and doing the right thing, I respectfully suggest that, as a first step, he ought to stop doing the wrong thing.

There are a number of other examples. Let me mention the Podberesky versus Kirwan case.

In addition to need-based financial aid, the University of Maryland at College Park [UMCP] offers two merit-based scholarships. No. 1, the Banneker scholarship, is for black students only. Podberesky, a Hispanic student, applied for a Banneker scholarship. Although he met the minimum requirements, he was turned down because he is not black. He is Hispanic.

The Department of Justice defended the program as a remedy for the present effects of past discrimination in Maryland's public higher education system. The district court ruled for the university, but the fourth circuit reversed and granted Podberesky summary judgment. The fourth circuit said that the university did not have sufficient evidence of present effects of its prior discrimination to justify a preference in its scholarship program, and, in any event, its effort is not narrowly tailored to serve its purported remedial purpose.

Instead of justifying this reverse discrimination, the Clinton administration should be fostering race-neutral financial aid policies.

When the California regents ended reverse discrimination in their policies in the California State university system, how did the Clinton administration respond? The President's Chief of Staff, Leon Panetta called it a terrible mistake. The Clinton administration sought to bully California and perhaps intimidate others. It initially threatened a possible cutoff of Federal aid and Federal contracts. Mr. Panetta, referring to the California universities' Federal aid, said, ''Obviously the Justice Department and the other agencies are going to review the relationship.'' The President's chief civil rights enforcer, Assistant Attorney General Deval Patrick, called this policy of equal opportunity a shame. He called it unwise. In a statement that only George Orwell could have loved, the Clinton administration's chief civil rights enforcer condemned the California Regent's action as an abandonment of ''the ideals that have been with us since our founding as a nation.''

This is another example of how the President does not get it: The California Regent's new policy is a step that reflects our Nation's ideals. If the President was truly concerned about fairness, equal opportunity, and against reverse discrimination, he would have supported Gov. Pete Wilson and the California Regents. Nothing better sets out the starkly different visions of this administration and those of us who believe in equal opportunity for all Americans than the Clinton administration's attempted bullying of California on this matter. Nothing better belies this administration's claim to be reformist—though the administration may tinker here and there, it is essentially a defender of the status quo.

This administration is fostering preferences in mortgage lending and property insurance through groundbreaking misuse of fair housing and fair credit laws. The then acting director of the Office of Thrift Supervision has even questioned some of these tactics.

The President, in undertaking his review of affirmative action, reminds me of the French Police Chief in the movie ''Casablanca'' who pretended not to know gambling was taking place in the nightclub he frequented. President Clinton would apparently be shocked, shocked to learn that reverse discrimination is openly, knowingly, and tenaciously fostered and defended by his administration in practice. Even now, I believe the Clinton administration is working hard to devise ways of perpetuating as much preference as possible, giving up just enough to make it seem as if they are doing something about it. Even then, as I will explain in a moment, the administration is attempting to mislead the American people.

President Clinton is out of touch with mainstream America on the issue of equal opportunity.

Mr. President, it is not enough to nibble at the edges of a problem.

The administration has announced its suspension of one of the preference programs operated by the Federal Government. This is a contract set-aside program operated at the Defense Department, the so-called rule of two program. I approve of this small, first step, but it is so much window-dressing thus far in the administration's review. Indeed, after making a large public relations splash about the suspension of this program, the Department of Defense made a much quieter announcement in the Federal Register on December 14, 1995. It proposed a new preference for awarding certain contracts by adding 10 percent to the total price of all offers other than those from small minority businesses.

And, shortly thereafter, the Clinton administration filed a brief in the Dynalantic Corp. versus Department of Defense case, which tenaciously defended racial contract preferences generally and under the section 8(a) program.

The President may suspend a few more programs that represent the worst abuses. But, Mr. President, one cannot split the difference on the principle of equal opportunity.

There are numerous preferential programs and policies operated by the Federal Government, a number of which the President can abolish. For example, he could eliminate the use of numerical racial, ethnic, and gender employment goals for Federal contractors. Executive Order 11246 requires Federal contractors to undertake affirmative action to ensure nondiscrimination. It does not require numerical goals. Numerical goals are a bureaucratic creation which the President could end with a stroke of a pen.

The section 8(a) contract set-aside program at the Small Business Administration is another example. Section 8(a) is intended to assist small businesses owned by socially and economically disadvantaged persons. The statute defines a socially disadvantaged person as someone who has been discriminated against because of racial, ethnic, or cultural bias. But the SBA regulations require that members of some racial or ethnic groups be presumed to be socially disadvantaged. All others seeking entry into the 8(a) program must prove they are socially disadvantaged. The President should order the deletion of this preference. All American small businessowners should have an equal chance to compete for 8(a) contracts.

Moreover, aside from these three areas, there are many other Federal policies and programs that contain preferences. What does the President intend to do about them?

What is the President's action really about? The answer seems to lie in the candid remark of an administration official, cited in the May 31, 1995, New York Times. In that story, the New York Times reported that ''an administration official said there might be some political benefit if black business executives criticized the Administration's eventual proposals. 'We want black businessmen to scream enough to let angry white males understand we've done something for them,' said the anonymous official.''

Indeed, President Clinton went to California over the Labor Day weekend and claimed credit for Congress' repeal of an FCC racial preference in the selling of broadcast properties earlier this year. His administration, of course, resisted repeal of that preference, and then wanted it modified, not repealed. His own spokesman had to acknowledge as much. And, as I mentioned earlier, in December, his administration recently proposed a brand new preference at the Department of Defense and continues to defend other preferences.

Let me conclude with the words of Prof. William Van Alstyne, in a 1979 law review article:

> . . . one gets beyond racism by getting beyond it now: by a complete, resolute, and credible commitment never to tolerate in one's own life—or in the life or practices of one's government—the differential treatment of other human beings by race. Indeed, that is the great lesson for government itself to teach: in all we do in life, whatever we do in life, to treat any person less well than another or to favor any more than another for being black or white or brown or red, is wrong. Let that be our fundamental law and we shall have a Constitution universally worth expounding.

This is ''Rites of Passage: Race, the Supreme Court, and the Constitution:'' in the Chicago Law Review. I have to say I fully agree with that.

Mr. President, this is an important set of issues. We cannot ignore them. We are going to divide this country more than ever if we keep doing this system of preferences that has been going on in this administration and, alas, unfortunately, in some prior administrations as well. I hope that we can do a lot about this. I hope that we will make headway against these preferences and these inappropriate treatments of fellow American citizens as we move on into the future.

I hope the administration will pay attention to some of the things that I have brought up here today.

THE UNTIMELY DEATH OF SECRETARY OF COMMERCE RON BROWN

Mrs. FEINSTEIN. Mr. President, I would like to comment briefly on the tragic death of Secretary of Commerce Ron Brown, which occurred last week in Croatia.

I have know Ron Brown and his family for 12 years. Ron was a friend of mine, and a friend of the State of California. One of his first duties as Commerce Secretary was to find ways to resuscitate California's economy, and he helped to do just that. Ron Brown made the Department of Commerce a positive force for helping the largest State in the Union recover from the devastating recession of the early 1990's.

Ron had a vision of a prosperous America, where the cliche that ''a rising tide lifts all boats'' could actually come true. He focused his Department and this administration on looking for opportunities to help the American economy make the transition from the era of heavy industry to an era of high technology, scientific innovation, and the advancement of the current revolution in communications.

Ron helped formulate this vision, made sure that his Department gave grants and other forms of assistance to firms pursuing it, and at the time of his death was advocating that vision to other parts of the world.

But even more important than his career was the man himself. Always upbeat, with ceaseless energy, Ron could persuade the most vehement skeptic of the value of his vision and efforts for our country. He served in a variety of roles, and in each he excelled. His days as an effective leader with the National Urban League demonstrates this, where he became deputy executive director, general counsel and vice president of the Urban League's Washington, DC office.

Ron Brown's boundless energy and commitment to excellence did not stop at the National Urban League. It continued to help him break racial boundaries and become the first African-American to head a major political party, helping to elect the country's first Democratic President in 12 years; the first African-American to become a partner in his powerful Washington, DC law firm; and the first African-American to take the helm at the U.S. Department of Commerce.

I know of no chairman of the Democratic National Committee who was better regarded, whose fundraising calls were more frequently returned, or whose hardships and public statements were more well regarded—Ron Brown was tops.

In my view, Ron Brown's stewardship as Secretary of Commerce was unparalleled. He truly cared about his work and those the Department serves, and the record reflects accurately billions of dollars in trade and new business that will, in the future, benefit this country's businesses and industrial base.

I find the circumstances of his untimely death to be particularly poignant. Here he was, leading a group of business people and his staff, on a mission of peace to the war torn land of the former Yugoslavia.

He did not wait for peace to be restored. He went when risks of hostile action were still present. He did not wait for pleasant weather before springing into action. And, he did not just work on economic issues. He also spent time with our troops over there, to let them know we support their efforts.

Mr. President, we have lost a great American in Ron Brown. Whether it was politics, or crafting legislation for the Senate, or civil rights, or military service, or being a husband and a father, Ron Brown was a great patriot, and a great human being. I shall always treasure the relationship he and I had, and I shall miss him terribly.

To Alma Brown and Tracy, who have traveled with me in the campaign, I send my heart and prayers. With all his family, I share an unrelenting emptiness and sadness. I will miss the phone calls, the smile, the exploits from progress, and, most of all, his abiding and consummate belief in all of us.

LUCIUS WADE EDWARDS JULY 18, 1979–APRIL 4, 1996

Mr. HELMS. Mr. President, on March 14 of this year, one of the most impressive young men I have ever met came to my office, accompanied by his justifiably proud mother. Lucius Wade Edwards, 16, had just come from the White House. He had visited with First Lady Hillary Rodham Clinton who praised him for having been 1 of the 10 finalists in a contest sponsored by the National Endowment for the Humanities and the Voice of America.

His father, John R. Edwards; his mother, Elizabeth Anania Edwards, and his younger sister, Kate, accompanied him to the White House living quarters for his visit with Mrs. Clinton.

Wade was being honored for his having written a poignant essay entitled, *What It Means To Be An American*. Wade described going with his father to vote.

It was, as I said at the outset, Mr. President, March 14, 1996, when Wade and his dear mother stopped by my office. Three weeks later, on April 4, Wade died in an automobile accident that involved no carelessness, no recklessness, no failure to wear his seatbelt. It was just one of those tragic things that happen, and it snuffed out the life of this remarkable young man.

Mr. President, in a moment I shall ask unanimous consent that two important insertions into the RECORD be in order. The first will be the text of the award-winning essay written by Wade. It is entitled ''Fancy Clothes and Overalls.''

The second is an account, published in the Raleigh News and Observer on April 4, 1996, relating to the tragic death of Wade Edwards.

I now ask unanimous consent, Mr. President, that the two aforementioned documents be printed in the RECORD at the conclusion of my remarks and in the order specified by me.

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

FANCY CLOTHES AND OVERALLS

(By Wade Edwards)

A little boy and his father walk into a firehouse. He smiles at people standing outside. Some hand pamphlets to his father. They stand in line. Finally, they go together into a small booth, pull the curtain closed, and vote. His father holds the boy up and shows him which levers to move.

''We're ready, Wade. Pull the big lever now.''

With both hands, the boy pulls the lever. There it is: the sound of voting. The curtain opens. The boy smiles at an old woman leaving another booth and at a mother and daughter getting into line. He is not certain exactly what they have done. He only knows that he and his father have done something important. They have voted.

This scene takes place all over the country.

''Pull the lever, Yolanda.''

''Drop the ballot in the box for me, Pedro.''

Wades, Yolandas, Pedros, Nikitas, and Chuis all over the United States are learning the same lesson: the satisfaction, pride, importance, and habit of voting. I have always gone with my parents to vote. Sometimes lines are long. There are faces of old people and young people, voices of native North Carolinians in southern drawls and voices of naturalized citizens with their foreign accents. There are people in fancy clothes and others dressed in overalls. Each has exactly

the same one vote. Each has exactly the same say in the election. There is no place in America where equality means as much as in the voting booth.

My father took me that day to the firehouse. Soon I will be voting. It is a responsibility and a right. It is also an exciting national experience. Voters have different backgrounds, dreams, and experiences, but that is the whole point of voting. Different voices are heard.

As I get close to the time I can register and vote, it is exciting. I become one of the voices. I know I will vote in every election. I know that someday I will bring my son with me and introduce him to one of the great American experiences: voting.

Wade Edwards, 16, is a junior at Broughton High School, the oldest high school in Raleigh, North Carolina. He has played on Broughton's soccer team, participated in student government and has been an editor on the yearbook staff. He is also a member of the Key Club, the Junior Classical League, and the Latin Honor Society. This year Wade was selected to attend the National Youth Leadership Forum on Law and the Constitution. After school, he works as a messenger for a law firm. One of the accomplishments of which Wade is not proud was achieved outside of high school—last summer he successfully climbed Mount Kilimanjaro, the highest peak in Africa, with his father and two friends.

LUCIUS WADE EDWARDS

RALEIGH.—Lucius Wade Edwards was born in Nashville, Tennessee, on July 18, 1979, the first child of John R. Edwards and Elizabeth Anania Edwards. He moved at two years old with his family to Raleigh. He moved into the house he calls home the day after his loving sister, Kate, was born. He chose the green room and quickly filled it with the imagination of a boy. In elementary school at Aldert Root, he made lasting friendships and, when his sister joined him, he was the perfect big brother, walking her home each day hand and hand. Wade played basketball at the Salvation Army, the YMCA, and the Jaycee Center. He played soccer for years with CASL, eventually on the Broncos coached by his father, and later on the Renegades. Wade attended middle school at Ligon for two years, where his poetry was published and he won a countrywide computing award, and at Daniels for one year. He really began to become a young adult when he started attending Broughton High School in 1993. He made the Junior Varsity Soccer team in his freshman and sophomore years. He joined various organizations, such as Junior Classical League, Key Club, and the yearbook staff, where he was organizations editor this year.

In the summer between Wade's sophomore and junior years in high school, Wade attended and completed the eighteen day Rocky Mountain Outward Bound program. Immediately after that, Wade and his father flew to Africa, where they met with close friends and together successfully climbed Mount Kilimanjaro. It was the accomplishment of which he felt most proud.

In his junior year, Wade was invited to attend and did attend the four day National Youth Leadership Conference on Law and the Constitution in Washington, D.C. A short story he wrote based on his Outward Bound experiences was chosen for publication in Broughton's literary journal and won second place in the Raleigh Fine Arts Society competition for all Wake County eleventh graders. He wrote an essay on the topic What It Means To Be an American for the National Conversation Essay contest. He wrote about voting with his father. His essay was selected as one of the ten finalists nationwide. As a result, in March he was invited by the National Endowment for the Humanities and Voice of America to receive an award in Washington, D.C. During that visit, he had a personal audience with the First Lady, Hillary Rodham Clinton in the private quarters of the White House. With his father, mother, and sister watching, he received his award in the Indian Treaty Room. He recorded his essay for international broadcast over Voice of America.

Wade had a greater impact than his many achievements. He made many friends with his wide smile and easy way. He had a genuine sweetness and compassion that made his friends cherish him. He was always affectionate and loving with his family, which, in this time, gives great comfort. And in return he was well-loved in his home, in his school, and in his community.

In addition to his parents, Wade is survived by his sister, Kate, maternal grandparents, Vincent and Elizabeth Anania of Melbourne, Fla., paternal grandparents, Wallace and Catherine Edwards of Robbins, N.C.

Funeral service will be at 11 a.m. Monday at Edenton Street United Methodist Church.

The family will receive friends at Brown-Wynne Funeral Home, St. Mary's Street from 7–9 p.m. Sunday. Burial will follow in Oakwood Cemetery.

In lieu of flowers, the family asks that donations be made to a Memorial Fund at Broughton High School, St. Mary's Street, Raleigh, in Wade's name to be used to create a memorial befitting Wade's special gifts and contributions.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

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

Mr. HATCH. Would the Senator withhold that?

Mr. SIMPSON. I withhold.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

Mr. HATCH. Mr. President, since we have just turned to the illegal immigration reform bill, I ask the indulgence of the two managers for a few minutes. I want to pay tribute to my friend and colleague, the senior Senator from Wyoming. For some 17 years—really, 17 years plus—Senator SIMPSON has taken on the difficult and often thankless task in dealing with the immigration issue, an issue which stirs the emotions, and one which people become very passionate about. He has always taken on this task with spirit, diligence and intelligence. His views were always thoughtful.

From time to time, I have disagreed with my friend from Wyoming on some immigration issues, but the record should be crystal clear that my friend from Wyoming is a man of great good will, a good will he brings to this issue. He often takes unfair criticism. Indeed, to borrow one of many pithy phrases I will soon miss from my friend, my friend has had several metric tons of garbage dumped on him over this issue—although garbage is not the exact word he uses. The abuse is very much undeserved.

I express my warmth, affection, and respect for my friend from Wyoming as we continue this important debate, and respect for his staff, also, which has worked so hard on these issues. I want him to know that I, as chairman of the Judiciary Committee, particularly appreciate his help and his work in the markup of this very important bill. I just want him to know how much we respect him and others who are working on this bill, as well.

Mr. SIMPSON. Mr. President, I do thank my friend and colleague from Utah. It is a great pleasure always to work with Senator ORRIN HATCH. We have done that, now, for 17½ years together. There is not a person I enjoy more—his spirit, energy, and background as a pugilist, which has certainly helped him. Would that I had studied pugilism as he had in my youth, because he gives as good as he gets. He is a wonderful friend, and I thank him.

As we proceed to these next 2 days, this issue is such a marvelous issue, filled simply with emotion, fear, guilt, and racism, and it is a political loser. It has never pushed me up a peg in political life, but somebody has to do this particular work, and the Senator has given me the ability and the leeway to go forward with it as your subcommittee chairman. I am deeply appreciative of it.

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. KYL. 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. KYL. Mr. President, let me begin by applauding the leadership of Senators SIMPSON and HATCH and the rest of the Judiciary Committee in passing out of the committee this very important immigration bill to stem the tide of illegal immigration in our country, both among those who come here illegally and those who come here legally but who do not leave our country when their visas expire. It has been said before that, according to the INS, these visa overstayers represent about 50 percent of the illegal population.

The bill we are debating this week also includes provisions to crack down on criminal aliens and alien smugglers and to ensure that neither illegal nor legal immigrants come to the United States to take jobs from taxpayers or to depend upon our Nation's welfare benefits.

There will be an effort on the floor to pass a sense-of-the-Senate resolution declaring that any attempt to reform laws related to legal immigration should be considered separately from illegal immigration reform. I oppose this effort and will speak against it when it is offered.

I plan to offer an amendment with Senator SIMPSON that will provide a temporary 10-percent reduction in overall legal immigration. This is a very modest reduction, but it will at least provide a sharp contrast to the increase in immigration that will result under the bill as it was amended in the committee.

It is important to make clear that immigration will not be reduced under the committee bill. Immigration will increase at a slightly lesser rate than under current law, but it will increase.

Having said that, Mr. President, I move to the bill we are debating today and one of great importance to the Nation, and specifically to my home State of Arizona. Immigration and Naturalization Service figures show that illegal immigrants are entering Arizona at a faster rate than they are entering any other State. Over the past year, Arizona has surpassed even Texas in illegal immigrant apprehensions. California is the only State with higher apprehension levels, and although apprehensions have decreased somewhat in what had been the hot spot for illegal entry in Nogales, AZ, apprehensions for March 1995 to March 1996 have increased over 300 percent in the Nation's newest hot spot for illegal entry, Douglas, AZ.

Mr. President, I was in Douglas, AZ, just about a week ago, in fact, a week ago yesterday, and visited with community leaders and with Immigration and Naturalization Service employees. The situation in Douglas is extraordinary, to say the least, with thousands of illegal entrants into the country every month. As a matter of fact, in the first 2 months of this year already, more people had been apprehended than in all of last year. What has happened is that as the INS has put more agents in Texas and in the San Diego area of California, the illegal immigration naturally shifted to Arizona, first the port of Nogales, where last year that was the hottest spot in Arizona. Now, with more agents having been put in Nogales the people are moving from there, east, to Douglas and crossing the border in that very small community. As a result, it is very, very important that there be additional support provided for the Immigration and Naturalization Service in the Douglas area, including the addition of more agents.

I note that at the moment, there are some 60 temporary agents, but under labor union contracts they can only be assigned away from their permanent station for, I think, a period of 30 days. In any event, 60 people translates into 15 people on the ground at any given time. There needs to be an additional allocation of agents to the Douglas area. According to the Immigration and Naturalization Service, illegal immigrants comprise about 10 percent of the work force in Arizona.

In addition, according to Governor Fife Symington, Arizona incurs costs of $30 million every year to incarcerate criminal aliens. The State also spends $55 million annually in Arizona taxpayer money to provide free education to persons who are in this country illegally. Clearly, illegal immigration imposes great costs on our citizens.

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

The PRESIDING OFFICER (Mr. GRASSLEY). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KYL. 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. KYL. Mr. President, I will continue on with my comments.

Arizona is not the only State dramatically affected by illegal immigration. The INS estimates that there are 4 million illegal immigrants in the United States and that this number is growing by 300,000 to 400,000 each year.

While the United States has always been, and should continue to be, a land of opportunity for U.S. citizens and for those who come here illegally, we simply cannot afford as a nation to continue to incur the unrestrained costs of illegal immigration—in jobs, in welfare, in education, in health care, in crime on our streets, and on our penal system. To illustrate the effect, consider that over one-quarter of all Federal prisoners are foreign-born, up from 4 percent as recently as 1980. Again, over 25 percent of all Federal prisoners are foreign-born. It was only 4 percent just 15 years ago.

As we all know, yesterday was tax day. It is not fair, given our $5 trillion debt and annual $200 million in deficit spending, to ask law-abiding taxpayers to pay for those who choose to violate our laws to come to this country illegally, or even to pay for legal immigrants who, once here, quickly come to depend on our Nation for welfare and other public benefits.

S. 1664 will go a long way toward eliminating those incentives. Under the bill, illegal immigrants are banned from almost all public benefits programs outright and legal immigrants will have to work 40 quarters before becoming eligible for most benefits. I was pleased that the committee passed a number of amendments I offered to deal with this general issue: these include requiring the Education Department to report to Congress on the effectiveness of a new system designed to ensure that ineligible aliens do not receive higher education benefits, and requiring the Federal Government to reimburse States for the costs of providing emergency medical services and ambulance services also passed. The latter was offered on behalf of Senator MCCAIN. I also plan to offer an amendment during this debate to ensure that, as the House did, illegal aliens do not receive assisted government housing benefits.

So that aliens do not come to this country illegally and take jobs away from law-abiding taxpayers, the bill directs the Attorney General to conduct regional and local pilot employer verification projects to ensure that employees are eligible to work in the United States. Employers are already required to fill out the I–9 form to verify the eligibility of employees. However, the I–9 system is open to fraud and abuse—participants in the new system will be, for the most part, exempt from the I–9 requirement. An improved verification system will protect employers from unintentionally hiring illegal aliens and also protect potential job applicants from discrimination. The bill specifically prohibits the establishment of any national ID card. Employee verification can only be used after an employee is offered a job, and would require a subsequent vote in Congress before a national system could be established. I was pleased that the committee passed my amendments to limit liability and cost to employers who participate in any system.

Importantly, this bill will assist our Government in its primary responsibility; protecting U.S. borders and enforcing U.S. laws. After all, we are a nation of laws. We cannot turn a blind eye to those who break our immigration laws. We simply cannot afford to anymore. We must gain greater control over our Nation's borders, prevent illegal entry and smuggling, and detain and swiftly deport criminal aliens. S. 1664 will help achieve these objectives. Increasing the number of Border Patrol agents, and improving technology and equipment at the border has been one of my priorities, so I was particularly pleased that the committee adopted my amendments to train 1,000 new Border Patrol agents through the year 2000 and to require, as recommended by Sandia Labs in 1993, the construction of a triple-tier deterrence fence along the San Diego border; and to increase the number of INS detention spaces to 9,000 by the year 1997. This increase in detention space will raise by 66 percent detention space available to the INS to detain criminal aliens awaiting deportation and other aliens who are at risk of not showing up for deportation or other proceedings. The bill also requires the Attorney General to report to Congress on how many excludable or deportable aliens within the last 3 years have been released onto our Nation's streets because of a lack of detention facilities.

In addition, the bill allows the Attorney General to acquire U.S. Government surplus equipment to improve detection, interdiction, and reduction of illegal immigration, including drug trafficking, and allows volunteers to assist in processing at ports of entry and in criminal alien removal. These provisions will go a long way toward effective control and operation of our Nation's borders.

In addition to more effectively controlling our border, further modification of our laws is needed to create disincentives for individuals to enter the

United States illegally. I plan to offer two additional amendments to deal with this issue. The first would amend section 245(i) of the Immigration and Nationality Act, so that illegal aliens who become eligible for an immigrant visa can no longer attain the visa by paying a fee that lifts the requirement to depart the United States. Section 245(i) encourages people who are awaiting an immigrant visa to jump illegally ahead of others, simply by paying a fee. Senator HUTCHISON and I also plan to offer an amendment that, with a number of exceptions, would exclude for 10 years those who have entered without inspection from obtaining a visa.

S. 1664 also makes clear that you cannot skirt the law by entering the country legally and then overstaying a visa. Another amendment I offered that the subcommittee adopted requires individuals who have overstayed their visas to return home to obtain another visa, period. And, the last successful amendment regarding overstayers, offered by Senator ABRAHAM and cosponsored by me, requires visa overstayers to return home for 3 years before applying for another visa. While this last amendment goes far, I plan to offer an amendment with Senator HUTCHISON that would, with a number of exceptions, exclude for 10 years those individuals who have overstayed their visas for more than a year.

For those individuals who come to this country and commit crimes—and there are 450,000 criminal in jails and at large in this country—there are provisions in the bill to keep them off our streets and deport more quickly. I am pleased that a bill I introduced last year, to encourage the President to renegotiate prison transfer treaties so that aliens convicted of crimes can no longer choose whether or not they serve out their sentences here or in their home country, was added to the bill. Also passed was my amendment to advise the President to renegotiate these treaties so that if a transferred prisoner returns to the United States prior to the completion of a sentence, the U.S. sentence is not discharged. The committee also passed a number of amendments I cosponsored, offered by Senator ABRAHAM, that strengthen the detainment and deportation of criminal aliens in other ways.

There are a number of other provisions in this bill that are important, including provisions to streamline the system by which asylum seekers apply to stay in the United States. While refugees are still offered important protections, abuse of the system will be largely curtailed by a new system allowing specially trained asylum officers at ports of entry to determine if refuge seekers have a credible fear of persecution. If they do, then they go through the process of establishing a well-founded fear of persecution in order to stay in the United States.

By allowing these especially trained officers to make decisions at ports of entry, it will be more difficult for individuals to simply fill out an asylum application, be released into the streets, and possibly never show up for asylum proceedings.

The bill we are debating this week includes provisions that Senator SIMPSON and his staff have worked hard to develop and protect. Many of them are a response to the Jordan Commission recommendations. It includes bipartisan provisions on which Senators from both sides of the aisle have diligently worked.

As we begin to consider this important bill, we have to remember that, unless we protect our borders and insist that our immigration laws are taken seriously, we undermine the law, and that undermines the United States as a land of opportunity for all—both foreign and native born. My grandparents immigrated to the United States from Holland. I think they would be concerned about how our immigration system works today.

The American dream must be kept alive for citizens and for those who came here legally. A government not in control of its own borders is not serving the public well.

I urge my colleagues to pass a bill that will address these important problems. Again, I very sincerely thank the chairman of the Immigration Subcommittee of the Judiciary Committee for his long years of work in this area and for his willingness to work with everybody on the committee to craft the best bill possible so that he can begin to deal with these serious problems.

Mr. SIMPSON. Mr. President, I thank my colleague from Arizona. I only want to say that it has been a great joy to work with him on the Committee on Immigration. He is a remarkable contributing member, brings a vigor and intelligence and skill to the committee, to the subcommittee, and to the full committee. There could not be a finer new Member of the body participating in the measure, and it will be a great personal satisfaction for me that he will continue on with this issue. I certainly hope, also, that it might be in the capacity as chairman of the Subcommittee on Immigration.

I know that Senator KENNEDY will work with whoever my successor will be, and I think we will find certainly a great deal of pleasure in working with Senator KYL. I thank him very much for all that he has done.

I yield to Senator BRYAN of Nevada since the business of the floor is the immigration bill and since I hold the floor.

Mr. DORGAN. Mr. President, regular order.

Mr. SIMPSON. I hold the floor. I believe that is the case.

Mr. DORGAN. Mr. President, parliamentary inquiry.

Mr. SIMPSON. You recognized me. I intended to yield to Senator BRYAN.

Mr. DORGAN. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER (Mr. KYL). The Senator will state the parliamentary inquiry.

Mr. DORGAN. The Senator from Wyoming yielded to the Senator from Nevada for a question. Does the Senator from Wyoming control time on the floor of the Senate at this point?

Mr. SIMPSON. I have the floor, Mr. President.

The PRESIDING OFFICER. The Senator from North Dakota should be advised that Senator SIMPSON may yield to the Senator from Nevada with consent.

Is there any objection?

Mr. DORGAN. I object.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. Objection is heard.

The Senator from North Dakota.

Mr. DORGAN addressed the Chair.

Mr. SIMPSON. Mr. President, what is the status of the situation on the floor at the present time? Objection is sustained and not——

The PRESIDING OFFICER. At the present time, I will advise the Senator from Wyoming that, absent unanimous consent to do otherwise, the Senate, under the previous order, will resume consideration of S. 1664.

Mr. SIMPSON. Yes. But after the objection, then there is no yielding of any measure to the Senator from North Dakota. He does not then take the floor.

The PRESIDING OFFICER. That is correct.

Mr. DORGAN. Mr. President, parliamentary inquiry.

Mr. SIMPSON. This Senator, I am advised and wanted to be absolutely certain, does control the floor, and I can yield to the Senator from Nevada, and at the end of that time I intend to yield to the Senator from Wisconsin, Senator FEINGOLD, and to Senator GRASSLEY, because we are doing an immigration bill. We are not doing Social Security. We are not doing balanced budgets this morning.

Mr. DORGAN. Mr. President, parliamentary inquiry.

Mr. SIMPSON. Those are subjects that the Senator from North Dakota would like to address.

The PRESIDING OFFICER. The Senator is correct.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1664, which the clerk will report.

Mr. DORGAN. Parliamentary inquiry.

The bill clerk read as follows:

A bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Dorgan amendment No. 3667, to express the sense of the Senate that a balanced budget constitutional amendment should protect the Social Security system by excluding the receipts and outlays of the Social Security trust funds from the budget.

Simpson amendment No. 3669, to prohibit foreign students on F–1 visas from obtaining free public elementary or secondary education.

Simpson amendment No. 3670, to establish a pilot program to collect information relating to nonimmigrant foreign students.

Simpson amendment No. 3671, to create new ground of exclusion and of deportation for falsely claiming U.S. citizenship.

Simpson amendment No. 3672 (to amendment No. 3667), in the nature of a substitute.

Several Senators addressed the Chair.

Mr. DORGAN. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from North Dakota will state his inquiry, and then it is the Chair's intention to recognize the Senator from——

Mr. DORGAN. Mr. President, the parliamentary inquiry is this. When I offered an objection to the unanimous-consent request, the unanimous-consent request was then not agreed to. At that moment I said, ''Mr. President,'' and the Chair recognized the Senator from North Dakota.

I do not quite understand that the right of recognition on the floor of the Senate has changed because I read the rule book about the right of recognition. After I was recognized, the Senator from Wyoming then asked a series of questions of the Chair, from whom he got a sympathetic answer, which does not comport with the rules of Senate.

I would like to understand the circumstances which existed when the Chair recognized me after I objected.

The PRESIDING OFFICER. The Senator knows that the stating of a parliamentary inquiry does not gain the floor. The Senator from Wyoming has the floor. The floor was placed under the regular order, which the Senator from North Dakota had called for. Under the previous order, the Senate resumed consideration of S. 1664, which is the pending business. The Chair asked the clerk to report. The Senator from Wyoming has the floor.

Mr. DORGAN. Parliamentary inquiry. This Senator begs to differ with the President. The circumstances of the Senate were this: The Senator from Wyoming propounded a unanimous-consent request. The Chair asked if there was an objection. The Senator from North Dakota objected. At that point, the Senator from North Dakota addressed the President, ''Mr. President.'' The President of the Senate recognized the Senator from North Dakota. At that point I was recognized and had the floor of the Senate.

I do not understand the ruling or the interpretation of the Chair that leads to a different result. I would very much like to try to understand that.

The PRESIDING OFFICER. The Senator from North Dakota is correct to this extent: The pending business is S. 1664. The chairman of the Immigration Subcommittee, Senator SIMPSON, has the right to be recognized under that pending business. The Chair has recognized the Senator.

Mr. DORGAN. Parliamentary inquiry.

Mr. SIMPSON. Mr. President, may I just ask my friend from North Dakota? I think the Chair could easily have determined that in recognizing the Senator from North Dakota, it was for the point of parliamentary inquiry. That was all that the Senator from North Dakota was seeking. If he was recognized, which he was, then certainly it was on the point of a parliamentary inquiry. I think that is perhaps the confusion.

Mr. DORGAN. Mr. President, parliamentary inquiry: The right of——

The PRESIDING OFFICER. The Chair, the President, will state again to the Senator from North Dakota that no one has the right to the floor when the President is asking the clerk to read the bill, which is the regular order. At that point in time, the Senator from Wyoming has the right to be recognized, and the Chair has recognized him.

So the Senator from Wyoming is recognized.

Mr. DORGAN. Mr. President, parliamentary inquiry. Did the Senator from Wyoming seek the floor when I made the objection to the unanimous-consent request?

The PRESIDING OFFICER. No.

Mr. DORGAN. Mr. President, after the unanimous-consent request was made and I objected, for what purpose did the Presiding Officer recognize the Senator from North Dakota? The transcript will show that the President recognized the Senator from North Dakota at that point.

The PRESIDING OFFICER. The Presiding Officer recognized the Senator from North Dakota for the purpose of inquiring what the nature of the parliamentary inquiry was and recognized the Senator from Wyoming and the manager of the bill, which is the pending business. It automatically became the pending business.

Mr. DORGAN. Further parliamentary inquiry. I think a mistake has been made here. I think I could easily understand what the mistake is if we had the transcript read back.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, I hope that all of us understand what the situation is—I do anyway—and that is that the Senator from North Dakota feels very strongly about an issue which he proposed yesterday that had to do with a balanced budget amendment and Social Security and offsets and that type of thing, a rather consistent theme by the Senator from North Dakota that he talked about. There is also a proposal—I am not leadership. I am not representing leadership. What we are trying to do is go forward with an immigration bill. There will be many extraneous amendments on this bill, I feel quite certain. All I am trying to do is to get to the hour of 2:15, after which time the Senator from North Dakota may do anything that he desires to do with regard to the issue.

At this time I yield the floor for purposes of an opening statement by Senator BRYAN of Nevada.

Mr. DORGAN. I object, Mr. President.

Mr. BRYAN. I thank the Chair.

Mr. DORGAN. Mr. President, I object.

Mr. SIMPSON. There is not anything to object to.

The PRESIDING OFFICER. Did the Senator from Wyoming propound a——

Mr. SIMPSON. No; I did not propose a unanimous-consent request. I simply yielded the floor to the Senator from Nevada.

Several Senators addressed the Chair.

Mr. DORGAN. Parliamentary inquiry. That is not the way the Senate operates.

Mr. KENNEDY. The rules of the Senate require one can only yield for purposes of a question. That has been the rule for 200 years.

The PRESIDING OFFICER. The Senator from Massachusetts is correct.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The distinguished majority leader.

RECESS

Mr. DOLE. Mr. President, I move we stand in recess until 2:15.

The PRESIDING OFFICER. Is there objection to standing in recess until 2:15?

Without objection, it is so ordered.

The motion was agreed to, and, at 11:21 a.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. COATS].

WHITEWATER DEVELOPMENT CORP. AND RELATED MATTERS—MOTION TO PROCEED

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the hour of 2:15 p.m. having arrived, under rule XXII, the clerk will report the motion to invoke cloture on the motion to proceed to Senate Resolution 227.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to S. Res. 227, regarding the Whitewater extension.

Alfonse D'Amato, Dan Coats, Phil Gramm, Bob Smith, Mike DeWine, Bill Roth, Bill Cohen, Jim Jeffords, R.F. Bennett, John Warner, Larry Pressler, Spencer Abraham, Conrad Burns, Al

Simpson, John H. Chafee, Frank H. Murkowski.

CALL OF THE ROLL

The PRESIDING OFFICER. The mandatory quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to the consideration of Senate Resolution 227, the Whitewater resolution, shall be brought to a close?

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

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

I further announce that the Senator from Alaska [Mr. MURKOWSKI] is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Alaska [Mr. MURKOWSKI] would vote ''yea.''

Mr. FORD. I announce that the Senator from North Dakota [Mr. CONRAD] is absent because of illness.

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

The yeas and nays resulted—yeas 51, nays 46, as follows:

[Rollcall Vote No. 61 Leg]

YEAS—51

Abraham	Faircloth	Lugar
Ashcroft	Frist	McCain
Bennett	Gorton	McConnell
Bond	Gramm	Nickles
Brown	Grams	Pressler
Burns	Grassley	Roth
Campbell	Gregg	Santorum
Chafee	Hatch	Shelby
Coats	Hatfield	Simpson
Cochran	Helms	Smith
Cohen	Hutchison	Snowe
Coverdell	Inhofe	Specter
Craig	Jeffords	Stevens
D'Amato	Kassebaum	Thomas
DeWine	Kempthorne	Thompson
Dole	Kyl	Thurmond
Domenici	Lott	Warner

NAYS—46

Akaka	Ford	Mikulski
Baucus	Glenn	Moseley-Braun
Biden	Graham	Moynihan
Bingaman	Harkin	Murray
Boxer	Heflin	Nunn
Bradley	Hollings	Pell
Breaux	Inouye	Pryor
Bryan	Johnston	Reid
Bumpers	Kennedy	Robb
Byrd	Kerrey	Rockefeller
Daschle	Kerry	Sarbanes
Dodd	Kohl	Simon
Dorgan	Lautenberg	Wellstone
Exon	Leahy	Wyden
Feingold	Levin	
Feinstein	Lieberman	

NOT VOTING—3

Conrad	Mack	Murkowski

The PRESIDING OFFICER. On this vote, the yeas are 51, the nays are 46. Three-fifths of the Senators not having voted in the affirmative, the motion is rejected.

The majority leader is recognized.

UNANIMOUS-CONSENT REQUEST—S. 1664

Mr. DOLE. Mr. President, what I am going to propound when Senator DASCHLE arrives is consent that consideration of the immigration bill be limited to relevant amendments only. Either we will finish this bill or we will move to something else. It is my hope we can complete action on the immigration bill by tomorrow evening and then go to the Kassebaum-Kennedy health care bill.

In the interim, we need to take care of the conference report on terrorism. The original bill passed the Senate last May. We are prepared, if we cannot do business on the immigration bill, to move to the conference report on terrorism. We would like to finish that so that the House might complete action on it by Thursday.

I now ask unanimous consent that during the consideration of the pending immigration bill, the bill be limited to relevant amendments only.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Mr. President, reserving the right to object, I wonder how many times Senator DOLE has been in the opposite position, when Senator MITCHELL and my distinguished predecessor, Senator BYRD, made similar requests on the Senate floor.

We all know the circumstances on the Senate floor. We all know that there are many occasions when Senators have no other opportunity to raise an issue except in the form of amendments to pending legislation. Our Republican colleagues have done it time and time again, both in this Congress as well as in previous Congresses.

Given that, I propose a modification to the unanimous-consent request that I think is reasonable. We would be prepared to offer just two nonrelevant amendments, the minimum wage amendment as well as the Dorgan amendment relating to the balanced budget proposal, and would even be prepared to allow the Republicans a similar number of nonrelevant amendments, with time constraints and no second-degree amendments, in an effort to accommodate the schedule.

That is not, it seems to me, too much to ask. We could accommodate that within the next hour or two. We could even agree to a limited number of amendments on the bill itself that are relevant. I make that modification and ask the distinguished majority leader whether he would be inclined to support it. If so, I think we could find a way in which to schedule this legislation and reach final passage.

Mr. DOLE. Maybe regulatory reform. We have over a majority. We have 58 votes; we need 60. My colleagues on the other side will not let us bring that to a vote. That costs the average family about $6,000 per year because of excessive regulations. We think it is a reasonable nonpartisan bipartisan approach to regulatory reform. Maybe that is an amendment we could look at.

What I will tell the Democratic leader, I am happy to consider that, but I assume if he objects to this request, we will go on to the terrorism conference report, after a statement by the distinguished Senator from Wyoming, Senator SIMPSON. Maybe while we are resolving that bill, we could see if we can resolve this one.

I said we passed this bill last May. It was June 7 that the terrorism bill passed by a vote of 91 to 8. We have pretty much the same bill. I hope we would not spend a great deal of time on the conference report. Then we can go back to the immigration bill if we can work out an agreement. If not——

Mr. DASCHLE. If I can respond to the distinguished majority leader, I hope we could use whatever time we have available to us to see if we can find some mutually agreeable schedule here. Our desire is to come to final passage on an illegal immigration bill.

We want to see that happen as badly as anybody else here in the Senate. We also recognize, however, that circumstances in the past have precluded us from offering amendments relating to minimum wage. We will not have, if we bring up the constitutional amendment to balance the budget under the reconsideration rules here in the Senate, an opportunity to offer amendments. So we really have no vehicle with which to offer alternatives.

But I understand and certainly respect the majority leader's position, and I want to work with him to see if we cannot accommodate his desire and ours to complete work on the illegal immigration bill, as well as to have opportunities to vote on issues that we hold to be very important.

I object under the circumstances now presented.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. As I understand it, the Senator had a modification to mine?

Mr. DASCHLE. Yes, I proposed a modification.

Mr. DOLE. I object.

The PRESIDING OFFICER. Objection is heard.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

TERRORISM PREVENTION ACT—CONFERENCE REPORT

Mr. DOLE. Mr. President, I hope that the Chair may lay before the Senate the conference report to accompany the terrorism bill, and I will ask that the conference report be considered as having been read, and then we can make whatever statements we want.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Reserving the right to object. If, as soon as that is laid down, the Presiding Officer could recognize the Senator from Massachusetts and the Senator from Wyoming, I would have no objections, with that understanding.

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

The clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 735), to prevent and punish acts of terrorism, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of Apr. 15, 1996.)

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

Mr. SIMPSON. Mr. President, I just reflect that Senator KENNEDY and I are ready to go forward with this measure. It is an issue that is very topical and must be addressed—the issue of illegal immigration, the issue of legal immigration. Both bills are here. One is at the desk and one is being processed.

I want to assure all that immigration reform is not a partisan issue. It never has been and it never will be. It cannot be. I just hope that before we go on with these maneuvers, we recognize that I do not think anyone, especially in an election year, would want to be known as the person that took this bill down and left it down. It is an issue that, as I say, is not going to resolve itself. It is a Federal issue, not a State issue. We either resolve it, or we will have proposition 187's in every State of the Union. From me, I have buried my dead many times before with regard to both legal and illegal immigration, and life will go on if you bury it one more time.

Thank you.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I join with the Senator from Wyoming in believing that it is premature to draw this bill down. This issue is of enormous importance in terms of dealing with the borders of this country and the flow of illegal immigration. It is enormously important in terms of enhancing the various criminal statutes that would deal with struggling, and it is enormously important to make sure we are going to protect American jobs by refusing illegals the opportunities for employment. And as the Jordan Commission and the Hesburgh Commission pointed out, jobs are the issues which attract the illegals. This particular measure deals with those particular proposals.

We had 6 days of markup on this in committee. As the Senator from Wyoming pointed out, there was significant participation by Republicans and Democrats. It was devoid of partisanship in the consideration of various amendments. Last evening, the Senator from Wyoming offered three important amendments, which we were about to accept—one to make it a deportable offense to falsely claim to be a citizen while applying for jobs or welfare benefits. That is important. That can make a difference in terms of protecting the American taxpayer and the American worker. There is an amendment to keep track of the foreign students, to make sure they stay in school and not work illegally. We do not have the information of what is happening to many of the students, whether or not they circumvent the current laws and melt on into the population and use what is a legitimate cause to come here, to subvert the efforts to try and deal with illegal immigration. The third proposal is where you have students that come here to go to a private university and end up, at the public taxpayers' expense, allegedly going to public education at the burden of the taxpayers. These are significant and important amendments. We debated and discussed those last evening. We are prepared to act on them.

So there are probably eight or nine extremely important and controversial items that I was prepared to work out a time agreement on and urge colleagues to do so. And there were the other two items, which as Senator DORGAN and I will speak to briefly, about the minimum wage.

I would have been glad to urge the minority leader to agree to an hour or half hour, if that was going to be the cost of getting a vote on the issue of the minimum wage. We have been unable to get consideration of that measure now for over a year. And we have seen 56 Members of the Senate—bipartisan—who have indicated they want to address that issue. We are still denied an opportunity to consider a bill on its own merits with a relatively short period of time, since this is an issue that is understood by the Members.

Every day that goes on where we deny the opportunity for an increase in the minimum wage makes it clearer and clearer that there are those in this body, the U.S. Senate, that refuse to recognize that the work is important of the men and women in this country that work 40 hours a week, 52 weeks a year and are entitled to a livable wage. That issue is not going to go away. We are going to keep revisiting that, as the minority leader pointed out, over the objections and opposition and stress to those opposed to that, until we are at least able to deal with it in a way in which that particular issue is dealt with with a sense of dignity because of the importance that has to many of our fellow citizens.

So I am disappointed that we are not able to move ahead. We are prepared to move along. I think many of those amendments that have been published here could be disposed of with broad bipartisan support. Probably, a dozen need our full attention. We were quite prepared—I know the leader on our side had instructed us to make every effort to move the program forward. That was the sense of the Democratic members of the Judiciary Committee. So, Mr. President, I am distressed by that. Also, as a matter of information on the terrorism bill, they did strike provisions that were in the previous law that permits the Internet to publish information about how to make bombs, and then a measure that was worked out by Senator FEINSTEIN, and also Senator BIDEN, that ensured that we were going to deal with that particular item. It was a matter that I brought to the floor. Someone had sent it to me over the Internet itself, and it provided in detail about how to make bombs. Senator FEINSTEIN and Senator BIDEN provided leadership to deal with that on the Internet. And now, as I understand, for some reason that I cannot possibly understand, in this terrorism conference report that particular provision has been eliminated.

I heard the leader say that this is pretty much the same measure that came through the Senate. I have just listened with great interest. I wish our ranking member of our Judiciary Committee, Senator BIDEN, was on the floor to respond to that. I know we will have a debate on some of those measures. But that, along with other provisions dealing with the explosives and tagging explosives and also the reduction of the provisions, which were accepted in the Senate in terms of wiretapping, which the FBI indicated would be such a powerful force in terms of dealing with the terrorist organizations and potential terrorist bombs, have all been dropped in that conference report. For what reason I do not know. But I heard the leader say that this measure was pretty much what was passed in the Senate. Certainly, if those measures have been addressed and deleted or compromised, I think that we ought to—as I am sure we will—hear Senator BIDEN and others address it.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, the Senator from Massachusetts is correct. Senator HATCH is prepared, and he will start on the conference report. We are not going to debate the immigration bill. It is being held hostage now because of the demands on the other side. If we do not want to do anything about illegal immigration, I guess the Democrats can make that happen. Most Americans, by 80 percent, think we should deal with this issue. But now we are going to be held hostage by Social Security amendments and minimum wage amendments. They have five or six others. Then they have the gall to stand up and say, ''We want to move ahead on illegal immigration.'' We know what is happening.

If we can work out a time agreement on relevant amendments, we will pursue illegal immigration or the immigration bill. It passed the committee, as I understand, by a vote of 13 to 4. But if we are going to have extraneous amendments and nonrelevant amendments to help protect some of those who voted wrong on the balanced budget amendment, we could be having this every day—and every day and every day. I just hope the six on the other side who voted for a balanced budget amendment 2 years ago would now, when we have the vote sometime this month or probably next month, vote for the balanced budget amendment—we are just a couple of votes short—and send it to the States for ratification. If three-fourths of the States ratify it, it becomes part of the Constitution.

But we are now prepared to proceed on the antiterrorism conference report. Obviously, not every provision the Senate passed survived the conference. But as I think, as the Senator from Utah outlined to us in our policy luncheon, nearly every important feature in the Senate bill survived the conference, and we believe that it is a good bill that should be passed as quickly as possible so the House might act.

If we can work out some agreement on immigration, we will go back to immigration. If not, we may go to something else. It does not have to proceed here one day at a time. I know some would like to frustrate any efforts on this side of the aisle. But we do have the majority, and we will try to do our best to move legislation that the American people have an interest in. Illegal immigration—wherever you go illegal immigration is a big, big issue. If we are going to be frustrated by efforts on the other side to hold the bill hostage, that is up to them. They can make it happen. Then they can explain that to the voters in November.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DASCHLE. Mr. President, I thought we had completed the discussion on immigration. But since it appears that is not the case, let me respond again.

We did not pull the bill. We could be on that bill right now. We could be taking up amendments right now. We have already agreed to short timeframes within which to debate the minimum wage amendment and the Social Security amendment. We can resolve them by 5 o'clock this afternoon and come to completion on the bill itself sometime tonight. We are prepared to do that.

So do not let anybody be misled. We are not holding this bill hostage. We did not pull it down. We did not ask that there be no opportunity to vote. Welcome to the U.S. Senate. Welcome to the U.S. Senate.

If our Republican colleagues are prepared right now, this afternoon, to say that throughout the rest of the 104th Congress they will never offer an irrelevant amendment to any bill because doing so would somehow indicate that they do not want a bill to pass or they are going to hold the bill hostage, we might be prepared to talk about that. But everyone knows that is not what this is all about. There are some here who do not want to deal with the issues that we are attempting to address in these amendments.

So I do not think there ought to be any misunderstanding or obfuscation of the question. The question is, Do we support passage of an illegal immigration bill? The answer is not only yes, but emphatically yes. Do we support timeframes within which every amendment could be considered? The answer is yes.

So I hope we can reach an agreement. I hope now we can move on to the counterterrorism bill and address that in a timely manner. I am prepared to sit down this afternoon, tonight, or tomorrow to find a way to resolve the procedural issues regarding how we take up the immigration bill itself.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Utah.

TERRORISM PREVENTION ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. HATCH. Mr. President, I think it is time to vote on the antiterrorism bill.

I have to say that I do not think anybody denies the minority a right to bring up irrelevant amendments. But it is happening on everything. It has happened now for 2—actually better than 2—solid years. When you get something as important as the immigration bill—and I have to say, as chairman of the Judiciary Committee, we worked our guts out to get that bill here because it is such an important bill. It is a bill that every border State in this country and every State in this country is concerned about. Senator SIMPSON has just plain worked for years to get this up. I do not agree with Senator SIMPSON on every aspect of that bill, but I sure admire him. I admire the effort he has put in. I just think it is a tragedy that we cannot move and get the thing done. It is something that every Democrat and every Republican wants to do.

Also, as a former member of and former chairman of the Labor Committee, we have had these minimum wage fights year after year, time after time, and, frankly, to bring it up on immigration, it is a matter of great concern to me that they would do that.

These are a couple of bills—the immigration bill and the antiterrorism bill—that literally ought to be bipartisan every step of the way. We can have our differences, but we ought to be working to resolve these bills.

Sometimes I think this body does not seem to care about what is important for the people out there. I have to admit that there are very sincere people on the minimum wage. On the other hand, there are other opportunities to bring that up, I suppose. These two bills really should not have a bunch of irrelevant amendments.

Today, the Senate begins consideration of the conference report on S. 735, the Antiterrorism Effective Death Penalty Act of 1996. This is a particularly relevant time to begin this debate because we are fast approaching the 1-year anniversary of the heinous crime that claimed the lives of so many men, women, and children in Oklahoma City, OK. Indeed, this Friday, the 19th, marks the 1-year anniversary of that tragedy. I hope we can in an orderly, decent way get this bill done today so that we can send it to the House and they can do it, so that we can at least do what the Senate ought to do in commemoration of the lives of those who died last year—and those who died in the Lockerbie airline crash, those who have been terrorized all over this world, but especially those who have been and will yet be terrorized in this country.

Although many of the physical wounds endured by the survivors of that blast in Oklahoma City have healed, the wounds to their hearts continue to bleed. We met with a number of them yesterday. Those folks really want this bill.

During this past year, as I have spent time with my own family—Elaine and I have 6 children; all 6 of them are married now, and we have 15 grandchildren—my thoughts have often turned to the survivors of the Oklahoma City tragedy and to the families of those who lost their loved ones on that terrible day a year ago this Friday. I cannot imagine what it would be like to have my family taken from me by the acts of evil men and perhaps women.

I have to say my heart went out to these survivors yesterday who came back here at their own expense to stand with us at that press conference and announce that we finally have arrived at a bill after this full year of effort.

Yesterday, I had the opportunity to meet with some of the families who lost loved ones on that fateful day. The one thing that the survivors of that tragedy and the victims of that tragedy requested was that we try to provide justice to the memories of those who lost their lives in that terrorism blast.

I want to quote the family members of the victim of the bomb who spoke to the Nation yesterday about the need for this bill. Dianne Leonard lost her husband Don, an agent of the U.S. Secret Service. Despite her pain, she came here yesterday, along with other victims of terrorism, and made one of the most eloquent statements I have ever heard on the issue. She said:

> In an effort to be caring and honorable human beings, we have granted perpetrators of violent crime much more than their constitutional rights. Our caring and honorable

intentions have been misdirected. Instead, we as a society have been cold and heartless, because we have forgotten the innocent victims of crime. We have forgotten the sheer terror of the victims immediately prior to their death. We have forgotten that anyone who could murder an innocent human being has relinquished his rights for compassion.

That is what Dianne said. Mr. President, that is what this is all about. It is not about whether this bill is weaker. We all know that it is not. It is about whether we will stand with the victims of terrorism and violent crime or not.

I am not sure we can ever provide justice to those families in this life. I hope, however, that we can, perhaps, bring some peace to the survivors of that tragedy in that we can enact this antiterrorism legislation in their memory. For once, just once, I hope we can put aside the partisan wrangling that often occurs here and simply do what is right—just once, on a bill like this. It is my firm belief that passing this conference report represents the right thing to do.

The legislation that Representative HYDE and I have negotiated represents a landmark bipartisan effort to prevent and punish acts of domestic and international terrorism. Indeed, the Republican Governor of Oklahoma and the Democratic attorney general of Oklahoma both support this legislation—strongly support it.

I would like to note the efforts of Representative CHUCK SCHUMER, CHARLES SCHUMER, of New York, in working with us to craft this legislation. Representative SCHUMER, who signed the conference report as a Democrat, made significant contributions to the final product. We tried to accommodate our colleagues on the other side to the extent that we could—in fact, on both sides of this issue, as we negotiated this measure. Our majority leader, Senator DOLE, was instrumental in moving negotiations on this bill forward. With Senator DOLE's leadership, we were able to put back into the bill many of the provisions that the House had removed. Without Senator DOLE's able leadership, I do not think we would have been able to have a bill that is as tough on terrorism as this one is.

Let me just give a few of the major areas we were able to agree on and get back into this bill that made it much closer to the Senate bill.

The terrorist alien removal provision: We restored the terrorist alien removal provision which allows courts to expeditiously deport alien terrorists. The court can consider classified evidence without disclosing that evidence to the alien.

We put back in designation of terrorist organizations. This has greatly pleased a number of civil liberties organizations, and I have to say the Anti-Defamation League. We worked with the House on language to allow the President to designate foreign terrorist organizations. This provision was not in the House-passed bill. A weaker version than this one was in the Senate bill. This tougher version eliminates an entire level of judicial review and allows the Government to freeze the assets of foreign terrorists before the designation becomes public.

On the issue of fundraising, we make it a crime to donate or accept funds for foreign terrorist organizations. The House had removed this provision. The Senate bill contained that provision. It is a big, big provision.

We have summary exclusion of alien terrorists. The Senate prevailed in including a provision which creates a new legal basis for automatic alien exclusion from the United States when the person is a representative or member of any designated foreign terrorist organization.

On biological weapons, we also succeeded in getting the House to toughen up regulations dealing with the transportation and sale of human biological agents which could be used as weapons of mass destruction.

The criminal alien removal procedures—the Senate bill made it much easier for an alien who had been convicted of an aggravated felony to be deported. The House bill was definitely weaker on that point. We prevailed. We put the Senate language back in.

These are big concessions by our colleagues over in the House, some of whom have problems, some of whom are worried that Government is too intrusive in all of our lives—and I think rightfully so, in many ways. But we got these things in.

On authorizations, the House bill had virtually no funding for Federal law enforcement on this antiterrorism area. The Senate bill had a little over $2 billion over 5 years. We agreed on $1 billion in funding for Federal and State law enforcement over 4 years. We have already spent almost a half billion dollars this year—maybe a little more than that. So, in essence, we got the Senate funding into this bill.

On taggants, we have put taggants on plastic explosives, which are the primary explosives used by terrorist organizations and by terrorists. There will be taggants on there so we can determine the source. With regard to other explosives—because even the OTA, even ATF, admit that there may be some danger involved in putting taggants in other explosives—they are not sure of being efficacious for law enforcement, or even cost effective to do so, and to mandate that—we provided for a study for a year. Then we provided for a means whereby the regulators can come up with their regulations—if that study shows that it is environmentally sound, economically sound, law enforcement efficacious, and that it is not dangerous—then the regulators can come up with regulations on taggants, and then the Congress will have to make a determination whether they accept those regulations or not. Those are just a few of the things that we put back into this bill.

We were able to craft legislation that adds important tools to the Government's rights in the Government fight against terrorism, but we do so in a temperate manner that is protective of civil liberties.

Most important, this conference bill contains the habeas corpus reform proposal contained in the Senate terrorism bill. The House adopted it word for word. The present habeas corpus allows those who are convicted of brutal, heinous crimes to delay the imposition of just punishment for years. The habeas reform proposal contained in this legislation will end the ability of those heinous criminals, those violent criminals—those murderers, if you will, those justly convicted—to delay the imposition of their sentence.

Habeas corpus reform is the only substantive provision in this bill that will directly affect the Oklahoma bombing situation. If those being tried for the bombing are convicted, our habeas corpus reform language will prevent them from delaying the imposition of their penalties on frivolous grounds. And we have all seen that year after year in every jurisdiction in this country.

In Utah, we had one case that went 18 years, the ''hi-fi murderer,'' where he and his buddy went in there, where they tortured these people, rammed pencils through their eardrums, poured Drano down their throats, and murdered them in cold blood. No question of guilt, no question of any prejudice against them, they were convicted and justly sentenced to death.

Mr. President, 18 years later, 28 appeals all the way up through the State courts to the State supreme court, all the way up to the Federal courts to the Federal Supreme Court—28 appeals, millions of dollars spent before that just sentence could be carried out. And that is going on in a myriad of cases all over this country. Rather than exploit it, the devastation of the Oklahoma City bombing, I believe that by including this provision in the antiterrorism legislation, we are protecting the families of the victims.

Comprehensive habeas corpus reform is the only legislation Congress can pass as a part of this terrorism bill that will have a direct effect on the Oklahoma City bombing case. It is the one thing Congress can pass now to ensure that President Clinton's promise of swift justice is kept.

President Clinton recognized this fact during his April 23, 1995, appearance on the television program ''60 Minutes,'' when, in response to a question about whether those responsible would actually be executed without the adoption of habeas corpus reform, he said, ''I do believe the habeas corpus provisions of the Federal law which permit these appeals sometimes to be delayed 7, 8, 9 years, should be changed. I have advocated that. I hope the Congress will pass a reform of the habeas corpus provisions because it should not take 8 or 9 years and three trips to the Supreme Court to finalize whether a person, in fact, is properly convicted or not.''

That is the President of the United States. Last Sunday, he called me. I was grateful for that call. It was late at night, and he called me at home before he left for Alaska. He wanted to have me bring him up to speed on what we were doing in the conference, what we were doing in the negotiations on this bill. And he said to me, ''I wish we could shorten the time. If I had my way, I would shorten the time, shorter than what you have in this bill.''

I said, ''That will be great, but I don't think we can do that at this point. This bill is fair.'' I pretty well acknowledged that. He noted he would not veto this bill based on the habeas corpus provisions.

I explained some of the other changes we made, and he seemed pleased, because he knew we made great strides in trying to get a better bill that will really do the job, and this bill will. It does not solve every problem, but it sure goes a long way toward solving problems in the past and, above all and even more important perhaps, in the future.

The claim that habeas corpus reform is tangential or unrelated to fighting terrorism is ludicrous. We can be confident that those responsible for the bombing in Oklahoma will be brought to justice. The American people do not want to witness the spectacle of these terrorists abusing our judicial system and delaying the imposition of a just sentence by filing appeal after meritless appeal. A system which permits such a result does not provide justice for the victims of terrorism and simply has to be changed, and this bill will do it—one of the most important changes in criminal law in this century, and we are going to do it.

Although most capital cases are State cases—and the State of Oklahoma can still prosecute this case—the habeas reform proposal in this bill would apply to Federal death penalty cases as well. It would greatly affect the Government's prosecution of the Oklahoma bombing case.

No. 1, it would place a 1-year limit for the filing of a habeas petition on all death row inmates, State and Federal inmates.

No. 2, it would limit condemned killers convicted in State and Federal court to one habeas corpus petition. In contrast, under current law there is currently no limit to the number of petitions he or she may file and no time constraints. We have a case where a person waited 9 years to file a habeas petition on the eve of the carrying out of that person's sentence, clearly abusing the system.

No. 3, it requires the Federal courts, once a petition is filed, to complete judicial action within a specified time period. Therefore, if the Federal Government prosecutes this case and the death penalty is sought and imposed, the execution of sentence could take as little as 1 year if our proposal passes. This is in stark contrast to, in the Utah case, an 18-year case of delay we are so used to under the current system, and there are cases that are longer than the 18-year case.

President Clinton said justice, in the wake of the Oklahoma tragedy, would be ''swift, certain and severe.'' We must help President Clinton keep this promise to the families of those who were murdered in Oklahoma City by passing comprehensive habeas corpus reform now.

Unfortunately, while habeas corpus reform is the single most important issue in this bill and will directly affect the Oklahoma City bombing, there are some who would urge the President to veto the bill on the basis of this reform proposal. I sincerely hope that this does not happen, and the President told me it would not happen on that proposal. We should not put our concern for convicted killers above our desire to see that justice is done and carried out.

The Senate and House also worked together to restore many important provisions to the conference bill. For example, we restored the terrorist alien removal provision that allows courts to expeditiously deport alien terrorists. The Department of Justice requested this provision, and we worked with our House colleagues to ensure that this provision would be an effective means of removing alien terrorists from our shores, while at the same time protecting due-process concerns.

Second, we adopted tough new procedures that would permit the Secretary of State to designate certain foreign organizations that commit acts of violence as terrorist groups.

The designation procedure adopted in the conference report is much stronger than that contained in the original Senate bill. We have also criminalized fundraising efforts on behalf of designated foreign terrorist groups and provided for the exclusion of representatives or members of terrorist groups. I think that the recent bombings in the Middle East and in England are a tremendous problem, and they bring out the necessity of preventing fundraising in this country on behalf of organizations bent on killing innocent persons for political gain.

This bill also includes provisions making it a crime to knowingly provide material support to the terrorist functions of foreign groups designated by a Presidential finding to be engaged in terrorist activities.

We also succeeded in adopting tough new measures to regulate the transport and sale of human biological pathogens that could be used as weapons of mass destruction. This legislation increases the penalties for acts of foreign and domestic terrorism, including the use of weapons of mass destruction, attacks on officials and employees of the United States and conspiracy to commit terrorist acts. That has not been in the law up till now, and we are going to put it there, and it is going to be a tremendous prosecutorial tool against terrorist activity.

It gives the President enhanced tools to use as foreign policy powers to combat terrorism overseas, and it gives those of our citizens harmed by terrorist acts of outlaw states the right to sue their attackers in our courts.

Our bill also provides measured enhancements to the authority of Federal law enforcement to investigate terrorist threats and acts.

In addition to giving law enforcement legal tools they need to do the job, our bill also authorizes increased resources for law enforcement to carry out its mission. The bill provides $1 billion over 4 years for an enhanced antiterrorism effort at the Federal and State levels. The bill also implements the convention on the marketing of plastic explosives. It requires that the makers of plastic explosives make their explosives detectable.

I note that many of the provisions in this bill enjoy broad bipartisan support, and, in several cases, it passed the Senate on previous occasions. Indeed, we have worked closely with the administration during the development of this legislation, and many of the provisions in this bill have the administration's strong support.

The people of the United States and around the world must know that terrorism is an issue that transcends politics and political parties. Our resolve in this matter has to be clear. Our response to the terrorist threats and to acts of terrorism will be certain, swift, and unified. I think we have to redouble our efforts to combat terrorism and to protect our citizens.

A worthy first step would be the enactment of these sound provisions to provide law enforcement with the tools to fight terrorism. I, therefore, urge my colleagues to support this conference report.

Let me just also say there are some matters that we were not able to work out with the House that the distinguished Senator from Delaware and I would have preferred to have in this bill. We would have put in—and we did have it in the Senate bill—multipoint wiretaps. It would be a more modern way of going at this matter. Of course, we have people who move from post to post, and it should not be the obligation of our law enforcement people to have to go and get a warrant for every telephone that they move to.

I would prefer to have had that in here. We had it in the Senate bill. We were unable to get it in. I will tell you why. Because, frankly, there are people in the House who basically believe that the Government is too intrusive and that there needs to be a study done on the abuse of wiretapping and done on the needs of law enforcement for wiretapping before we make that step. I have to say, I do not particularly agree that it should not be in this bill.

On the other hand, the study will do well. And I have committed myself, as chairman of the Judiciary Committee, and as a leader on that committee, to get that study done and to make sure

that ultimately we resolve these problems in a way satisfactory to our law enforcement people.

There are some other matters that may not be in this bill. We have not been able to put everything in here that the distinguished Senator from Delaware and I would put in this bill. But it is a terrific bill. We have a lot more in this bill than in the original bill filed by the President before the Oklahoma City bombing, and I might add in the original bill filed by the Senate through Senator BIDEN after the Oklahoma City bombing.

By the way, there were no multipoint wiretap provisions in either of those President's bills. And so, you know, it is easy to see that some may try to make political hay out of that. But what the legislative process is is the art of the possible. There are other things we would like to have in this bill. They are not there. But we have both parties together, both bodies together. I think we have a bill that basically will make a real dent in the matter of terrorism.

Let me just say this. One of our problems with regard to the multipoint wiretaps was that when the bill came up they called them roving wiretaps. Just that semantic term caused angst in the hearts of a lot of people around our society. I might add that the roving wiretap provisions were, I think, in the second bill filed by Senator BIDEN on behalf of the President. And if we called them multipoint wiretaps at that point, we might have been able to keep them in. I would prefer that they be in. But I do not think that the fact that they are not in should stop us from passing that which can pass now, that which is needed to fight terrorism, that which we have done and that which we can have done, and can do at this time.

Let me just say in closing, that this is one of the most important bills in our country's history. It is not perfect, but it goes a long way toward preventing terrorist activities in the future. It goes a long way toward attacking these criminals the way they need to be attacked. It is a tough on crime bill. Could it be improved? Sure.

I want to also say that without the leadership of our majority leader, Senator DOLE, this bill would not be here today. He stood with us every step of the way. He worked with recalcitrant Members in both the Senate and the House in both parties. He has handled the matter well. And, frankly, I think he deserves an awful lot of the credit when this bill passes, if not the lion's share of the credit.

So I would just plainly like to make these points and just say this in conclusion, that I really want to pass this bill this week, hopefully tonight, if not tomorrow, and then get it through the House, so that we can say to the people in Oklahoma City on Friday that we, as a Congress, in a bipartisan way, both Democrats and Republicans, with nobody really trying to take the credit for it, have done what is right for them. Frankly, when we pass this bill we will have done what is right for them.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, let me begin by acknowledging that my friend from Utah supported a vast majority of the amendments that I am going to offer—not amendments—I am going to offer motions to recommit this bill with instructions to go back to the Senate language.

Let me acknowledge that I think both the Republican leader and the chairman of the Judiciary Committee, Senator HATCH, and the chairman of the Judiciary Committee on the House side, Mr. HYDE, are all in a difficult position. I acknowledge that.

Let me acknowledge that Senator DOLE deserves responsibility for this bill. I think he does. I think he deserves the responsibility for also what is not going to be in this bill because we are backing off after votes, which I am about to go through, of 91 to 6 and 99 to 0 and unanimous consent agreed. All the things I am going to offer here were passed overwhelmingly by the Senate. And we caved.

We caved so quickly on the House side it was like watching water go over a waterfall. I do think the leader bears responsibility for that as well, for not exercising his authority there because—I want to say at the outset here—I found this was the first time in any conference I have ever attended, even when the Democrats controlled the Senate, which they did off and on for the period I have been here, where everyone at a conference, but two, acknowledges that everything I am offering is correct and right but we are not going to do it because a minority of House Members do not like it.

I will not, because I am afraid I will misspeak—and I do not have the transcript—I will not use the description the minority members used of the Republican leadership in the conference on the House side because I may misspeak and create a little dilemma. But I will try to dig that up for the RECORD. But this is the first time I am aware where a major piece of legislation, where the Senate on the critical points have agreed overwhelmingly—overwhelmingly; I mean, 90 to 1 kind of overwhelmingly—and we have caved to the House, where the leader of the House in the conference said, ''You're right, Senate. But I just cannot pass it if I take it back.''

I think there is a thing called accountability. I think we should pass what we think is right, and let them vote against it. So if they vote against it, let them pay the consequences. And if they vote against it, and do not have the votes, then we can come back and try to get what we can get. But this is not even where we have challenged what was described to me as a minority of the Republican caucus on the House side.

They did not like it. Too bad. This is democracy. Too bad. There are a lot of things I do not like. I lose. I lose. But they did not like it. My goodness, 72 or 41 or 57 freshmen Republicans in the House do not like it. Great. So, yeah, I think that the leadership deserves credit and responsibility for not only what we are doing but what we are not going to do, apparently.

Second, the conference report—the majority leader stood up and said—and I have great respect for the majority leader, I truly do. I think over 23 years I have demonstrated it. He is a bright, competent leader. But he stood up and he said the conference report is essentially what we passed. It is not even close to what we passed in the Senate. It is not even close, which I will outline here in a minute why it is not even close to what we passed in the Senate.

The third point I would make is my friend from Utah and I have had sharp disagreements over habeas corpus for the last 15 years. They still exist. He is right in one important respect. This is a great habeas corpus bill. That is what this is. This is a habeas corpus bill with a little terrorism thrown in. I am not going to make any motions or move to strike the habeas corpus provisions. If we put back things in these provisions, I am willing to swallow the habeas corpus provisions, if we have a tough terrorism bill underneath it.

A year ago this week the American people experienced the unthinkable. Terrorists planted a bomb in a Federal building in Oklahoma City and hundreds of innocent citizens were killed or wounded. Families were faced with tragedy and chaos. And the Nation was catatonic.

In response to this horrendous crime that was committed, as well as the earlier terrorist bombs of the World Trade Center and Pan Am 103, the Senate passed a tough piece of legislation, in a timely fashion, to the credit of the majority leader and the minority leader. The House sat on it for the better part of a year. They would not even let their membership vote on it because apparently a minority over there thought that there was too much intrusiveness on the part of the Federal Government.

Does it not seem kind of coincidental to all who may be listening that after a year we are finally urgently bringing this bill up on the week of the anniversary of the bombing? Where was it a month ago, 3 months ago, 5 months ago, 7 months ago?

Now, the bill that we passed addressed both international and domestic threats of terrorism, and it carefully balanced the need for new law enforcement authority against the civil liberties that are so important to all of us. The bill also built upon work that had been done a year before in the Senate crime bill—now the crime bill, the Biden crime bill. It was the Biden-Hatch crime bill. I do not know whether he still wants to take credit for it. It was the Biden-Hatch crime bill. It is

now the crime law of the United States of America.

Guess what? There would be no death penalty for the two people about to be prosecuted were it not for the crime bill, were it not for the crime bill we passed, and the President led the way. There would be no death penalty because it is a Federal case, Federal law. There was no Federal death penalty for this.

My friend is talking that unless we change this habeas corpus provision, the Oklahoma bomber will go free. If those who voted against the crime bill had prevailed, there would be no death penalty even available to be brought against those accused of the bombing in Oklahoma City under Federal law. They would have to try it in State court without the resources of the Federal Government to deal with it. We kind of rewrite history around here. As my friend from Wyoming often says, everyone is entitled to their opinion, but they are not entitled to their own facts.

Let me also point out something else. On building on the crime bill the Senate passed, the terrorism bill that focused narrowly on a terrorist threat, unfortunately, the House then delayed. It finally passed a bill that pretty much took terrorism out of this bill. Now we face a conference report that is only partially approved. I strongly support the Senate-passed version of the terrorism bill, despite the fact that I did not like what we did and how we did reform habeas corpus. We have never had a disagreement that we have to reform habeas corpus. The question is, Do you eliminate it essentially, or do you reform it? This bill essentially eliminates it at a State level. Quite frankly, reform is needed to stop abuse of the writ of habeas corpus.

My friend, and he is a very able lawyer, trial lawyer, stood here and talked about how this is the most important thing to deal with terrorists—habeas corpus. Let me remind everybody who may be listening: In order to file a writ of habeas corpus, one has to be behind bars already. Got that? You already have to be in jail, convicted of a crime. When you file a writ of habeas corpus, you write it and you slide it between the bars and you send it via a court officer to the judge. You are in jail.

Now, how does that prevent terrorism? It needs to be reformed. The abuses must be eliminated. It has nothing to do with stopping terrorism. I think that is what we are about. Is this not about trying to stop terrorism?

Now, second, this is a very complicated subject that the Senator from Utah knows very well because he is a capable lawyer, and the Presiding Officer knows well because he is such a capable prosecutor. I mean that sincerely. Not a lot of lawyers understand habeas corpus. They know it is a great writ. If you sit down and ask them to explain in detail the difference between Federal and State habeas, they get lost. It is complicated and easily lends itself to exaggeration.

Putting this in focus now, every single case that I am aware of—and I may be mistaken—that my friend and his two competent staff people come up with are State court cases—every single one that I have ever heard. There may be one that I have not heard. Every one that Senator THURMOND comes up with, which are legitimate to come up with, every one I have mentioned, they are State cases.

Let me explain what I mean by that. It means that somebody was indicted and/or on information arrested, taken to a State court, tried under State law, convicted under State law, made appeals under State law, instituted their attempts under State habeas corpus to say, ''No, I was wrongly convicted. My constitutional rights were violated when they convicted me. Do not set me free, but give me a new trial.'' That is what habeas does. It does not find you not guilty. It requires you get a new trial if it is granted and, ''Send me back to State court to be tried again.''

Now, what happens? All the delays, 99 percent of the delays—let me be conservative—90 percent of the delays, take the best case to my friends, are delays when you are in State courts, State courts, State courts. Now, what are we talking about in the terrorism bill? What is this bill we are passing? Is this a State bill? No; it is a Federal bill.

If someone violates any provisions of this bill that we are about to pass, what happens to them? Do they go to State court and get tried in State court, and are they subject to the delays that occur in State courts? No; they go to a Federal prison. They get tried in a Federal court. They have Federal judges. They have Federal prosecutors. They have Federal people. No State judge gets to say a thing. No State prosecutor gets to appear in any position other than if they happen to be a witness.

Now, where is the delay? Where is the Federal habeas corpus problem? My friends do not cite any. Even if they do, we have a provision in here that I support. We set a strict limitation in Federal court, in Federal habeas corpus, with a Federal prisoner, tried under a Federal law, convicted in a Federal court, sent to a Federal prison, that they have *x* number of months in which to appeal their case, to make their habeas appeal. They get one bite out of the apple. That is fair. But it does not even deal with anything anybody argues is a problem. It just guarantees if there is any problem, it will be corrected, and if there is not, it will not occur.

Now, say somebody is convicted under this law. They are convicted under this new law we are passing. Where are they going to go? They are going to go to Federal court. Now, how does changing all the State habeas corpus cases have anything to do with terrorism? I would like to know that one. That is a fascinating notion, what we call in the law a non sequitur. It does not follow. It sounds reasonable. All the people sitting in the gallery when Senator HATCH, a worthy and knowledgeable advocate, stands up and says, ''This is very important. Habeas corpus is the most important tool we have to fight terrorism,'' you all go, ''I know Habeas, and I know Corpus, and they are real tough people. They are out there bombing people.'' Or, ''Boy, I know that makes sense. I know about all the delays. He is right.''

It has nothing to do with State courts because, by the way, I say to the Presiding Officer, who knows this well, if it is in a State court, it is not a Federal crime. If it is in a State court, the Federal Government is not prosecuting. If it is in a State court, it is not international terrorism. If it is in a State court, it is not a terrorist under this bill.

Now, what is the obverse? If it is in a Federal court, there is no evidence of delay on habeas corpus to begin with. But even if there is, we do correct it in this bill. But even if it is a problem, and even if we correct it, the only way you get the person who is filing the habeas corpus petition is if they are already in jail convicted. Now, tell me—I ask, if I could, folks watching this, how many of you feel if we could say in a blanket way, ''We guarantee you that anybody already behind bars—already behind bars—will be executed in a timely fashion if convicted of a capital offense,'' that will solve our terrorism problem? Do you all feel better now about terrorism? Do you all feel more secure about whether anybody will go in the New York subway with saran gas?

You all feel better that someone is not going to come up with—another wacko—one of these bombs they make out in some field in southern Delaware or northern Delaware or Montana or Alabama, and blow up a building and kill children—do you feel better? This is crazy.

This is crazy. It may be needed just like health insurance may be needed, just like better highways may be needed. But what does it have to do with terrorism? Let me give you the one possible nexus. Here is how it goes. The only intellectually, in my opinion, legitimate argument that connects it to terrorism goes like this; it says that if we convict a terrorist and send a terrorist to jail, and if a terrorist is not able to abuse the system—which nobody is arguing that the Federal habeas system is being abused anyway, and they know they cannot abuse it and they are likely to go to death in 6 months or 6 years, then they might not have committed the terrorist act in the first place. That is the only intellectually credible argument to be made as to how this could deter terrorism. Granted. So let us put that provision in the bill. But let us not go forward and say, with all due respect, this is going to change terrorism. I just asked a rhetorical question. Go back home and ask your constituents if they know that

the appeal time has been cut from an average of 6 years to 6 months for people already convicted, and do they think we have licked terrorism. They will tell you that we imposed justice, they will tell you that we eliminated abuse, they will tell you that we saved money—all of which is true. But I defy you to campaign on the notion that you stopped terrorism by changing habeas corpus. Remember, folks, you already have to be in jail, convicted of a crime, in order to be able to file one of these petitions that you then abuse.

Now, the Senate-passed version of this bill really did do some things beyond habeas. It had all this habeas stuff in it, which, by the way, is a phenomenal overreach, but that is a different issue. I am not going to fight that again. I will register here just that the changes in Federal habeas make sense. The changes essentially say you cannot review State court decisions in a Federal court as to whether or not the State court accurately interpreted the Federal Constitution. That is a bad idea. That is saying that you cannot review, as a practical matter, State court judges' decisions on the U.S. Constitution in a Federal court.

I will not go into the history of why we did this in the first place back in the late teens of this century. But that is another issue. This is not an antiterrorism bill because it limits State habeas corpus. Unfortunately, what we have before us today is a conference report from which some of the most critical antiterrorism provisions are missing. My efforts to restore these tough provisions during the conference were unsuccessful. Despite the fact that the Republican chairmen on both sides, to their credit, acknowledged that they were good provisions, acknowledged that they were important provisions, acknowledged that they would work with me to pass these provisions in another form at a later date, and acknowledged that law enforcement needed some of these provisions very badly—notwithstanding that, notwithstanding that the majority of the members of the conference agreed with me, we voted them down.

I say to my friend from California, who has not been here as long, I found it to be a fascinating experience that never happened to me before. I am used to getting beat flatout. I get beat a lot. I am used to that. I am used to winning once in a while, too. But I have never been beaten where everybody agrees with me and then they say, ''We cannot agree with you, JOE, because those guys and women over in the House, the minority within our party, do not like it.'' That is like me saying the four remaining liberals in the U.S. Senate—if there are that many—do not like something. Therefore, even though you are right and I agree with you, I am not going to go along with it.

I am not being facetious. I respect their position because they want a bill badly. Apparently, the majority leader believes he needs a bill badly. Apparently, the President is concerned about having a bill. I am concerned about having a good bill. I am concerned about having the kind of bill we should have, the kind we passed. It was passed 91 to 6. That is the bill I am concerned about having. I was told the Republicans would oppose including these needed provisions in the bill because a group of Republicans in the House could not support the bill if they were included. In other words, a faction of Republicans—I might add that some liberal Democrats are agreeing with the ACLU. That is a fascinating combination. You know that phrase ''politics makes strange bedfellows.'' I want to tell you something. George Bush, or somebody, made famous the ACLU card, who carries that. When you have the people who carry ACLU cards and those who carry NRA cards sleeping in the same bed, it is fascinating. I would love to be in one of those meetings with the gunowners of NRA and the ACLU. Everybody is smiling. They are trying not to because they know how preposterous it is. It is fascinating. I am not being critical of either of the groups. It is human nature. They have objections for totally different reasons, as I understand it. They are a minority, no matter how you add them up. Yet, the majority in both parties is going to kowtow to them.

I, quite frankly, do not understand this antipathy to fighting terrorists and holding them accountable. I do not understand how a small group of House Members has been able to seize control of the democratic process and block provisions that the vast majority of us support. I think it is wrong, and I think we in the Senate should insist on a terrorism bill that contains the tough provisions we passed more than 9 months ago.

Today I will offer a number of motions to recommit this back to conference so the missing provisions can be put back. We must send the President a strong terrorism bill that addresses the very real threat posed by those who know only the language of terrorism and violence. But they are here at home and they are also abroad. They are both places, and we have to acknowledge that. Almost a year ago, after the tragedy in Oklahoma City, Speaker GINGRICH issued a call to action. Let me quote him:

> This is the kind of exact moment when Americans ought to be Americans. We ought to pull together. We ought to send a unified response to terrorists at home and terrorists overseas that we are not going to tolerate this.

The Speaker was absolutely right. We should pull together and send a message to terrorists. Let me ask you all a question, rhetorically. You are a terrorist planning a bombing. You are planning to put a chemical agent in the water supply in Minneapolis-St. Paul; you are planning to use a chemical weapon in Athens, GA, or in Atlanta at the Olympics; you are a terrorist planning to blow up the pyramid tower, the Transamerican Tower in San Francisco, to make my point. Now, what are you going to be most concerned about? Remember, we said, using the Speaker's words, this is to send a message to the terrorists. You are a terrorist planning this bombing, OK, or planning an act. Are you going to be more concerned that the Senate has just given the FBI the authority to wiretap not just the phone that you use in your house, but the phone that you have in your car, the one you have in your pocket that you keep throwing away and getting a new one so you cannot be detected, and the phone at the corner that you use to communicate your activities; are you more concerned that they may allow the Government to tap all those phones you are using? Or are you going to be more concerned that they change State habeas corpus? What do you think? What is going to send you a message? Are you going to be concerned if you are a terrorist planning an activity that if, in fact, you walk into Macy's Department Store and you plan a terrorist act like the IRA, and instead of using the bomb you use shotguns, you call the President of the United States, or you call the Governor of the State of California and say, ''Unless you do the following, we are going to walk into one of the largest malls in Los Angeles and indiscriminately kill people.'' And you walk in with a shotgun—12 of you, 10 of you, 3 of you—and you blow away, indiscriminately, 10, 20, 30, 50, 100 Californians. Under this bill, you cannot be prosecuted in Federal court. Guess why? Because there is no Federal predicate. It is not a Federal crime to use a shotgun in the State. What is going to send you more of a message? That, or the fact that State habeas corpus has been changed? What are you going to do?

You are a terrorist. You decide you are going to use chemical weapons or biological agents. You are a terrorist. Now you learn that the Senate and the House just passed a bill that does not allow the Department of Defense, does not allow the military—the only ones with expertise in chemical warfare and biological warfare—does not allow them to participate in the investigation of your act. We affirmatively took that out of the bill.

What message are we sending terrorists? Are you going to be more worried about a provision that allows the military to investigate chemical and biological warfare against American citizens, or are you going to be more worried about the State habeas corpus? That is what we did. That is what we did. We took it out of the Senate bill. This is not chopped liver, folks. This is serious stuff.

Are you going to be more worried as a terrorist about to commit a crime, or having already committed one, that the Attorney General of the United States has the same authority that she now has with the Mafia; that, if she is

convinced that an imminent act of danger is going to take place by a particular individual, she can order a wiretap that will last for 48 hours, and within those 48 hours she has to go to a Federal judge, convince that Federal judge she has probable cause to put that in place in the first place, and, if she did not, it gets thrown out?

You can do it for John Gotti now. You can do it for organized crime now. But guess what? Our friends in the House decided you should not be able to do it for terrorists. What is the logic of that? Tell me.

I do not ever remember being as upset about what has happened to a piece of legislation. Tell me the message we send to terrorists. What is the message you want to send them? ''Do not stop here. Wrong place.'' What is the message you want to send them?

We have tools. If you are engaged in terrorist activities affecting Americans in the United States of America, to get you before you act, what are those tools? My friend was a prosecutor. Ask any prosecutor in here, ''What are the tools?'' Wiretaps, wiretaps, informants, information before the act occurs. But what do we do in this bill? We send a message to terrorists: ''Do not worry; no multipoint wiretaps for you.''

My friend from Utah says, correctly, that initially the President referred to the roving wiretaps. He says what the chairman of the House conference said, that that upsets people. They misunderstood. They thought they could indiscriminately put wiretaps. We know that is what they could do. The chairman of the Judiciary Committee knows it does not give the Federal Government that power, but because, apparently, whoever it was—talk show host, letter writers, or somebody—convinced them of that, they say we cannot pass it because the public misunderstands—misunderstands.

How many people in the public do you think understand accelerated depreciation for equipment in factories? What do you think? Does anybody stand here on the floor and say, ''You know, because it is difficult for the public to understand that concept, we are not going to pass tax provisions that relate to accelerated depreciation?''

How many people understand on this floor, or off this floor, how the International Monetary Fund works? Do we sit here and say, ''You know, because if we took an exam, the American public would not know what it meant, therefore, even though we know it is good, even though we know it is in the national interest, we should not do it.''

That is just what we said; because people misunderstand what a roving wiretap is, we cannot have one.

You are a terrorist. You are sitting there. You are the Unabomber—allegedly, assuming he got caught. You are sitting in your old cabin watching portable TV, battery driven, and you see the Senate goes out and says, ''You know, do not worry. We are not going to wiretap.'' First of all, ''I do not have a phone. It does not matter. But when I go use a pay phone, they cannot get me now.'' Are you going to know? ''My God, they have this change in habeas corpus now. I am going to really worry about whether I commit this crime.''

I mean, come on. Come on. Ask any police officer if you have a case on terrorism. Would you rather have a change in State habeas corpus or the ability to have emergency wiretaps? Would you rather have a change in habeas corpus, or would you rather have multipoint wiretaps court approved? What do you think they are going to say? What do you think they are going to say? If you ask them, ''Would you rather have the health care system of America reformed or have that provision,'' they may say the health care system of America needs reform, but it has not anything to do with terrorists. They may want habeas corpus, but it does not deal with terrorism. It does not mean we should not include it. It sure means we should not advertise this legislation as legislation that fights crime.

The destruction of Pan Am 103 reminds us that Americans are vulnerable wherever they are. The 1993 terrorist bomb at the World Trade Center in New York and the bomb blast at the Federal building in Oklahoma City were terrorist acts by anybody's definition. In response to the World Trade Center, Oklahoma City, et cetera, the President sent to the Congress the second bill focused primarily on international terrorism. Then, when the Oklahoma City blast occurred, he sent a bill that also addressed the domestic terrorist threat.

Here in the Senate, the majority leader, Senator DOLE, and Senator HATCH introduced a bill based in large measure on that proposal with some additions. They brought it to the floor within 2 months of Oklahoma City tragedy. The numbers in the President's proposals that were not initially included in the Dole-Hatch bill were added on the floor by overwhelming bipartisan support, and in the end the bill passed 91 to 8. Every one of the Senate conferees supported the bill. Think for a moment who we are talking about: ORRIN HATCH, STROM THURMOND, ALAN SIMPSON, JOE BIDEN and TED KENNEDY. It is not often you get this group all together on a major controversial piece of legislation. And, when you do, you can be sure that there is something we have seen precious little of around Washington: compromise and bipartisanship.

The product of this compromise and bipartisanship was a bill that struck a key balance, a balance about protecting Americans from terrorists on the one hand while at the same time preserving the individual liberties that are the very hallmark of our American way of life—and the very thing that terrorists wish to take away.

I am struck by an irony here. I am a guy who has been criticized about being too adamant about civil liberties. I am a person who has often on this floor been castigated by my Republican friends as being too concerned about civil liberties and am now being opposed by those who say these provisions that I feel strongly about pay too little heed to the civil liberties and give too many powers to law enforcement.

Ever since I came to the Senate 23 years ago, I have made it my top priority, my nonnegotiable priority, to fight for civil liberties. I take a back seat to nobody when it comes to standing against the unwarranted expansion of Government power and standing up for the privacy rights and liberties of all Americans. Yet, I am here in support of a tough, comprehensive, well-balanced counterterrorism bill that all of you supported as well. With all due respect to my friends in the House, the conference report does not strike that balance and it does not do the job that must be done to protect Americans from the threat of terrorism.

I believe Chairman HYDE was right when, during the House debate on the bill, he opposed the amendment offered by Congressman BARR of Georgia, stating, ''Passage of the amendment would leave the bill a frail representation of what started out as a robust answer to the terrorist menace.''

Let me say that again. On the floor of the House of Representatives the conservative chairman of the House Judiciary Committee, HENRY HYDE, when Mr. BARR introduced those amendments relating primarily, in this case, to the wiretap, said to his fellow Members of the House, if the Barr amendment passes, it will ''leave the bill a frail representation of what started out as a robust answer to the terrorist menace.'' He was right then. He is right now. What we have before us is a useful but frail representation of what started out to be a robust message sent to terrorists across the world, which was, ''Not here in the United States. We are empowering law enforcement, with the due respect and regard to American civil liberties, to have additional tools to fight terrorism.'' That, unfortunately, is not what has happened.

Today, I and others will offer motions to recommit the bill to conference with the intent of saving this terrorism bill. I believe my friend when he says to me that, if this bill passes without being strengthened to something like it was before, that he will work with me to create another separate bill to add all these provisions that I want in the bill—or that we want in the bill. I believe him.

But we know the process. This is going to be an extremely political year. The idea of anything passing here, with Senator DOLE as the leader running for President, that is going to upset the folks over on the House side in the minority of his party, I think is less than real. It is understandable. It would be the same if there was a Democratic leader running for President. It

is not likely to happen. I doubt whether anyone here will stand on the floor and tell you there is even a 1 in 10 chance of passing any of the things I am going to raise or my friend from California is going to raise as independent pieces of legislation. This is our chance.

So, at a minimum we are talking about a year or two delay. And how many terrorist acts might we have prevented if we had given the law enforcement officials the tools that we are taking away from them here? How many? Pray God none. Pray God someone will be able to be here, assuming I am here in 2 years, to stand on the floor and say: ''BIDEN said in mid-April of 1996 that if we do not put these provisions in the bill, we would have lost the ability to stop some terrorist acts. I would like to say to Senator BIDEN, there have been no terrorist acts in 2 years, so he was wrong.''

I will gladly, overwhelmingly, with joy in my heart, say, ''You were right, Senator. I was wrong. We did not have any terrorist acts in 2 years.'' But, can anybody deny that denying the Federal Government the ability to wiretap like they can for the Mafia, denying the Federal Government the ability, with probable cause signed by a Federal judge, to wiretap people suspected of terrorist activities—that is not going to enhance the chance we stop it?

Today we will have a rollcall on a number of these votes. Today, I and others will offer motions to recommit the conference report. We must restore what the President, Senator DOLE, Senator HATCH, Chairman HYDE, Representative MCCOLLUM and many others on both sides of the aisle in both Houses thought were important at one point, which is to take a clear and unequivocal stand against terrorists, whether they are overseas or in our own homeland.

As the President has said, we must be guided by three bottom-line goals. First, we must protect Americans without curtailing Americans' rights. Second, we must give law enforcement officials the tools they need to protect Americans from terrorist attacks. And third, we must make sure that terrorists are not given safe haven, support, and comfort here in our country.

I end by complimenting my friend from Utah for fighting hard to get these and other provisions back in the bill. He got some of them back in the bill in a conference, in his meetings with House Members. But in my view, he did not get the single most important provision in the bill. That is why, as a Congress, we must give the FBI authority to use wiretaps in criminal investigations; where we wrote special stringent protections into the statute in order to protect legitimate private interests. Each and every one of these protections range from strict probable cause showing to approval by a Federal judge to a requirement that officers minimize intrusive wiretaps, and time limits on any authorization will remain in the law. Wiretap proposals I will seek to include in the conference report are limited and modest, but they are urgently needed so we can identify and stop terrorists before—before—before—before—before they strike.

In the Senate, Senators NUNN and THURMOND hammered out a very limited and commonsense provision to involve the military if we should ever, God forbid, face an emergency involving biological and chemical weapons of mass destruction. Remember, we are talking about only technical and logistical support from the military, not law enforcement. We are talking about an emergency involving biological and chemical weapons of mass destruction; something the military is especially trained and equipped to deal with. The military, I might also add, has this limited authority when it comes to nuclear weapons now. Senator NUNN has now perfected that language, and we should include his provision in this bill.

The conference report also fails to include a number of other provisions in the Senate bill which I believe the conference report should contain, including the following: We should add terrorism crimes to the list of RICO predicates, that is those laws which are designed to deal with organized crime, and make the penalties harsher. We should make it a crime to teach someone how to make a bomb when they intend it to be used. That is what the Senator from California will speak to again. We should extend the statute of limitations for certain firearms offenses, as we do for other offenses.

All the provisions I have just mentioned were contained in the Senate bill which, as I said earlier, passed with the votes of 91 Senators and all the votes of us representing the Senate in the conference. What is more, at the same time that the conference bill goes easy on terrorists, it gets tough on law enforcement officials. For example, the House had stripped from the original bill a provision that would have helped protect police officers from cop killer bullets.

Let me explain that just for a minute. In 1986, and again in 1994, the Congress outlawed a few bullets capable of penetrating body armor worn by our Nation's police officers for their protection. The key problem with this approach is that it is possible, indeed altogether probable, that a new bullet can be manufactured and brought to the market before Congress can pass legislation to stop it. For that reason, many had sought a performance test. In other words, let us all agree on a test that will determine what kinds of bullets can penetrate the body armor typically used by police officers. Then bullets that fail the test, so-called cop killer bullets, would be banned before they can see the light of day or kill a cop.

The bill reported out of the House Judiciary Committee by Chairman HYDE contained the first modest step for this commonsense approach. It contained a study, just a study to determine if there is a fair test to determine whether or not a cop killer bullet is just that or is not that.

But even this modest step forward was changed in the conference report. The conference bill includes a provision added on the House floor to study how police officers are killed, with mandatory participation by national sporting organizations. What do they know about cops being killed?

The study is a setup.

We already know that armor-piercing bullets have never actually killed a cop, but that result is because we have been able to ban armor-piercing bullets before they are marketed. So the so-called study in the conference report is a first step, it seems to me, in an effort to stop any action that may keep cop-killer bullets off the street. I found this astounding.

It seems to me the conference report, while stripping out a number of provisions to crack down on terrorists, would make our law enforcement officers, who every day put their lives on the line, fair game for criminals in ways they are not now.

The conference report orders a commission to study not the terrorists but Federal, State, and local law enforcement officials who work to protect Americans from terrorism. Again, I find this astounding. I hope the police officers of America are listening to this. This bill calls for a study of American police officers. Did you hear what I said? A study of American police officers, not a study of terrorist groups, a study of American police officers.

I want to repeat, it is my intention to send the President a tough comprehensive bill. Since the conference report does not meet this standard, I will offer a series of motions to recommit the bill so that we get it right.

I hope all of my colleagues will support just what they supported before. I am not asking anybody to change their mind. I am satisfied if the six people who voted against it before vote against it again, but I hope that we have a principled vote here where people vote the way they did before on these issues and not be cowed by a minority in either party, in either House at any time. I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. FRIST). The Senator from Utah.

PRIVILEGE OF THE FLOOR

Mr. HATCH. Mr. President, I ask unanimous consent to permit Nick Altree, Sammy Linebaugh, and Christina Rios privilege of the floor during the pendency of the terrorist bill.

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

Mr. HATCH. Mr. President, I have enjoyed my colleague's remarks. Senator BIDEN made some good points; some are not good, in my view. The most important issue in this debate happens to

be habeas corpus reform. The one thing—the only thing—the one thing and the only thing that the Oklahoma victims have asked for, the only thing they mentioned and they asked for was habeas corpus reform. The survivors of that tragedy know that habeas is the most important issue for them. Habeas is particularly relevant here because the district attorney for Oklahoma City has promised—he has promised—that the perpetrators of the bombing will be tried for murder in State court. Thus, habeas corpus reform applies, because this bill applies to both Federal and State proceedings.

Moreover, there is evidence that delay exists in the Federal courts, contrary to what my dear friend and colleague has said, and this habeas proposal places limits on Federal petitions for habeas corpus as well.

The game is going to be over. The victims understand it. Thank God the rest of us are not victims of that bombing, but they understand it. They know darn well this is the only provision that really will make a difference in their lives. So habeas clearly applies to this situation.

The point is that justice delayed is justice denied. It is impossible to stop a terrorist attack that is motivated by political fanaticism, and that appears to be what we have here and it appears to be what occurs in almost every terrorist attack. But it is possible to ensure that the perpetrators are punished. Justice delayed is justice denied.

I also point out to my friend and colleague that the bill does contain tough antiterrorism provisions, contrary to what he indicated that this is the only provision this bill is all about and it is the whole bill. It is not at all.

No. 1, we have the designation of foreign organizations as terrorist groups provision. It is a very, very important change in criminal law. It is a tough thing.

The bill includes provisions making it a crime to knowingly provide material support to terrorist functions of foreign groups. This provision is aimed at cutting off the dollars and, thus, the lifeblood of foreign terrorist organizations that are wreaking havoc and destroying lives all over the world.

The United States provides a lot of that money. People do not realize that here. They do not even realize we have up to 1,500—and I am just using very modest figures, these are figures from 10 years ago—at least 1,500 known terrorist groups and people in this country that we are watching and monitoring. Most people in this country do not realize how important this is, but the victims of the Oklahoma City bombing, the World Trade Center, the Lockerbie bombing, they all know what is involved here, and that is what they asked for yesterday, and the reason they did is because they know it is going to make a difference.

I worked hard to ensure that this provision will not violate the Constitution, that is the provision on habeas corpus reform. We have worked hard to make sure it does not violate the Constitution or place inappropriate restrictions on cherished first amendment freedoms.

Nothing in the habeas provisions of this bill prohibits the free exercise of religion or speech or impinges on freedom of association. We are talking now about material support to terrorist functions of foreign groups.

Moreover, nothing in the Constitution provides the right to engage in violence against fellow citizens or foreign nations. Aiding and financing foreign terrorist bombings is not constitutionally protected activity.

Additionally, I have to believe that honest donors to any organization want to know if their contributions are being used for such scurrilous terrorism purposes. We are going to be able to tell them after this bill. This is an important provision. It is a major provision that we would want to pass whether we have habeas corpus in here or not, although the habeas provision is extremely important.

Inextricably linked to this provision on being able to deter alien financing of foreign terrorist organizations is the related issue of the designation of certain foreign organizations as terrorist organizations to which the fundraising ban would also apply.

I sympathize with the concerns that have been raised on this issue. However, I believe that there can be no effective ban on terrorist fundraising unless the Government is given limited power to designate which foreign groups are, indeed, engaged in terrorist activity. The United States has a responsibility to its own citizens and to the world community to help cut off funds flowing to terrorists. I am convinced we have crafted a narrow but effective designation provision which meets these obligations while safeguarding the freedom to associate, which none of us would willingly give up.

So that provision of financing of foreign terrorist organizations is very important.

No. 2, we provide a provision in here for the exclusion of members of terrorist organizations. We will not even let them come into this country. Right now they can and they do. We are going to get tough on that, and this legislation provides that type of law.

It is important stuff. This is not just habeas corpus, although that is important in and of itself. It is the only thing that the victims yesterday called for. They said it is the one thing they want more than anything else. But these other provisions are important, too.

No. 3, we have a prohibition, like I say, on terrorist fundraising activities in this society.

No. 4, we prohibit financial transactions with terrorists, and we provide the language that will help to do that.

No. 5, we adopt regulations on human pathogens to prevent terrorists from using deadly human pathogens to harm our citizens. By enhancing penalties for and restrictions on the use of biological agents, the Antiterrorism and Effective Death Penalty Act of 1996 would decrease the opportunities for terrorists to perpetrate their crimes with biological weapons.

It may surprise even the American people to know that very dangerous, even deadly, organisms that cause diseases and death in human beings are available for purchase, not only by legitimate users, but also by those who may use them with criminal intent.

We have had instances where a phonied-up letterhead, looking like a research institution, has applied for human pathogen problems and biological agents that could cause death to humans. Because these agents cause such devastating diseases as bubonic plague and anthrax, it is crucial that the Federal Government more closely regulate, monitor their movement over both interstate and foreign channels of trade. While I strongly favor a reduction in the Government's overall regulatory posture, there is a clear and present danger with respect to the threat of biological terrorism.

To give you just one example, the Washington Post recently reported that in May 1995 an Ohio man, using letterhead that appeared to be a legitimate laboratory, faxed an order for three vials of the bubonic plague agent from the American Type Culture Collection, the ATCC, in Maryland. After a series of events, the FBI later discovered that this individual already possessed deadly microorganisms in addition to a cache of rifles, grenades, and white separatist literature. Although the man was prosecuted under mail and wire fraud statutes, these charges might not otherwise have been available had he not sent the bogus letterhead.

For example, gaps exist in the current regulations that allow anyone to possess deadly human pathogens. Thus, in turn, it makes prosecution of people who attempt to acquire them, even for illegitimate purposes, very difficult indeed. Under current law then, law enforcement authorities must wait until human pathogens are actually used as weapons before criminal prosecution may be pursued.

In response, this bill strengthens law enforcement's hand by prohibiting conspiracy, threat, or attempts to use biological weapons, in addition to their acquisition and their possession. The fact that human pathogens are available to several legitimate groups poses unique regulatory problems which our bill has, I think, successfully overcome.

In addition to the lack of interagency coordination in this area, the relevant regulations have not kept up with advancing science. So it is important, and, accordingly, the legislation here authorizes the Secretary of Health and Human Services to regulate the transfer of harmful biological agents. However, when promulgating regulations

and the listing of biological agents subject to these regulations, the Secretary is to ensure the continued viability of the use of such agents for legitimate purposes.

So we are attacking these problems before they result in tremendous tragedies. This bill will do that. My colleagues and I believe that the American people deserve better than the current regulations and criminal statutes we have in this area which have left us vulnerable to the potential use of human pathogens as terrorist weapons.

Since we have not kept pace with science and technology and recognize that we live in a more dangerous world than we once did, this legislation takes strong action and makes a strong response right now. That is another reason why it is important.

No. 6, we restrict the transfer of nuclear materials and chemical biological weapons. The Antiterrorism and Effective Death Penalty Act of 1996, this bill, gives Federal law enforcement officials the tools necessary to combat the threats of nuclear contamination and proliferation that may result from the illegal possession of and trafficking in nuclear materials. It is in the vital national security interests of the United States that we take every conceivable step within our power to restrict the flow of nuclear materials around the world.

With this simple truth in mind, this legislation recognizes that the threat that nuclear materials will be obtained and used by terrorists and other criminal organizations has increased since the enactment, some 14 years ago, of the Convention on the Physical Protection of Nuclear Material. Accordingly, this bill proposes to give Federal law enforcement officials the maximum authority permissible under the Constitution to address this increased threat.

One of the ways the legislation provides new tools to law enforcement is through the expansion of the scope and jurisdictional basis of nuclear materials prohibitions. This is accomplished in part by recognizing that nuclear byproduct materials, in addition to nonderivative nuclear materials, poses a major threat, not only to our military and commercial assets, but also to the environment.

This broader definitional scope is essential if law enforcement is going to have the kind of prosecutorial reach necessary to keep up with the technological developments in the field. Ironically, the increased threat of terrorist nuclear activity is to some extent a result of our, the United States, success in obtaining agreements from other countries to dismantle nuclear weapons.

While we all applaud these efforts, they have resulted in increased packaging and transportation of nuclear materials, which has created a more difficult security environment because it has provided greater opportunities for unlawful diversion and theft. Although we have traditionally thought of nuclear terrorism in terms of the detonation of nuclear bombs against civilian or military targets in the United States, we are also acutely aware of the threat of environmental contamination as a result of nuclear material getting into the wrong hands.

The nature of nuclear communication is such that it may affect the health, environment, and property of U.S. nationals both here and abroad even if the illegal conduct is directed at foreign nationals. This is why increasing the scope of prohibitive materials is so important. Because there is currently no Federal criminal statute that provides adequate protection to U.S. interests from nonweapons grade, yet hazardous, radioactive material, this is all in this bill. This is important stuff.

This is not just a habeas bill. But even if that were all it was, it is worth passing because that is the one thing that the victims of these criminal activities and terrorist activities have called for. Frankly, it was the only thing they called for yesterday, although I am sure that they recognize these other matters and are very happy to have them.

No. 7, we require tagging devices in plastic explosives. This bill will tag them. It does tag the devices in plastic explosives. Now, there is, in my opinion, a reason to tag other things as well, but I have to say there are reasons not to at this point.

Let me make this point. The Antiterrorism and Effective Death Penalty Act of 1996, this bill, fulfills the obligation of the United States to implement the Convention on the Marking of Plastic Explosives for the Purpose of Detection, entered into in Montreal in 1991 in the tragic wake of the bombing of Pan Am flight 103. It required that detection devices be placed in all devices imported to or exported from the United States and provides criminal penalties for violations.

It should be noted that criminal provisions with respect to the incorporation of detection agents in plastic explosives do not apply retroactively to any Federal agency performing military or police functions or to the National Guard of any State, only if such incorporation occurs within 15 years of enactment of the Montreal Convention.

Furthermore, governmental transfer or possession of such nonconforming devices will not be considered a criminal act nor will transfer or possession by private citizens of nonconforming devices manufactured prior to this legislation if this occurs within a 3-year grace period of its enactment.

These provisions in this bill affecting the manufacture, distribution, and use of plastic explosives are absolutely critical given the likelihood that without them plastic explosives will continue to be used with even less certainty of detection for acts of unlawful interference with civil aviation, maritime navigation, and other modes of transportation.

The purpose of this bill really is very simple. By marking or requiring the marking of plastic explosives, not only will we effectively deter future terrorist acts, but we will also substantially improve our chances of bringing to justice those who place innocent lives in jeopardy, endanger our national security, and disrupt international commerce by the use of these stealthy, deadly devices.

The distinguished Senator from Delaware raises a good point when he desires, and we in the Senate enacted—it was a Hatch provision again. These are provisions I worked on. These are provisions I wanted in the bill. There is no question about that. We put mandatory taggants on all explosives, in a certain sense.

The fact is that the explosive used in Oklahoma City was the result of a fertilizer. But the fact, also, is that before we put taggants on those, we have been cautioned by the mining industry, which has to use explosives throughout its processes, by the stone industry, which has to use explosives, by other industries that are prone to use explosives, that they are afraid that mandatory taggants could be very dangerous to their workers and to their efforts.

Frankly, in order to solve that problem and in order to solve some of the worries and concerns of those over in the House, we then did what is the next best thing—frankly, probably is the best thing under the circumstances—since we have had these matters brought to our attention by ATF, the Bureau of Alcohol, Tobacco, and Firearms, which handles the explosives matters and has been studying it for years, by OTA, which as of a few years ago said these may be dangerous. We do not have the answers as of yet, so we provide for a study to determine just how dangerous it is, and whether we can put taggants in, that will be safe and will protect the workers in these industries. It is a serious concern. It is one that we can resolve. We resolve it by giving a year for that study and allowing the regulatory agencies to enact regulations and allowing time for Congress to review them and finally resolve them. It is a reasonable approach.

Yes, it is not as far as I want it to go, that we did go in the Senate bill, but it is a reasonable compromise. That is what we have had to do here.

This is not just a habeas bill. This is a lot of things we have had to compromise with the House to get it done.

Let me go to No. 8. We enhance penalties for many terrorism crimes. We do not enhance them for every crime that the distinguished Senator from Delaware wants us to. I do not disagree with him. Look, we have gone through in the last few years, Waco, Ruby Ridge, the Good Ol' Boys Roundup, we have gone through other types of law enforcement matters. There are people who are terrified of the IRS, people who are afraid of their own Government. If you look at the polls, the vast

majority of them are afraid of their own Government today because of some of these things.

We have looked into these and there have been some mistakes. Because of these fears and the perceptions that arise from these fears, we have had to go gently on some of the areas where, yes, the distinguished Senator from Delaware and I probably would agree. We worked together a lot in these areas. I have tremendous respect for his abilities in this area. I do not agree with him that this is just habeas corpus and it does not have much else. Give me a break. This bill has a lot besides habeas. Even if it was only a habeas bill, that is the most important criminal law change in the century. It is important. Anybody who understands it and who wants to get tough on crime, who wants sentences carried out without delay, without unreasonable delay, wants this bill. That is the vast majority of people.

Let me say there is probably not one thing in this bill—I cannot think of one thing in the bill that my colleague from Delaware really opposes other than habeas corpus. And he is willing to accept that. Because he disagrees with habeas corpus reforms, he and others, it looks to me like they are willing to delay this bill. I hope they do not. I hope we can move ahead with his motions here today and get this matter done.

I suggest that we pass this report and return to many of the issues that Senator BIDEN outlines in subsequent legislation. I will work closely with him and with others to be able to do that, to make sure we know what we are doing when we do it. In fact, I promise Senator BIDEN once this bill is signed, I will work with him to draft legislation looking at enhancing wiretap authority, or any of the other issues he has raised. We try to solve these problems with study and with other approaches in this bill so we can bring both sides of the Hill together.

Yes, I agree with him on a number of things. I wish we could put them in this bill. In the perfect world that he and I believe in, we would do that. On the other hand, this is an imperfect world, and there are a significant number of people—both Democrats Republicans, by the way, over in the House—who literally do not agree with us. I think we have to put these things in perspective.

Now, rather than exploiting the devastation of Oklahoma City, I believe that we are protecting the families of the victims from additional unwarranted victimization. Comprehensive habeas corpus reform is the only legislation Congress can pass as part of the terrorism bill that will have a direct effect on the Oklahoma City bombing, or the Lockerbie bombing or the World Trade Center bombing. It is the one thing that Congress can pass to ensure that President Clinton's promise of swift justice is kept.

Like I say, President Clinton recognized this fact during his April 23, 1995, ''60 Minutes'' appearance when, in response to a question about whether those responsible would actually be executed without the adoption of habeas reform, he said, ''It may not happen, but the Congress has the opportunity this year to reform the habeas corpus proceedings and I hope they will do so.''

The claim that habeas corpus reform is tangential or unrelated to fighting terrorism is just plain ludicrous. Indeed, habeas corpus reform has far more to do with combating terrorism than many of the proposals contained in the administration's own antiterrorism package, such as the proposals to enhance FBI access to telephone billing records and to loosen standards for the use of roving wiretaps in felony cases. I would like to do those but habeas has more meaning than they do.

Most capital cases are State cases. The State of Oklahoma could still prosecute this case, and the district attorney says it will. Our habeas reform proposal would apply to Federal death penalty cases, as well. It would directly affect the Government's prosecution of the Oklahoma bombing case. Indeed, several people were killed just outside the Oklahoma Federal building, the terrorists who destroyed the Federal building could thus be tried in State court for the murder of those citizens. The district attorney for Oklahoma City, as I said, is planning those prosecutions.

The provisions of this bill demonstrate the relationship of habeas reform to the terrorist bombing. No. 1, it would replace a 1-year limit for the filing of a habeas petition on all death row inmates, State and Federal inmates; No. 2, it would limit condemned killers convicted in Federal and State court to one habeas petition, to where under current law there is currently no limit to the number of petitions he or she may file; No. 3, it requires the Federal courts, once a petition is filed, to complete the judicial action within the specified time period. Clearly, by passing these provisions, we ensure that those responsible for killing scores of United States citizens will be given the swift penalty that we as a society exact upon them.

Let me just say this: My friend and colleague from Delaware said without the crime bill there would be no Federal death penalties. I commend him for that. I worked hard with him to get that. I think it was a good thing. The fact is that every State, almost every State does have a Federal death penalties.

Senator BIDEN makes the case that these are State cases for the most part. That is true, involving habeas corpus. Where is the Federal habeas corpus problem, he says? I have to say one of the biggest problems, loony judges in the Federal courts who basically will grant a habeas corpus petition for any reason at all. Because they do not have the teeth in the law to stop it, it goes on all the time. We have judges who do not like the Federal death penalties. They do not like the State death penalty, so they do anything to grant a habeas corpus petition. That game will be over once this bill passes. This bill requires deference to court action unless there is some very good reason not to defer, and I have to say that is a major, major, change in criminal law. It is important.

My colleague says, how does changing habeas corpus have anything to do with terrorism? I think he outlined it pretty good and indicated it has nothing to do with State courts. Of course it does. If it is in a State court he said it has nothing to do with Federal crime. Well, what happens under current law is these people try to get into the Federal courts where they figure they have more liberal judges who are going to find any excuse they can to overturn a death penalty, and my friend indicated, ''Well, it does not get them out of jail.'' Sometimes it does.

If a habeas corpus petition is granted and a Federal death penalty is overturned, it is 18 years down the pike, all witnesses are dead or gone, and you cannot put a case on in the courts, that creates tremendously complicated problems. This is not as simple as some would make it out to be. You can get into that on both sides of that issue, I suppose, ad infinitum.

I have to say that justice delayed, as I said before, is justice denied. There are crazy people out there that no amount of wiretapping, no amount of any kind of predisposition toward law enforcement is going to stop them. These people are crazy. These people have no sense about them. They have no sense about them. They are not disciplined. We have to have some way of resolving these problems.

I have to say, I do not disagree with my distinguished colleague and friend. There are things, yes, I wish were in this bill. Again, this is the art of compromise. This is the art of the doable. This is the art of having to bring both bodies together. I think the Senate can do a better job on this bill than the House. I have to say, having said that, I think the House has come a long way towards the Senate bill, and we got them to go as far as we can, and the areas we cannot, we have studies or other approaches to help solve the problems.

Let me name some provisions in this bill that were not in the original bill filed by Senator BIDEN on behalf of the administration:

Pen registers and trap and trace devices on foreign counterintelligence and counterterrorism investigations. That was in the second bill. It is not in this bill.

Disclosure of information in consumer reports to FBI for foreign counterintelligence purposes. That was in the second bill filed for the President.

Let me just go down the list here. Civil monetary penalty surcharges. It

was in the first bill. Nobody has it in this bill.

Increased penalties for certain crimes. We have a number in the Senate bill we passed, and they are in this conference report. They were not in the two bills filed for the President.

Enhanced penalties for explosives or arson crimes. They are in this conference report but not in the two bills filed for the President, to my knowledge.

Study and report on electronic surveillance. That was not in either of the President's bills, but they are in this bill. It was in the Senate bill.

Expansion of territorial sea. It was in the Senate bill and it is in this bill.

The prohibition on distribution of information relating to explosive materials for a criminal purpose. It was not in the President's bill; it was in the Senate bill, and it is in this bill.

Foreign air traffic safety and travel safety was in the Senate bill, and it is in this bill.

Proof of citizenship. That was in the House bill, and it is in this bill. It is a strong provision. We did not have it in our Senate bill.

Cooperation of fertilizer research centers. That was in the Senate bill, and it is in this bill, but not in the President's bills.

Special assessments on convicted persons. Not in the President's two bills, but it was in the Senate bill, and it is in this bill.

Prohibition on assistance under Export Control Act for countries not cooperating fully with the United States. That was not in the President's two bills. It was in the Senate bill, and it is in this bill.

Authorization of additional appropriations for the U.S. Park Police. Not in either of the President's bills. It was in the Senate bill and is in this bill.

Authorization of additional appropriations for the Customs Service. In the Senate bill and this bill, but not the President's bills.

Study and recommendation for assessing and reducing the threat to law enforcement officers from the criminal use of various matters. That was in the House bill, and we adopted it in the conference report.

Mandatory penalty for transferring explosive material knowing it will be used to commit a crime of violence. That was not in the President's bills, but it was in the Senate bill and it is in this bill.

Directions to the sentencing commission. We have that from the House, which we put in the conference report.

There are a number of other provisions we have put from the House bill into the conference report that range from exclusion of certain types of information, from wiretap-related definitions, detention hearings, protection of Federal Government buildings in the District of Columbia, study of thefts from armories, report to the Congress, et cetera, et cetera.

There are a lot of provisions that literally were not in the President's bills that are in this bill and were in the Senate bill and we were able to talk the House into putting in here.

So it is not just a habeas bill. If that is all this is, it is worth everything we can put into it. It will be one of the most impressive and important changes in criminal law in this century. Frankly, the other provisions will go a long way toward stopping and penalizing terrorist activity in America.

I have gone on and on. I know the Senator from California wants to speak, as do others. You can go on with this because there are so many other matters I would like to talk to. I heard the distinguished Senator from Delaware, for instance, saying the NRA and ACLU agree on a number of things here, or are opposed to a number of aspects of this bill for different reasons. Frankly, the reasons are pretty much the same. They are concerned about an oppressive Government, and they are concerned about Government activity that goes far beyond where it should go. They are concerned about civil liberties and, whether they are right or wrong, they both are concerned about those matters. They may look at things a little bit differently, but their concerns are pretty much the same.

For those who want to make this out as an NRA bill, that is just fallacious. Let me make some points. They were not happy with the Terrorist Alien Removal Act we put back into this bill. NRA did not want the designation of foreign organizations as terrorist groups. They were afraid some of their people might be designated. Exclusion of alien terrorists. They did not want that. These are major provisions that we put in here, and we did it in conference. We did it with House Members who are good people trying to do the best for the country. Funding for the ATF. They hate the ATF [Alcohol, Tobacco and Firearms] the agency of Government regulatory authority for the Secretary to impose taggants at all. The fact is, we have the authority to do that in this bill. I think these are all matters that need to be brought up.

There is one other thing I will bring to the attention of everybody. I believe that some of the major organizations in this country are certainly going to support this. I was really pleased to see the help that we have had and the positive work that we got from the Anti-Defamation League. They deserve a lot of credit. They have been very, very concerned about this. There are some who will not like this bill just because we do not have their particular ideas.

Well, I have made a commitment here to see that we resolve those programs in the future. We cannot do it in this context. It does not mean they will not be resolved. We have four State attorneys general of the various States who support this bill explicitly. The National District Attorneys Association supports this bill with everything they have. The Anti-Defamation League supports this bill. As far as I know, APAG supports this bill. They know the Jewish people have been targets of these terrorist activities, and they know it is not going to stop, and they know this bill will make a difference, and it could solve some of these problems. We have all of the survivors of the Oklahoma City bombing, and we have the Oklahoma Attorney General, who appeared at the press conference yesterday and made some of the most eloquent, hard-hitting, and strong remarks with regard to the support of this bill. We have the National Association of Attorneys General supporting this bill. Citizens For Law and Order support this. And you can go on and on.

There are those, I am sure, who may oppose this bill for one reason or another. But we have put together a very bipartisan, acceptable bill that will really make a difference against terrorism in this country and really will help this country to breathe a little bit easier—and, frankly, many other countries throughout the world, too, because of the provisions we have here.

This is not just a habeas corpus bill. But I will say it one more time. If that were all that it was, it is worth supporting. It would be a tremendous change, a really tremendous change in criminal law that I think would make a difference in the lives of many victims throughout the country, and I think it would stop some of the ridiculous approaches to law that have gone on far too long in a country where, really, the great writ was a great writ to allow people to get to a trial. The writ of habeas corpus we are talking about is a statutory writ. That statute needs to be modified by this bill so that we can stop the foolish game of frivolous appeals just because people do not like the death penalty.

I can understand if people do not like the death penalty. But they can make legitimate arguments against it. If they can convince a majority of the American people that the death penalty is a bad thing, I could live with that. But they cannot. The American people sense that it is a deterrent. They sense that it is something that has to be done, and they also sense that if the death penalty is imposed, it ought to be carried out, and it should not be made a charade as we have through these frivolous habeas corpus appeals through the years.

I yield the floor.

Mr. BIDEN. Mr. President, I am delighted to listen to the Senator. I know what is going to happen. I am going to respond to him, and we are going to hear somebody talking about delay. I have talked a lot less time than the Senator from Utah, who was worried about delaying passage of the bill. I think he should talk. I have been in this game before, and I know what is going to happen. I am going to respond to him an equal amount of time, and somebody is going to say I am delaying. I would like a record to be kept as to how long we have spoken. I have no intention of delaying this.

I am going to respond as briefly as I can and then yield the floor and, at a later date, introduce my amendments. Let me point out that you are looking at somebody who not only does not oppose the death penalty, I wrote the bill that added 57 new penalties.

So I am not opposed to the death penalty. I am not only not opposed to it, I authored the Federal death penalty legislation. And the bill that I authored is the reason why those people in Oklahoma are going to be able to get the death penalty in a Federal court, if in fact there is a conviction. That is No. 1.

Second, I disagree with the habeas corpus provisions that are in here. But I am not going to oppose the bill based on that. I am not going to offer amendments to change that.

So, as we say in the law, the red herring keeps being thrown up here by those who are opposed to the death penalty, and it is really about habeas. And it is not about that.

Third, those liberal Federal judges my friend is talking about, 57 out of the 100 of them are Republican liberal judges; 57 out of every 100 of them were appointed by President Bush and President Reagan; 57 out of every 100.

So, to the extent that they are liberal and not the majority of the court, it is a Federal court appointed by two Republican Presidents.

Just to clear some of the clutter away here, I also point out to you that there are some very tough provisions in this bill. I am not saying there are not. There are very tough provisions. My initial response was that the biggest weapon in here to fight terrorism was habeas corpus. That is an after-the-fact weapon, not a before-the-fact weapon. I am not as terribly optimistic as my friend from Utah. I believe we can stop terrorism. I believe we can stop terrorists. If the only thing I was to do here as a U.S. Senator was to clean up in the aftermath of terrorist acts and make the prosecution more available, then I would think I was doing half my job. That is not question. I do not question for a moment that the victims of the Oklahoma bombing and their families very much want the habeas corpus provision. I do not question that. They are victims.

There are two things we are trying to do in this bill—deal with the victims of terrorism and prevent new victims. My point is habeas does nothing about preventing new victims. That should be our major thrust in my view.

Also, I point out that my friend from Utah says that the district attorney is going to seek the death penalty. Well, if in fact the Federal trial takes place, which is going on—if, in fact, there is a conviction and they get the death penalty—I hope to God he will not intervene and delay the death penalty by then going into State court to get a death penalty if we already get the death penalty in Federal court. That is another red herring. The idea that the State attorney general, the district attorney in Oklahoma, is saying he needs a change in State habeas corpus in order to put to death people who in fact committed the Oklahoma bombing, they will already be dead. They will already be dead, if they are convicted, because they will be convicted under a Federal law, and they will be hung or injected with a lethal injection under Federal law. They will be dead. I surely hope he will not delay their death by deciding to have a whole new trial in State court. Again, it sounds reasonable when he says it to you. But when you parse through it, it makes no sense.

Why would you try someone, and then delay the imposition of the death penalty after they have already been convicted and are about to be put to death?

The other thing I would say is that there are some taggant provisions in here. I compliment my friend on the taggants. Everyone should know what taggants are. They are little tiny particles that they put in the manufacture of weapons, of bombs, of material that goes into bombs. So when the bomb goes off, the easiest way to think of it as a lay person, if somebody has a little Geiger counter, metal detector, they go around and pick up these taggants. They blink. They make sounds. So they can identify. Then they can look and see the taggant, and they can put it under a microscope and find out that this taggant, this material used in this bomb, was made in Dover, DE, or Sacramento, CA, at such and such a place, such and such a batch, and such and such a time. Then they can trace who purchased that batch of material, and they trace it back. And they find the guy who put the bomb together. That is what a taggant is. That is what it means.

We had a very strong provision. The House had a weak provision. But to the credit of my friend from Utah, last night he put in the process that guarantees there will be taggants because everyone should know this: That, although there will be a study, the study once completed automatically goes into effect. So anyone who objects to it will have to get a majority vote in the House and the Senate to defeat it. That is a very positive thing he did; very positive thing. And I compliment him for it.

Although it will delay by 28 months what we wanted to do, it will make it likely that that automatically will be the law, and it will require affirmative action to knock out the use of taggants.

The other point that I want to make is that many of the things that the Senator said—all of the things he said—are accurate about the additional provisions in the law. But if I can make an analogy, it is kind of like giving a police officer a revolver that has six chambers in it and giving him one bullet. You are giving the revolver. That is good. You give him one bullet. That helps protect. But we should give him the other five bullets.

My friend cited as one of the sterling objectives and achievements of this legislation as one example that would create a new crime, a new Federal crime—terrorism—that says that providing material support for terrorists is now a Federal crime. That is good. That is the gun and one bullet. But guess what we do? We say that you cannot use a wiretap under Federal law to go after people who have provided material support for terrorist groups. We do not include that in the list of crimes for which you can get a wiretap under Federal law. The Senate did. The House did not. So we do not include that. So we give them a gun. We give them the bullet. But we do not give them the full chamber. It is positive; agreed. But why in the Lord's name would you allow people to get a wiretap for bank embezzlement and not a wiretap for materially supporting a terrorist organization? Why would you do that? I do not understand that.

Lastly, I would point out that—there is much more to say but I am not going to take as much time as my colleague because my friend from California has been standing here for all of this time—the Senator went into great detail about human pathogens and chemical and nuclear and biological warfare. He is right. We added those crimes. We added enhanced penalties. But guess what we did? We said, if it is a chemical or biological weapon, you cannot do what you can do for nuclear weapons. You cannot bring in the only people who know about them; the military—the only people trained with the equipment to dismantle them, the only people who know how to identify them. You cannot bring them in for chemical, or for biological weapons. But you can for nuclear. Again, an example of a half-step that is very positive. It is in the right direction. But then you make it not useless but incredibly difficult to enforce, or to deal with because you cannot call in the experts.

It is like that movie you all saw, that one with Dustin Hoffman, and the danger that breaks out in the town, ''Outbreak.'' Let us assume a terrorist under this law uses a biological weapon. You are not going to have Dustin Hoffman flying in with the people in helicopters who are military who can deal with this. They are not going to be allowed to deal with it because we prevent them from dealing with it. We do not allow them to. The local cops are going to have to take care of it. You are not allowed to bring them in. Hollywood is going to have to revamp their scripts.

I mean, see again, a positive step but a half tentative step. And, when you are going to close the deal because a few people disagree with it, we back off. We back off.

I have much more to say. I will withhold the rest of my comments but conclude by saying there are two pieces here. There is dealing with the apprehension of, the conviction of, and the imposition of a penalty on those who

commit terrorist acts. That is very important. We do some of that in here. But there is an equally important aspect of preventing and apprehending before they commit the heinous act, those engaged in terrorist activities. We do not do a very good job of that in here.

I yield the floor, and I beg my colleague to yield and not take the floor because I will have to respond to him—and he is talking a lot more than I am—and let my friend from California proceed.

Several Senators addressed the Chair.

Mr. HATCH. Mr. President, I will only take a moment, with regard to posse comitatus. In true emergency situations the President has full authority to resolve those and use the military if he wants to. The reason the President would want us to put posse comitatus language in there is because it takes him off the hook. The fact is, the President has that authority.

Mr. BIDEN. I will respond to that later, Mr. President.

The PRESIDING OFFICER. The Senator from California.

THE ILLEGAL IMMIGRATION BILL

Mrs. FEINSTEIN. Mr. President, both the Senator from Utah and the Senator from Delaware are certainly hard acts to follow.

I want to comment on this bill, but before I do so I want to make a public appeal to the majority leader to please, please, please bring back on the floor the illegal immigration bill. This bill, I believe, has widespread bipartisan support. But more fundamentally, I cannot tell you how important this bill is to the safety and well-being of the people of California.

Right now on the border you have miles without a Border Patrol agent. Right now, for both Senator BOXER and I, Border Patrol people come in and tell us how they have rocks thrown at them, how they are concerned for their own safety.

A few weeks ago you had a major freeway accident with 19 people killed, illegal immigrants in a van. More recently you had an incident, publicized all over the United States, of an unfortunate law enforcement action which involved unrestrained force against illegal immigrants who pummeled on a freeway, hitting other automobiles, trying to get away from a sheriff's officer in pursuit.

This is the State that passed Proposition 187, which was a call for help from the Federal Government to enforce the law and change the law and stop illegal immigration.

Mr. President, there is so much that this bill—worked on so hard by Senator SIMPSON, worked on I think on both sides of the aisle in the subcommittee and in the full committee—does. Let me just say it adds 700 Border Patrol agents in the current fiscal year; 1,000 more in the next 4 years. It takes the total number of agents up to 7,000 by 1999. That is double the force that was in place 3 years ago. Every border State wants that.

It establishes a 2-year pilot project for interior repatriation. When somebody comes across the border, they are not just returned to the other side of the border, but they are returned deep into the interior to stop them from coming right back again.

It adds 300 full-time INS investigators for the next 3 fiscal years to enforce laws against alien smuggling, and it adds alien smuggling and document fraud, a big problem, as predicate acts in RICO statutes, something that Federal prosecutors have asked for.

It increases the maximum penalty for involuntary servitude, to discourage cases like the one we saw very recently where scores of illegal workers from Thailand were smuggled in and forced to work in subhuman conditions, against their will, in a sweatshop in southern California.

Mr. President, this bill is critical. It is an important thing for border States and particularly for the State of California. If Proposition 187 was not the bellwether that said, ''Federal Government, do your job,'' I do not know what else will be.

So I earnestly and sincerely, please, I beg the majority leader to bring this bill back on the floor, let us debate it, let us resolve it, let us pass it, let us get it signed, and let it get into law in the State of California.

TERRORISM PREVENTION ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report

Mrs. FEINSTEIN. Mr. President, I thank the distinguished chairman of the Judiciary Committee for his work on this bill and the distinguished ranking member for his work on this bill.

I am particularly disappointed that the House succeeded in gutting the commonsense prohibition on distributing instructions for bomb making for criminal purposes. I will talk about that in a minute. But the good news is that the conference report also restored good provisions to this bill. I am especially gratified that the conference committee restored my amendment which gives the Secretary of Treasury the authority to require taggants for tracing explosives.

The Senator from Delaware, the distinguished ranking member, just explained what taggants are: simple little coded plastic chips that are mixed with batches of commercially available explosives. They allow law enforcement to trace a bomb that has exploded, just like one would trace a car by knowing the license plate number. That is exactly what taggants are.

It was studied 16 years ago. Everybody said go ahead with it. They have been available. And it has now happened.

Incidentally, it took the Unabomber 18 years to, quite possibly, get caught. Three people have been killed, 23 people have been wounded, in bombs that really plagued nine States. This time could have been cut in half, perhaps, if we had tagging of explosives.

Unfortunately, the bill completely exempts black powder from either tagging or study requirements. I must say, how can a bill even refute the ability to study tagging of black powder? The amendment I submitted on taggants essentially provided for its addition, taggants' addition, where explosives would be bought in larger amounts. But, where small amounts of black powder were purchased to use in antique guns and for small arms, the taggant would not be included.

The NRA opposes this. What the National Rifle Association is clearly saying is they do not want any taggants in black powder explosives period, or even a study of it. Can you imagine the power of an organization that is able to successfully say we will not even study the impact of tagging black powder, which is also used as the triggering device on major explosive bombs that are used by terrorists? I have a very hard time with that.

I heard the distinguished chairman of the Judiciary Committee just say the NRA opposed excluding alien terrorists from this country. The NRA opposed excluding alien terrorists from this country—unbelievable. I think I just heard him say the NRA opposed a prohibition on fundraising in this country by terrorist groups.

Let me tell you something, if anybody believes that Hamas is in this country raising money to use it for charitable purposes, I will sell you a bridge tomorrow. I will sell you a bridge tomorrow. That is just unbelievable to me.

Nevertheless, I thank the chairman of the Judiciary Committee for standing Utah tall in the conference committee on the issue of taggants. I would like to thank Senator BIDEN and Senator KENNEDY for their help as well. I think this is a very important step forward and I do not mean to diminish it in any way.

I also must say that I view the habeas corpus reform also as an important step forward. Abuse of the writ of habeas corpus, most egregiously by death row inmates who file petition after petition after petition on groundless charges will come to an end with the passage and the signature of this bill. I believe it is long overdue.

For anyone who believes that habeas is not abused, let me just quickly—because it has been thrown out before, and I know others want to speak—speak about the Robert Alton Harris case. It, I think, is a classic case on what happened with Federal habeas corpus, and State habeas corpus.

Mr. Harris was convicted in 1978 for killing two 17-year-old boys in a merciless way, eating their hamburgers, and then going out and robbing a bank.

His conviction became final in October of 1981. Yet, he was able to delay

enforcement of the California death penalty capital sentence until April 21, 1992—for 14 years.

Over that time, he filed no fewer than 6 Federal habeas petitions and 10 State petitions. Five execution dates—five execution dates—were set during the pendency of his case. In all, Harris and his attorneys engineered almost 14 years of delay and piecemeal litigation by misuse of habeas corpus, and, I might say, it was 14 years of unresolved grief for the parents of the children.

I think cases like that one point out the need for habeas corpus reform, and, frankly, I want to commend the Judiciary Committee, and in particular the chairman, for seeing that that is included.

Senator HATCH also just mentioned the pathogens incident. In the Judiciary Committee, we had some full hearings, that were rather chilling to many of us, on how easy it is to obtain human pathogens.

I cannot help but note that the Chair is a distinguished physician and surgeon who knows this area well. But what we found out, essentially, is that one person—namely, Larry Wayne Harris—managed to order and to receive samples of bubonic plague through the mail less than a year ago.

Incredibly, although he was caught, he could be charged with only wire and mail fraud, because there were no laws on the books prohibiting the possession of bubonic plague pathogens. In fact, he made up a letterhead and sent it in to a lab, asked to purchase the plague bacteria, and it was sent to him, no questions asked. So this bill clearly takes care of that problem.

It adds that any attempt, threat, or conspiracy to acquire dangerous biological agents for use as a weapon are crimes punishable by fines or imprisonment, up to life imprisonment.

It also asks the Secretary of HHS to establish and maintain a list of biological agents which pose a severe threat to the public safety, and it directs the Secretary to establish enforcement and safety procedures for the transfer of human pathogens.

As a matter of fact, a number of us wrote a letter to the President and urged that emergency action be taken quickly because of the potential ability of people to acquire these bacteria prior to the enactment of this statute.

I want to also express my thanks that fundraising by terrorist organizations will be prohibited in the United States of America. I think it is extraordinarily important that this take place.

I am also very pleased that there is a section, known as 330, of the conference report—which, as a matter of fact, I offered—which prohibits the United States from selling weapons and defense services to countries that the President determines are not fully cooperating with U.S. antiterrorism efforts.

This is a commonsense provision, and I am amazed that there has been nothing in law that meets it. But there certainly is no reason the United States should continue to provide weaponry to any country that refuses to do all it can to combat terrorism.

My big disappointment—and I think because the Presiding Officer is relatively new to this body, he would be interested to know—is that on the Internet today, there is a volume called The Terrorist Handbook. The Terrorist Handbook describes how you can make bombs, whether those bombs are in baby food jars, in electric light bulbs or in telephones. To my knowledge, there is no legal use for a bomb in a baby food jar, for a bomb in a light bulb, or for a bomb in a telephone. You know that once you teach somebody how to do that, their only use of the knowledge is to slaughter and to kill.

So I have a very hard time understanding why simple language, which says if you knowingly publish material with the intent of enabling someone to commit a crime, shall not be permitted.

Let me quote the February 2, 1996, New York Times Metro section. Headline: ''3 Boys Used Internet to Plot School Bombing, Police Say.''

Three 13-year-old boys from the Syracuse area have been charged for plotting to set off a home-made bomb in their junior high school after getting plans for the device on the Internet. The boys, all eighth graders at Pine Grove Junior High School in the suburb of Minoa, were arrested Wednesday by the police. ''There is no doubt that the boys were serious,'' the captain said, adding that they've recently set off a test bomb in a field behind an elementary school and that it started a small fire.

This cartoon is exactly what is happening all across the United States with young people. The cartoon is a youngster, sort of a Dennis-the-Menace type sitting at his computer, wrapping dynamite and attaching a detonation and clock device to it, while his mother is on the telephone saying ''History * * * astronomy * * * science * * * Bobby is learning so much on the Internet.''

I have another article. The Los Angeles Times, just this past Saturday, April 13: ''Four Teens Admit to Bombs in Mission Viejo School Yard.''

The boys, all 15- and 16-year-olds, told investigators they learned how to build the small high-pressure explosives from friends who got it off the Internet. According to the chief, who is then quoted, ''It's something they're getting off the Internet. Any time you mix volatile chemicals and have a little bit of knowledge, you put yourself and others in jeopardy.''

A third article, Orange County Register, ''2 Home-Made Bombs Dismantled in Orange'' County.

Authorities theorize that teens are learning how to make the 2-liter bottle devices on the Internet. Ladies and gentlemen, how far do we wish to push the envelope of the first amendment?

Let me tell you what is also in this ''Terrorist Handbook.'' People say, ''Well, we have a first amendment right.'' There is a part on breaking into a lab. This ''Terrorist Handbook,'' which we downloaded yesterday on the Internet, let me quote from it. The first section deals with getting chemicals legally. This section deals with procuring them.

> The best place to steal chemicals is a college. Many state schools have all of their chemicals out on the shelves in the labs, and more in their chemical stockrooms. Evening is the best time to enter a lab building, as there are the least number of people in the building and most of the labs will still be unlocked. One simply takes a bookbag, wears a dress shirt and jeans, and tries to resemble a college freshman. If anyone asks what such a person is doing, the thief can simply say he's looking for the polymer chemistry lab or some other chemistry-related department other than the one they are in.

Then it goes on and it tells them how to pick the lock to break into the chem lab. It tells them what kind of chemicals to steal from the chem lab, and then to go out and how to make the bomb—baby food bomb, telephone bomb, light bulb bomb.

We know people are following this. Yet this conference committee deleted—deleted—a simple amendment which said, if you knowingly publish this kind of data with the view that someone will commit a crime, that is illegal—that is illegal. The conference committee voted it down, I would take it, at the behest of the National Rifle Association. Why? I cannot figure out why. I cannot to this day figure out why.

Let me give you one other quote that was on the Internet. It tells you where to go.

> Go to the Sports Authority or Hermans sports shop and buy shotgun shells. At the Sports Authority that I go to you can actually buy shotgun shells without a parent or adult. They don't keep it behind the little glass counter or anything like that. It is $2.96 for 25 shells.

Then the computer bulletin board posting provides instructions on how to assemble and detonate the bomb. It concludes with:

> If the explosion doesn't get 'em, then the glass will. If the glass doesn't get 'em, then the nails will.

This is what, by rejecting my simple amendment, the conference is saying is permissible on the Internet.

Let me give you one last thing so that it is, hopefully, indelibly etched in everybody's mind what we are doing. Following Oklahoma City, this was on the Internet.

''Are you interested in receiving information detailing the components and materials needed to construct a bomb identical to the one used in Oklahoma?'' The information specifically details the construction, deployment, and detonation of high powered explosives. It also includes complete details of the bomb used in Oklahoma City and how it was used and how it could have been better.

How far are we pushing the envelope of the first amendment? What I have

tried to show is that not only is this kind of thing with knowledge, with intent, on the Internet, but that youngsters are using it. They have used it within the last 2 weeks in New York, in California, and they have used it to do bodily harm to others.

So this is my big disappointment in this bill, because I believe we have as much to fear from domestic terrorism, as I think the Unabomber has pointed out, as we do from foreign terrorism. It begins right here at home. It begins with a system that lets everybody do anything they want, including telling you how to steal, break in and steal the chemicals, make the bombs, go out and deliver them.

I believe it is the job of this Congress to try to do something about it. With that in mind, I will support the amendment to recommit this to committee. I realize that that is a useless gesture, but just to make the point.

I will vote for this legislation and I will at the earliest time possible reintroduce my amendment on another bill to take another crack at saying the time has come for the United States of America to say, indeed, everything does not go. There are some restrictions and some things that we are going to do to stop criminality in this country. I thank the Chair and I yield the floor.

Mr. THURMOND. Mr. President, I served as a conferee representing the Senate, and I am pleased that the House and Senate conferees have resolved the differences between our respective bills to combat terrorism. We must send a clear message to those who engage in this heinous conduct that the American people will not tolerate cowardly acts of terrorism, in any fashion—whether their source is international or domestic.

It is important that the Congress work closely with Federal law enforcement to provide the necessary tools and authority to prevent terrorism. Yet, I am mindful that an appropriate balance between individual rights guaranteed in the Constitution and the needs of law enforcement must be achieved as we meet our responsibility. The American people appropriately look to their government to maintain a peaceable society but do not want law enforcement to stray into the private lives of law-abiding citizens. The balance is to provide reasonable authority to law enforcement to investigate and prevent terrorism while respecting the rights of the American people to form groups, gather and engage in dialog even when that dialog involves harsh antigovernment rhetoric.

Mr. President, it is my belief that this conference report will enhance law enforcement capabilities to combat terrorism while respecting our cherished rights under the Constitution. This legislation includes provisions to increase penalties for conspiracies involving explosives and the unauthorized use of explosives, enhance our ability to remove and exclude alien terrorists from U.S. territory, provide private rights of action against foreign countries who commit terrorist acts, prohibit assistance to countries that aid terrorist states financially or with military equipment, and enhance prohibitions on the use of weapons of mass destruction. Also, there are a number of other measures designed to combat terrorism which were included and detailed earlier by the able chairman of the Judiciary Committee, Senator HATCH.

Clearly, one of the most important sections included in the conference report is language designed to curb the abuse of habeas corpus appeals. In fact, we heard from families of the Oklahoma bombing victims who demand that habeas reform be included to make this a truly successful bill.

Mr. President, for years, as both chairman and ranking member of the Senate Judiciary Committee, I have worked for reform of habeas corpus appeals. The habeas appellate process has become little more than a stalling tactic used by death row inmates to avoid punishment for their crimes.

Unfortunately, the present system of habeas corpus review has become a game of endless litigation where the question is no longer whether the defendant is innocent or guilty of murder, but whether a prisoner can persuade a Federal court to find some kind of technical error to unduly delay justice. As it stands, the habeas process provides the death row inmate with almost inexhaustible opportunities to avoid justice. This is simply wrong.

In my home State of South Carolina, there are over 60 prisoners on death row. One has been on death row for 18 years. Two others were sentenced to death in 1980 for a murder they committed in 1977. These two men, half brothers, went into a service station in Red Bank, SC, and murdered Ralph Studemeyer as his son helplessly watched. One man stabbed Mr. Studemeyer and the other shot him. It was a brutal murder and although convicted and sentenced to death these two murderers have been on death row for 15 years and continue to sit awaiting execution.

The habeas reform provisions in this legislation will significantly reduce the delays in carrying out executions without unduly limiting the right of access to the Federal courts. This language will effectively reduce the filing of repetitive habeas corpus petitions which delays justice and undermines the deterrent value of the death penalty. Under our proposal, if adopted, death sentences will be carried out in most cases within 2 years of final State court action. This is in stark contrast to death sentences carried out in 1993 which, on average, were carried out over 9 years after the most recent sentencing date.

Mr. President, the current habeas system has robbed the State criminal justice system of any sense of finality and prolongs the pain and agony faced by the families of murder victims. Our habeas reform proposal is badly needed to restore public confidence and ensure accountability to America's criminal justice system.

We have a significant opportunity here to fight terrorism and provide certainty of punishment in our criminal justice system. The preamble to the U.S. Constitution clearly spells out the highest ideals of our system of government—one of which is to "insure domestic tranquility." The American people have a right to be safe in their homes and communities.

I am confident that this antiterrorism legislation will provide valuable assistance to our Nation's law enforcement in their dedicated efforts to uphold law and order.

I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Oklahoma.

Mr. NICKLES. Mr. President, first, I would like to thank Senator DOLE for setting aside the immigration bill, the illegal immigration bill, temporarily so we can pass this terrorism conference report.

I might mention to my colleagues this is a conference report and is not really amendable. It does not mean we do not have parliamentary procedures and it does not mean people cannot delay or procrastinate or mean we cannot say we can send it back to the conference with specific amendments. They have the right to do so. But I am going to urge my colleagues not to do so. If we do so, we are not going to finish this bill. I would like to finish this bill this week.

I would really like to compliment my colleagues, Senator HATCH, and also Senator BIDEN, as well as our colleague in the House, Chairman HYDE, for their work in the last couple of weeks in melding the two bills together.

This is a compromise bill. I do not make any bones about it. It is probably not perfect. But it is a good bill, and it needs to pass, and it needs to pass this week. If we recommit this bill, we are not going to get it done this week. So I urge my colleagues, it might be tempting and it may be politically appealing, for whatever reason, to recommit this bill and to score some points or run against the NRA or whatever, but I urge them to set that aside.

Let us pass this bill. This is a positive bill. It is a good bill. It is a bill that has very, very strong support and a lot of emotional connections in my State. I think everybody is well aware of the fact that this Friday is the first anniversary of the Oklahoma City bombing that took 168 innocent lives of men, women, and children. The families of those victims have urged us to pass this bill. They have admitted maybe this bill is not perfect, but they think it is a good bill. I have met with several of the victims and families of the victims. They said, please pass this bill.

The No. 1 provision that they want in this bill is the so-called habeas corpus

reform. They want an end to these endless appeals of people who have been convicted of atrocious crimes and murders. An end to abusing the judicial system, abusing taxpayers, filing frivolous appeals, endless, endless appeals.

In Oklahoma actually several were wearing buttons that had a 17 with a line through it. They were referring to Roger Dale Stafford. In 1978, he murdered nine individuals in my State. First he murdered the Lorenz family—he was a sergeant. Sergeant Lorenz saw a stopped car with the hood up. So he pulled over and stopped to help Stafford. Lorenz was with his wife and his child. Roger Dale Stafford murdered him, murdered his wife, and went back into the car and murdered their son; and then shortly after that murdered six people. Most of them were kids in a Sirloin Stockade restaurant. He herded them into a freezer or refrigerator and murdered them in cold blood.

That was in 1978. His execution did not happen until last year, 1995. He was on death row for 17 years. The families of the victims of the Oklahoma City bombing have said we need habeas corpus reform. This is a Federal crime. They will be tried under Federal statute. The death penalty does apply. If convicted, they would like to have the sentence carried out swiftly, not 20 years from now. They feel very, very strongly about it.

I want to thank my colleagues for working over the last couple of weeks when the Senate was in recess. We do not usually do that. It does not happen very often around here. Usually we have a break or recess for whatever reason and staffs and Senators take off and not a lot of work is done. But this time was different.

I also again want to thank Senator DOLE and also Speaker GINGRICH because I personally appealed to both and said I would really like to get this bill up and passed through both Houses of Congress by this anniversary date. I would like to go back to Oklahoma on Friday and tell the families that, yes, we have passed this antiterrorism bill.

It has a lot of provisions, a lot of good provisions. I realize in the legislative process we make some compromises. It has been pointed out maybe there are a couple of provisions that should not be in or have been left out. My colleague from Delaware mentioned expanded wiretaps. A lot of people in my State have real second thoughts about that. I do not know. I supported it when it passed the Senate. It may be a good provision. Maybe I was wrong. I am not sure.

I am not an expert in that area, but I know that habeas corpus reform, or death penalty reform, needs to pass. That is the foremost thing on the minds of the victims of the Oklahoma tragedy. If we send this back to committee, we will not be able to pass this bill this week. I will be more than disappointed if that happens.

We have a couple of other provisions that are very important to the people of Oklahoma. We put in a provision, and I want to thank my colleagues, both Senator HATCH and Senator BIDEN for supporting this provision, that will allow and actually provide for closed circuit TV viewing of the trial proceedings in the Oklahoma bombing case. Unfortunately, the trial was moved to Denver. In Denver they have a courtroom, I believe, that holds 130 people. The judge said we will have an annex for audio, so in total, maybe 260 people including press would have the opportunity to attend or hear the trial. Frankly, that is not enough. That is not near enough. Not to mention the fact that the individuals and families would have to travel over 500 miles, and be away from the rest of their family. It would be an enormous inconvenience. We have raised some money to assist them. I am sure some families would like to personally attend the trial and we will try and help them financially, as well.

I thank the Attorney General for helping in that manner. She wrote me a letter saying they were contributing the travel fund. I asked the Attorney General's assistance so that those who could not travel to Denver could view the trial through closed circuit TV coverage. We think that a decision to permit this by the court is discretionary and it should happen. Unfortunately, she has declined to help us with the closed circuit TV provision. This bill says that the court must provide closed circuit coverage of the trial for victims and their families. It will be closely monitored. The court will have complete control over the coverage. This is not for public viewing but for the families, so they can view the trial without leaving their home, without leaving the rest of their families, maybe without having to take several months off from their jobs or their workplaces. This is going to be a very traumatic time for them and it would be much better for them as individuals to be able to view this at home and still be able to be with their family members and friends instead of dislocating them for several months, sending them to Denver, and only a very small percentage of them being able to even be present in court, and be more than frustrated by being so close yet so far away because they would not have access to the proceedings in the trial.

I am appreciative of this one provision, and again I thank my colleague from Utah and my colleague from Delaware for inserting this provision. There is a comparable provision in the House bill. This is most important to the families of the victims of the Oklahoma City bombing.

Finally, I want to comment on one other provision. This bill provides for mandatory restitution for victims of Federal violent crimes, property crimes, and product tampering crimes. This is a measure that we have spoken about on the floor of the Senate countless times. This is a measure that has passed the Senate three or four times. This is a measure that has bipartisan support. Senator BIDEN, Senator HATCH, myself, and others have worked to put this in. We have passed it in various crime control packages in the past. Unfortunately, when we have had a conference it has not remained in the conference package. This is a most important provision where we do give respect, treatment and assistance for the victims of crime—mandatory restitution for victims. We should pay more attention to victims instead of to the criminals, as we have done in the past. I am most appreciative. This is a very important provision.

I think our colleagues have put together a good bill. It may not be perfect. I have heard my colleague from Utah say, well, as far as some of the other provisions, maybe the provision that was alluded to by our colleague from California dealing with Internet and directions for explosives, that may be a good provision. I may well support it. It does not have to be in this package. I hope that if there are other good provisions not included in this bill, we can garner overwhelming support in the Senate, we can take them up separately and pass them this year. I would like to think that we have a window of opportunity of a couple of months where we can pass substantive legislation without playing politics. I hope we do not play politics with this bill.

I keep hearing statements about the NRA and others, there are a lot of people that are concerned about expanding wiretap authority and they do not have anything to do with the NRA. Maybe that is a good provision. I am not debating that. Maybe it should be debated, but debate it separately. If we put some of those provisions in, there will be problems in the House and we will not pass this bill this week. To me that would be a real shame. That would be something that we should not do. This is an important bill. This is a good bill, a bill that should pass, that should pass tonight. I would hope that my colleagues would join together, resist the temptation to send this back to conference, knowing it would delay it. Hopefully, they would join us in saying, ''Let's pass this bill,'' and if we want to consider separate measures dealing with taggants or anything else that was originally in the House bill or originally in the Senate bill, or maybe originally in the President's bill, we can consider that independently.

This is a conference report. Most of our colleagues are aware of the fact we do not usually amend conference reports, and if we do, we could put unnecessary delay on this legislation which would be a serious mistake. On behalf of the victims of the tragedy that happened on April 19, 1995, in Oklahoma City, on behalf of the families and the countless number of people who were impacted directly, I urge my colleagues, let Members pass this bill, pass this bill tonight, no later than tomorrow, get it through the House, as well, so we can let them know that we

have listened to them, we have heard them, and we have passed a good antiterrorism bill with real habeas corpus reform, with real death penalty reform, with a provision allowing them to have closed circuit TV viewing of the trial. I think they will be most appreciative. I know they will be most appreciative.

I yield the floor.

Mr. INHOFE. Mr. President, I have listened to the debate not just today but the debate on this for the past year. I remember so well the incident, when my fellow Senator from Oklahoma, Senator NICKLES, and I were in Oklahoma City right after it happened for the days following that, talking to families and the ones who actually had their own loved ones that were still in the building, not knowing whether they were alive or dead.

It is very difficult to get the full emotional impact watching TV of some remote place like Oklahoma from outside. When you are there, you feel differently about it. This is why Senator NICKLES and I have such strong feelings about this bill.

There is some opposition in this bill even in the State of Oklahoma by many people who felt that perhaps the wiretapping provisions went a little bit too far, the invasion of civil rights and privacy, perhaps was a little too strong. Many of my conservative friends did not want me to support it.

I was very pleased when the conference came out with its report. I believe the bill we have today is better than the House bill was. It is better than the Senate bill that we sent to them. I feel much stronger about it now and much more supportive than I did before. I think Senator NICKLES has covered most of the things that people in Oklahoma are concerned with. I can just tell you it is not a laughing matter that these people do want an opportunity. These are not wealthy people. They feel they should participate, at least be able to view the trial taking place. That is something that is in this bill. It will allow them to do it. Many of them could not sustain the hardship of making a trip to Denver.

There are a lot of things in here that I think are better than they were when we sent it over. The one area I want to concentrate on and just emphasize again is the habeas reform. My concern, and in fact, I can tell you, if that had been taken out I probably would have opposed the bill. Two months after the tragedy, the bombing tragedy in Oklahoma City, we had the families of the victims up here, in Washington, DC. I personally took them to many Senators' offices. They expressed to them that of all the provisions that would come out in an antiterrorism bill, the one that was the most significant to them was the habeas reform.

It happened to coincide with something that Senator NICKLES and I are very familiar with, a murder that had taken place 20 years ago, by a man named Roger Dale Stafford. Roger Dale Stafford murdered nine Oklahomans in cold blood. He sat on death row for 20 years. We just finally carried out that execution. These families are looking and saying, ''Here is a guy that sat on death row. He gained over 100 pounds, so the food was not too bad. He was in an air-conditioned cell and watched color TV.'' They are thinking about what happened to their own members of their family. I look at it behind that. If you get someone with a terrorist mentality, and particularly, someone, perhaps, from the Middle East who has a different value on life than we do, if he is looking at the down side and saying, should I do this act, should I perform this act, and the worst thing that can happen to me is that I will sit in an air-conditioned cell and watch color TV for 15 years, punishment ceases to be a deterrent to crime.

So I think that is a very significant provision that has to be saved. I think any chance on sending this back might jeopardize the chances of having that type of reform. Again, that was the one thing that was in this bill that the families of the victims in Oklahoma said we really have to have; that is the one thing that has to be in there that is going to give us any relief at all. Once the person is apprehended and the trials and sentence are over, and if it is an execution, they want to go ahead and go through with it and not have the perpetrator of the crime that murdered their families sitting on death row for most of their lifetimes.

So I think this is a very good bill. I will just repeat an emotional appeal from the victims and families of the victims in Oklahoma. Let us get this passed and let us get it passed before April 19, on Friday. It is very, very important for us, and I hope we move along on this. We have been considering this for quite a period of time. We started right after the bombing. So we have had adequate time to be deliberative—as deliberative as this body is famous for being. I think it is time to go ahead and pass it.

I yield the floor.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I rise in strong support of the antiterrorism conference report.

First, it is with great sadness that we approach the first anniversary of the bombing in Oklahoma City. It was truly a tragic event carried out by premeditated and dreadful murderers. I just hope that the people that carried out that act get the justice they so deserve.

Mr. President, one of the most important reforms made by this bill are those reforms to our death penalty procedures. For too long, murderers have been on death row, filing appeal after appeal, in the hopes of finding some small legal loophole—anything they can find that will nullify their sentence.

The people of this country are sick and tired of murderers being put on death row and then sitting there, as Senator INHOFE said, watching television, getting fat, and at an enormous cost to the American taxpayers.

Mr. President, since the death penalty was reestablished in 1977, over 400,000 people have been murdered. But only 200 have been executed. This is hardly a message that our justice system is swift or sure to those that break the law.

In my home State of North Carolina, we have over 100 people on death row, with an estimated cost of close to $50,000 a year to keep them there—per person. Yet, in the last 16 years, only 5 people have had the death sentence carried out in North Carolina, with 100 waiting. There have been delays, delays, and more delays, simply using one loophole behind another. Simply, the executions have not been carried out, at an enormous cost to the State of North Carolina for attorneys to fight these endless appeals.

In the United States, as a whole, there are over 2,700 people on death row. Over half have been there longer than 6 years. Further, of those on death row, over half were on probation or parole when they were arrested for murder. What does this say about the justice system?

Is it any wonder that crime has increased 41 percent in the last 20 years? Is it any wonder that violent crime has increased by 100 percent in the last 20 years? Our judicial system has been made a mockery by those who set out to break the law.

For those that carried out the Oklahoma City bombing, they probably never thought they would get caught. Fortunately, and luckily, with good police work, they were caught. But they probably believe that they can beat the system. I hope not, but I am sure they believe it. They probably think they can make a mockery of the justice system, as so many others have. Certainly, we will be hiring the most expensive lawyers out there to help them to beat the system.

In this country, we need to reestablish a respect for the law. Criminals need to know that if they commit murder, they will receive the death penalty. And, more importantly, they need to know that it will be carried out, and they will not be held on death row with endless delays.

With this bill, we finally have broken the logjam on the issue. We keep passing bill after bill that increases penalties and provides new capital offenses; yet, we do nothing to reform our justice system to see that the punishment is carried out.

Finally, we have done something to end the frivolous appeals filed by death row inmates.

Mr. President, I support this conference report. I thank Senator HATCH, and others, who have pushed death penalty reform to the forefront in this bill.

I yield the floor.

Mr. BIDEN. Mr. President, I hope both of my friends from Oklahoma and my friend from North Carolina—speaking to my friends from Oklahoma—understand that we do not want the delay in this bill. This bill got delayed in the House of Representatives for close to 6 months. I did not hear people coming to the floor with me and saying, ''Where is the bill, where is the bill, where is the bill, where is the bill?'' Now we are told to make this bill workable, and we should not attempt to do better.

I cannot believe the Senator from North Carolina would support a provision allowing, for example, someone to be taught how to make another fertilizer bomb to blow up another Federal building—maybe this one in North Carolina—and maybe learn how over the Internet. He would not want that to happen. Yet, he is probably going to vote against adding that provision back into the bill. He will probably vote, ''No, I will not send it back to the conference and have them include that provision.''

We had a provision saying you cannot teach people how to make fertilizer bombs, plastic bombs, and baby food bombs on the Internet, when you know the intent is for that person to use it. Yet, they are all going to stand here and vote against me on that. I find that fascinating.

I hope the folks in every one of our districts remember this. They are going to vote against me when I say we want to prevent future Oklahomas. We want to take care of those victims of Oklahoma and make sure retribution is had. That is why the crime bill I authored set the death penalty for it. And there would not even be a death penalty had President Clinton's crime bill not passed. Those people in Oklahoma would not be able to get the death penalty.

Some of my colleagues voted against the crime bill, and now they are hailing the death penalty. The only reason why those people are being tried and, if convicted, will get death, is because of the crime bill they voted against. I find this kind of fascinating logic going on here.

The third thing I point out, and that was tried in Federal court—and then I will yield to my friend from Georgia, who has a very important amendment or very important motion to make—I also point out that we should be worried about future victims. Future victims.

The comment was made—and a legitimate comment—by one of my colleagues a moment ago, when he said, ''On behalf of the victims of the bombing in Oklahoma, please pass this bill.'' On behalf of the tens of millions of Americans who may be the next victims, on behalf of them, please give the police the authority they need to enhance their ability to prevent future Oklahomas by allowing them to wiretap these suspected terrorists under probable cause, just like we do the Mafia. What is good enough for the Mafia ought to be good enough for a bunch of whacko terrorists.

So not only mourn those who died, which I do, but pray for those who are living that they continue to be able to live. I mean, how in the Lord's name can we, after Oklahoma, stand here on the floor and vote against the motion I predict they will vote against which says you cannot teach someone how to make a fertilizer bomb on the Internet when you know it is going to be used? They are going to vote against that. What about future Oklahomas?

I see my friend form Georgia is ready to proceed. So I will yield the floor for the purpose of his making his motion after I make a concluding statement.

In each of these amendments that I offered yesterday, Chairman HYDE in the transcript of yesterday's proceedings said—this is what this is all about—and I quote. He said:

> Mr. Chairman, [Chairman HYDE speaking] may I say something? Mr. Chairman, let us cut to the chase. I agree with the Senator [i.e. Senator BIDEN] and have always agreed with the Senator on this issue, the wiretap issue. The facts of life are that we lose about 35 votes in the House if we pass the wiretap provision.

That is what this is about—35 folks in the House who do not like it. That is why we are going to vote against our interest probably in the next couple of hours.

I yield the floor.

Mr. HATCH. Mr. President, if I could take a second.

The PRESIDING OFFICER (Mr. BROWN). The Senator from Utah.

Mr. HATCH. I agree with the 35, but all of those oppose the bill anyway. But it is a lot more than 35 people who will vote. I just wanted to make that statement.

I thank the Senator from Georgia.

Mr. NUNN. Mr. President, I urge my colleagues to support Senator BIDEN's motion which he will, I understand, make in a few minutes—I do not think it has yet been made—to recommit the conference report because it fails to address a very significant gap in the law which we corrected when we passed the Senate bill regarding the use of chemical and biological weapons of mass destruction in criminal terrorist activities.

The Armed Forces have special capabilities, and they are the only people that have special capabilities to counter nuclear, biological, and chemical weapons. They are trained and equipped to detect, suppress, and contain these dangerous materials in hostile situations. The police authorities of our country and the fire departments of our country do not have the capability to deal with chemical and biological attacks or the threat of those attacks. They do not have the equipment. They do not have the protective gear.

We have had four hearings in the last 6 weeks in the Permanent Subcommittee on Investigations, of which I am the ranking member and Senator ROTH is the chairman. Let us be very clear. With the testimony from law enforcement officials, from fire officials, from city officials, State officials, and from our own people in the Federal Government, that, if there were a chemical or biological attack in this country, we would have as the first victims those who came to the rescue. It would be those personnel coming to the rescue of those innocent victims who are caught in that situation that would also become victims themselves because they are not equipped to detect. They are not equipped to really deal with and they certainly are not equipped to withstand the lethal capability of chemical and biological weapons. Over a period of time they may be able to.

One of the things I am going to be talking about in the weeks ahead is a package of legislation which I hope Senator LUGAR and I will be sponsoring. One of the things we are going to need to do is to give, I think, our military both the capability with funding and also the authority and responsibility to help begin training our police and law enforcement officials around the country. It is going to take a long time.

We are in a different era now, Mr. President. One of the things that many people do not recognize after the attack in Tokyo where the avowed goal of the group that had really prepared very extensive capabilities for chemical warfare on their own people is that if they had the kind of delivery system that a few weeks later they might have had, instead of 15 or 20 people being killed and several hundred being injured, there literally would have been tens of thousands of deaths right there in Tokyo. We are in that era now.

A lot of people do not also understand that in the World Trade Center bombing there was really very strong evidence that a chemical component was in the explosive material. There was an attempted effort at chemical attack there also, but the chemical element was consumed by the huge fire and explosion. So we have had that attempt also in this country.

My point is that it is a very dangerous omission in not giving the kind of clear authority in this conference report that we had in the Senate bill.

At the present time the statutory authority to use the Armed Forces in situations involving the criminal use of weapons of mass destruction extends only to nuclear material. Section 831 of title 18, United States Code, permits the Armed Forces to assist in dealing with crimes involving nuclear materials when the Attorney General and the Secretary of Defense jointly determine that there is an emergency situation requiring military assistance. There is no similar authority to use a special expertise in the Armed Forces in circumstances involving the use of chemical and biological weapons of mass destruction.

In the wake of the devastating bombing of the Federal building in Oklahoma City and also the World Trade Center, with the tragic loss of life in Oklahoma and the disruption of governmental facilities, I think it is appropriate and absolutely necessary to reexamine Federal counterterrorism capabilities, including the role of the Armed Forces.

For more than 100 years, military participation in civilian law enforcement activities has been governed by the Posse Comitatus Act. The act precludes military participation in the execution of laws except as expressly authorized by Congress. That landmark legislation was the result of congressional concern about increasing use of the military for law enforcement purposes in post-Civil War era, particularly terms of enforcing the reconstruction laws in the South and suppressing labor activities in the North.

There are about a dozen express statutory exceptions to the Posse Comitatus Act, which permit military participation in arrests, searches, and seizures. Some of the exceptions, such as the permissible use of the Armed Forces to protect the discoverer of Guano Islands, reflect historical anachronisms. Others, such as the authority to suppress domestic disorders when civilian officials cannot do so, have continuing relevance—as shown most recently in the 1992 Los Angeles riots.

It is important to remember that the act does not bar all military assistance to civilian law enforcement officials, even in the absence of a statutory exception. The act has long been interpreted as not restricting use of the Armed Forces to prevent loss of life or wanton destruction of property in the event of sudden and unexpected circumstances. In addition, the act has been interpreted to apply only to direct participation in civilian law enforcement activities—that is, arrest, search, and seizure. Indirect activities, such as the loan of equipment, have been viewed as not within the prohibition against using the Armed Forces to execute the law.

Over the years, the administrative and judicial interpretation of the act, however, created a number of gray areas, including issues involving the provision of expert advice during investigations and the use of military equipment and facilities during ongoing law enforcement operations.

During the late 1970's and early 1980's, I became concerned that the lack of clarity was inhibiting useful indirect assistance, particularly in counterdrug operations. I initiated legislation, which was enacted in 1981 as chapter 18 of title 10, United States Code, to clarify the rules governing military support to civilian law enforcement agencies.

Chapter 18, as enacted and subsequently amended, generally retains the prohibitions on arrest, search, and seizure, but clarifies various forms of assistance involving loan and operation of equipment, provision of advice, and aerial surveillance. Chapter 18 does not authorize military confrontations with civilians in terms of arrests, searches, and seizures. Chapter 18 also ensures that DOD receives reimbursement for military assistance that does not serve provide a training benefit that is substantially equivalent to that which would otherwise be provided by military training or operations.

The administration requested legislation that would permit direct military participation in specific law enforcement activities relating to chemical and biological weapons of mass destruction similar to the exception that already exists under current law that permits the direct military participation in the enforcement of the laws concerning the improper use of nuclear materials.

Mr. President, the nuclear kind of incident is entirely possible. We have to be prepared for it. We are much better prepared to deal with nuclear than we are with chemical or biological. We have the capability in the Department of Energy with a team that has been training and working on this for years, and they are much better prepared. We do not have a similar capability for chemical or biological.

So by the omission of this specific authority in this bill, we are taking the most likely avenue of attack for terrorism in this country with mass-destruction weapons—and that is chemical or biological—and we are not putting that in the same category as nuclear, which is possible, and we must be prepared for it. But a nuclear attack is not as likely to happen as a chemical or biological attack.

Last June, the Senate included such legislation in the counterterrorism bill with safeguards to ensure that it would only be used in cases of emergency and under certain specific, carefully drawn limitations. In my judgment, the question of whether we should create a further exception for chemical and biological weapons should be addressed in light of the two enduring themes reflected in the history and practice and experience of the Posse Comitatus Act and related statutes:

First, the strong and traditional reluctance of the American people to permit any military intrusion into civilian affairs.

Second, the concept of any exception the Posse Comitatus Act should be narrowly drawn to meet the specific needs that cannot be addressed by civilian law enforcement authority. The record is abundantly clear that we are talking about exactly that. These are cases where local law enforcement and State law enforcement simply could not handle the job.

These issues were examined at a hearing before the Judiciary Committee on May 10, led by the chairman of the committee, Senator HATCH, and the ranking minority member, Senator BIDEN. At the hearing, five major themes emerged:

First, we should be very cautious about establishing exceptions to the Posse Comitatus Act, which reflects enduring principles concerning historic separation between civilian and military functions in our democratic society.

Second, exceptions to the Posse Comitatus Act should not be created for the purpose of using the Armed Forces to routinely supplement civilian law enforcement capabilities with respect to ongoing, continuous law enforcement problems.

Third, exceptions may be appropriate when law enforcement officials do not possess the special capabilities of the Armed Forces in specific circumstances, such as the capability to counter chemical and biological weapons of mass destruction in a hostile situation.

Fourth, any statute which authorizes military assistance should be narrowly drawn to address with specific criteria to ensure that the authority will be used only when senior officials, such as the Secretary of Defense and the Attorney General, determine that there is an emergency situation which can be effectively addressed only with the assistance of military forces.

Fifth, any assistance which authorizes military assistance should not place artificial constraints on the actions military officials may take that might compromise their safety or the success of the operation.

The Senate provision was drafted to reflect the traditional purposes of the Posse Comitatus Act and the limited nature of the exceptions to that act. The motion to recommit that we will be voting on in a few minutes would require the conferees to reinstate that provision with a minor technical clarification that has come to our attention since the Senate bill was passed.

Under the motion to recommit, the Attorney General would be authorized to request the assistance of the Department of Defense to enforce the prohibitions concerning biological and chemical weapons of mass destruction in an emergency situation.

The Secretary of Defense could provide assistance upon a joint determination by the Secretary of Defense and the Attorney General that there is an emergency situation, and a further determination by the Secretary of Defense that the provisions of such assistance would not adversely affect military preparedness. Military assistance could be provided under the motion to recommit only if the Attorney General and the Secretary of Defense jointly determined that each of the following five conditions is present. This is very narrowly drawn.

First, the situation involves a biological or chemical weapon of mass destruction.

Second, the situation poses a serious threat to the interests of the United States.

Third, that civilian law enforcement expertise is not readily available to

counter the threat posed by the biological or chemical weapon of mass destruction involved.

Fourth, that the Department of Defense special capabilities and expertise are needed to counter the threat posed by the biological or chemical weapon of mass destruction involved.

Fifth, that the enforcement of the law would be seriously impaired if Department of Defense assistance were not provided.

I have a very hard time understanding why the House of Representatives would not accept this provision. Maybe there is a reason, but I certainly have not heard that reason. Nothing that I have heard indicates why our military could not be used, when we have a biological or chemical weapon of mass destruction involved in the situation, a serious threat is posed to the interests of the United States, civilian law enforcement expertise is not available to counter the threat, Department of Defense capabilities are needed to counter the threat, and law enforcement would be seriously impaired if DOD assistance is not provided.

I think the American people would expect us to be involved in that with the military, to protect the lives of American citizens.

The types of assistance that could be provided during an emergency situation would involve operation of equipment to monitor, to detect, to contain, to disable or dispose of a biological or chemical weapon of mass destruction or elements of such a weapon. The authority would include the authority to search for and seize the weapons or elements of the weapons.

We may get into a situation where it is not entirely clear whether there is a chemical or biological weapon but someone has threatened that that kind of weapon is contained in a basement somewhere in a city.

If the President of the United States does not have this statutory authority, he is going to be very reluctant to put the military into downtown New York to look for chemical or biological weapons. It would be extremely dangerous for law enforcement to undertake that task, but the President will be on the very conservative side and very reluctant to take that step unless he has absolute belief that there is such a weapon and a disaster is impending.

Unfortunately we are not going to have that kind of clarity, in my view, in the future. So it is important for Congress to speak to this issue.

If the Biden amendment is agreed to and it goes back to conference, and this becomes law, the Attorney General and the Secretary of Defense would issue joint regulations defining the type of assistance that could be provided. The regulations would also describe the actions that the Department of Defense personnel may take in circumstances incidental to the provision of assistance under this section, including the collection of evidence. This would not include the power of arrest or search or seizure, except for the immediate protection of life or as otherwise authorized by this provision or other applicable law.

This provision is set forth in the motion to recommit. If it is agreed to, and I hope it is, it would make it clear that nothing in this provision would be construed to limit the existing authority of the executive branch to use the Armed Forces in addressing the dangers posed by chemical and biological weapons and materials.

The motion to recommit would address two important concerns. First, as a general principle, the types of assistance provided by the Department of Defense should consist primarily in operating equipment designed to deal with the chemical and biological agents involved, and that the primary responsibility for arrest would remain with the civilian officials. As a law enforcement situation unfolds, however, military personnel must be able to deal with circumstances in which they may confront hostile opposition. In such circumstances their safety and the safety of others and the law enforcement mission cannot be compromised by putting our military in that dangerous situation and then precluding them from exercising the power of arrest or the use of force.

Mr. President, some people wanted to pass a statute saying the military could do everything but they could never make an arrest. I think they ought to defer to civilians in almost all circumstances. But we do not want to have our military team out there in chemical gear, looking for chemical weapons, some of which may already be escaping, no policemen being able to go in because they do not have the equipment, no fire authority able to go in, run right into the people perpetrating the act and not be able to do anything about it. So we have to give them that kind of limited authority in unusual, and hopefully circumstances which, God forbid—I hope they will never occur. But I must say the likelihood of something like this occurring in the next 5 to 10 years in America is, in my view, very high.

The motion to recommit would require the Department of Defense to be reimbursed for assistance provided under this section in accordance with section 377 of title 10, the general statute governing reimbursement of the Department of Defense for law enforcement assistance. This means that if DOD does not get a training or operational benefit substantially equivalent to DOD training, then DOD must be reimbursed.

Under the motion to recommit, the functions of the Attorney General and the Secretary of Defense may be exercised, respectively, by the Deputy Attorney General and the Deputy Secretary of Defense, each of whom serves as the alter ego to the head of the Department concerned. These functions could be delegated to another official only if that official has been designated to exercise the general powers of the head of the agency. This would include, for example, an Under Secretary of Defense who has been designated to act for the Secretary in the absence of the Secretary and the Deputy.

The limitations set forth in the motion to recommit would address the appropriate allocation of resources and functions within the Federal Government; and are not designed to provide the basis for excluding evidence or challenging an indictment.

The motion to recommit, which reflects the Senate-passed provision, is prudent and narrowly drafted. It was strongly supported in the Senate by the chairman of the Armed Services Committee, Senator THURMOND. It was unanimously adopted by the Senate. The administration, both the Department of Defense and Department of Justice, have testified that current law is inadequate and they need authority to deal with chemical and biological terrorism similar to the authority they now have for nuclear terrorism. It is irresponsible to leave our law enforcement officials and military personnel without clear authority to deal with these dangers.

I know the argument is made that we already have the insurrection statute on the books, which possibly could cover this situation. I would like to just share with my colleagues, before I close, a reading of that statute so they will understand why we need to have clarification.

Under the insurrection statute, sections 331–335, title 10 United States Code, the President can use the military in the following situations.

To suppress an ''insurrection'' at the request of a State.

To suppress ''unlawful obstructions, combinations, or assemblages, or rebellion [that] make it impractical to enforce the laws of the United States in any State or Territory by the ordinary course of judicial proceedings.''

To suppress ''any insurrection, domestic violence, unlawful combination, or conspiracy'' if it ''so hinders the execution of laws'' that a State or the Federal Government cannot enforce the laws.

Before using these authorities, the President must issue a proclamation that, ''order[s] the insurgents to disperse and retire peacefully to their abodes within a limited time.''

Can you imagine somebody coming into the President saying, ''Mr. President, we expect an attack. We cannot prove this but we expect a chemical attack in New York City or Chicago in the next 12 to 24 hours. We desperately need our military teams to go to a potentially hostile situation with protective gear to detect and determine if that kind of material is present within certain areas of New York.''

And the President says, ''How do I do that?''

They say, ''Mr. President, what you first have to do is issue a proclamation, saying that the insurgents should disperse and retire peacefully to their abodes within a limited time.''

Mr. President, can you imagine a President saying to his staff, ''You mean you want me to issue that? We have a terrorist group in New York City running around and you want me to issue a proclamation for the whole world to see and for the American people to laugh at, saying that the insurgents must disperse and retire peacefully to their abodes within a limited time? I will be laughed out of the White House if I do that.''

Any President would be extremely reluctant to use that kind of authority. Besides that, this is not an insurrection. It is not an unlawful combination or conspiracy designed to hinder execution of the laws. To fit chemical or biological terrorism under the insurrection statute would require an extremely awkward and very stretched application. I think the President would only use that if he was absolutely convinced that being scoffed at and made fun of all over the world by issuing such a ''disperse and retire peacefully'' order would be outweighed by almost the certainty that that kind of calamity was about to happen.

These statutes are designed to deal with civil disorders, not terrorism. When the terrorists are on the subway with chemical or biological agents of mass destruction, must we await the President's issuing of a proclamation and ordering the terrorists to ''retire peacefully to their abodes?''

The reason we have the statute that allows military assistance in the event of nuclear offenses is to provide for prompt and effective employment of military personnel to address the emergency, without the need to interpret the law or determine whether there is some inherent authority to assist. Chemical and biological weapons are more likely to be used, and they present the same problems of mass catastrophe as do nuclear weapons, and we should not delay clarification of the authority of the military personnel to provide specific assistance in emergency situations.

I do not understand why people oppose this. I cannot understand why the House opposes it. I think it is irresponsible not to proceed as the Senator from Delaware is urging us to proceed with his motion.

I know there is one other argument that says, because of a Supreme Court decision, there is inherent authority for the President to act with the military or with whatever he has to use to protect against the immediate threat to life. I would not deny that in certain situations the President might use this authority. Certainly in desperate situations he might. This is not statutory authority. It requires him to exercise constitutional, inherent authority. This is a very difficult situation and the military personnel involved, if the President is wrong in his assessment of inherent and immediate threat to life, would be at risk. They would be at risk of lawsuits and liability. They would be at risk of all sorts of problems if the President is wrong because they would not be acting under color of law.

So this immediate-threat-to-life inherent authority, though possibly available in desperate situations, is simply not the way to proceed. It would be a classic lawyers' debate. What we are doing now, if we leave the law as it is, as this bill before us will do unless it is amended, unless it is sent back to conference and amended, we are basically saying we are going to have one big furious debate among lawyers as to what authority would be used in what could be a matter of urgency, extreme urgency where every minute and every hour counted for the military to get into the business where we have a true emergency and American life is threatened.

So the present law is inadequate. The constitutional inherent authority of the President is inadequate in this situation, and the insurrection law would be, I think, resisted fiercely by any President where you would have to basically make an almost preposterous-type plea for the people who are perpetrating this act of terrorism to disperse and retire peacefully to their abodes within a limited time.

I would like to hear someone explain why this is not part of this conference report. I know that the Senate supported it. My colleague, Senator HATCH, I am sure, urged its adoption in the House of Representatives. I do not understand why this has been taken out of this bill.

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

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I know the distinguished Senator from Washington would like to make some remarks, but let me just make a few comments about the remarks of my distinguished friend from Georgia.

I do not entirely disagree with Senator NUNN, the distinguished Senator from Georgia. At the outset, I want to call my colleagues' attention to the fact that the Congress has already acted in this area this year. Section 378 of the National Defense Authorization Act of fiscal year 1996, which is already law, specifically provides the military can provide training facilities, sensors, protective clothing and antidotes to Federal, State, and local law enforcement in chemical and biological emergencies.

From this country's earliest days, the American people have sought to limit military involvement in civilian affairs. In the wake of the terrible tragedy in Oklahoma, with the heightened sensitivity to the threat of terrorism this country faces, some feel like giving the military a more prominent role in combating terrorism both here and abroad. This is not a policy we should rush into.

I must add, I support the provision, which is known as the Nunn-Thurmond provision, in the Senate bill. Americans have always been suspicious of using the military in domestic law enforcement, and rightly so. Civilian control of the military and separation of the military from domestic law enforcement feature prominently in the early history of this country, from the Declaration of Independence to the Constitution and Bill of Rights. Indeed, the Declaration of Independence listed among our grievances against the King of England that he had ''kept among us, in times of peace, Standing Armies without the Consent of our legislature,'' and had ''affected to render the Military independent of and superior to the Civil Power.''

It was abuse of military authority in domestic affairs, especially in the South after the Civil War, that motivated Congress to impose the first so-called posse comitatus statute. The term ''posse comitatus'' means power of the country and has as its origin the power of the sheriff through common law to call upon people to help him execute the law.

The statute, in 18 U.S.C. 1385, prevents the Federal Government from using the Army or Air Force to execute the law, except where Congress expressly creates an exception. Domestic law enforcement thus remains as is, in the hands of local communities.

Currently, as I understand it, Congress has created only limited exceptions to the Posse Comitatus Act. The President can call out the military if terrorists threaten the use of nuclear weapons or if the rights of any group of people are denied and the State in which they reside is unable or unwilling to secure their lawful rights.

The military is also authorized to share intelligence information with Federal law enforcement in attempts to combat drug trafficking. These are limited exceptions to the act, however, and do not generally empower the military to be actively involved in the enforcement of domestic laws. We have done well with a separation between military authority and domestic law enforcement. Although this proposal seems sensible and appears simply to expand upon the military's preexisting authority, to become involved if the use of nuclear weapons or biological or chemical weapons is threatened, it may, in fact, be unnecessary.

The premise underlying this amendment is that there does not exist among civilian law enforcement the expertise to deal effectively with chemical or biological agents. However, I believe that such expertise is available outside of the military. Particularly in the area of chemical agents, civil authorities and even the private sector have considerable experience in containing these substances.

Moreover, the military can already assist civil authorities in all aspects of responding to the type of crisis contemplated by this amendment but one: The actual use of military personnel to disable or contain the device. The military can lend equipment, it can provide instructions and technical advice on

how to disable or contain a chemical or biological agent, and it can train civil authorities, if necessary.

The one thing that this amendment adds to the military's ability to assist civil law enforcement is the permission to put military personnel on the scene and inject them directly into civilian law enforcement. This is, in my view, the one thing we should not do.

This amendment would raise troubling implications going to the heart of the Posse Comitatus Act. It recognizes, as it must, that whenever law enforcement personnel are engaged in an evolving criminal event, there are unpredictable and exigent circumstances. The personnel on the scene must be able to take the necessary steps, including making arrests, conducting searches and seizures and sometimes using force to protect lives and property. Yet, the posse comitatus statute was enacted precisely to ensure that the military would not engage in such civilian law enforcement functions.

Let me just say this. I agreed to the language that the distinguished Senator would like to put back in this bill in the Senate bill. I would not be unhappy if that language was in this bill. Unfortunately, the reason it is not is because we have people in the other body who basically are concerned about some of these issues that I have just raised. Rightly or wrongly, they are concerned, and we were unable in our deliberations, as much as we got this bill put together, as much as we have made it a very strong bill, we were unable to get that provision in.

Let us just be brutally frank about this. If there is a motion to recommit on this issue, or any other issue, and that motion is approved by the Senate, then the antiterrorism bill is dead. If we do not, there will be a chance to put it through.

Frankly, we have a very good bill here. It may not have every detail in it that I would like to have. It does not have every detail in it that the chairman of the House Judiciary Committee would like to have or our distinguished colleagues Senators BIDEN or NUNN would like to have. I might add, it does not have all the provisions in it that Congressmen BARR and MCCOLLUM and BUYER and SCHIFF and others would like to have.

Nobody is totally going to get everything they want in this bill. But what it does have is a lot of good law enforcement provisions that will make a real difference, in fact, right now against terrorism in our country and internationally. We simply cannot shoot the bill down because we cannot get a provision in at this particular time that we particularly want.

We all understand this process. We all understand that we cannot always get everything in these bills that we want to. But I will make a commitment to my friend and colleague from Georgia, as I have on other matters. I do not disagree with him in the sense that this is something that perhaps we should do. I will make a commitment to do everything in my power to make sure we look at it in every way, and if we do not do it here—and I suggest we should not do it here on this bill under these circumstances—then I will try later in a bill that we can formulate that will resolve some of these conflicts that both the distinguished Senator from Delaware and I and the distinguished Senator from Georgia and I would like to see in this bill—and others, I might add.

So there is no desire to keep anybody's provision out of the bill. There is no desire to not solve this problem. The problem is we cannot do it on this bill and pass an antiterrorism bill this year. I think one reason the President called me last Sunday, I am sure, is because he has been asking us to get him a terrorism bill. This is it. This is the week to do it. I think we have done a really extraordinary job of bringing this bill back from what it was when the House passed its bill.

I give credit to the House Members. There have been a lot of wonderful people over there who have worked hard on this. I have mentioned some of them in my remarks here today. But certainly the distinguished chairman over there, CHUCK SCHUMER, and others, and BOB BARR and others, have worked very hard on this bill.

None of us have everything we want in this bill. And none of us want to see it go down to defeat because of any one provision that we can solve later as we continue to study and look at this matter.

Also, one of the problems we have had in trying to bring together people on this very important piece of legislation is that there have been some perceptions over in the House as a result of some of the mistakes that law enforcement has made that perhaps we might be going too far if we follow completely the Senate bill as it came out of the Senate Chamber.

I think those perceptions are wrong, but the fact is they are there. I think we have to work on them and educate and make sure that we, by doing future bills, will resolve these problems, solve them in the minds of not only Members of the House of Representatives who have complaints against some of this information, but also in the minds of others who would like their own provisions in the bill.

I have to say there are some—and I do not include the distinguished Senator from Georgia among them—but there are some who are just plain and simply trying to stop this bill. They hate the habeas corpus provisions of this bill. I know the distinguished Senator from Georgia does not, that he is with me on those issues, but they do. And they will use any strategy to try to stop this bill because they do not want to have death penalty reform. This bill is going to bring that to all of us. It is worth it.

If that is all we had in this bill, it is the one provision that every victim who appeared here yesterday and in the past has said they want more than anything else. There is a very good reason to pass this bill for that reason alone. But there are so many other good provisions in the bill that we ought to pass it. We ought to pass it, even though one or more provisions that we think might make the bill better cannot be put into it at this time.

We have really worked our guts out to come out with a bill that I think can be supported in a bipartisan manner. We have really worked hard on that. I do not care who gets the credit for this bill. I can say we have worked very, very hard to have a bill that all of us can be proud of. And I think we do have one. Does it have everything in it? No. But it has so much in it that we really have to go ahead and get it done.

If this motion or any subsequent motions to recommit are passed, this bill will be dead. I think that would be one of the most tragic things that this body could do this week, just a few days before the anniversary date of the Oklahoma City bombing.

Yesterday, we had people from Pan Am 103 here as well. We had others. Frankly, they all asked us to get this bill through. I am doing everything I can to get it through. So I hope people will vote against this motion even though I myself have a great deal of respect for the Senator from Georgia, a great deal of empathy for his position, and I would, even if I did not understand it, I would want to support him as I often have done through the years here on the floor of the U.S. Senate.

I think basically that says it. I hope people will vote against any motion to recommit because it would be tragic for this bill to go down. I cannot imagine the majority voting it that way. I hope they will not in this particular instance.

I yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I will just make a few brief remarks.

I have tremendous respect for my friend from Utah. He knows that. He and I have been on the same side of the habeas corpus issue for a long time. Now the Governor of Florida, then Senator from Florida, Lawton Chiles, and I came to the floor for 2 or 3 weeks in a row every day back in the 1970's, I believe—time slips by—about the importance of reform in habeas corpus. So I certainly share his view on that.

As much as I think that needs reforming, I do not think that habeas corpus statutes are the problem now. It has been somewhat modified by the courts themselves. I do not think that is as urgent as what we are talking about here, because with the hearings we have had and with the tremendous amount of effort that I have made and Senator LUGAR and others have made in this whole problem of the proliferation of chemical and biological weapons, I do not know whether anything is

going to happen next week, next month, or next year.

I do know that we could have some calamity happen without any notice in this area. I hate to see our Nation so ill-prepared to deal with a threat that is much more likely to happen than some of the threats that we are prepared to deal with.

Mr. President, something has happened to our Republican friends in the House of Representatives. I am not sure what deal was struck over there, but I recall very well being on the floor of the Senate—and my friend from Utah probably recalls this, too—when the House of Representatives passed an amendment—this was a good many years ago during the Reagan administration—that basically gave an order, waived the posse comitatus statute, gave the order, I believe by Congressman HUNTER from California, to shut the borders down with our military, basically shut them down, I believe, within 45 days saying the military would be deployed all over the borders of the United States to basically close the borders, not let any drugs come through.

We computed that we would have to bring all our military forces back from Europe, from Korea, from Japan, everywhere else to put them side by side virtually on the border to comply with that. It passed the House, and it was a Republican-sponsored amendment. Of course, after some light was shone over here on the floor of the Senate, we rejected that amendment. It did not happen.

I also have a long history in this posse comitatus area because I thought certain carefully crafted exceptions to the statute needed to be made in the law enforcement and drug area, but carefully constructed so we did not get our military involved in search and seizure and arrest on a routine basis. I found myself debating the then-Senator from California, now Governor of California, where he proposed an amendment that would have had the military be able to make any kind of arrest and search and seizure for drug transactions in the domestic United States.

That was another very, very broad waiver of the posse comitatus statute that I would have opposed. This would have made, on a routine basis, a military response for law enforcement. I opposed that. That was going too far.

Here we have my colleagues on the House side, and for some reason now they have switched all the way over and they are worried about even using the military in a situation where we have a desperate situation with chemical and biological weapons where nobody else can handle it. I do not understand it. I do not understand what has transpired. But something strange has taken place here.

I do think we have to approach this whole posse comitatus area with great care. We do not want our military engaged in law enforcement except as an absolute last resort when there is no other alternative and when the result of failure to be involved would be catastrophic.

I also would ask my friend from Utah—and I know he has tried to sustain the Senate position on this; I know him well enough to know that he has done that, and you cannot do it on every item in conference—but I do not understand how people who supported the exception on the nuclear side to the posse comitatus statute that was made at the Reagan administration's request have a different view now. During the Reagan administration, they said they needed this exception. We had the same Constitution then, the same Supreme Court decisions, the same insurrection statute, but they wanted an exemption in the nuclear area so they could clearly have statutory authority. We supported that. That was not a partisan issue at all. Democrats and Republicans supported it. President Reagan signed it into law.

Now we have the same kind of situation, almost identical, in the chemical and biological area. We have a different President in the White House, who is a Democrat, and we have a whole switch in positions where people say, ''Oh, we don't need this. We don't need it. We can't give them this authority,'' and so forth. I do not understand it. I understand partisan positions, but I do not understand completely switching philosophical positions on something of this nature.

I make one other point. The Senator from Utah mentioned the provision we passed recently in the defense authorization bill that allowed the equipment of the military to be used and to be loaned to law enforcement and other domestic officials in situations that are chemical-biological. That is a very useful addition to the present authority. What you have to have there is personnel who are trained to use that equipment. You cannot jump into chemical protective gear and know how to operate it in an emergency situation, if the Defense Department brings it in and hands it to local police. You have to be trained in that.

The military spends hundreds of hours training people in that regard. It will take years and years and years to train our domestic law enforcement and fire officials all over this country in the use of that kind of equipment. Unless they are already trained, that statute will not be available for practical use in an emergency situation. They may try to use it, but it will not do the job because it does not authorize military personnel to operate the equipment.

We simply have a multiple number of cities around this country that could be struck, and we cannot freeze out and prevent our military from being involved in an emergency dire situation as a last resort. We have to have people who are trained and know how to use the equipment, not only protective gear but protective equipment. It cannot be done at the last minute when there is an immediate threat of attack.

Mr. President, I would not be speaking in favor of this motion to recommit on an important bill like this if I did not think that the failure to act in this regard could have a very serious consequence. None of us can predict at what time interval something like this will occur. I hope never.

I must say, the probability of having some kind of chemical or biological attack in the United States in the next several years is, in my view, a rather high probability. We will have to do a lot more than we have done so far to get ready for it. I hope that somehow the House of Representatives will recognize that.

I know the Senator from Utah is absolutely sincere in his willingness to revisit this issue and try to put it on another bill. If this motion does not pass, I will work with him in that regard. I hope that those in the House will reexamine their position. I hope they get some of their staff to go through the records. We have had a considerable number of hearings on this explicit point.

We have had all sorts of expert testimony from the fire chiefs around the country, from law enforcement officials, from Justice Department officials, the FBI, the military. We have had detailed hearings on the attack in Tokyo, what occurred there. Not only are we not prepared law enforcement-wise in this regard, we do not have the emergency medical training required in most of our American cities to deal with the aftermath of this kind of event if it did occur. We would simply be overwhelmed, and people would ask all of us, ''Where were you when this threat was being discussed, when you were, basically, responsible for doing something about it? Why did somebody not try to prevent it from happening, or at least prepare us to deal with the terrible medical, tragic consequence of this kind of attack?''

Again, I urge the Biden amendment be adopted.

Mr. GORTON. Mr. President, in monitoring the beginning of this debate, a set of lyrics from a source that I usually do not use came to mind as a bit of advice for the distinguished Senator from Delaware. These lyrics come from the Rolling Stones: ''You can't always get what you want. But if you try real hard you just might find, you just mind find, you get what you need.''

Now, Mr. President, the conferees have tried real hard. They have tried real hard and I think indisputably, they have produced a bill that we very, very much need.

Most of this afternoon, however, has been spent pointing out the bill's shortcomings, elements that the Senator from Delaware or the Senator from Georgia or, for that matter, the Senator from Utah wish were in the bill but are not. Certainly, this bill is not everything that the Senator from Delaware wishes, but it does contain a

lot of what he thinks is constructive. Even he admits, and I think I am quoting correctly, it is a ''useful, if frail'' antiterrorism bill.

Senator HATCH, the distinguished Senator from Utah, has already outlined the positive steps in connection with a campaign against terrorism which are included in the conference report that is before the Senate now. I will not take up the time of the Senate simply by repeating them now. What we are faced with in the course of the current debate, however, is the question of whether or not we should reject what the conference committee has done, send it back, and ask that the committee effectively start all over again.

This conference committee has labored long enough. I do not believe that the Senator from Utah has left anything on the table. I do not think that he walked away having omitted anything from this bill that his very best efforts and the help of other Senate Members in both parties could possibly have gotten included for us to make better an already fine proposition.

What we have here is a meaningful antiterrorism bill, one that will make the law better than it is at the present time, one that will help the President and our Federal law enforcement officers by adding to the tools to deal with a new, highly regrettable situation with which our society is faced.

But there is something else in this bill, Mr. President. That something else is highly controversial, something that I believe the President of the United States would just as soon not have in it, something that I think a number of other Members wish were not a part of this bill. Something, however, that I think is particularly important. That is the reform of our entire habeas corpus procedures in connection with the conviction for serious crimes.

Doing something about a flawed habeas corpus system has been discussed in this Senate since I began serving here over a decade ago. We finally have an opportunity this evening in connection with this bill to do something positive about it.

I believe that the Senator from Delaware has complained that habeas corpus reform is not relevant to an antiterrorism bill. Just as an aside, Mr. President, I find it a charming argument coming from the side of the aisle which insists on our voting on Social Security amendments and minimum wage amendments as a part of the debate over immigration. I am tempted to say that we might have stronger rules of relevance in connection with all of our debates. Be that as it may, I am convinced that habeas corpus is relevant to a bill with respect to terrorism.

Mr. President, to deal effectively with any criminal challenge, we must have effective, clear, and cogent criminal statutes. We must have strong and skilled law enforcement officers to enforce those statutes and to arrest people who violate them. It is also absolutely vital, Mr. President, that when we do so, that when our system of justice has moved from apprehension through trial and conviction, that the people of the United States have a degree of confidence in the finality of those convictions after appropriate appeals, and that the punishments prescribed in those statutes will actually be carried out. That is an area, a field in which we have been a significant failure, Mr. President, because of the almost unlimited nature of our habeas corpus provisions.

We talk of doing something about terrorism and the fear it instills because the people of the United States lack trust and confidence in their criminal justice system and feel unsafe on their streets, at least in part because they see delay after delay, appeal after appeal, a total lack of finality, thousands of dollars after thousands of dollars going into the endless delays in the execution of sentences, particularly related to capital punishment.

Now, reforming habeas corpus is vitally important in that connection, Mr. President, and not just with respect to antiterrorism legislation, but with respect to all of the other serious crimes principally contained in our State and Federal criminal codes.

Let us move from the abstract to the concrete for just a few moments. I would like to remind my colleagues of the subject on which I have spoken a number of times in the course of the last Congress—one particular case in the State of Washington, which illustrates the frustration that our people feel with a system of endless appeals.

Charles Campbell was tried and sent to jail for the rape of a particular woman in a county just north of Seattle, WA. When he was on work release he went back to the home of this woman and murdered her, together with her 8-year-old daughter and a neighbor who just happened to be in the way. In 1982, he was charged with capital murder for those offenses and convicted. By 1984, that conviction had gone through the entire State court system, and the conviction and sentence had been affirmed by the Supreme Court for the State of Washington. From 1984 to 1994, Mr. President—10 additional years—57 separate actions were taken in the Federal courts of the United States—a first direct appeal to the Supreme Court of the United States, which was turned down, followed by innumerable petitions for habeas corpus and appeals from various orders in those habeas corpus petitions.

Remember, Mr. President, that even after a capital case has gone through all of its State court appeals and has been appealed to the Supreme Court of the United States, which has either affirmed it or failed to act, a single Federal district court judge can interrupt the process. That single judge can make a determination that all of the previous judges were wrong and send the case back to the State courts. More frequent than that, of course, is that the single Federal court judge, and then a circuit court of appeals, and perhaps then, again, the Supreme Court of the United States, finds nothing in error in these processes and affirms the State court decisions, at which point the process often starts over again with the filing of another petition for habeas corpus.

That, Mr. President, more than any other single factor, I think, has caused the people of the United States to lose an important degree of faith in their criminal justice system.

A reform of that system, not to deny a right of appeal, but in effect—except under extraordinary circumstances—to give only a single bite at the apple through the Federal court system, is the subject of the habeas corpus provisions that have been shepherded through both Houses of Congress by the distinguished Senator from Utah.

It is my opinion, Mr. President, that these provisions complement, and are as important, or more important, than the strictly antiterrorism elements of this legislation. It is my opinion that the more strictly antiterrorism provisions of this legislation are themselves important. I find myself in agreement with all of those here, and I think that includes every Member of the Senate who has spoken on this subject, that we ought to do better, that we ought to have more antiterrorism legislation. I think it very unlikely that that is going to happen in the course of this Congress.

As I have said before, I think the Senator from Utah got everything out of this conference committee that he could get, and the effect of a motion to recommit would simply be that we would either have no legislation on this subject, or this identical legislation, which is important, would be delayed.

Delays have already been too long, Mr. President. I sincerely hope that the Members of the Senate will reject a motion to recommit and will promptly pass this legislation. The House is certain to do the same. We will, when the President has signed it, move forward on two distinct but related fields—significant progress with respect to antiterrorism, and significant progress with respect to reforming our habeas corpus system. For that, the Senator from Utah, and all who have worked on this legislation, deserve our grateful thanks and the thanks of the American people.

Mr. BIDEN. Mr. President, I am sure my friend from Washington is aware that these are Federal offenses we are creating here. They have nothing to do with State habeas corpus. He is aware of that, is he not?

Mr. GORTON. Yes. I think the Senator from Washington said when the Senator from Delaware was off the floor that he regards it as rather touching that the Senator from Delaware wants to make sure everything

we do is relevant to Federal antiterrorism legislation, when I believe he has been supporting the proposition on the other side of the aisle that immigration legislation should carry Social Security amendments with it and a number of other subjects of that sort.

This legislation is, of course, dealing with Federal statutes and with Federal courts. Habeas corpus legislation, of course, deals primarily with State laws and State convictions, but with the interference by the Federal courts in those procedures.

If the Senator would further yield a moment, I ask unanimous consent that a chronology of the Campbell case be printed in the RECORD.

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

April 14, 1982: Campbell beats and murders Renae Wickland, in her Clearview, WA home, then beats and murders Wickland's 8-year-old daughter, along with a neighbor who stopped by the home.

November 26, 1982: Campbell is convicted of aggravated first degree murder in Snohomish County Superior Court.

December 17, 1982: Campbell is sentenced to death in Snohomish County Superior Court.

November 6, 1984: Washington State Supreme Court affirms Campbell's conviction and sentence.

April 29, 1985: The United States Supreme Court denies Campbell's request to hear an appeal of his conviction.

July 22, 1985: Campbell files an appeal in federal district court.

February 16, 1986: Federal district court denies Campbell's appeal after an evidentiary hearing.

February 18, 1986: Campbell appeals to the Ninth Circuit Court of Appeals.

October 6, 1987: The Ninth Circuit Court affirms the district court's decision denying Campbell's appeal.

June 8, 1988: The State of Washington moves to remove the stay on Campbell's execution.

July 10, 1988: Ninth Circuit Court of Appeals denies the state's request.

August 19, 1988: Campbell appeals his case again to the United States Supreme Court.

November 7, 1988: The U.S. Supreme Court refuses to hear Campbell's appeal.

November 8, 1988: State of Washington files motion to move forward with execution of Campbell.

December 6, 1988: State Supreme Court agrees with State's motion, denying the stay of execution.

January 25, 1989: Ninth Circuit Court of Appeals agrees with State Supreme Court, dissolving the stay of execution.

February 15, 1989: Snohomish County Superior Court issues a death warrant for Campbell's execution for March 30, 1989.

March 7, 1989: Campbell files appeal with State Supreme Court and a motion to stay the execution. In both documents he raises several unsupported challenges to hanging as a method of execution.

March 23, 1989: The State Supreme Court unanimously rejects all of Campbell's challenes against hanging and denies his motion to stay the execution. The court concludes that none of his issues warrant further consideration.

March 24, 1989: Federal District Court Judge John Coughenour, anticipating another appeal by Campbell in federal court, summons attorneys for both sides into his chambers to discuss the matter. Upon learning from Campbell's attorneys that they intended to file an appeal the following Monday, March 27, the judge calls for an evidentiary hearing that day and in no way limits the issues that Campbell and his attorneys will be allowed to raise. The judge also orders Campbell and his former trial attorney to be present regarding Campbell's claim of ineffective counsel.

March 27, 1989: Campbell files another appeal and, at the evidentiary hearing, raises three issues regarding hanging: (1) hanging will deprive him of constitutional right against cruel and unusual punishment; (2) the state has no one qualified to perform the hanging; and (3) having to choose between execution by lethal injection or hanging violates his protection against cruel and unusual punishment and his First Amendment freedom of religion. Campbell and his attorneys offer no evidence to substantiate these issues and he again claims he was represented by ineffective counsel. Later that day, Judge Coughenour rejects Campbell's charges against hanging, and denies his motion to stay the execution.

March 28, 1989: Campbell appeals Judge Coughenour's denial to the Ninth Circuit Court of Appeals. The Ninth Circuit stays Campbell's execution, pending the appeal.

June 27, 1989: Attorneys for the State and for Campbell present oral argument to the Ninth Circuit Court.

February 21, 1991: The Ninth Circuit orders the withdrawal of Campbell's latest appeal, pending responses by the attorneys on the question of whether Campbell has exhausted all legal avenues in state court.

March 4, 1991: The State responds to the 2/21/91 order, demonstrating that Campbell has exhausted all other state remedies.

June 3, 1991: Campbell's attorneys inform the State Supreme Court that they intend to file another appeal. This will be his third separate appeal.

August 7, 1991: The Ninth Circuit grants Campbell's request to discharge his attorney, and delays its ruling on other issues, pending review of Campbell's new appeal, which has not yet been filed.

September 13, 1991: Campbell files his third appeal.

October 25, 1991: Bypassing the Ninth Circuit, the State asks the U.S. Supreme Court to compel the Ninth Circuit to resolve Campbell's earlier appeal (not the third appeal filed on 9/13/91).

January 13, 1992: The U.S. Supreme Court denies the State's request to compel the Ninth Circuit to rule on Campbell's appeal, but indicates the State may make additional requests ''if unnecessary delays or unwarranted stays'' occur in the Ninth Circuit's handling of the Campbell case.

March 9, 1992: The U.S. District Court dismisses Campbell's third appeal filed on 9/13/91.

April 1, 1992: The Ninth Circuit Court affirms the district court's denial of Campbell's earlier appeal (not the appeal denied by the district court on 3/9/92).

April 22, 1992: The State asks the Ninth Circuit to allow Campbell's execution to move forward and to conduct an expedited review of Campbell's third appeal (the appeal filed on 9/13/91).

May 5, 1992: The Ninth Circuit denies both requests by the state.

May 14, 1992: The State asks the Ninth Circuit to reconsider both of its May 5 rulings.

May 15, 1992: Campbell's attorney and Campbell himself ask the Ninth Circuit Court for a rehearing.

June 4, 1992: Campbell's attorney files legal brief in Campbell's third appeal.

December 24, 1992: The Ninth Circuit affirm's the district court's denial of Campbell's third appeal.

January 20, 1993: The Ninth Circuit hears oral arguments on Campbell's second appeal.

January 26, 1993: The Ninth Circuit grants a request by Campbell's attorney for a rehearing of Campbell's third appeal, the denial of which the court affirmed on 12/24/92.

January 29, 1993: The Ninth Circuit, in its reconsideration of Campbell's second appeal, orders attorneys for Campbell and the State to submit written arguments on whether hanging is cruel and unusual punishment, and whether an evidentiary hearing should be held in federal district court on the issue of hanging.

April 28, 1993: The Ninth Circuit orders Campbell's case back to federal district court for an evidentiary hearing on whether hanging is cruel and unusual punishment.

May 4, 1993: The State asks the Ninth Circuit to reconsider its April 28 order.

May 7, 1993: The Ninth Circuit denies the State's request.

May 10, 1993: The State appeals to the U.S. Supreme Court, asking it to set aside the evidentiary hearing in federal district court and to require the Ninth Circuit court to rule on whether hanging violates the Constitution.

May 14, 1993: Supreme Court Justice Sandra Day O'Connor issues a four-page chamber opinion indicating a single high court justice does not have the authority to overrule an order by the Ninth Circuit. She cites the ''glacial progress'' of the Campbell case and dismisses the State's appeal ''without prejudice,'' leaving open the door for the state to press its case before the full Supreme Court.

May 17, 1993: The State appeals the Ninth Circuit order to the full Supreme Court.

May 24–26, 1993: Judge Coughenour conducts an evidentiary hearing on whether hanging is cruel and unusual punishment.

June 1, 1993: The U.S. Supreme Court denies without comment the State's request to vacate the Ninth Circuit's order to conduct the evidentiary hearing.

June 1, 1993: Judge Coughenour issues his findings and conclusions, ruling that Washington's judicial hanging protocol fully comports with the Constitution and does not constitute cruel and unusual punishment.

February 8, 1994: The Ninth Circuit rules 6–5 that hanging does not constitute cruel and unusual punishment and that being forced to choose death by lethal injection, or face death by hanging does not violate Campbell's constitutional rights. The ruling states that the stay of execution will be lifted and the mandate ordering the execution will be issued 21 judicial days following the order.

February 15, 1994: Attorney General Christine O. Gregoire files a motion with the Ninth Circuit to lift the stay of execution. Attorneys for Campbell also file motions to continue the stay of execution and to request reconsideration of the Ninth Circuit's February 8 ruling by the full Circuit Court.

March 21, 1994: After waiting more than one month for the 9th Circuit to act on her motion, Attorney General Gregoire asks the U.S. Supreme Court to remove the stay of execution. Also on this date, the U.S. Supreme Court rejects Campbell's appeal for a hearing on his third habeas petition.

March 25, 1994: Justice Sandra Day O'Connor refuses to lift the stay of execution.

March 28, 1994: This date marks the fifth anniversary of the stay of execution imposed by the 9th Circuit Court of Appeals.

April 14, 1994: This date marks the 12th anniversary of the three murders committed by Campbell.

April 14, 1994: 9th Circuit Court of Appeals lifts stay of execution.

April 15, 1994: State sets May 27, 1994 executive date.

May 3, 1994: Campbell asks U.S. Supreme Court to stay execution and rule on claim

that hanging is unconstitutional method of execution.

May 27, 1994: Campbell is executed.

Mr. BIDEN. Mr. President, once again, my friend misses the point. I am not objecting to the State portion being put in here. That is not relevant. It has nothing to do with terrorism. It is not going to effect the bill. My colleague talks about this having an impact on terrorism. I believe we should reform State habeas corpus. We should, and it is appropriate to do it in this bill, as long as my friend from Washington does not have any illusions that he can go back and tell the people of Washington that by effecting State habeas corpus he has done something about terrorism. That is the point. It is relevant, just not relevant to stopping terrorism.

The second point I will make—and then I will make my motion—is that people have been asking me about time. I am willing to enter into a time agreement. There are a maximum of a possible 14 motions. I doubt whether they will all be used. I am prepared to agree to one-half hour, equally divided, and to a time certain to vote tomorrow, or tonight, or whenever anybody wants to vote on it. So I want everybody to know that. I understand we may be trying to work that out now.

Mr. HATCH. If the Senator will yield, that would be fine with me—one-half hour equally divided. I am prepared to go and get it done. This is that important. The President has asked for it. He said he wants it as quickly as we can do it. We have all week, but we might as well find out whether we can do it at all. I believe we can, and with cooperation we can get this done. I am happy to cooperate and do it that way—just go bing, bing, bing, from here on out.

Mr. BIDEN. I have no objection to keep going now. That is a call of the leadership. That is up to them. In the meantime, while we are figuring out how long we are going to go——

Mr. HATCH. If the Senator will yield, we need to see what all the motions are. We need to know what those are. We would appreciate that.

Mr. BIDEN. I would be happy to do that.

MOTION TO RECOMMIT

Mr. BIDEN. I offer a motion on behalf of Senator NUNN and myself to recommit the conference report with instructions to add a provision to give the military authority in the cases of emergency involving chemical and biological weapons of mass destruction.

Mr. President, once I formally make that motion, I would suggest to my colleagues that we will regret mightily if there is a chemical attack and this does not pass.

I now formally offer that motion to recommit.

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

The PRESIDING OFFICER. The clerk will read the motion.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN], for Mr. NUNN, for himself and Mr. BIDEN, moves to recommit the conference report with instructions to add provisions.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the motion be dispensed with.

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

The motion is as follows:

Motion to recommit the conference report on the bill S.735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the following:

SEC. . AUTHORITY TO REQUEST MILITARY ASSISTANCE WITH RESPECT TO OFFENSES INVOLVING BIOLOGICAL AND CHEMICAL WEAPONS.

(a) BIOLOGICAL WEAPONS OF MASS DESTRUCTION.—Section 175 of title 18, United States Code, is amended by adding at the end the following:

''(c)(1) MILITARY ASSISTANCE.—The Attorney General may request that the Secretary of Defense provide assistance in support of Department of Justice activities relating to the enforcement of this section in an emergency situation involving biological weapons of mass destruction. Department of Defense resources, including personnel of the Department of Defense, may be used to provide such assistance if—

''(A) the Secretary of Defense and the Attorney General determine that an emergency situation involving biological weapons of mass destruction exists; and

''(B) the Secretary of Defense determines that the provision of such assistance will not adversely affect the military preparedness of the United States.

''(2) As used in this section, 'emergency situation involving biological weapons of mass destruction' means a circumstance involving a biological weapon of mass destruction—

''(A) that poses a serious threat to the interests of the United States; and

''(B) in which—

''(i) civilian expertise is not readily available to provide the required assistance to counter the threat posed by the biological weapon of mass destruction involved;

''(ii) Department of Defense special capabilities and expertise are needed to counter the threat posed by the biological weapon of mass destruction involved; and

''(iii) enforcement of the law would be seriously impaired if the Department of Defense assistance were not provided.

''(3) The assistance referred to in paragraph (1) includes the operation of equipment (including equipment made available under section 372 of title 10) to monitor, contain, disable, or dispose of a biological weapon of mass destruction or elements of the weapon.

''(4) The Attorney General and the Secretary of Defense shall jointly issue regulations concerning the types of assistance that may be provided under this subsection. Such regulations shall also describe the actions that Department of Defense personnel may take in circumstances incident to the provision of assistance under this subsection. Such regulations shall not authorize arrest or any direct participation in conducting searches and seizures that seek evidence related to violations of this section, except for the immediate protection of human life, unless participation in such activity is otherwise authorized under paragraph (3) or other applicable law.

''(5) The Secretary of Defense shall require reimbursement as a condition for providing assistance under this subsection in accordance with section 377 of title 10.

''(6)(A) Except to the extent otherwise provided by the Attorney General, the Deputy Attorney General may exercise the authority of the Attorney General under this subsection. The Attorney General may delegate the Attorney General's authority under this subsection only to the Associate Attorney General or an Assistant Attorney General and only if the Associate Attorney General to whom delegated has been designated by the Attorney General to act for, and to exercise the general powers of, the Attorney General.

''(B) Except to the extent otherwise provided by the Secretary of Defense, the Deputy Secretary of Defense may exercise the authority of the Secretary of Defense under this subsection. The Secretary of Defense may delegate the Secretary's authority under this subsection only to an Under Secretary of Defense or an Assistant Secretary of Defense and only if the Under Secretary or Assistant Secretary to whom delegated has been designated by the Secretary to act for, and to exercise the general powers of, the Secretary.

''(7) Nothing in this section shall be construed to limit the authority of the executive branch in the use of military personnel or equipment for civilian law enforcement purposes beyond that provided by law before the date of enactment of [this Act].''.

''(b) CHEMICAL WEAPONS OF MASS DESTRUCTION.—The Chapter 113B of Title 18, United States Code, that relates to terrorism, is amended by inserting after section 2332a the following:

''§2332b. Use of chemical weapons

''(a) OFFENSE.—A person who without lawful authority uses, or attempts or conspires to use, a chemical weapon—

''(1) against a national of the United States while such national is outside of the United States;

''(2) against any person within the United States; or

''(3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States.

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

''(b) DEFINITIONS.—For purposes of this section—

''(1) the term 'national of the United States' has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

''(2) the term 'chemical weapon' means any weapon that is designed to cause widespread death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals or their precursors.

''(c)(1) MILITARY ASSISTANCE.—The Attorney General may request that the Secretary of Defense provide assistance in support of Department of Justice activities relating to the enforcement of this section in an emergency situation involving chemical weapons of mass destruction. Department of Defense resources, including personnel of the Department of Defense, may be used to provide such assistance if—

''(A) the Secretary of Defense and the Attorney General determine that an emergency situation involving chemicals weapons of mass destruction exists; and

''(B) the Secretary of Defense determines that the provision of such assistance will not adversely affect the military preparedness of the United States.

''(2) as used in this section. 'emergency situation involving chemical weapons of mass destruction' means a circumstance involving a chemical weapon of mass destruction—

''(A) that poses a serious threat to the interests of the United States; and

''(B) in which—

''(i) civilian expertise is not readily available to provide the required assistance to counter the threat posed by the chemical weapon of mass destruction involved;

''(ii) Department of Defense special capabilities and expertise are needed to counter the threat posed by the biological weapon of mass destruction involved; and

''(iii) enforcement of the law would be seriously impaired if the Department of Defense assistance were not provided.

''(3) The assistance referred to in paragraph (1) includes the operation of equipment (including equipment made available under section 372 of title 10) to monitor, contain, disable, or dispose of a chemical weapon of mass destruction or elements of the weapon.

''(4) The Attorney General and the Secretary of Defense shall jointly issue regulations concerning the types of assistance that may be provided under this subsection. Such regulations shall also describe the actions that Department of Defense personnel may take in circumstances incident to the provision of assistance under this subsection. Such regulations shall not authorize arrest or any direct participation in conducting searches and seizures that seek evidence related to violations of this section, except for the immediate protection of human life, unless participation in such activity is otherwise authorized under paragraph (3) or other applicable law.

''(5) The Secretary of Defense shall require reimbursement as a condition for providing assistance under this subsection in accordance with section 377 of title 10.

''(6)(A) Except to the extent otherwise provided by the Attorney General, the Deputy Attorney General may exercise the authority of the Attorney General under this subsection. The Attorney General may delegate the Attorney General's authority under this subsection only to the Associate Attorney General or an Assistant Attorney General and only if the Associate Attorney General or Assistant Attorney General to whom delegated has been designated by the Attorney General to act for, and to exercise the general powers of, the Attorney General.

''(B) Except to the extent otherwise provided by the Secretary of Defense, the Deputy Secretary of Defense may exercise the authority of the Secretary of Defense under this subsection. The Secretary of Defense may delegate the Secretary's authority under this subsection only to an Under Secretary of Defense or an Assistant Secretary of Defense and only if the Under Secretary or Assistant Secretary to whom delegated has been designated by the Secretary to act for, and to exercise the general powers of, the Secretary.

''(7) Nothing in this section shall be construed to limit the authority of the executive branch in the use of military personnel or equipment for civilian law enforcement purposes beyond that provided by law before the date of enactment of [the Act].''.

(c)(1) CIVILIAN EXPERTISE.—The President shall take reasonable measures to reduce civilian law enforcement officials' reliance on Department of Defense resources to counter the threat posed by the use or potential use of biological and chemical weapons of mass destruction within the United States, including—

(A) increasing civilian law enforcement expertise to counter such threat;

(B) improving coordination between civilian law enforcement officials and other civilian sources of expertise, both within and outside the Federal Government, to counter such threat.

(2) REPORT REQUIREMENT.—The President Shall Submit to the Congress—

(A) ninety days after the date of enactment of this Act, a report describing the respective policy functions and operational roles of Federal agencies in countering the threat posed by the use or potential use of biological and chemical weapons of mass destruction within the United States.

(B) one year after the date of enactment of this Act, a report describing the actions planned to be taken and the attendant cost pertaining to paragraph (1); and

(C) three years after the date of enactment of this Act, a report updating the information provided in the reports submitted pursuant to subparagraphs (A) and (B), including measures taken pursuant to paragraph (1).

(D) CLERICAL AMENDMENT.—The chapter analysis for chapter 113B of title 18, United States Code, is amended by inserting after the item relating to section 2332a the following:

''2332b. Use of chemical weapons.''.

(e) USE OF WEAPONS OF MASS DESTRUCTION.—Section 2332a(a) of title 18, United States Code, is amended by inserting ''without lawful authority'' after ''A person who''.

Mr. GRASSLEY. Mr. President, I rise in strong support of the antiterrorism bill. In my view, this bill strikes a reasonable balance between the needs of the law enforcement and national security communities and the constitutional rights of the American people. I applaud the efforts of Senator HATCH and other conferees in crafting this important and much-needed piece of legislation.

Perhaps one of the more important provisions of this bill relates to restitution to victims of crime in Federal courts. I am proud to say that key provisions of S. 1404, the Victim Restitution Enhancement Act of 1995, which I introduced on November 8, 1995, with Senator KYL, have been incorporated into the conference report. This bill, I believe, provides victims of crime with a valuable and important way of vindicating their rights and obtaining restitution. S. 1404 provides that court orders requiring restitution will act as a lien which the victims themselves can enforce. I think this lets victims help themselves and ensures that crime victims will receive the restitution they are entitled to.

To understand why giving victims of Federal crimes the ability to seek restitution from their victimizers is a positive development, you need to understand the nature of most of the Federal crimes which give rise to restitution liability. Federal Crimes, by and large, are not crimes of violence like State crimes are. Once you exclude Federal drug prosecutions—which do not give rise to restitution liability as that term is generally understood—many Federal prosecutions are for fraud and other so-called white crimes. With fraud and white collar crimes, the victims may have substantial resources. These persons may wish to obtain restitution themselves, rather than relying on overworked prosecutors to do that job. That's what the lien does, its gives victims a powerful tool use to get restitution.

With respect to terrorism, and the Oklahoma City bombing, this means that the families of the bombing victims can seek restitution. So if the bombers come into money from any source, the victims' families can receive restitution. This is very positive development.

How does the current bill, like S. 1404, do this? Section 206(m) of the conference report establishes a lien in favor of crime victims, very similar to the lien procedure contained in S. 1404. I believe that this section will prove to be of enormous value.

Also, the conference report, section 206(n), drew on provisions in S. 1404, which provided that should prisoners who have been ordered to pay restitution file a prisoner lawsuit and receive a windfall, that windfall will go to the victims and not to the prisoner. This should take some of the lure out of prisoner lawsuits. Importantly, the conference report we are debating today also provides that windfalls received by prisoners from all sources, including lawsuits, will go to pay victims.

This conference report, in section 206(d)(3), like S. 1404, requires criminals to list all their assets under oath. This way, if criminals who owe victims try to hide their assets, they can be prosecuted for perjury. This too should help make sure that victims receive more of what they are entitled to.

While the restitution provisions of this bill are an important step in the right direction, I would also like to point out that unlike S. 1404, the conference report does not establish a hard-and-fast time limit within which restitution liability must be paid off. I think that this is a serious shortcoming. Without a bright-line for the payment of restitution, well-financed criminal defense lawyers will use legal technicalities to delay payment as long as possible. The reason that no definite time limit was included is that some Members of the minority opposed a definite time limit. So, in this respect, I believe that S. 1404 is superior to the current bill.

The conference report also makes serious and much-needed reforms of habeas corpus prisoner appeals. As even a casual observer of the criminal justice system knows, criminals have abused habeas corpus to delay just punishment.

I believe that this conference report strikes exactly the right balance on habeas corpus reform. It provides enough in the way of habeas appeals to ensure that unjustly convicted people will have a fair and full opportunity to bring forth new evidence or contest their incarceration in numerous ways. But the conference report sets meaningful limits, which should go a long way toward eliminating many of the flagrant abuses that make a mockery of justice.

If we do not pass this bill, with this habeas corpus reform package, we can pretend that we are for the death penalty. But, in reality, the death penalty will be virtually meaningless and

toothless. The families of the bombing victims in Oklahoma City know this, and they support this bill.

Let us not get ourselves in the position of making mere symbolic gestures, which do not really help the American people and which do not really restore faith in the justice system. I agree with President Clinton: Punishment should be swift and sure. Just punishment must be meted out in an appropriate amount of time.

I strongly support these reforms, and again applaud the conferees for bringing this bill to the floor. Mr. President, I yield the floor.

Ms. SNOWE. Mr. President, I rise in strong support of the conference report on S. 735, the Comprehensive Terrorism Prevention Act. I would like to congratulate Chairman HATCH, Senator BIDEN, and the other Senate conferees on both sides of the aisle for their diligent work in conference with the other body. This bill left the Senate June 7, 1995, having passed by an overwhelming bipartisan vote of 91 to 8. Then the bill went over to the House, where it languished for 9 months. When it finally came up in the House for a vote on March 13, the most important anti-terrorism provisions were stripped from the bill.

When this occurred, many of us who strongly supported the Senate bill were dismayed and wondered whether it would even be possible for a conference committee to fashion a final bill that would garner the strong bipartisan support that the original Senate bill enjoyed. To emphasize the importance of this bipartisan support, I joined with Senator LIEBERMAN on March 29, in sending a letter to all five Senate conferees urging that they work to defend in conference key Senate provisions dealing with international terrorism. These included authority to exclude from the United States members of terrorist groups and authority to prohibit terrorist fundraising within the United States, both of which were indeed retained in this final conference report.

Mr. President, I am pleased to support this conference report, and I heartily congratulate our conferees for preserving these provisions. In fact, they went even further, and have given us a strong, positive antiterrorism bill that deserves our wholehearted support.

This legislation contains a broad range of needed changes in the law that will enhance our country's ability to combat terrorism, both at home and from abroad. The managers of this bill have described its provisions in some detail, so I will not repeat their comments. Briefly, however, this bill would increase penalties: For conspiracies involving explosives, for terrorist conspiracies, for terrorist crimes, for transferring explosives, for using explosives, and for other crimes related to terrorist acts.

The bill also includes provisions to combat international terrorism, to remove from the United States aliens found to be engaging in or supporting terrorist acts, to control fundraising by foreign terrorist organizations, and procedural changes to strengthen our counterterrorism laws.

This legislation will enhance the ability of our law enforcement agencies to bring terrorists to justice, in a manner mindful of our cherished civil liberties. This bill will enact practical measures to impede the efforts of those violent rejectionists who have launched an unprecedented campaign of terror intended to crush the prospects for peace for the Israeli and Palestinian people. Most important is the provision in this bill that will cut off the ability of terrorist groups such as Hamas to raise huge sums in the United States for supposedly ''humanitarian'' purposes, where in reality a large part of those funds go toward conducting terrorist activities. These accomplishments are real, and this legislation deserves our support.

Mr. President, I would like to concentrate the remainder of my comments on two provisions of mine that were retained in this conference report. These two provisions are the Terrorist Exclusion Act and the Law Enforcement and Intelligence Sources Protection Act, both of which I introduced separately last year.

Traditionally, Americans have thought of terrorism as primarily a European, Middle Eastern, or Latin American problem. While Americans abroad and U.S. diplomatic facilities have been targets in the past, Americans have often considered the United States itself largely immune to acts of terrorism. Two events have changed this sense of safety. The first was the internationally-sponsored terrorist attack of February 26, 1993 against the New York World Trade Center, and the second was the domestic terrorist attack just a year ago on April 19 in Oklahoma City.

I first introduced the Terrorist Exclusion Act in the House three years ago, and last year I reintroduced the legislation in the Senate with Senator BROWN as my original cosponsor. The Terrorist Exclusion Act will close a dangerous loophole in our visa laws which was created by the Immigration Reform Act of 1990. With its rewrite of the McCarran-Walters Act, Congress eliminated then-existing authority to deny a U.S. visa to a known member of a violent terrorist organization.

The new standards required knowledge that the individual had been personally involved in a past terrorist act or was coming to the United States to conduct such an act. This provision will restore the previous standard allowing denial of a U.S. visa for membership in a terrorist group.

I discovered this dangerous weakness in our visa laws in early 1993 during my investigation of the State Department failures that allowed the radical Egyptian cleric, Sheikh Omar Abdel Rahman, to travel to, and reside in, the United States since 1990. I undertook this investigation in my role as ranking Republican of the House International Operations Subcommittee, which has jurisdiction over terrorism issues, a role I have continued in the Senate as Chair of the International Operations Subcommittee of the Foreign Relations Committee.

Sheikh Rahman is the spiritual leader of Egypt's terrorist organization, The Islamic Group. His followers were convicted for the 1993 bombing of the World Trade Center in New York. The Sheikh himself received a life sentence for his own role in approving a planned second wave of terrorist acts in the New York City area.

The case of Sheikh Abdel Rahman is significant because he was clearly excludable from the United States under the pre-1990 law, but the legal authority to exclude him ended with enactment of the Immigration Reform Act that year. He was admitted to this country through an amazing series of bureaucratic blunders.

Then in 1990, as the U.S. government was building its deportation case against him, the law changed. As a result, the State Department was forced to try to deport him on the grounds that he once bounced a check in Egypt and had more than one wife, rather than the fact that he was the known spiritual leader of a violent terrorist organization.

A high-ranking State Department official informed my staff during my investigation that if Sheikh Abdel Rahman had tried to enter after the 1990 law went into affect, they would have had no legal authority to exclude him from the United States because they had no proof that he had ever personally committed a terrorist act, despite the fact that his followers were known to have been involved in the assassination of Anwar Sadat.

It is urgent that we pass this provision. Every day in this country American lives are put at risk out of deference to some imagined first amendment rights of foreign terrorists. This is an extreme misinterpretation of our cherished Bill of Rights, which the founders of our nation intended to protect the liberties of all Americans.

In my reading of the U.S. Constitution, I see much about the protection of the safety and welfare of Americans, but nothing about protecting the rights of foreign terrorists to travel freely to the United States whenever they choose.

The second of my bills contained in S. 735 is the Law Enforcement and Intelligence Sources Protection Act. This legislation would significantly increase the ability of law enforcement and intelligence agencies to share information with the State Department for the purpose of denying visas to known terrorists, drug traffickers, and others involved in international criminal activities.

This provision would permit a U.S. visa to be denied for law enforcement purposes without a detailed written explanation, which current law requires.

These denials could be made citing U.S. law generically, without further clarification or amplification. Individuals who are denied visas due to the suspicion that they are intending to immigrate to the U.S. would still have to be informed that this is the basis, and they would then be allowed to compile additional information that may change that determination.

Under a provision of the Immigration and Nationality Act, a precise written justification, citing the specific provision of law, is required for every alien denied a U.S. visa. This requirement was inserted into the INA out of the belief that every non-American denied a U.S.-visa for any reason had the right to know the precise grounds under which the visa was denied, even if it was for terrorist activity, narcotics trafficking, or other illegal acts. This has impeded the willing- ness of law enforcement and intelligence agencies to share with the State Department the names of excludable aliens.

These agencies are logically concerned about revealing sources or compromising an investigation by submitting the names of people known to be terrorists or criminals—but who do not know that they are under investigation by U.S. officials—if that information is then revealed to a visa applicant, as current law requires. This is information the United States should be able to protect until a case is completed and, hopefully, law enforcement action is taken. But for the protection of the American people we should also make this information available to the Department of State to keep these individuals out of our country.

Mr. President, I again congratulate Chairman HATCH, and all of the other Senate conferees on this bill for their achievements in negotiations with the House. Obviously, there were some Senate provisions that had strong bipartisan support in this body that I regret could not be sustained in conference. But I urge my colleagues to concentrate on the very substantial and important achievements of this conference report, and I urge broad bipartisan support for its adoption.

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

The PRESIDING OFFICER. The clerk will call the roll.

Mr. CHAFEE. I wonder if the Senator might yield for a question before the quorum call.

The PRESIDING OFFICER. Will the Senator withhold his quorum call?

Mr. HATCH. Yes. I am happy to.

Mr. CHAFEE. I am a little confused why we do not vote on this motion right now. Everybody is familiar with the issue.

Mr. HATCH. I think we are but the majority leader asked me to put the quorum call.

Mr. CHAFEE. Could I safely say that, if things go right, we are going to vote in a very few minutes?

Mr. HATCH. I hope so. I think so.

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

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

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

The Senator from Utah.

Mr. HATCH. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the motion to recommit, by the Senator from Delaware.

Mr. HATCH. Mr. President, I move to table the motion 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.

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

The PRESIDING OFFICER. The absence of a quorum has been noted. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. HATCH. Mr. President, I ask unanimous consent that during the consideration of the conference report to accompany the terrorist bill, the time on the conference report be limited to 20 minutes equally divided in the usual form, and all motions to recommit be limited to the following time restraints; that they be relevant in subject matter of the conference report or Senate- or House-passed bills and that they not be subject to amendments: 30 minutes equally divided in the usual form on each motion.

I further ask unanimous consent that following the disposition of all motions to recommit, if defeated or tabled, the Senate proceed to vote on adoption of the conference report, all without any intervening action or debate.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? Without objection, it is so ordered.

The question is on agreeing to the motion to lay on the table the Biden motion to recommit.

The yeas and nays have been ordered. The clerk will call the roll.

Mr. LOTT. I announce that the Senator from Oregon [Mr. HATFIELD] and the Senator from Florida [Mr. MACK] are necessarily absent.

I further announce that the Senator from Alaska [Mr. MURKOWSKI], is absent due to death in the family.

I further announce that, if present and voting, the Senator from Alaska, [Mr. MURKOWSKI] would vote ''yea.''

Mr. FORD. I announce that the Senator from Washington [Mrs. MURRAY] is necessarily absent.

The result was announced—yeas 50, nays 46, as follows:

The result was announced—yeas 50, nays 46, as follows:

[Rollcall Vote No. 62 Leg.]

YEAS—50

Abraham	Faircloth	Lugar
Ashcroft	Feingold	McCain
Bennett	Frist	McConnell
Bond	Gorton	Nickles
Brown	Gramm	Pressler
Burns	Grams	Roth
Campbell	Grassley	Santorum
Chafee	Gregg	Shelby
Coats	Hatch	Simpson
Cochran	Helms	Smith
Cohen	Hutchison	Snowe
Coverdell	Inhofe	Stevens
Craig	Jeffords	Thomas
D'Amato	Kassebaum	Thompson
DeWine	Kempthorne	Thurmond
Dole	Kyl	Warner
Domenici	Lott	

NAYS—46

Akaka	Ford	Mikulski
Baucus	Glenn	Moseley-Braun
Biden	Graham	Moynihan
Bingaman	Harkin	Nunn
Boxer	Heflin	Pell
Bradley	Hollings	Pryor
Breaux	Inouye	Reid
Bryan	Johnston	Robb
Bumpers	Kennedy	Rockefeller
Byrd	Kerrey	Sarbanes
Conrad	Kerry	Simon
Daschle	Kohl	Specter
Dodd	Lautenberg	Wellstone
Dorgan	Leahy	Wyden
Exon	Levin	
Feinstein	Lieberman	

NOT VOTING—4

Hatfield	Murkowski
Mack	Murray

So the motion to lay on the table the motion to recommit was agreed to.

Mr. HATCH. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask that there now be a period for the transaction of routine morning business with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is ordered.

NORDY HOFFMAN: A TRIBUTE

Mr. HOLLINGS. Mr. President, I would like to pay my respects to a dear friend, F. Nordhoff Hoffman, who died on Friday, April 5, 1996. Nordy Hoffman was a truly good man. He was a big man with a big faith—faith in his church, faith in his beloved alma mater Notre Dame, faith in his wonderful family and, perhaps most importantly, faith in his fellow men and women.

In the early 1970's, I had the honor of serving as chairman of the Democratic Senatorial Campaign Committee while Nordy was the executive director. He was excellent in that capacity, as he was in all of the endeavors he undertook.

As Senate Sergeant-at-Arms, Nordy showed his talents to their fullest. He

drew upon his experience with the steelworkers Union, his military background and his political acumen to provide a rare style of leadership. Not only was he an excellent organizer with an aptitude for strategy, he related well to his co-workers and especially to his employees.

Following his Senate service, Nordy founded and maintained a political consulting firm, F. Nordy Hoffman and Associates.

Nordy was a man who demonstrated his commitment to organizations and issues that he cared about. He was an involved member of the Notre Dame University community in several capacities. In his undergraduate years, he was an All-American guard with the championship football team, coached by Knute Rockne--Nordy was later inducted into the College Football Hall of Fame in 1978.

Nordy's deep love of Notre Dame continued through the years. He served as president of the Alumni Association and as a member of the Board. Several years ago, the F. Nordy Hoffman scholarship was established. The funds are used to aid young men and women who suffer financial reversals during their time at Notre Dame.

Nordy also was an active member of the board of directors of the Stone Ridge School in Bethesda, the board of regents of the Center for Congressional and Governmental Relations at Catholic University, and the board of directors of the credit union here in the U.S. Senate. In addition, he gave unstinting support to numerous local charities.

Nordy spent his life in service to his fellow Americans. Those of us who were privileged to have known and worked with him saw this day after day. He truly made a difference and there can be no higher tribute.

Peatsy and I and the staff join in heartfelt condolences to Nordy's wife Joanne and his entire family.

TRIBUTE TO RONALD BROWN

Mr. FEINGOLD. Mr. President, I rise today to pay tribute to Ron Brown.

Ron Brown had a remarkable career, marked by his exceptional ability to unify people from diverse backgrounds. As chairman of the Democratic National Committee, he used this talent to bring the party's factions together. Democrats and Republicans alike spoke with admiration of his aptitude as a party leader. Ron Brown's work to bridge differences helped revitalize the Democratic party and played an essential role in building the support that led to President Clinton's election.

As Commerce Secretary, Ron Brown also unified individuals from different walks of life to work for American business. His aggressive efforts traveling the world promoting American goods won him uncommon praise from business leaders. It was his enthusiastic devotion to this mission of championing trade and economic development that took him to Bosnia earlier this month not only to try to build American business, but also to aid in the reconstruction of Bosnia. He made the ultimate sacrifice for these goals, giving his life in service to his country.

Ron Brown's career also leaves us with an example of racial leadership, having been the first African-American to chair the Democratic Party and the first African-American Secretary of Commerce. His guidance was apparent in the way he closed divisions within the Democratic Party and in the way he brought together diverse individuals at the Commerce Department. Ron Brown provided a real life role model for aspiring young Americans as someone who rose to the highest levels of government, and who was admired and respected by those who knew him and knew of his contributions to the well-being of his nation.

The loss of Ron Brown is tragic to America. His leadership will be sorely missed. My deepest condolences go to the Brown family and the families of all the other Americans who lost their lives in this terrible tragedy.

TRIBUTE TO WAYNE A. STEEN, SR.

Mr. BIDEN. Mr. President, today, I would like to offer a tribute to one of the outstanding citizens of my State, one of those citizens who truly represents the best not only of Delaware but of America—the best of our heritage and our hope, the best of our national spirit of community.

It will surprise no one to learn that the citizen I'm describing is a volunteer firefighter.

Wayne A. Steen, Sr., joined the Mill Creek Fire Co. on October 2, 1967, as a member of its youth division, Explorer Post 921. In the course of his 4 years of membership, Wayne served as both president and chief of the post.

On September 22, 1971, just a few days passed his 18th birthday, Wayne Steen became a full member of the Mill Creek Fire Co. For 20-plus years after, he served the company in virtually every office and on virtually every committee, putting in more than a thousand hours and responding to about 600 fire and ambulance runs—those are not career totals; that's 1,000 hours and 600 runs per year—and earning three citations for heroism and leadership.

In addition, Wayne Steen has served as a director of both the New Castle County and the Delaware State Fire Chiefs Associations, and he was long an active member of the Delaware Valley regional association and the International Society of Fire Service Instructors.

Wayne Steen's fire service career represents literally the best of the best—exceptional leadership in a group of exceptional leaders, exceptional citizenship and commitment in a group defined by active concern for neighbors and community, and by selfless dedication to protect and promote the public safety.

Because of Wayne's extraordinary community leadership and service, June 12, 1995, marked a great public as well as personal tragedy.

At this point, this tribute becomes a little difficult for me. First, Wayne Steen is someone I've known and worked with for many years, someone I'm proud to call a friend. And second, Wayne fell victim to a medical condition that I was lucky to survive without any long-term disability. Wayne was not as lucky, and it is hard to reconcile my good fortune with the challenge he and his family continue to face every day.

On that date last June, Wayne was in command of a group of firefighters at the scene of a fatal traffic accident. While on duty, he fell victim to the sudden strike of a brain aneurysm, which left him in a coma. When I went to see Wayne in the hospital, there seemed to be little doubt that his condition would do anything but worsen. He was 41 years old.

With medical care, the support of his family and friends, and, I have absolutely no doubt, by some force of his own will that no mere physical condition could defeat, Wayne's condition was stabilized, and he was able to leave that hospital room where I saw him last summer. But still the struggle had just begun, and it will be a lifelong battle for Wayne and for the family and friends who fight by his side.

It is tempting to describe Wayne Steen as a fallen hero, but I do not think it would be right to do so.

Certainly, he is a hero, and had earned the right to be thought of as such long before last June. His fire service career was, in fact, as good a living definition of citizen-heroism as we are likely to find, and we should—and must—honor such service always.

But Wayne Steen is not fallen, because he has stood too tall, and he has elevated us all too much. Wayne Steen devoted much of his spirit—as well as his time and his talents—to serving a great and essential ideal, and if some part of his spirit has left this life, I have no doubt that it has risen to a higher one. Wayne is not fallen because he serves us still, as long as his example of citizenship continues to call to the best in all of us.

We honor leaders like Wayne Steen best not with our words but when we continue their work, when we learn that they have given so much because their purpose is so important to us all.

And we honor them best when we recognize and fulfill our obligation to those who put themselves at risk to protect our families, our homes, and our communities—our obligation to support them in their service and, when tragedy strikes, in their need. We must be there for people like Wayne, who have always been there for us.

Wayne's family—especially his wife, Terry, and their children, Phillip, Wayne, and Heather—have been there for him in the way we would all hope to support a loved one through such a traumatic ordeal. Their courage, dedication, and strength continue an inspiring family tradition.

The members of the Mill Creek Fire Co., as well as the broader fire service community, have also kept their faith with Wayne and with the Steen family, another great tradition—members of the fire service always keep the faith.

There is no escaping that what happened to Wayne Steen is a tragedy, the kind that cannot be explained, and I do not want to minimize in any way the depth of the loss or the difficulty of the struggle. Our tears are more than justified.

Yet still, through our sadness and in asking Americans to offer prayers and good wishes in support of Wayne and his family, I would also ask that we not forget the immeasurable triumphs of Wayne Steen's life and spirit. Let us not forget the lessons he has taught us by his citizenship, let us not forget the purpose to which he sacrificed so much.

Let us not forget the bond and obligation we share as fellow citizens—let's take care of each other more often, let's work together better. Let's remember how lucky we are.

That's what Wayne Steen would want, and we owe it to him.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, a lot of folks don't have the slightest idea about the enormity of the Federal debt. Occasionally, I ask friends, how many millions of dollars are there in a trillion? They think about it, voice some estimates, most of them wrong.

One thing they do know is that it was the U.S. Congress that ran up the enormous Federal debt that is now over $5 trillion.

To be exact, as of the close of business Monday, April 15, the total Federal debt—down to the penny—stood at $5,140,011,407,773.15. That's $5 trillion, 140 billion plus. Another sad statistic is that on a per capita basis, every man, woman and child in America owes $19,422.38.

So Mr. President, how many million are there in a trillion? There are a million-million in a trillion, which means that the Federal Government owes more than $5 million-million.

Sort of boggles the mind, doesn't it?

THE TYRANT OF TRIPOLI

Mr. MOYNIHAN. Mr. President, on December 21, 1995, I rose on the Senate floor to note the seventh anniversary of the bombing of Pan Am flight 103 over Lockerbie, Scotland—an outrageous act of international terrorism which claimed the lives of 270 innocent people. Seven long years have passed, but still the victims' families have no solace that the alleged masterminds of this evil act will ever be brought to justice because the Libyan Government refuses to extradite them.

Yesterday, in an interview with Gayle Young of the Cable News Network, Libyan dictator Muhammar Qadafi attempted to justify his position: ''We are ready [for] these suspects * * * to go there for a trial. But the Governments of America and the British, [sic] they don't want to solve this problem * * *. They have no proof [so] they avoid the trial.'' Three assertions. Three untruths. Three additions to the endless stream of lies and falsehoods issuing from the tyrant of Tripoli.

A state which harbors outlaws must, of necessity, remain an outlaw state. The United States and the community of civilized nations must keep steadfast to our commitment to the rule of law and our demand for justice for the victims of Pan Am 103 and their families.

I thank the Chair and I yield the floor.

NDSU WOMEN TRIUMPH FOR FOURTH STRAIGHT YEAR

Mr. DORGAN. Mr. President, I want to pay special tribute today to the 1996 National Collegiate Athletic Association's Division II women's national basketball champions, the North Dakota State University Bison.

The Bison women's accomplishments are truly remarkable for any level of play. This year's title marks their fourth straight national basketball championship and their fifth title in the last 6 years.

Many thought they could not improve upon last year's season, when the Bison finished their season undefeated. While they didn't quite reach that goal, they had 2 losses this year, they did break their own record from last year for most points scored in the championship game. This year, they scored 104 points against Shippensburg, PA, in the title game. They also extended their homecourt winning streak to 43 games.

Their outstanding team accomplishments throughout the year were aided by some notable individual accomplishments. I want to especially congratulate the team's two seniors, Lori Roufs and Jenni Rademacher, for their achievements throughout their careers at NDSU. Not too many college athletes close out their collegiate careers with not one, not two, not three, but four national championship rings. That they added the fourth is due in no small part to their leadership this year.

Lori and Jenni each scored 1,000 points during their years at NDSU. And they earned the additional honor of being named to the 1996 Elite 8 All-Tournament team.

I also cannot overlook the individual accomplishments of junior Kasey Morlock, who was named Most Outstanding Player of the tournament for the second year in a row.

But a basketball team needs hard work and contributions from all of its players if it is to reach its league's pinnacle. The Bison certainly got that from juniors Rhonda Birch and Andrea Kelly, sophomores Rachael Otto and Amy Ornell, and freshmen Tanya Fischer, Molly Reif, Brenna Stefonowicz, Theresa Lang, Heidi SMITH, and Heather Seim.

Finally, I want to honor the coaches who have turned the Bison into the dominant force in division II women's basketball. It's no coincidence that Head Coach Amy Ruley has won her fifth national championship, and I know her players have the highest respect for her as a coach and as a person. Coach Ruley is assisted on the bench by Kelli Layman, Jill DeVries, and Lynette Mund.

As with last year, all but the two seniors will be returning for next year's season, so the Bison and all of us in North Dakota can look forward to another excellent season. But for now, it is more than enough to bask in the glow of winning yet another national championship. Congratulations to a wonderful team.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:20 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following resolution, without amendment:

S. Con. Res. 51. Concurrent resolution to provide for the approval of final regulations that are applicable to employing offices that are not employing offices of the House of Representatives or the Senate, and to covered employees who are not employees of the House of Representatives or the Senate, and that were issued by the Office of Compliance on January 22, 1996, and for other purposes.

The message also announced that pursuant to the provisions of Public Law 86–380, the Speaker appoints the following Member on the part of the House to the Advisory Commission on Intergovernmental Relations: Mr. PAYNE of New Jersey.

At 4:52 p.m. a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the resolution (H. Res. 402) returning to the Senate the bill (S. 1463) to amend the Trade Act of 1974 to clarify the definitions of domestic industry and like articles in certain investigations involving perishable agricultural products, and for other purposes, in the opinion of this House, contravenes the first clause of the seventh section of the

first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned with a message communicating this resolution.

MEASURE PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar:

H.R. 3103. An act to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2205. A communication from the Chairman and the Finance Committee Chairman, transmitting jointly, the revised budget request and supplemental appropriation request for fiscal year 1996; to the Committee on Appropriations.

EC–2206. A communication from the Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, the Selected Acquisition Reports for the period October 1 through December 31, 1995; to the Committee on Armed Services.

EC–2207. A communication from the Acting Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report under the Chemical and Biological Weapons Control and Warfare Elimination Act for the period February 1, 1995 through January 31, 1996; to the Committee on Foreign Relations.

EC–2208. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report on finance charges under the Truth in Lending Act; to the Committee on Banking, Housing, and Urban Affairs.

EC–2209. A communication from the Chairman of the National Credit Union Administration, transmitting, pursuant to law, the annual report for calendar year 1995; to the Committee on Banking, Housing, and Urban Affairs.

EC–2210. A communication from the Chairman of the Federal Financial Institutions Examination Council, transmitting, pursuant to law, the annual report for calendar year 1995; to the Committee on Banking, Housing, and Urban Affairs.

EC–2211. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC–2212. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC–2213. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC–2214. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC–2215. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC–2216. A communication from the Commissioner of Reclamation, Department of the Interior, transmitting, a report of an overrun of projected cost for Ochoco Dam, Crooked River Project, Oregon; to the Committee on Energy and Natural Resources.

EC–2217. A communication from the Chairman of the International Trade Commission, transmitting, a draft of proposed legislation to provide authorization of appropriations for the United States International Trade Commission for fiscal year 1997; to the Committee on Finance.

EC–2218. A communication from the Chairman of the Physician Payment Review Commission, transmitting, pursuant to law, the annual report for calendar year 1996; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

H.R. 1743. A bill to amend the Water Resources Research Act of 1984 to extend the authorizations of appropriations through fiscal year 2000, and for other purposes (Rept. No. 104–252).

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

H.R. 2243. A bill to amend the Trinity River Basin Fish and Wildlife Management Act of 1984, to extend for three years the availability of moneys for the restoration of fish and wildlife in the Trinity River, and for other purposes (Rept. No. 104–253).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THURMOND (for himself and Mr. NUNN) (by request):

S. 1672. A bill to make various changes to laws affecting the management and operations of the Department of Defense, and for other purposes; to the Committee on Armed Services.

S. 1673. A bill to authorize appropriations for Fiscal Year 1997 for military activities of the Department of Defense, to prescribe military personnel strengths for Fiscal Year 1997, to authorize certain construction at military installations for Fiscal Year 1997, and for other purposes; to the Committee on Armed Services.

By Mr. GRASSLEY (for himself, Mr. PRESSLER, and Mr. BAUCUS):

S. 1674. A bill to amend the Internal Revenue Code of 1986 to expand the applicability of the first-time farmer exception; to the Committee on Finance.

By Mr. GRAMM (for himself, Mr. BIDEN, Mrs. HUTCHISON, and Mr. FAIRCLOTH):

S. 1675. A bill to provide for the nationwide tracking of convicted sexual predators, and for other purposes; to the Committee on the Judiciary.

By Mr. FAIRCLOTH (for himself and Mr. HELMS):

S. 1676. A bill to permit the current refunding of certain tax-exempt bonds; to the Committee on Finance.

By Mrs. BOXER:

S. 1677. A bill to amend the Immigration and Nationality Act to establish the United States Citizenship Promotion Agency within the Immigration and Naturalization Service, and for other purposes; to the Committee on the Judiciary.

By Mr. GRAMS (for himself, Mr. FAIRCLOTH, Mr. ABRAHAM, and Mr. STEVENS):

S. 1678. A bill to abolish the Department of Energy, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ROBB:

S. Res. 243. A resolution to designate the week of May 5, 1996, as ''National Correctional Officers and Employees Week''; to the Committee on the Judiciary.

By Mr. FORD (for himself and Mr. MCCONNELL):

S. Res. 244. A resolution to commend and congratulate the University of Kentucky on its men's basketball team winning its sixth National Collegiate Athletic Association championship; considered and agreed to.

By Mr. LOTT (for Mr. DOLE):

S. Res. 245. A resolution making majority party appointments to the Labor and Human Resources Committee; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND (for himself and Mr. NUNN) (by request):

S. 1672. A bill to make various changes to laws affecting the management and operations of the Department of Defense, and for other purposes; to the Committee on Armed Services.

DEPARTMENT OF DEFENSE LEGISLATION

Mr. THURMOND. Mr. President, by request, for myself and the senior Senator from Georgia [Mr. NUNN], I introduce, for appropriate reference, a bill to make various changes to laws affecting the management and operations of the Department of Defense, and for other purposes.

I ask unanimous consent that a letter of transmittal requesting consideration of the legislation and a section-by-section analysis explaining its purpose be printed in the RECORD.

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

GENERAL COUNSEL OF
THE DEPARTMENT OF DEFENSE,
Washington, DC, April 15, 1996.

Hon. ALBERT GORE, Jr.,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: The Department of Defense proposes the enclosed legislation, ''To make various changes to laws affecting the management and operations of the Department of Defense, and for other purposes.'' This proposal is part of the Department of Defense legislative program for the 104th Congress.

The proposal would make changes in authorities relating to use of Warsaw Initiative funds for the Regional Airspace Initiative and the Partnership for Peace information management system, limitations of grades of officers on active duty in the military, the use of certain Reservists in Presidential call-ups, the use of appropriated funds to influence certain Federal contracting and financial transactions, and refinements to third party collection and CHAMPUS double coverage programs. It would address the tax treatment of transfers of Department of Defense owned utility systems. It also would authorize an increase in the penalties for certain traffic offenses on Federal property. It would streamline and simplify child support and alimony garnishment processing. The bill has a provision that would authorize an aviation and vessel war risk insurance program and an extension authority for the Weapons of Mass Destruction Act of 1992.

The Department also requests that the Congress continue to consider for enactment the proposed legislation transmitted last year in the Administration's acquisition reform proposals that would repeal the requirement for recoupment by the Government of certain charges for products sold through the Foreign Military Sales program.

The Office of Management and Budget advises that there is no objection, from the standpoint of the Administration's program, to the submission of this proposal to the Congress.

Sincerely,

JUDITH A. MILLER.

Enclosures.

SECTIONAL ANALYSIS

Section 1. The Department of Defense lacks the legal authority to use DoD funds to provide foreign assistance to any foreign country unless such assistance is expressly authorized by law. Therefore, funds appropriated to the Department of Defense for PfP can only be used for activities which DoD can legally perform under existing law, such as to support Partner participation in exercises under the authority of 10 U.S.C. 2010. Since the RAI and PIMS do not fall within the narrow confines of exercise support, the additional authority along the lines of the section above is necessary to support the Regional Airspace Initiative and the PfP Informanagement System.

It is Department of Defense policy to assure mission support utility service at the lowest life-cycle cost. This could include the privatization of existing defense utility systems. In many instances, the Department of Defense is required to make an up-front cash contribution to the utility company for upgraded environmental compliance or additional capacity to effect the transfer of property title.

Section 2. This section would modify section 523 of title 10 to raise the grade ceilings of active duty Army, Air Force and Marine Corps majors, lieutenant colonels, and colonels, and active duty Navy lieutenant commanders, commanders, and captains relative to the total number of commissioned officers on active duty. The revision is driven largely by changes in officer requirements that have occurred since the tables were implemented in 1980. Principal among these are field grade requirements generated by the Goldwater-Nichols and Defense Acquisition Workforce Improvement Acts. Further, other DOPMA constraints on promotion timing and career opportunity have, when coupled with the force reductions since FY 1987, limited the Services' abilities to comply with overall statutory requirements for officer career management.

Section 3. This proposal will provide greater flexibility, cost effectiveness, and efficiency in promoting the acceptance of new technologies necessary to meet Department of Defense (DoD) environmental requirements. The proposal will reduce the frequency and variety of locations required to demonstrate environmental technologies in order to obtain regulatory approval. Early involvement of regulatory agencies in a substantive manner will improve efficiency and avoid repetitive data collection efforts.

Section 4. Because Haiti no longer has a military, it is not eligible under current law to purchase defense articles and defense services from the Department of Defense under the Foreign Military Sales (FMS) program. The proposed legislation is designed to make Haiti eligible for such assistance. FMS sales will facilitate U.S. assistance in developing and equipping civilian-led law enforcement and maritime institutions. Currently, Haiti is developing a maritime law enforcement entity for refugee and contraband control and would be hindered by a lack of spare parts and equipment. FMS cash sales represent the most efficient manner for the Government of Haiti to acquire the equipment needed to support these missions and would complement IMET training the U.S. Government intends to provide Haiti in maritime skills. It would extend the United States' ability to exert a positive influence over the Haitian National Police and Coast Guard.

Section 5. This section would authorize the Secretary of Defense to participate in the Foundation Geneva Centre for Security Policy, established in 1986, whose purpose is to actively promote the building and keeping of peace, security and stability in Europe and in the world. To this end, the Centre (1) conducts international training courses in security policy, (2) carries out research in security policy and stability and (3) organizes conferences and seminars concerning security issues. Unlike the Marshall Center, an institution chartered by the Secretary of Defense and operated under the direction of the Commander-in-Chief European Command, the Foundation Geneva Centre for Security Policy was established by the Federal Military Department of Switzerland. Consequently, the role of the United States will be participatory, limited to attendance by DoD personnel at conferences and seminars and the making available of an instructor as well as liaison personnel to help organize the various activities of the Centre.

Section 6. This proposal would repeal section 1352 of title 31, United States Code, entitled ''Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions'' in its entirety. This section was originally established to prevent the use of appropriated funds for lobbying and requires extensive reporting and certifications by contractors and grantees of covered lobbying activities of the Executive Branch and Congress.

The provisions contained in section 1352 have been rendered duplicative by the Lobbying Disclosure Act of 1995 (Public Law 104–65). This new Act requires reporting of lobbying activities directly to Congress and additionally requires the registration of lobbyists. The primary reporting requirements of section 1352 were rescinded by section 10 of the Lobbying Disclosure Act of 1995. The sole reporting requirement which remains is of no practical use. In addition, the restriction against the use of appropriated funds in section 1352 is unnecessary insofar as sections 911 and 1534 of the National Defense Authorization Act for FY 1986 will remain in effect if section 1352 is repealed.

Retention of Section 1352 places an unreasonable dual burden on contractors and grantees and is contrary to the goals of acquisition reform and simplification. Section 1352 no longer serves a useful purpose for contracting and grants officers and represents extra unnecessary costs of compliance for both government and industry.

Section 7. This provision would adopt several refinements to the Third Party Collection Program under which military medical facilities collect from third party payers for health care services provided to beneficiaries who are also covered by the third party payers' plans, and to the related CHAMPUS Double Coverage Program, under which CHAMPUS is secondary payer to other health plans that also cover CHAMPUS beneficiaries.

For the Third Party Collection Program, the section would make three changes. First it would clarify that the rule under which receipts are credited to the appropriation supporting the facility also applies in connection with services provided through the facility, in addition to services provided ''by'' the facility. This conforms the receipts provision to the overall scope of the Third Party Collection authority. Second, it would clarify that workers' compensation programs and plans are included as third party payers under the program. These plans should not enjoy a windfall in cases in which their beneficiaries, for whom they have collected premiums, happen to receive care in military facilities. Third, it would codify a provision in the DoD Third Party Collection Program regulation (32 CFR 220.12(i)) that, similar to other no-fault automobile coverage, the program includes personal injury protection or medical payments benefits in cases involving personal injuries resulting from operation of a motor vehicle.

For the CHAMPUS Double Coverage Program, the section would integrate the scope of third party payer coverage between the Third Party Collection Program and the CHAMPUS Double Coverage Program. This will assure consistency in third party payer responsibilities relating to the Military Health Services System, regardless of whether their insured or covered beneficiaries receive care in military treatment facilities or under CHAMPUS.

These refinements are consistent with the long-standing Congressional policy of containing health care spending by assuring that third party payers, who generally have collected full premiums for coverage of insured persons who are also DoD beneficiaries, do not shift their costs on to the Federal taxpayers.

Section 8. Under section 118(b) of the Internal Revenue Code, these transfers are a contribution-in-aid of construction (CIAC), and subject to a tax based on their fair market values. By rulings of the Public Utility Commissions in the various States, this tax must be paid by the utility customer, in this case the Department of Defense, which created the tax liability and which cannot be built into the general rate base for all utility customers.

To effect the transfer of Department of Defense owned utility systems, a utility company is obligated to impose a charge on the Department of Defense equal to the CIAC tax which must be paid from Defense Appropriations for Base Operations and Maintenance.

In summary, the consideration of Department of Defense cash or real property transfers as a CIAC to a utility and subject to federal tax merely results in a ''pass-through'' from Department of Defense appropriations through the utility company to the United States Treasury with no-net-revenue-gain to the Federal Government.

The proposed exemption will conserve scarce Department of Defense Base Operation and Maintenance funds, eliminate a no-net-revenue-gain to the Federal Treasury, and reduce the administrative burden of enforcing this section of the Federal Tax Code.

The proposal would permit the Department of Defense to implement its privatization policy of divesting itself from ownership and operation of utility systems without distorting the economic analyses by unnecessary ''added costs'' to the government. The Department of Defense would get out of the utility business in its entirety when it is proven to be cost effective to do so, and concentrate its shrinking resources on its training and war fighting mission. The proposal further would prevent the government from taxing itself when transferring Department of Defense property or paying a connection fee to a utility entity by a Department of Defense installation. It would relieve local utility companies of the burden of having to account for a CIAC and re-bill the Department of Defense for taxes on CIAC. Finally, it would eliminate the need to the Department of Defense to program and budget for the payment of this tax which results in no-net revenue-gain to the Federal Treasury.

Section 9. This provision would amend the Act of June 1, 1948 (40 U.S.C. 318c) which authorizes the Federal prosecution of a person who violates a regulation to control Federal property promulgated by the Administrator of the General Services Administration. Section 4 of the Act provides for a fine of not more than $50 or imprisonment for not more than 30 days, or both. The penalties have not been revised since enactment. This section would amend such section 4 to make the penalties in title 18, United States Code, applicable to violations of regulations promulgated pursuant to the Act. For example, section 3571 of title 18 would establish the applicable fines.

Section 10. This section amends section 659(b) of title 42, United States Code, to delete the requirement for service by certified mail, to require additional information to identify the individual whose pay is subject to legal process.

The current language of section 659(b) requires the use of certified or registered mail or personal service. Personal service, as a practical matter, is rarely used. Requiring that service be made by certified or registered mail increases the likelihood the process will be rejected because many agencies often forget to send the orders by certified mail. This results in increased cost to the government, extensive rework, and further delays the implementation of a support order. The amending language expands the existing language to include facsimile or electronic transmission, mail, and personal service.

The amendment also amends section 659(b) by adding the word ''obligor'' after the word ''individual'' in the sentence to clarify the intent of the statutory language and further designate the person the process must identify, and requires the obligor's Social Security Number, whenever available, as an identifier in order to assist the Government in correctly identifying the proper person. Because of limitations in records that are accessed to process these orders, the name, address, date of birth, and place of birth are generally insufficient to identify an individual. Addresses can change virtually overnight. A Social Security Number is the one identifier that is unique and permanent. Requiring use of the Social Security Number will enhance the ability of an agency to make a correct identification of the person responsible for support payments and expedite the processing of the order.

Section 11. Section 334 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 requires that draft final remedial investigations and feasibility studies (RI/FS) be completed within 24 months (for BRAC 88 installations) or 36 months (for BRAC 91 installations) for installations on the NPL unless the Secretary of Defense grants a deadline extension The Secretary may grant such extension only after consulting with the Environmental Protection Agency (EPA) and notifying Congress.

The provision does not help speed cleanups or base closure or encourage greater involvement by EPA and is of no value to the Department. The provision directs project management resources for the periodic notification and formal consultation requirements. The formal consultation is unnecessary because Federal Facility Agreements (FFAs) between DoD and EPA contain cleanup schedules negotiated and agreed to by both parties based on base closure and cleanup goals and priorities.

The provision requires burdensome information gathering, coordination, and reporting that is of no value to the Department. Elimination of the provision would result in reduced red tape thereby expediting the cleanup and transfer of closing bases.

Budget Impact: The amendment does not impact environmental restoration budgeting requirements.

Section 12. (1) *Fort Riley:* The U.S. Environmental Protection Agency (EPA) Region VII, assessed a $65,000 penalty against Fort Riley pursuant to the March 4, 1991, Federal Facilities Agreement which governs cleanup activities at the installation. The penalty was due to the failure to submit the draft final Remedial Investigation (RI) report for the pesticide storage facility. The draft final RI was due on June 3, 1993, and was not submitted until July 19, 1993. On January 26, 1994, Ft. Riley and EPA Region VII agreed to a settlement wherein the Army would pay $34,000 as a cash penalty and $31,000 was mitigated through completion by April 9, 1994 of the following three on-site response actions (removals):

(1) excavation of pesticide and metal contaminated soils at Pesticide Storage Facility,

(2) excavation of lead contaminated soils from Colyer Manor Housing site, and

(3) placement of rock revetment along the Kansas River bank at the Southwest Funston Landfill site.

The $31,000 cleanup project at the pesticide storage facility has been completed. However, enabling legislation is required to pay the $34,000 cash penalty.

The Army has included the $34,000 as part of the FY 1997 budget request. Because it is already included in the budget request, no adverse budget impact is anticipated by use of the $34,000 to pay this penalty.

(2) *Massachusetts Military Reservation:* The Military Reservation violated the CERCLA-mandated Interagency Agreement (42 U.S.C. 9620) with EPA Region I and the Commonwealth of Massachusetts by failing to submit cleanup studies to EPA and Massachusetts according to an agreed-upon time schedule.

(3)*F.E. Warren Air Force Base:* The Air Base violated the CERCLA-mandated Interagency Agreement (42 U.S.C. 9620) with EPA Region VIII and the State of Wyoming by failing to adequately test potentially contaminated soil at a cleanup site, and by failing to properly containerize such soil.

(4) *Naval Education and Training Center Newport, Rhode Island:* The EPA Region I assessed a $260,000 penalty for non-compliance with the March, 1992 Federal Facility Agreement (FFA) for Naval Education and Training Center, Newport, Rhode Island. The penalty was for failure to submit complete draft Remedial Investigation (RI) reports for McAllister Point Landfill and Old Fire Fighting Training Area. The reports, as submitted to EPA, were incomplete, because they did not contain ecological risk assessments. The draft RI report for McAllister Point Landfill was submitted February 14, 1994 and the draft RI report for Old Fire Fighting Training Area was submitted March 31, 1994. These dates were in accordance with the FFA schedules. A draft report containing ecological risk assessments for both sites was submitted May 30, 1994. On June 26, 1995, the Navy, EPA Region I and the State of Rhode Island agreed to a settlement wherein the Navy would pay $30,000 as a cash penalty and also accomplish the following actions:

(1) arrange for a partnering session among the parties and contribute $10,000 to such an endeavor (completed August, 1995).

(2) removal of sandblast grit at the Derecktor Shipyard site at NETC; cost of the removal to be not less than $90,000 (completed September, 1995).

The Navy has included the $30,000 as part of the FY 1997 budget request. Because it is already included in the budget request, no adverse budget impact is anticipated by use of the $30,000 to pay this penalty, but enabling legislation is required.

(5) *Lake City Army Ammunition Plant:* The Army violated a CERCLA-mandated Interagency Agreement with EPA Region VII and the State of Missouri for failing to submit Area 18 and Northeast Corner Operable Unit Remedial Investigation Reports to EPA and Missouri according to an agreed-upon time schedule.

Section 13. The purpose of this legislation is to provide a means for rapid payment of claims and the rapid reimbursement of the insurance funds to protect commercial carriers assisting the Executive Branch from catastrophic losses associated with the destruction or damage to aircraft or ships while supporting the national interests of the United States. Allowing the Department of Defense to transfer any and all available funds will allow the United States, in these two vital reinsurance programs, to match standard commercial insurance practice for the timely payment required by financial arrangements common in the transportation industry today. Reporting and the requirements for supplemental appropriations, if any, ensures Congressional oversight at all stages.

Subsections (a) and (b) of the proposed legislation set forth the short title and the findings and purposes, respectively.

Subsection (c) of the proposed legislation amends section 44305 of title 49, United States Code, by adding a new subsection (c).

Subsection (c)(1) allows transfer of any funds available to the Department of Defense, regardless of the purpose of those funds. Although other authorities may exist to transfer funds, limitations as to amounts and priorities make these authorities insufficient to rapidly respond to the obligations of the Department of Defense under the current law, especially if contingencies or war-time conditions exist. Proposed language would not distinguish between types of insurance or risk, so long as the Federal Aviation Administration had issued a policy covering the risk. The language would not limit the authority to a specific fiscal year, but would be ongoing without need for reenactment periodically by Congress. Such Congressional

oversight is already in place through the reauthorization of the Aviation Insurance Program, next scheduled to take place in 1997.

Subsection (c)(2) provides specific time limits within which the Secretary of Defense must pay claims and reimburse the Federal Aviation Administration. Notification to Congress and the 30 day delay before transfer required in other statutes is waived. The most important issue for the air carriers is the replace of the hull so that they may continue operations, including supporting the requesting agency, without idling crews or having to lay off personnel due to the lack of airframes. A longer time frame is provided for other claims, such as liability to third parties, as normal claims procedures can adequately protect their interest.

Subsection (c)(3) requires reports to Congress within 30 days of loss for amounts in excess of one million dollars, with periodic updates to ensure Congress is aware of amounts being transferred and paid out under the chapter 443 program. As supplemental appropriations may be necessary, Congress will have sufficient information on which to base a decision regarding the supplemental appropriations.

Subsection (d) of the proposed legislation amends section 1205 of the Merchant Marine Act, 1936, (46 App. U.S.C. §1285) by adding a new subsection (c).

Subsection (c)(1) authorizes the Secretary of Defense to transfer funds available to the Department to pay claims by contractors, for the damage or loss of vessels and death or injury to personnel, insured pursuant to Title XII of the Merchant Marine Act, 1936, or loss or damage associated therewith. Proposed language would not distinguish between types of insurance or risk, so long as the Maritime Administration had issued a policy covering the risk. The language would not limit the authority to a specific fiscal year, but would be ongoing without need for reenactment periodically by Congress. Such Congressional oversight is already in place through the reauthorization of the Vessel War Risk Insurance Program, next scheduled to take place before the 30 June 1995 expiration (46 App. U.S.C. §1294).

Subsection (c)(2) provides specific time limits within which the Secretary of Defense must reimburse the Secretary of Transportation.

Subsection (c)(3) requires reports to Congress on a periodic basis for claims paid in amounts in excess of one million dollars to ensure Congress is aware of amounts being transferred and paid out under the Title XII program. As supplemental appropriations may be necessary, Congress will have sufficient information on which to base a decision regarding the supplemental appropriations.

The addition of subsection (c) to section 44305 of title 49, United States Code, and subsection (c) to section 1205 of the Merchant Marine Act, 1936, (46 App. U.S.C. §1285) would allow the Department of defense to rapidly pay claims resulting from damages or injuries caused by risks covered by the respective programs as a consequence of providing transportation to the United States when commercial insurance companies refuse to cover such risks on reasonable terms and conditions. The requirement to reimburse the Federal Aviation Administration or the Maritime Administration already exists; however, the only method for payment currently available may involve requesting supplemental appropriations from Congress. Such a process historically has taken six months or longer. Many air carriers have indicated their financial obligations may not allow them to continue to support the United States if rapid payment for losses cannot be made. Commercial aircraft insurance policies and practice require payment in less than 30 days when cause is not in issue, usually within 72 hours.

If enacted, this legislation would not result in an increase in the budgetary requirements of the Department of Defense.

Section 14. This proposal would modify section 12304 of title 10, United States Code, to provide authority to include up to 30,000 members of the Individual Ready Reserve as part of the 200,000 Reserve component members ordered to active duty involuntarily. This would be done only when the President determines that it is necessary to augment the active forces for any operational mission. This change would ensure the timely availability of certain trained members of the Individual Ready Reserve [IRR] to fill requirements for selected skills in early mobilizing or deploying active and reserve units. This would preclude the need for cross-leveling of personnel from later deploying units to fill shortages in early deploying units. Currently, members of the IRR cannot be ordered to active duty involuntarily until a national emergency has been declared.

Every military unit has vacancies caused by individual schooling requirements, hospitalizations, and transitioning personnel. Additional vacancies occur upon deployment due to personal hardships, medical reasons, and differences between peacetime and wartime manning. In the past, upon deployment, those vacancies have been filled by taking trained personnel from later deploying units or individual volunteers from the IRR. This approach of fixing early deploying units at the expense of units scheduled for later deployment can create a risk with regard to readiness of the later deploying units, should their deployment be required. As the force becomes smaller, every unit in the Reserve components becomes increasingly important. Borrowing personnel from later deploying units is no longer an acceptable option.

The Army has documented the need for early access to members with specific skills, in specific grades, in the IRR to accommodate full-strength deployment of first-to-fight units. Since members of the IRR are in the Ready Reserve but not the Selected Reserve, currently they are not subject to involuntary call-up under the provisions of the section 12304 being amended (Presidential Selected Reserve Call-up) and are therefore not available for filling early deploying unit shortfalls.

This legislative proposal would provide the authority to use a limited number of IRR members who possess specific specialties and grades, and who meet certain criteria, to fill early deploying unit shortfalls, thus lessening the potential impact on the readiness and cohesion of units scheduled for later deployment.

Section 15. This provision would extend, through the end of Fiscal Year 1998, the Weapons of Mass Destruction Act of 1992, which is slated to expire at the end of Fiscal Year 1996. The provision would revise funding restrictions in a manner consistent with the original legislation. Such authority especially is important given ongoing concerns over Iraq's continued possession of weapons of mass destruction and missile delivery systems. The Department of Defense, including its Executive Agent for matters regarding the United Nations Special Commission on Iraq (POTPOR.SECUNSCOM), the On-Site Inspection Agency, requires the authority to continue much of its current activities in support of UNSCOM.

By Mr. THURMOND (for himself and Mr. NUNN) (by request):

S. 1673. A bill to authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1997, to authorize certain construction at military installations for fiscal year 1997, and for other purposes; to the Committee on Armed Services.

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997

Mr. THURMOND. Mr. President, by request, for myself and the senior Senator from Georgia [Mr. NUNN], I introduce, for appropriate reference, ''A bill to authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, to prescribe military personnel strength for fiscal year 1997, to authorize certain construction at military installations for fiscal year 1997, and for other purposes.'' I ask unanimous consent that a letter of transmittal requesting consideration of the legislation and a section-by-section analysis explaining its purpose by printed in the RECORD.

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

GENERAL COUNSEL OF
THE DEPARTMENT OF DEFENSE,
Washington, DC, April 5, 1996.

Hon. ALBERT GORE, Jr.,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: The Department of Defense proposes the enclosed draft of legislation, ''To authorize appropriations for Fiscal Year 1997 for military activities of the Department of Defense, to prescribe military personnel strengths for Fiscal Year 1997, and for other purposes.''

This legislative proposal is part of the Department of Defense legislative program for the 104th Congress and is needed to carry out the President's budget plans for Fiscal Year 1997. The Office of Management and Budget advises that there is no objection to the presentation of this proposal to the Congress and that its enactment would be in accord with the program of the President.

This bill provides management authority for the Department of Defense in Fiscal Year 1997 and makes several changes to the authorities under which we operate. These changes are designed to permit a more efficient operation of the Department of Defense.

Enactment of this legislation is of great importance to the Department of Defense and the Department urges its speedy and favorable consideration.

Sincerely,

JUDITH A. MILLER.

Enclosures.

SECTIONAL ANALYSIS

PROCUREMENT—OTHER MATTERS

Section 110 clarifies that the prohibition in the National Defense Authorization Act for Fiscal Years 1990 and 1991 does not apply to funds authorized and appropriated in the Department of Defense Appropriations Act, 1996 and the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 186). The prohibition was against obligating funds for procuring additional F–15 aircraft. This proposal is similar to previous exceptions at section 137 of the National Defense Authorization Act for Fiscal Year 1992 (Public Law 102–190; 105 Stat. 1312) which permitted the obligation of funds to replace and support F–15 aircraft that had been sold to Saudi Arabia. Without this clarification the Department of Air Force will be unable to

obligate appropriated funds for this program. The proposal also would obviate the prohibition for Fiscal Year 1997 departmental authorizations and appropriations. The President's Budget includes assumptions that the waiver will apply in Fiscal Years 1996 and 1997.

Section 111 updates the cost basis for the definition of the term ''major system'' to fiscal year 1990 constant dollars from fiscal year 1980 constant dollars. It also allows the Secretary of Defense to further adjust these costs after notification of the Congressional defense committees. This language parallels the language in the definition of ''major defense acquisition program'' found in section 2430 of title 10.

The purpose of section 112 is to streamline and simplify the notification process for defense contract workers who are displaced because of termination or substantial reduction in defense contract funding. The current law creates an elaborate process of such a complex and cumbersome nature that it actually prevents prompt notification. The revision places notifications directly at the contract administration level. Additionally, a redundant Federal Register reporting requirement is eliminated.

The proposal would continue the intent of the original legislation—to make displaced defense contract workers eligible for employment services under the Job Training Partnership Act (JTPA).

It would require DOD notifications to contractors upon actual contract terminations or substantial reductions in funding. The original law, on the other hand, had notification triggered by the budget process at the program level when the President's budget was first submitted to Congress. It included provision for withdrawals of notification if Congress provided funding for a program proposed to be eliminated or reduced by the President's budget. The original law also included a provision for notifications based on funding cuts, still at the program level, in the Defense Appropriations Act. This proposal eliminates the necessity of withdrawals of notices by focusing the process on actual contract impacts (instead of ''pending'' terminations or substantial reductions, and relates to obligated funds on a contract by contract basis. Additionally, notifications/withdrawals in the original legislation, at the program level, did not identify which specific contracts under a particular major defense program would be reduced or eliminated.

The proposal also eliminates reporting in the Federal Register of notifications and withdrawals as redundant to the public availability of both budget submissions and enacted defense appropriations legislation.

The proposal retains the following provisions of the original law:

Notification to contractors by DoD within 60 days after enactment of a Defense Appropriations Act; contractor's obligations to inform adversely affected employees, its subcontractors, State Employment Services' dislocated workers units, and the chief elected local government official within two weeks after the contractor receives notification.

Continued requirement to give notice to the Department of Labor.

Notification of contract termination or substantial reduction to enable displaced defense contractor employees to be eligible for JTPA employment benefits.

Continued notifications to affected subcontractors at identified tiers.

Loss of eligibility for JTPA benefits if funding is restored to a contract after notification.

Continued connection to major defense system.

Section 113 would incorporate improvements in the acquisition reporting process of major defense acquisition programs. These improvements reflect recommendations from the Defense Authorization and Appropriation Committees, Congressional Budget Office, and Department of Defense staffs. Briefly, this proposal includes revisions to the section of the law that is related to Selected Acquisition Reporting (SAR).

This provision would replace ''program acquisition unit cost'' with ''procurement unit cost'' as a more meaningful measure of recurring unit cost. Program acquisition unit cost includes Research, Development, Test, and Evaluation (RAT&E), a nonrecurring portion of acquisition costs. Management oversight of *unit* cost should focus on procurement unit cost, the recurring portion of acquisition costs.

The provision also would delete the currently reported completion status for a program, that is, percent program completed and percent program cost appropriated. These calculations of program status can be misleading, particularly in the early development stage of a program. The Department plans to substitute percent program delivered and percent program expended as more accurate measures of program status. These measures also represent the statutory criteria for SAR termination.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Section 202. Section 2366, title 10, United States Code, requires realistic survivability testing on a covered system before the system may proceed beyond low-rate initial production. The law authorizes the Secretary of Defense to waive realistic survivability testing before the system enters into engineering and manufacturing development if a certification is made to Congress that testing would be unreasonably expensive and impractical, and requires a report assessing realistic survivability testing. The V–22 program entered full-scale engineering development (the previous term for engineering and manufacturing development) prior to enactment of the legislation.

This section allows the Secretary of Defense to exercise the waiver authority of section 2366(c), notwithstanding the fact that the V–22 program has already entered engineering and manufacturing development. Such a waiver requires the Secretary of Defense to certify to Congress that live-fire testing of the V–22 would be unreasonably expensive and impractical. The section also provides alternative survivability test requirements for the conduct of any alternative live-fire test program.

Section 203 would amend section 2366(c) of title 10, United States Code, to authorize the Secretary of Defense to exercise the waiver authority in such section, with respect to the application of survivability tests of that section to the F–22 aircraft, notwithstanding that such a program has entered full-scale engineering development.

Section 254 of the National Defense Authorization Act for Fiscal Year 1995 directed the Secretary of Defense to request the National Research Council to study the desirability of waiving the live fire tests that are required by law for the F–22. The Committee on the Study of Live Fire Survivability Testing of the F–22 Aircraft was formed by the National Research Council (NRC) to conduct the study.

The NRC committee began its work in December 1994. Several data gathering meetings were held to expose the committee to the full spectrum of views involving live fire testing of fighter aircraft. A final report entitled ''Live Fire Testing of the F–22'' was published in 1995. The principal recommendation of this report is stated below:

''Principal Recommendation. Permit a waiver of the full-up, full-scale live fire tests required by law for the F–22. The committee believes that such tests are impractical and offer low benefits for the costs.''

The NRC report contains four pages of recommendations. The F–22 System Program Office (SPO) is preparing a detailed response to each of the NRC recommendations. The F–22 SPO will coordinate these additional RDT&E activities with the responsible Air Force and OSD offices.

Given the above NRC recommendation, the Department of Defense is submitting legislation to authorize a retroactive waiver of the survivability and lethality testing procedures that apply to the F–22 Program.

This law change avoids the purchase ($181M in FY90$, $250M in TY$) of an additional F–22 aircraft for full-up, full-scale destructive live fire testing.

Section 204 would clarify and, to the extent necessary, override the provisions of section 1701 of the National Defense Authorization Act for Fiscal Year 1994, or other laws, which indicate that the basic and applied research and advanced technology development activities of the Defense Advanced Research Projects Agency are to be subordinated to other research organizations or entities within the Department. This would restore the agency to its traditional function within the Department.

TITLE III—OPERATION AND MAINTENANCE

Section 310 would expand the remedies available to contractor employees who are wrongfully terminated because they reported wrongdoing.

This legislation would also amend the law to provide that the investigative costs may be assessed against a contractor when the allegation of reprisal is substantiated.

Any additional costs required by this proposal will be absorbed in departmental operation and maintenance accounts.

Section 311 would repeal section 12408 of title 10, United States Code, which requires that each member of the National Guard receive a physical examination when called into, and again when mustered out of, Federal service as militia. For short periods of such service, this requires two complete physical examinations during a period of days or weeks. In view of other statutory and regulatory requirements for periodic medical examinations and physical condition certifications for members of the National Guard, this additional examination requirement is unnecessary, administratively burdensome, and expensive, and could impede the rapid and efficient mobilization of the National Guard for civil emergencies.

There is no corresponding statutory requirement for physical examinations when members of the National Guard or other reserve components are ordered to active duty as reserves.

Section 312 would amend section 4105 of title 5, United States Code, by adding a new sentence to authorize the utilization by military personnel of arrangements and agreements developed for training civilian employees. Current authorities do not provide a streamlined procedure for the acquisition of commercial courses for military personnel, whereby the Government Employees Training Act of 1954 authorized procuring such courses without regard to acquisition practices contained in part 5 of title 41 and the prohibition against paying in advance of receipt of services now contained in section 3324 of title 31. Allowing military personnel to utilize these procedures will streamline acquisition of these courses, enabling utilization of commercial credit cards and electronic funds transfer, where appropriate, to parallel practices in commercial industry.

If enacted, this proposal will not increase the budgetary requirements of the Department of Defense. By amending this section, monetary savings may be realized by decreasing their intensive procurement methods and authorizing training personnel to procure such training for military personnel in addition to civilian personnel training rather than have contracting personnel involved in the acquisition of what were basically commercial services.

Section 313 provides authority to Department of Defense (DoD) to retain proceeds from the sale of Clean Air Act emission reduction credits, allowances, offsets, or compatible economic incentives.

Federal fiscal law and regulations generally require proceeds from the sale of government property to be deposited in the treasury. These regulations preclude an agency from keeping the funds generated by reducing air emissions and selling the credits as does private industry. This inhibits the investment of those funds to purchase needed air credits in other areas, and eliminates any incentive for installations to spend the money required to generate the credits in order to sell them.

The Clean Air Act (CAA) mandates that states establish state implementation plans (SIPs) to attain and maintain the national ambient air quality standards (NAAQs), which are health based standards established for certain criteria air pollutants, e.g., ozone, particulate matter, carbon monoxide. To further this mandate, the 1990 Clean Air Act Amendments provided language encouraging the states to include ''economic incentive'' programs in their SIPs. Such programs encourage industry to reduce air pollution by offering monetary incentives for the reduction of emissions of criteria air pollutants. CAA §110(a)(2)(A) provides that SIPs ''shall include enforceable emission limitations and other control measures, means or techniques (including economic incentives such as fees, marketable permits, and auctions of emission rights) . . . as may be necessary or appropriate to meet the applicable requirements of this chapter.'' See also CAA §176(c)(6) (similar language specifically directed toward SIPs for nonattainment areas for NAAQs).

A number of state and local air quality districts have already established various types of emission trading systems (see Brownstein, ''Report on Select Emissions Trading Programs,'' prepared for the Virginia Department of Environmental Quality by the Mid-Atlantic Regional Air Management Association (1995), examining 11 state trading and banking programs). However, the military services presently lack clear authority to sell Clean Air Act economic incentives and, if such incentives were sold, would have to remit the proceeds to the U.S. Treasury. Assuming sale authority is granted, this authority needs to be coupled with the right to retain the proceeds at the installation level in order to create a local economic incentive to reduce air pollution above and beyond legal requirements and thereby create a marketable commodity. Retention and use of proceeds at the installation level is a key component of the proposed bill. Because this new authority would be similar in concept to existing authority for the sale of recyclable materials and retention of proceeds from the sale for use by the local military installation, the proposed bill is patterned on that authority.

In 1982, Congress passed Public Law 97–214, 10 U.S.C. §2577, Disposal of Recyclable Materials, to provide greater economic incentives for military departments to develop aggressive recycling programs at the installation level to reduce the volume of materials going into the waste stream. The statute gave the Secretary of Defense authority to prescribe regulations for the sale of recyclable materials held by a military department or defense agency. All sales of recyclable materials by the Secretary of Defense or a Secretary of a military department must be in accordance with the procedures of section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) for the sale of surplus property. The important feature of the statute which provides a significant local economic incentive is that net proceeds from the installation's sale of recyclable materials remain at the installation, available for use in local programs (i.e., pollution abatement, energy conservation, and the moral and welfare account) rather than having to be forwarded to the U.S. Treasury, the standard requirement. When a ''profit'' can be realized and applied in support of local operations, the installation commander has a definite incentive to develop and implement a successful program.

Proceeds from the sale of recyclable materials in the DoD program had increased from $1.5 million in FY 1983 to $37 million in FY 1992. The success of the DoD recycling incentive program clearly demonstrates that there can be significant benefits to the environment, such as reduction of waste streams going to landfills, that also make sense economically when direct economic incentives are created to reduce pollution.

Budget Impact: This provision will not result in increased cost to the military. Military installations will develop tradable credits only when economically beneficial for future use at the same or other installations, or for selling on the private market. Only installations located in areas where an emissions credit program has been implemented can utilize this provision. Currently only a few states have developed such programs, with several states in the process of the necessary rulemaking. With the number of installations able to participate being unknown; no cumulative cost-benefit analysis can be presented.

However, an example demonstrating the potential cost/savings benefits of the proposed legislation is the RECLAIM air emission trading program in the South Coast Air Quality Management District (SCAQMD), California. The RECLAIM program is an allowance type market program for NO_x (Nitrogen oxides) and SO_x (sulfur oxides) sources. RECLAIM Trading Credits (RTCs) are issued annually, upon payment of a fee, to a facility at the start of its compliance cycle (one year). The number of RTCs issued to a facility decline each year. If a facility has RTCs that it does not require for its own use, it may sell those RTCs to other RECLAIM facilities. Several military installations are required to participate in the NO_X RECLAIM program including March Air Force Base, Long Beach Naval Shipyard, and Naval Auxiliary Landing Field San Clemente Island. These military facilities will also be included in the RECLAIM program for VOCs once it is approved.

RECLAIM was effective January 1, 1994. By December 1994, at the conclusion of the first year of the program, March AFB held 69,246 pounds of surplus NO_X RTCs which, if the proposed legislation was in effect, it could have sold/traded to other RECLAIM facilities. March AFB could have potentially recouped half its investment having paid $00.10 per pound or $7,051 for the unused credits. In 1995, March paid $12,415.00 for 110,458 NO_X RTCs; it expects to use 90,000. However, since March is closing, once the active duty forces have left on April 1, 1996, March will have a significant decrease in NO_X emissions meaning it will then have a significant number of RTCs to trade/sell.

A report on RECLAIM trading provides interesting market data (see Margolis, ''In the RECLAIM Trading Pit—Progress, Problems, and Prospects,'' Dames & Moore Air Trade Services, Air & Waste Management Association, 88th Annual Meeting (1995)). At least 30 trades have occurred involving about 5.5 million pounds of NO_X. The largest trade to date was between Union Carbide Corporation (RTC seller) and Anchor Glass Container Corporation (RTC buyer) involved a stream of 1994 through 2010 NO_X RTCs equaling about 1,700 tons. The price was $1.2 million for the entire stream, or about $700 per ton of RTCs (in 1994 dollars). The first RECLAIM auction, held in July, 1994, drew 17 sellers and 6 buyers; 48,700 pounds of 1995 NO_X RTCs sold for $334 per ton and 2,500 pounds of 1996 NO_X RTCs sold for $574 per ton. The 1995 RTCs that March projects to have this year, by interpolation, could then be sold for $3,340.00, not a large sum, but, as noted above the sales price will increase in succeeding years as all facility allocations decline. The sale reduces compliance costs and proceeds offset fees incurred by the military facility. Recent trading in the RECLAIM program showed that the cost for RTCs useable in the years 2010/11 had risen to $1706/ton.

We anticipate that many other areas of the country will be implementing ''RECLAIM'' type programs that require military installations to purchase credits or allowances based on estimated allocations rather than actual emissions. In time, the new CAA Title V Operating Permit Programs will include trading components and Title V is based on ''potential to emit'' rather than actual emissions. It is therefore necessary to give the military services the required authority and flexibility to fully participate in these new emission trading programs.

Section 314 would revise subsection 2216(i)(1) of title 10, United States Code, to reestablish compatible capital asset thresholds for Operation and Maintenance (O&M) funded activities and DBOF funded activities. Historically DBOF business areas have used the same capital asset threshold as used by O&M funded activities to ensure application of consistent accounting policies throughout the Department and to simplify training and management requirements. The raising of the O&M capital asset threshold to $100,000 reflects the impact of inflation on the cost of equipment and software and the recognition that $50,000 is no longer a reasonable threshold for the additional management requirements associated with capital purchases.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Section 402 would amend section 115(d) of title 10, United States Code, by adding a new subsection (8), which would exclude a limited number of Reserve component members, who are serving on active duty for special work for more than 180 days, from counting against the end strength for each of the armed forces (other than the Coast Guard) authorized for active duty personnel who are to be paid from funds appropriated for active duty personnel. This proposed amendment would increase accessibility to Reserve component members and provide for greater continuity in the use of Reservists to support CINC and other active force OPTEMPO requirements. The number of Reserve component members serving on active duty for more than 180 days, excluded under this provision, could not exceed two-tenths of one percent of the authorized active duty end strength for each military service.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Matters Relating to Reserve Components

Section 501 would amend section 14514, chapter 1407, of title 10 of the United States

Code to authorize the Service Secretaries to separate administratively members in an inactive status for years of service or after selective removal without convening a discharge board.

Enactment of this technical change closes a loophole that allows retention of non-participating members in the Standby Reserve with no benefit to the government. The majority of these members are retirement eligible and have not applied for transfer to the Retired Reserve. Assignment of these Reserve members to the Retired Reserve benefits the government as they are available for use much earlier in a contingency due to a higher DOD mobilization priority selection. Congressional authority is required to recall the Standby Reserve. World War II was the last time Congress recalled the Standby Reserve. Presidential authority is required to recall Retired Reserve members. The last time the President recalled the Retired Reserve was during DESERT SHIELD/STORM.

Another benefit is reduced administrative cost to the government due to selective removal of members from the inactive status. Presently, in order to separate these members an Administrative Discharge Board must be convened by the responsible agency and this board must be comprised of personnel who are senior in grade to the member being considered for discharge. Convening a board involves travel expenses, per diem, pay and allowances, commissary and base exchange privileges and the administrative costs of the board. Approval of this change allows the Service Secretaries to be more efficient and cost effective in managing their inactive reserves.

Any additional administrative costs in the enactment of this proposal will be accomplished within available operational and maintenance funds.

Section 502 would amend section 12205 of title 10, United States Code, relating to the ability of members of the Naval Reserve to be promoted. The amendment would authorize naval service members who are selected for service as commissioned officers under the Seaman to Admiral program to be promoted above the grade of lieutenant (junior grade) even though they might not have completed baccalaureate degree requirements at the time they are considered by the lieutenant (0–3) selection board. Section 12205 restricts the promotion of officers of the Naval Reserve who do not have baccalaureate degrees to no higher than the grade of lieutenant (junior grade), with exceptions for limited duty officers and members commissioned under the Naval Aviation Cadet (NAVCAD) program. This section would simply add an exception for members commissioned under the Seaman to Admiral program.

The Seaman to Admiral program was designed to provide commissions to outstanding enlisted members of the Navy even if they do not have a college degree. This program provides an excellent opportunity for up to 50 truly outstanding Navy enlisted personnel per year. After selection to the program and commissioning as ensigns in the Naval Reserve, the Seaman to Admiral selectees attend from 16 weeks to 2 years of warfare training. These officers then serve in their wartime communities in initial operational tours of duty. Later, they are afforded the opportunity to earn college degrees at Government expense. Attendance at college would commence when they have approximately 3–4 years of commissioned service, coinciding with the promotion flow point to lieutenant. Under current law, the Seaman to Admiral program selectees will not be eligible for promotion above 0–2 at that flow point, as most will not have earned college degrees. At their ''second look'' for promotion to lieutenant, approximately the 5-year mark, current law would require officers who have not yet completed degrees to be passed over a second time. Under current law, members passed over twice must be separated from the service.

This section is needed to remove the unintended consequence of forcing failure of selection for promotion, without regard to performance. This amendment will allow Seaman to Admiral program selectees to become commissioned officers with full career opportunity according to merit, including promotions at the normal flow points.

In the first 2 years of this program, 58% of the selectees in an intensely competitive selection process had already completed a portion of their college education prior to selection. This bill is intended to ensure these outstanding junior officers retain the ability to complete for promotion based on their performance.

The proposed legislation would result in no additional Department of Defense costs or budget requirements.

Section 503 would direct the Secretary of Defense to conduct a regionalized test of unlimited commissary privileges for members of the reserve component of the Armed Forces who are currently eligible for limited use of the commissary. Currently, eligible members of the Ready Reserve and Retired Reserve as authorized 12 days of commissary shopping in a calendar year. The test would provide a means of evaluating the extent to which an expansion of commissary privileges for currently authorized Reservists might impact on commissary operations.

Section 504 would amend section 12868 of title 10, United States Code, as added by the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2998), to provide discretionary authority to the Secretaries of the Military Departments and the Secretary of Transportation to except certain members of the reserve component, who serve on active duty (other than for training) from the limitations on separation contained in that section. Under section 12868, a member of a reserve component who is serving on active duty (other than for training), and is within two years of becoming eligible for retired pay or retainer pay under a purely military retirement system may not be involuntarily released from active duty without the approval of the Secretary concerned. The amendment would provide that reservists who volunteer to serve on active duty (other than for training) for a period of 180 consecutive days or less could be excepted from the general prohibition on involuntary release even though they complete 18 or more years of service. This exception would apply only if the member is informed of and consents to such exception prior to entry on active duty. This exception would not apply to reservists involuntarily ordered to active duty. There are no costs associated with the provision.

Section 505 would change the number of years that the Department of Defense could recognize a baccalaureate degree awarded by a qualifying educational institution from three years to eight years. The typical promotion opportunity to the rank of Captain in the Army Reserve, Army National Guard, Air Force Reserve, Air National Guard, and Marine Corps Reserve, and Lieutenant in the Naval Reserve occurs at approximately three and one half years of service. Officers typically remain eligible for promotion through approximately seven and one half years of service before mandatory separation processing occurs for failure to select for promotion. The current three year statutory limitation for recognizing a baccalaureate degree from a qualifying educational institution effectively precludes an officer who holds such a degree from meeting the educational requirements for promotion, even at the first promotion opportunity, unless the officer earned the degree sometime after receiving a commission. By changing the period that the Department can recognize a degree from a qualifying educational institution to eight years, we provide these officers every opportunity to be appointed or federally recognized in the grade of O-3 based on their overall performance and qualifications for promotion, to include necessary post-secondary educational requirements.

This proposal has no budgetary effects to the Department of Defense.

Section 506 would amend subsection 418(c) of title 37, United States Code, to correct an erroneous reference. Section 1038(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106) amended section 418 of title 37, U.S.C. to prohibit paying a uniform allowance or furnishing uniforms under section 1593 of title 10, U.S.C., or section 5901 of title 5, U.S.C., to enlisted members of the National Guard employed as technicians under section 709 of title 32, U.S.C. for periods of employment ''for which a uniform allowance is paid under section 415 or 416'' of title 37. The intent of this legislation is to prevent technicians from receiving uniform benefits from two different sources. However, because sections 415 and 416 of title 37, U.S.C. only apply to uniform allowances for officers, this reference is incorrect. The legislation should have referred to section 418 of title 37 (itself) because this is the authority for providing uniform benefits to enlisted members. The amendment correct the erroneous reference.

Section 507 would amend section 12310 of title 10, United States Code to provide that certain reserve personnel serving in composite organizations which support both the active and reserve components, reserve personnel on duty for peacetime standby air defense and ballistic missile defense operations within the territory of the United States, and reserve personnel on duty in reserve component organizations which have been assigned the responsibility for the conduct of activities of the service Secretaries in support of any part of a military department, may be counted against the end strengths for reserve personnel on active duty or full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing or training the reserve components.

Subsection (c)(1) would supplement 10 U.S.C. 2571, which permits any department or organization of the Department of Defense to perform work and services for any other department and organization without reimbursement, by treating as AGRs reserve personnel who perform any function of a secretary of a Department which has been assigned by that secretary to a reserve component organization for execution, with the consent of the Chief of the National Guard Bureau or the chief of such reserve component. A reserve component organization, for purposes of this section, would be an organization under the control of the Chief of the National Guard Bureau or any of the chiefs of the reserve components.

Subsection (c)(2) would provide that peacetime standby air defense and ballistic missile defense of the territory of the United States would be included within the scope of functions for which reserve personnel would be accountable against reserve component end strengths. Thus Air National Guard personnel of the First Air Force would be accounted for as Active Guard and Reserve personnel while instructing and training for and performing standby air defense activities and Army National Guard personnel would be similarly treated when conducting standby ballistic missile defense activities for the

Ballistic Missile Defense Organization. Section * * * of title 10 would permit these AGRs to conduct air defense and missile defense after a mobilization.

Subsection (d) would provide that Reserve personnel be authorized to supervise and command active component personnel in a composite organization which conducts activities in support of both active and reserve components.

Subtitle B—Officer Education Programs

Section 510 would modify title 10 to set the maximum age for ROTC scholarships at age 27, vice age 25 (10 U.S.C., §2107); would concurrently modify the age standard for Service academies (10 U.S.C., §§4346, 6958, 9346) to ensure that academy entrants also would be appointed as commissioned officers by age 27. Specifically, this would add two years for ROTC scholarship students and a single year for the academies. The change is driven by a need reported by all Services—to relax the ROTC age standard as a means of expanding the recruiting pool, while accommodating promising students who otherwise would be ineligible. The Service academy change flows from a recognition that the controlling criterion (a youthful and vigorous officer corps) should bear equally on both sources of commission.

This provision would apply to classes entering the service academies of 1997 and thereafter.

Section 511 would modify current law (10 U.S.C. 2107) to permit initial award of ROTC scholarships to those who already have received a baccalaureate degree, provided the recipient executes contractual commitments, including enrollment in the ROTC advance course. Today, Services cannot recruit a 22 year-old electrical engineer with bachelors degree, who (never before an ROTC participant) could earn a masters degree in two years while completing the ROTC advanced course, qualifying for commission. This exclusion also penalizes top performers who graduate from high school or enter ROTC with advanced college credit, since the scholarship is terminated when they complete the undergraduate degree, yet they must remain in college to complete ROTC commissioning requirements. No additional costs would be incurred, since this simply would permit more-efficient channeling of existing scholarships.

Subtitle C—Other Matters

Section 515 would expand the definition of the term ''active status'' in section 101(d) (4) of title 10, United States Code, to include both officers and enlisted members of the reserve components, who are not in the Inactive National Guard, on an inactive status list, or in the Retired Reserve. This change is consistent with Section 10141(b) of title 10 which addresses the status of reserve component members and which states that *all Reserve members* who are not in an inactive status or a retired status are in an ''active status.''

Section 516 would amend sections 574(e) and 575(b) of title 10 to reduce the minimum time in grade necessary for promotion to two years rather than three, and to authorize the below-zone selection for promotion to the grade of chief warrant officer, W–3.

Reduction of the minimum time in grade required for promotion would result in actual promotion after three years in grade. It is not now possible for below zone consideration, even to chief warrant officer, W–4. This legislation would also authorize chief warrant officer, W–3, below-zone selection opportunity. This change will permit recognition of the small number of chief warrant officers, W–3, deserving of promotion ahead of their peers. The average chief warrant officer, W–2, has almost eighteen years enlisted service when commissioned in that grade.

Prior to 1 February 1992 when the Warrant Officer Management Act became effective, temporary warrant officer promotions were made under such regulations as the service secretary prescribed, as authorized by section 602 of title 10. Under this section, repealed by the Warrant Officer Management Act, warrant officers were temporarily promoted well ahead of the criteria for permanent regular warrant officer promotions under section 559 of title 10, also repealed, and it was also possible for a limited number of outstanding individuals to be selected early from among below-zone candidates for the grade of chief warrant officer, W–3.

Under section 574(e) of title 10, a chief warrant officer is not eligible to be considered for promotion to the next higher grade until he or she has completed three years of service in current grade.

Additionally, section 575(b)(1) of title 10 limits below-zone selection opportunity to those being considered for promotion to chief warrant officer, W–4, and chief warrant officer, W–5.

This legislation is intended to improve the management of the Services' chief warrant officer communities by reducing the minimum time in grade required for chief warrant officers to be considered for promotion to the next higher grade from three years to two years, thereby allowing the opportunity for early selection, and to authorize below-zone selection opportunity for promotion to the grade of chief warrant officer, W–3, similar to that currently authorized for promotion to the grades of chief warrant officer, W–4, and chief warrant officer, W–5.

With due-course promotions occurring after four years time in grade, as they now occur in the Department of the Navy, the requirement for chief warrant officers to have three years in grade to be considered for promotion has the effect of not permitting any early selections. Reducing the minimum time in grade for promotion consideration to two years would allow for a small number of individuals to be selected from among below-zone candidates, and to be promoted one year early after actually serving three years in grade. Additionally, authorizing early selection to chief warrant officer, W–3, would permit recognition as appropriate of the experience and competence of these individuals. For example, the average Navy chief warrant officer, W–2, has almost 18 years enlisted service when commissioned in that grade.

Chief warrant officers provide the services with commissioned officers who possess invaluable technical expertise, leadership and managerial skills developed during enlisted service and through formal education. This legislation is needed to identify and reward the small number of exceptionally talented chief warrant officers whose demonstrated performance and strong leadership are deserving of special recognition by being selected for promotion ahead of their peers, thereby enhancing morale and maintaining the vitality of the entire community.

These changes would increase the size of the group under consideration for promotion but would not authorize any additional numbers of total promotions from that larger group. As a result, this proposal would not result in any increased cost to the Department of the Navy, other services, or the Department of Defense.

Section 517. The FY–96 National Defense Authorization Act (Public Law 104–106; 110 Stat. 186) amended title 10, United States Code, by adding Chapter 76—Missing Persons. While the Department supported the Senate version of the act, the compromise version adopted into law contains several provisions which will have a negative impact on efforts to account for missing personnel, the well being of their families, and the people who are charged with the accounting effort. The proposed repeals and amendments are intended to ensure that the process of determining the fate and accounting for America's missing are not inadvertently hindered, and that the families get the answers, rights and benefits they deserve without placing additional financial and emotional burdens on them.

(a) REPEAL.—

(1) Section 1508 (Judicial Review).—The section provides the primary next of kin or previously designated person(s) the right to appeal a finding of death on the basis of a subjective opinion that proper weight was not accorded to available information.

This provision will create an undue delay in the final resolution of a missing person's status and subsequently benefits to the beneficiaries. This right to challenge the finding becomes even more disruptive when the beneficiaries are not a party to the appeal. In addition, the court is not being asked to judge whether a person's rights have been violated, but rather to render a subjective opinion on the strength and validity of information related to the case, a role military experts and peers of the missing person have already performed.

(2) Section 1509 (Preenactment, Special Interest Cases).—The section requires the establishment of boards of inquiry for Cold War (dating back to Sept. 2, 45), Korean and Vietnam War unaccounted for cases if new information, from any source, becomes available that may result in a change of status.

This provision will at best consume a significant amount of time and money, and at worse produce a lose-lose situation—given the age of these cases and the possible inability to locate all relevant evidence or witnesses. The Secretary concerned already has the ability under chapter 10, title 37 U.S.C. to review cases if evidence arises that indicates that a service member previously declared dead may be alive. To date, the findings of the Senate Select Committee on POW/MIA Affairs and the current work being conducted by the Defense POW/MIA Office, USCINCPAC's Joint Task Force-Full Accounting, U.S.-Russia Joint Commission, and the central Identification Laboratory, Hawaii, to account for American service personnel have been unable to uncover any credible evidence that there are unaccounted for service members still alive from the Cold War, Korean War, or the Vietnam War.

(b) TRANSMISSION THROUGH THEATER COMPONENT COMMANDER.—Requires the theater component commander to review all missing person's recommendations from the unit commanders, in the field, and then certify that all necessary actions are being taken and all appropriate assets are being used to resolve the status of the missing person. In addition the provision provides the missing person's unit commander only 48 hours to complete an initial investigation and forward a missing recommendation to the theater component commander.

The review and certification requirements by the combatant commander work under the assumption that all future conflicts will be small in scope and casualties limited in number. In a major conflict, with heavy losses, the volume of certification requirements will severely tax the Component Commanders, and their staffs, and divert their attention at a time when they are charged with the grave responsibility of directing the CINC's military efforts in the theater and leading soldiers, sailors, and airmen in battle. The unit commander, grade 0-5 or above, who conducts the investigation under section 1502 is more than capable of conducting

a full search and rescue effort, and a thorough investigation of the loss. A minimum of 10 days is required, rather than 48 hours, to conduct a thorough and complete investigation and provide a fully informed recommendation.

(c) COUNSEL FOR MISSING PERSON.—Requires the Secretary to assign a missing person's counsel to represent each missing or unaccounted for person. Counsel is tasked with reviewing each piece of new evidence that may affect the missing person's status to determine if it is significant enough to recommend that the Secretary appoint a review board. In addition, the counsel is directed to review all information, attend board deliberations, and provide a written report as a companion to the review boards report.

This provision presupposes that the U.S. government does not hold the interest of the missing person as the compelling factor in determining their status. It also creates an adverserial environment that, as shown by experience in other similar types of investigations, may ultimately have a negative impact on the investigative process. The requirement for a lawyer to attend deliberations and then comment on the findings may have a chilling effect on the board's deliberations—nowhere else in our system are lawyers representing an affected party allowed to sit in on the deliberations of a deliberative panel. This effect is exaggerated for multiple loss cases where the provision requires one counsel for ''each'' mission person; i.e., if 20 servicemen are lost in a plane crash, 20 lawyers must be assigned to the case. Finally, the requirement to have a lawyer review every new piece of information, creates an administrative and financial burden on the Department by requiring the Office of Missing Persons to maintain a full time cadre of lawyers to conduct such reviews alongside the intelligence analysts who already have this responsibility. There have already been 17,000+ live sighting or dogtag reports from the Vietnam War alone.

(d) THREE YEAR REVIEWS.—Requires that the Secretary appoint a review board every three years, for 10 years, for persons in a missing status who are last known alive or last suspected of being alive.

This requirement will only cause undue pain and financial hardship on families by requiring a status review when no new information on which to base a change in status exists. It works under the assumption that the Department will not pursue a case unless a formal board is established every three years to look into the case. Section 1505 already requires the Secretary concerned to convene a board if new information becomes available that may result in a change of status. Section 1506 requires all new information to be placed in the missing person's record, or notice thereof, and that the information or knowledge of its existence be forwarded to the family. In addition, the Government creates a double standard in that the three year review is only applied to a select number of cases. The Department feels every case/family deserves equal treatment.

(e) WRONGFUL WITHHOLDING.—The provision makes it a criminal act for a person to knowingly and willfully withhold from a missing person's file any information relating to the disappearance or whereabouts and status of the missing person. It provides for a fine under title 18 or imprisonment of not more than 1 year, or both.

The investigative and legal burden that this criminal provision will create for the analysts and other members of the Office of Missing Persons will have a debilitating effect on the pace of POW/MIA work and the quality of personnel the office is able to recruit. The Defense POW/MIA Office is often accused by a select group of families and activists with withholding documents and information from the case files of unaccounted for service members. Justice has reviewed several such allegations in the past and has found them baseless, however attaching criminal liability to such charges will create a working environment where DPMO staff ends up spending scarce time and resources aggressively defending their conduct rather than working to resolve the fate of the missing.

(f) RECOMMENDATION ON STATUS OF DEATH.—Requires that a review board recommending a status of death provide information on the date and place of death, and if remains are recovered, a description of the location where it was recovered and certification of identification by a forensic scientist, if visual identification was not possible.

Under section 1501(e), the provisions of the chapter 76 cease to apply when a person is accounted for, as defined in section 1513(3)(B), recovery and identification of the person's remains by a forensic scientist of identification, if visual identification was not possible.

(g) DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.—The law applies equal coverage to Department of Defense civilian and contractor employees who accompany forces in the field, and members of the Armed Forces. The FY–96 Defense Authorization Act calls on the Secretary of State to conduct a one year study on how best to apply similar coverage to all government civilian and contractor employees who accompany forces in the field.

Until the Secretary of State reports to Congress the results of his study on how best to cover government civilians and contractor employees, the Government risks inadvertently harming the people it is trying to protect by failing to address in chapter 76 the impact this measure may have on:

(1) provisions of title 5 U.S.C. and other civil service guidelines;

(2) the fact that such individuals may not fall under UCMJ authority;

(3) pay and promotion issues; and,

(4) other nuances that need to be examined in the Secretary's study.

While the Department agrees that there is a need for legislation covering Department of Defense civilian and contractor employees, at this point it would be better to wait until the study is complete and then address all U.S. Government and contractor employees who accompany the armed forces in hostile environments under a separate piece of legislation.

Section 518 amends section 5721 of title 10 to make permanent the authority for temporary promotions of certain Navy lieutenants.

The Navy has a shortage of available qualified officers to fill key engineering billets. To counter this shortage, some exceptional lieutenants are assigned to lieutenant commander engineering related assignments. These are extremely difficult and challenging assignments that include Engineer Officer on nuclear powered submarines, Engineer Officer on Nuclear powered cruisers, Engineer Officer on Ticonderoga class cruisers, Engineer Officer on CLF ships, Members of the fleet Commander-in-Chief's Nuclear Propulsion Examining Board or Propulsion Examining Board.

SPOT promotion authority provides a flexible *law cost solution* to precisely target the shortfall of skilled engineering officers. It is limited by the Secretary of the Navy's policy to only key engineering billets for which a shortage of available *qualified officers exists.* SPOT promotions occur within statutory lieutenant commander ceilings with a 1:1 reduction of regular promotions to lieutenant commander. Officers are promoted only while serving in a qualifying billet. The program accounts for over 120 SPOT promotions a year.

An absolute shortage of permanent lieutenant commanders exists within those line communities that fill Lieutenant Commander SPOT billets. The table below summarizes the specific shortages of permanent Lieutenant Commanders by community.

Designator	Inventory	Total billets	Community specific shortfall
1,110	1,317	1,406	89
1,120	635	819	184
6,400	62	67	5
6,130	55	73	18
6,230	25	24	−1
Total	2,094	2,389	295

The shortfall becomes significantly more pronounced if the inventory is limited to those permanent Lieutenant Commanders with the skills required for SPOT promotion billets.

Designator	Inventory	Total billets	Community specific shortfall
1,110	1,095	1,406	311
1,120	436	819	383
6,400	62	67	5
6,130	55	73	18
6,230	25	24	−1
Total	1,673	2,389	716

The qualified lieutenant commander inventory includes those officers who are Engineering Officer of the Watch qualified (for conventional assignments) or have current nuclear engineer qualifications (for nuclear assignments).

The number of community specific billets actually understates the billet fill requirements in the case of unrestricted line officers who must also fill a fair share of 1000/1050 billets.

The continued use of SPOT promotions remain necessary due to the critical shortage of officers qualified to fill engineer officer, engineering departmental principal assistants, engineering material officer and engineering staff billets directly supporting fleet engineering readiness. Originally enacted in 1965, SPOT promotion has proven its value as a strong incentive and retention tool for our top officers. It remains a very effective management tool to ensure our ability to fill extremely demanding billets with the best officers.

Section 519 would modify title 10, United States Code, (§513) to permit extension in the Delayed Entry Program (DEP), for meritorious cases as determined by the Secretary concerned, beyond the 365-day time limit currently established by the statute. Notably, applicants who enter the DEP in June or July are within a few weeks of that ceiling when they graduate from high school; consequently, a delay would force discharge and re-accomplishment of enlistment, with associated challenge and expense. In the past, natural and manmade disasters have forced delays in shipping schedules, and this change simply would permit, on a selective basis, the avoidance of discharge/enlistment paperwork drills.

Section 520. Currently, section 505(d) of title 10, United States Code, authorizes the Secretaries of the military departments to accept reenlistments in regular components for a period of at least two but not more than six years. Accordingly, even senior enlisted members of the armed forces who have made military service a career must periodically reenlist. This proposal would eliminate the administrative efforts and associated

costs that occur as a consequence of the requirement to reenlist continually senior enlisted members.

Under the proposal, the Secretaries of the military departments could accept indefinite reenlistments from enlisted members who have at least ten years of service on active duty and who are serving in the pay grade of E–6 or above. The vast majority of enlisted members with these characteristics will make military service a career. Thus, in enlisted member who serves 30 years would avoid the necessity of continually reenlisting over a 20 year period. The paperwork for reenlistment and its processing is not burdensome but it is not insignificant. Savings should result. The proposal would also increase the prestige of the noncommissioned officer corps.

Section 521. As a result of the demise of communism and a reduction in the size of military forces in many nations, including the U.S., it is important that allied and other friendly countries work together to standardize doctrine, procedures and tactics and share responsibility in the development and production of military systems to promote standardization and interoperability at reduced costs. The exchange of military and civilian personnel between defense establishments is one of the efficient and cost effective means that can be used to promote these objectives. Under the proposed exchanges, costs would be borne by the government of the exchange personnel except for activities that are directed by the host party or where orientation or familiarization training is made necessary by the unique qualifications of the assignment. The proposal further stipulates that the benefit to each government must be substantially equal which ensures that each government benefits from the exchanges.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Section 601 would waive the adjustment required by section 1009 of title 37, United States Code and increase the rates of basic pay, basic allowance for subsistence, and basic allowance for quarters by three percent. This is what the President submitted in his budget for Fiscal Year 1997.

Section 602 amends subsection 403(a) of title 37, United States Code, by adding a provision that would eliminate the entitlement to Basic Allowance for Quarters (BAQ) for members of the Ready Reserve who occupy government quarters during short periods of active duty, fifteen days or less, and who are not accompanied by their dependents. This legislative proposal is a National Performance Review initiative. It would eliminate the requirement to provide BAQ to Reserve component members performing annual active duty for training when government berthing/housing is provided. Reserve component members performing active duty when government quarters are not provided or when members are accompanied by their dependents would not be subject to this limitation. The five year cost saving associated with this proposal is estimated at $913 million and is distributed as follows:

[In millions of dollars]

Fiscal year:	
1997	178
1998	180
1999	184
2000	187
2001	184
Total	913

Section 603 would amend section 403(c)(2) of title 37, United States Code. This provision prohibits the payment of the basic allowance for quarters to all members below the pay grade of E–6 without dependents, while assigned to sea duty. Amending this section will remove the prohibition against single E–5 members and authorize them to receive either quarters ashore (adequate or inadequate) or the payment of the basic allowance for quarters.

In the words of Master Chief of the Navy, John Hagan, amending section 403(c)(2) is ''well past time for E–5 Sailors to get (this) benefit'' calling this shortcoming ''the most compelling inequity in our entire compensation system.''

This section also would amend 37 U.S.C. $403(c)(2) to remove the monetary penalty for joint military couples, below the pay grade of E–6, serving simultaneous shipboard duty. Currently, those military couples who serve onboard ships at the same time lose all of the entitlement to BAQ/VHA. Law would be amended to state that a couple's combined BAQ/VHA entitlement be equal to BAQ (with-dependents rate) or VHA (with-dependents rate) calculated for the senior member's pay grade only.

Section 604 would strike out paragraph (2) of section 203(c) of title 37. Section 203(c)(1) stipulates the specific rate of cadet and midshipmen pay as determined by the Congress. Paragraph (2) is inconsistent with the adjustment called for in the section. Making an adjustment under the seldom used section 1009 would result in a level of pay different than the exact rate specified by the Congress in section 203(c)(1). The inconsistent provision accordingly is recommended for deletion.

Subtitle B—Extension of Bonus and Special Pays

Section 605 would extend the authority to employ accession and retention incentives, ensuring that adequate manning is provided for hard-to-retain skills, including occupations that are arduous or that feature extremely high training costs (e.g. aviators, health care professionals, and incumbents of billets requiring nuclear qualification). Experience shows that retention in those skills would be unacceptably low without these incentives, which in turn would generate the substantially greater costs associated with recruiting and developing a replacement. The Department and the Congress have long recognized the cost-effectiveness of these incentives in supporting effective manning in these occupations.

Section 606 would extend the authority to employ recruiting and retention incentives to support effective manning in the Reserve Components, ensuring that adequate manning is provided for hard-to-retain skills. These bonuses also stimulate the flow of manning to undersubscribed Reserve units. Experience shows that retention in those skills, or in those units, would be unacceptably low without these incentives. The Department and the Congress have long recognized the cost-effectiveness of these incentives in supporting effective manning in such occupations and units.

Section 607 would extend the authority to employ accession and retention incentives to support manning for nurse billets that have been chronically undersubscribed. Experience shows that retention in the nursing field would be unacceptably low without these incentives, and the Department and Congress have long recognized the cost-effectiveness of these incentives in supporting effective manning levels within the nursing field.

Subtitle C—Travel and Transportation Allowances

Section 610 would amend title 37, United States Code, to authorize round-trip travel allowances for transporting motor vehicles at government expense. The bill amends section 406 (b)(1)(B)(i)(I) and 406 (b)(2)(B)(i)(II) of title 37, United States Code, to authorize round-trip travel allowances when a member transports a motor vehicle to and from the port, in conjunction with a permanent change of station move between OCONUS and CONUS locations. The provision also provides that the amendment made by section I shall take effect on July 1, 1997.

Section 611 would allow the Department of Defense to reimburse non-Federal civilians, who serve as school board members, for approved training and eliminate the disparate treatment of school board members serving pursuant to section 2164(d) of title 10, United States Code. Currently, only school board members are employees of the Armed Services of Federal Government are authorized reimbursement for approved training under both the Federal Training Act, title 5, United States Code, section 4109, and the Joint Federal Travel Regulations, Volume 2, Paragraph C 4502. Since non-Federal civilian board members cannot be reimbursed for training, they are not sent to training.

Section 612 modifies section 2634 of title 10, United States Code, by authorizing the Government-funded storage, in lieu of transportation, of a service member's motor vehicle when that service member is ordered to make a permanent change of station to a location which precludes entry of or requires extensive modification to the motor vehicle. Subsection (b) of the provision would modify section 406 of title 37, United States Code, to authorize the storage of a motor vehicle as provided for in section 1 of this bill. Subsection (c) would provide that the amendments would take effect on July 1, 1997.

Section 613 would repeal section 1589 of title 10, which prohibits the Department of Defense from paying a lodging expense to a civilian employee who does not use adequate available Government lodgings while on temporary duty. Although the purpose of section 1589 is to reduce the Department of Defense travel costs, the law can increase travel costs because it considers only lodging costs, not overall travel costs. Deleting the provision would enable Department of Defense travelers, supervisors and commanders to make more efficient lodgings decisions, with potential cost savings for the trip as a whole.

The title 10 provision (added in 1985 to codify similar provisions in the Department of Defense Appropriations Acts from 1977) prohibits payment of a lodging expense to civilian employees who don't use adequate available Government quarters. The Fiscal Year 1978 Committee Report on Department of Defense Appropriations (H. Rep. No. 95–451) notes that if employees on temporary duty at military installations for school, training and other work assignments were directed to use available Government quarters, ''many thousands of dollars could be saved.''

When a temporary duty trip involves business on and off-base, the cost-effective business decision, considering factors such as rental car costs, must be made on a case-by-

case basis. The current law allows no flexibility for the cost-conscious resource manager. To be reimbursed for lodging, the traveler must stay on-base whether it is efficient or not. Further, in temporary travel when team integrity is essential, the mission may preclude employees staying in available government lodgings. To maintain team integrity under current law when quarters are adequate for only the less senior members of the team, quarters must be determined ''not available'' for each member of the team, imposing an unnecessary administrative cost.

The Department is committed to improving the efficiency of the temporary duty travel system to enhance mission accomplishment, reduce costs, and improve customer service. The proposal would be a significant step in this direction.

Enactment of the legislative proposal will not cause an increase in the budgetary requirements of the Department.

Subtitle D—Retired Pay, Survivor Benefits, and Related Matters

Section 615 would repeal the delay of the military retired pay Cost of Living Adjustment (COLA) that currently is scheduled for Fiscal Year 1998 and that prohibits payment of such increase for months before September 1998. This section also would repeal the conditional provision that provides that the Fiscal Year 1997 COLA will not be payable any later than the COLA for retired Federal civilian employees. Accordingly, under this section, the Fiscal Year 1998 military retired pay COLA will be payable for all months in which it is effective.

Section 616 amends section 1065(a) of title 10, United States Code, to give members of the Retired Reserve who would be eligible for retired pay but for the fact that they are under 60 years of age (gray area reservists) the same priority for use of morale, welfare, and recreation (MWR) facilities of the military services as members who retired after active-duty careers.

Currently, section 1065(a), enacted in 1990, gives the retired reservists the same priority as active-duty members. They, therefore, have preference over members who retired after serving on active duty for 20 years or more. This section amends the current section 1065(a) by revising the last sentence to correct this inequity.

Enactment of this section will not result in an increase in the budgetary requirements of the Department of Defense.

Section 617 amends subsection (d) of section 501 of title 37, United States Code, to authorize survivors of members of the uniformed services to receive a payment upon death of a member for all leave accrued. It would take effect on October 1, 1996.

Subtitle E—Other Matters

Section 620(a) amends section 1201 of title 10, United States Code; subsection 620(b) amends section 1202 of title 10; and subsection 620(c) amends section 1203 of title 10. The purpose of this amendment is to extend disability coverage for persons granted excess leave under section 502 of title 37, United States Code. Subsection (d) provides that this amendment will take effect on the date of its enactment.

The purpose of section 620 is to provide members of the United States Marine Corps who are participating in an educational program leading to designation as a judge advocate while in an excess leave status under section 502(b) of title 37 the disability benefits under sections 1201, 1202, and 1203 of title 10 that accrue to servicemembers who are entitled to basic pay. Servicemembers on active duty for 30 days or more are entitled to disability benefits under those sections of law only if disabled while entitled to basic pay. Except as provided in section 502(b) of title 37, an individual who is granted excess leave by the Secretary of the military department concerned under section 502(b) of that title is not entitled to basic pay as long as the member is in that status. If such an individual were to incur any disability while on excess leave, he or she would not be entitled to any of the benefits provided under the provisions of sections 2101, 1202, and 1203 of title 10.

Currently, the only members of the Department of Defense that would be affected by the proposed legislation are those enrolled in the Marine Corps Excess Leave (Law) Program. The U.S. Marine Corps has used this program as an accession source for judge advocates since 1967. Selected regular officers having between two and eight years of commissioned service are authorized by the Secretary of the Navy to be placed on excess leave under section 502(b) of title 37 for the purpose of obtaining a law degree from an accredited law school and designation as a Marine Corps judge advocate. While on excess leave, the officer receives no pay and allowances and must bear all costs associated with subsistence, housing, and tuition. However, the member may use the G.I. Bill and Veterans Educational Assistance Program (VEAP) to defray tuition costs. The U.S. Marine Corps now has twenty-three officers participating in the program and expects to assign an average of six to eight officers during each of the next five years. Officers incur a three-year active duty obligation upon designation as a Marine Corps judge advocate. Retention of these officers on active duty beyond that time is over ninety percent. Officers who fail to complete a law degree and are disenrolled from the program must serve a year on active duty for each year or portion of a year spend in excess leave. However, no one who was selected to participate in this program during the past nine years has been disenrolled.

Officers participating in the Excess Leave Program are still on active duty and maintain their precedence on the active-duty list. They must maintain the high standards expected of commissioned officers. Although no officer has ever been permanently or temporarily disabled while participating in the program, the possibility always exists that such an event may occur. Any officer who might become disabled while participating in this program should be protected in the same manner as members entitled to basic pay are protected as mentioned above.

Although the Excess Leave Program is the only program that now exists in the Department of Defense under the authority of section 502(b) of title 37, this provision of law permits the Secretaries of the military departments to grant excess leave to individuals who might participate in other educational programs. Accordingly, the proposed legislation would provide members of the armed forces enrolled in such programs the same disability benefits that it would provide members enrolled in the Excess Leave Program.

The category of individuals for whom the legislation is intended is clearly distinguishable from those individuals who are not entitled to disability benefits under sections 1201, 1202, and 1203 of title 10 because they are not entitled to basic pay for such reasons as court-martial sentence or placement on excess leave to await administrative discharge in lieu of trial by court-martial. Since an individual who would be protected by the legislation probably will serve a full career on active duty in the armed forces, enactment of the legislation would be in the best interests of both the individual and the Government.

Since the proposed legislation is intended to provide protection to individuals who might become disabled in the future, cost and budget data cannot be determined.

Section 621 would simplify, standardize, and facilitate the processing of orders under the Uniformed Services Former Spouses' Protection Act (10 U.S.C. §1408) and to ensure equitable treatment to all members and former spouses who are subject to the provisions of this law.

The section amends subsection 1408(b)(1)(A) of title 10, United States Code, to allow for service of court orders by facsimile or electronic transmission, ordinary mail, or by personal service. The current law requires personal service by certified or registered mail, return receipt requested. Deleting this requirement and providing for facsimile or electronic transmission will expedite processing of applications by reducing the number of applications that must be returned to the sender for the sole reason that it was not personally served or mailed by certified or registered mail, return receipt requested.

Subsection 1408(e) of title 10 is amended to clarify the jurisdictional requirements relative to court orders issued by states other than the state issuing the original court order and modifying or clarifying the original court orders on which payments under the Act were based. The amendment provides that the court must have jurisdiction over both the member and the former spouse under the same guidelines applicable to members under subsection (c)(4) of section 1408.

Subsection 1408(h)(10)(A) of title 10 is amended to provide an alternative method of determining retirement eligibility in cases where dependents are victims of abuse by members who lose their right to retired pay. The purpose of the amendment is to allow a former spouse, who may not qualify under the current provisions due to the member not yet being retirement eligible on the date the convening authority approves the sentence, to have the option of having the member's retirement eligibility determined at the later point of the member's discharge.

Section 622 would change section 1151, chapter 10 of title 10, United States Code. The changes would revise the legislation to make it more compatible with lessons learned from program implementation and operation. It would eliminate the restriction on providing a stipend to ''early retirees''. Full retirees are authorized to receive the stipend, but because the decision to offer early retirement came after Troops to Teachers legislation, they were inadvertently omitted as being eligible. It also aligns the obligation to teach for two years vice five years with the revised formula for reimbursement which goes from five years to two years. Finally, this proposal reduces the incentive grant from five years with a maximum of $50K to two years and a maximum of $25K.

Section 623. Section 37 USC 411b(a)(1) provides for travel and transportation expenses for members and their dependents who have been ordered to consecutive overseas tours for the purpose of taking consecutive overseas tour (COT) leave. These expenses are reimbursed for an amount not to exceed what it would cost the government to send the member to his/her home of record. This is an important quality of life benefit. It allows members the opportunity to visit relatives and loved ones near their home of record in the continental us before commencing an additional three year tour. This program has a very positive impact on members. It enhances retention, improves morale, and reduces the stress of long separations for members who are serving on the front lines in defense of their country. Few members could afford to make such a trip on their own. This

program also saves money because it reduces the number of overseas moves that the Government has to fund.

Section 37 USC 411b(a)(2) allows a member to defer this travel for up to one year. The one year limitation is beneficial under normal circumstances because it ensures that commanders cannot indefinitely postpone COT leave. However, this limitation becomes a problem for members participating in critical operational missions such as contingencies and humanitarian missions because commanders have the authority to deny leave for operational necessity. Currently, Service members participating in Operation Joint Endeavor will lose their COT leave due to the one year limitation on eligibility. This provision will cure this problem.

Also, with the increased number of contingencies and humanitarian missions that the Department has been conducting since the end of the ''Cold War'' and is expected to conduct in the future, this legislation will have a much broader and beneficial impact. Deferring the one year limitation while members participate in major operational missions will enhance morale, reduce overseas moving costs, and provide commanders with the flexibility they need to conduct major operational missions.

Enactment of the legislative proposal will not cause an increase in the budgetary requirements of the Department.

Section 624 would authorize the Secretary of Defense, in certain situations, to pay civilian personnel of the Department of Defense stationed outside the United States allowances and benefits comparable to those paid to members of the Foreign Service or other government agencies which routinely place personnel in foreign location assignments.

This section remedies an on-going problem experienced by DoD civilian personnel and their families when on overseas assignment. The issues addressed include: travel for medical care when no suitable facility exists to provide medical care at the duty location, travel of an attendant for the employee or family member who is too ill or too young to travel alone, rest and recuperation travel for employees and their families stationed at locations designated by the Secretary of State for such travel, round trip travel in emergency situations involving personal hardship. These benefits are detailed at title 22 U.S.C. §4081.

This provision also authorizes the Secretary to designate DoD employees stationed overseas as eligible for participation in the State Department health care program described at title 22 U.S.C. §4084.

The enactment of this Bill will affect the current administrative guidance contained in the State Department Foreign Affairs Manual (3 FAM 680 and 681.1). No judicial, executive or Administrative provisions would be overturned or affected by this change. Minor modifications may have to be made to the State Department Foreign Affairs Manual as stated above.

TITLE VII—HEALTH CARE PROVISIONS

Section 701 would revise the amendment made by section 731 of the National Defense Authorization Act for Fiscal Year 1996 to section 1079(h) of title 10, United States Code. The proposed revision is needed to permit health care providers who are not participating in the TRICARE network to be paid higher amounts than now permitted by section 1079(h) in the limited circumstances in which they might provide care to TRICARE Prime enrollees. This revision would have the important effect of protecting TRICARE Prime enrollees from ''balance billing'' by such providers. As is standard for Health Maintenance Organizations (HMOs), enrollees receive most care from network providers, but in limited circumstances receive covered services from nonparticipating providers (for example, emergency care). The proposed revision provides authority that would also apply in another limited circumstance: when enrollees are referred to a non-network provider in cases in which no network provider is available (for example, for specialties in limited supply in certain areas).

Section 702 would establish new alternatives in cases of members of the Health Professions Scholarship and Financial Assistance Program who do not or cannot complete their active duty service obligations. Under current law (10 U.S.C. 2123(e)), the only available alternative is ''assignment to a health professional shortage area designated by the Secretary of Health and Human Services.'' This alternative has never been used because neither DoD nor the Department of Health and Human Services has an effective mechanism to administer such an alternative obligation. Under the proposed section, there would be four options for alternative obligations for the member: (1) a reserve component assignment of a duration twice as long as the remaining active duty obligation; (2) service as a health professional civil service employee in a facility of the uniformed services; (3) transfer of the active duty service obligation to an equal obligation under the National Health Services Corps (similar to the probable intent of the current authority); or (4) repayment of a percentage of the total cost incurred by DoD under the program equal to the percentage of the member's total active duty service obligation being relieved, plus interest. Subsection (b) of the proposed provision would amend current law (10 U.S.C. 2114) to establish extended service in the Selected Reserve or as a civil service employee as alternatives to active duty service for graduates of the Uniformed Services University of the Health Sciences who do not or cannot complete their active duty service obligations.

Subsection (c) of the proposed section 703 would provide that the provision take effect with respect to individuals who first become members of the program or students of the University on or after October 1, 1996. Subsection (d) would provide for a transition under which, member already receiving (as of October 1, 1996) a scholarship or financial assistance or individuals who already are students of the University, or for those already serving an active duty obligation under the program or as a graduate of the University, the applicable alternative obligations would be available, but only with the agreement of the member.

Section 703 would facilitate a continuation of the long-standing practice of assignment of a number of Public Health Service (PHS) officers to duty in the Department of Defense (DoD). Such officers have served with distinction in DoD, including with the Office of the Assistant Secretary of Defense (Health Affairs) and the Joint Staff. However, tightening PHS officer end-strength limitations now jeopardize these arrangements. The provision would permit the exclusion from PHS end-strength limitation of the PHS officers assigned to DoD. This provision is modeled after 42 U.S.C. section 207(e), which excepts up to three flag officers assigned to DoD from the PHS flag officer limitation.

Section 704 would repeal section 1093 of title 10, United States Code, which prohibits using funds available to the Department of Defense to perform abortions except where the life of the mother would be endangered if the fetus were carried to term. This section also would repeal the provision enacted by section 738 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106, February 10, 1996) that generally prohibits prepaid abortions in overseas facilities.

Section 705 would replace section 1074a of title 10, United States Code, in order clarify the medical and dental care members of the Reserve are entitled to while in a duty status or traveling directly to and from their duty location. The amendment defines the entitlement to medical and dental care for Reserve component members in a specific military duty status and the authority to continue such care until the member is returned to full military duty, or if unable to return to military duty, the member is processed for disability separation in accordance with chapter 61 of title 10 U.S.C. It further clarifies that Reserve component members on active duty, active duty for training, annual training, full-time National Guard Duty or traveling directly to or from such duty may request continuation on Active duty while hospitalized and that all members receiving care are eligible to apply to receive pay and allowances in accordance with subsection 204 (g) and (h) of title 37 U.S.C.

Section 706 would amend sections 1074a, 1204 and 1481 of title 10, United States Code, and sections 204 and 206 of title 37, United States Code by providing reservists performing inactive duty training the same death and disability benefits as active duty members. Although previous authorization bills have corrected some of the inequities, there are still instances when a reservist is not covered for certain disability or death benefits if the occurrence happens after sign-out between successive training periods. This proposal would extend death and disability benefits to all reservists from the time they depart to perform authorized inactive duty training until the reservist returns from that duty. Reservists who return home between successive inactive duty training days would be covered portal to portal only.

TITLE VIII—ACQUISITION AND RELATED MATTERS

Section 801. Repeal of chapter 142 of title 10, United States Code, would end the requirement that the Department of Defense, through the Defense Logistics Agency, administer the Procurement Technical Assistance Cooperative Agreement Program. Currently, Procurement Technical Assistance centers are providing services to many of the same clients served by the Small Business Administration's Small Business Development Centers. This has occurred because Small Business Development Centers were offering procurement assistance to clients before the Defense Logistics Agency began the Procurement Technical Assistance Cooperative Agreement Program in 1985 and there is no restriction on awarding Procurement Technical Assistance Cooperative Agreement Program funding to Small Business Development Centers. Since 1985, the Procurement Technical Assistance Cooperative Agreement Program has evolved from a Department of Defense-only program to one that encourages Procurement Technical Assistance centers to assist businesses desiring knowledge on the methods for selling to any federal, state or local government agency, which is clearly a Small Business Development Center function. As a result, the Defense Logistics Agency has incurred staffing costs to award and administer cooperative agreements for a service that is already, or could easily be, provided and managed by the existing Small Business Development Center organization of more than 900 offices operating in all 50 states.

A key goal of the Federal Acquisition Streamlining Act of 1994 and other acquisition reform initiatives is to resolve the differences between Department of Defense acquisition procedures and other federal agency procedures and commercial procedures.

At this time, the descriptions of Procurement Technical Assistance Cooperative Agreement Program functions are essentially the same as procurement-related Small Business Development Center functions. If the Small Business Administration is funded by Congress, the programs may be merged and acquisition streamlining may be achieved without a loss of services to businesses in need of assistance or advice on marketing of their services. Additionally, cost savings would be realized due to the decreased administrative and oversight costs.

The Department of Defense Inspector General is scheduled to issue a report which will recommend that program responsibility for the Procurement Technical Assistance Cooperative Agreement Program be moved from the Department of Defense to the Small Business Administration. This report will also recommend that Congress not fund the Defense Logistics Agency for administration of the Procurement Technical Assistance Cooperative Agreement program, but instead, add sufficient funding to the Small Business Administration's budget to ensure that continuation of procurement assistance at Small Business Development Centers in all 50 states and the District of Columbia, especially in counties with high rates of unemployment.

We have conferred with the Director of Small and Disadvantaged Business Utilization, who strongly supports this initiative. He has discussed the issues with and received favorable reaction from appropriate officials within the Small Business Administration.

Section 802 clarifies the authority for requestioning and lease of General Services Administration motor vehicles for use in the training and administration of the National Guard. The United States property and Fiscal Officer for each state or other jurisdiction would be identified as the requisitioning authority for leasing vehicles to be furnished to the state National Guard. Such use of GSA vehicles has been made for many years. This provision would provide a clear statutory basis for this practice.

Section 803 would conform the period established for mentors to provide developmental assistance under the program to the revised period established for new admissions into the program.

Section 824 of the FY 1996 Defense Authorization Act provided a one year extension to the period for eligible businesses under the Mentor-Protégé Program to enter into new agreements. This was the second extension to the entry period, a prior one year extension having been provided in the FY 1994 Defense Authorization Act. The current ending date for entry into the program is 30 September 1996.

While the period for entry into the program has been extended, no similar revision has been made to the date established for ending the period during which mentors may incur costs furnishing developmental assistance under the program, currently also 30 September 1996. For the objectives of entry period extensions to be met, a conforming two year revision to the period authorized for mentors to incur costs is also required. This revision is needed to allow for the establishment and execution of meaningful agreements between the potential mentors and proteges. Likewise, without this revision, the extension of the period for entry into the program is of little value to potential mentor-protégé agreements, if the period of time the mentor can incur costs is also not extended.

The Department has budgeted and allocated $30 million to spend on costs incurred through September 30, 1996, but the full amount of these costs will not be incurred until September 30, 1998. The costs incurred by this initiative will not exceed the amount already allocated.

Section 804 would extend the authority to enter into prototype projects under section 845 until September 30, 1999. It would expand use of the authority to the Military Departments and other defense components designated by the Secretary of Defense. It would authorize the Secretary of Defense to determine procedures for determining whether to conduct a follow-on production program to a prototype project and prescribe the acquisition procedures applicable to such follow-on acquisition. It would clarify that use of this authority is for the conduct of acquisition experiments and vest maximum flexibility in the component exercising the authority. These changes do not authorize any new programs but impact the procedures under which approved prototype projects and follow-on acquisition programs may be executed. While the flexibility provided by these programs may result in budget savings they cannot be determined at this time.

Section 805 would repeal the Congressional reporting requirements applicable to agreements entered into under the authority of section 2371, title 10, United States Code. Section 2371 is reorganized by removing authority concerning cooperative research and development agreements entered into by federally funded research and development centers and reenacting such authority in a separate section. Business and technical information submitted to the Department on a confidential basis in order to obtain or perform a cooperative agreement or other transaction will be exempted from public disclosure for five years. Deletion of the reporting requirement will result in a small but undetermined budgetary savings.

Section 806 would correct a technical flaw in the law that prevents payment of valid contractor invoices properly chargeable to line-item appropriations canceled by the Account Closing Law when the Corresponding line-item is discontinued in subsequent current appropriations acts. For example, the Department currently lacks the legal authority to pay such invoices incurred for the FFG ship program because of the line-item nature of the Shipbuilding and Conversion, Navy (SCN) account and the absence of a current FFG line item. Existing law at 31 U.S.C. 1553 (b)(1) states;

''. . . after the closing of an account under section 1552(a) of 1555 of this title, obligations and adjustments to obligations that would have been properly chargeable to that account, both as to purpose and in amount, before closing and that are not otherwise chargeable to any current appropriation account of the agency may be charged to *any current appropriation account of the agency available for the same purpose.*'' (Emphasis added)

For line-item appropriation accounts like SCN, this means that payments from a canceled account may only be charged to the corresponding ship line-item account currently available for new obligations. If a current shipbuilding program no longer exists, there is no longer a source of funds ''available for the same purpose.''

Section 807 restates the policy of 10 U.S.C. 2462 to rely on the private sector for supplies and services necessary to accomplish the functions of the Department of Defense. The provision authorizes the Secretary of Defense, notwithstanding any provision of title 10, United States Code, or any statute authorizing appropriations for or making appropriations for, the Department of Defense, to acquire by contract from the private sector or any non-federal government entities, commercial or industrial type supplies and services to accomplish the authorized functions of the Department. The Secretary shall use the procurement procedures of chapter 137 of title 10, United States Code, in carrying out this authority, but in the procurement of such supplies and services the Secretary may limit the place of performance to the location where such supplies or services are being provided by federal government personnel. This proposal would overcome existing statutory encumbrances on privatization. It also would facilitate privatization in place, thereby reducing the impact on affected federal government employees.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—General Matters

Section 901 is a technical amendment to reflect the proper title of the United States Element, North American Aerospace Defense Command. It is consistent with the 1991 amendment to section 166a(f) of title 10, United States Code. Subsection (a) of the amended provision states the name of the command as the North American Air Defense Command in each of its three paragraphs. It is noted once in each paragraph. If enacted, the proposal will not increase the budgetary requirements of the Department of Defense.

Section 902 would amend section 172(a) of title 10, United States Code, to permit qualified civilian employees of the Federal government to serve as board members on the ammunition storage board which is currently named the Department of Defense Explosives Safety Board. Section 172(a) currently limits the board membership to ''officers'' who, in accordance with the definition set forth in section 101(b)(1), must be commissioned or warrant officers and not civilian employees. This limitation restricts the Secretaries of the military departments from selecting the most qualified person available to represent their departments. In the area of explosive safety, expertise and corporate continuity invariably reside in Department of Defense civilian personnel. To ensure the Secretaries of the military departments have the flexibility to be represented by the most qualified professional available, the option to select civilian board members is imperative.

Section 903 would remove the Secretary of the Army from membership on the Foreign Trade Zone Board. The Department of the Army has been involved in the Foreign Trade Zone Board since passage of the Foreign Trade Zone Act in 1934. At that time, most import-export trade was through waterborne commerce, and, because of the Corps of Engineers navigation role in harbor development, the Secretary of the Army was made a member of the Board.

Although there may have been good rationale for Army involvement in 1934, the nature of the zone activities has since changed. More frequently, foreign trade zones (FTZ) are being established away from deep water ports in favor of land border crossings and airports. In addition, current FTZ issues usually involve trade policy, customs collection, competition among domestic industries, and the impact of proposed zones on existing businesses, rather than matters of interest to the Corps of Engineers, such as engineering, construction, and environmental impacts.

While this proposal would minimize involvement of the Department of the Army and the Corps in routine FTZ activities, the Corps would still be available to lend its expertise in engineering, construction, and environmental related issues on a case-by-case basis.

Subtitle B—Financial Management

Section 910 would modify the authorization and appropriation of the Environmental Restoration, Defense Account. As proposed, the

legislation would change the existing authorization of one central transfer account by providing additional transfer accounts for each of the Military Departments. The legislation would also provide for the direct appropriation of Environmental Restoration funds into these newly established transfer accounts.

The proposed legislation is required to implement the Department's decision to devolve the Environmental Restoration Program to the Military Departments. Devolving the account to the Military Departments will involve them more directly in validating the cleanup efforts and balancing the cleanup program with other military requirements in the budget preparation.

Section 911 would amend chapter 31 of title 10, United States Code, to authorize the expenditure of appropriated funds to provide small meals and snacks at recruiting functions for members of the Delayed Entry Program, others who are the subject of recruiting efforts for the reserve components, influential persons in communities who assist the military departments in their recruiting efforts, military and civilian personnel whose attendance at such functions is mandatory, and other persons whose presence at such functions will contribute to recruiting efforts. The primary persons who will attend recruiting functions where small meals and snacks will be provided are persons in the Delayed Entry Program and reserve component recruiting programs. The authority will be used sparingly and the cost is neglegible. These recruiting functions result in more motivated recruits, decreased attrition in the programs while recruits finish school, and referral sources for future recruits.

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

Section 1002. Section 2608 of title 10, United States Code, (the Defense Cooperation Account) currently authorizes the acceptance of contribution of money and real or personal property for any defense purpose. The amendment would allow the United States to accept housing or other services on the same basis that real or personal property now can be accepted.

Section 1003 would amend section 101(b) of the Sikes Act (16 U.S.C. 670a) to authorize the transfer of fees collected on a military installation for hunting and fishing permits. Under the Act, the Secretary of Defense is authorized to carry out a program involving wildlife, fish, game conservation and rehabilitation for each military reservation in accordance with a cooperative plan mutually agreed upon by the Secretary of Defense, the Secretary of Interior, and the appropriate state agency. The plan may authorize commanding officers of reservations to act as agents of the state concerning and collect fees for state hunting and fishing permits. The fees would be retained locally and used only for conservation and rehabilitation programs agreed to under the plan. Subsection (b)(4)(B) of the Sikes Act provides that the fees collected may not be expended except for the installation on which the fees were collected. Many military installations are now being closed and the Act does not address the disposition of fees that have been collected for these installations. This section would authorize the transfer of those fees to another open installation for the conservation and rehabilitation purposes expressed in the Act. The section would impact on Treasury receipts. The funds are modest but valuable on individual military installations.

Section 1004 would amend section 3342 of title 31, United States Code, to allow DoD disbursing officials to cash checks for U.S. Federal credit unions operating at DoD invitation in foreign countries where contractor-operated military banking facilities are not available.

Italy and Spain historically have not permitted U.S. military banking facilities to operate within their borders. Although certain U.S.-chartered Federal credit unions have been allowed to operate branches in those countries at the invitation of the DoD, often they have obtained operating cash through DoD disbursing officials. That practice must be discontinued because it has been determined to be beyond the scope of the disbursing official's authority under title 31 of the United States Code.

U.S.-chartered Federal Credit union branches in Italy and Spain currently provide the most comprehensive and accessible U.S.-style retail financial services for military installations in those countries. Without these credit unions, military and civilian personnel assigned in Italy and Spain might be denied U.S.-style retain financial services. Accordingly, this is a significant and urgent quality-of-life issue. Although title 31 currently authorizes disbursing officials to cash checks and provide exchange services for Government personnel, those services do not approach the range of services the credit unions can provide. Furthermore, Service resources already are stretched to such an extent that generally it is not feasible to devote disbursing officials to the enormous task of cashing checks for individuals. It is more efficient simply to sell cash to the credit unions and allow them to provide retail financial services.

This amendment is of equal import to each of the services in order to maintain accessible banking services on all installations overseas.

Section 1005. Subsection (a) of this section amends section 204(b)(4) of the Defense Authorization Amendments and Base Closure and Realignment Act (title II of Public Law 100–526, as amended; 10 U.S.C. 2687 note) by replacing the reserve account established in the United States Treasury with the Commissary Surcharge Fund or a Department of Defense nonappropriated fund account designated by the Secretary of Defense, as applicable. It also eliminates the requirement for an advance appropriation before funds placed in this account are expended.

Subsection (b) of this section makes conforming amendments to section 2906 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510, as amended; 10 U.S.C. 2687 note).

Subsection (c) of this section makes conforming amendments to section 2921 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510, as amended; 10 U.S.C. 2678 note).

Subsection (d) of this section defines the term ''proceeds'' to be consistent with the amount currently available for expenditure for the Base Closure and Realignment account without further appropriations action.

Subtitle B—Civilian Personnel

Section 1010 would amend section 1595(c) of Title 10, United States Code, to add a new paragraph (4) to include the English Language Center of the Defense Language Institute. This would have the effect of correcting an earlier omission (the English Language Center should have been added with the Foreign Language Center) and allowing the Secretary of Defense to employ civilians and prescribe faculty compensation. The English Language Center currently is severely restricted in classifying job positions and providing appropriate faculty compensation. This is having an adverse impact upon our ability to recruit, develop and retain English-as-a-second-language instructors in fulfillment of the DoD security assistance mission, to include the key English language training component of the Partnership for Peace program. By revising the authority of section 1595, the English Language Center will be allowed, as the Foreign Language Center, National Defense University, and George Marshall Center currently are allowed, to establish a personnel system that truly meets their need to establish job series that correspond with their mission and to compensate faculty accordingly.

There are no cost implications with this amendment.

Section 1011 would amend section 1595, title 10, United States Code, to authorize the Asia-Pacific Center for Security Studies to employ and compensate its civilian faculty, including the Director and Deputy Director.

The proposal would authorize the Secretary of the Defense to appoint, administer and compensate the civilian faculty of the Asia-Pacific Center for Security Studies. The National Defense University (10 U.S.C. 1595), United States Naval Academy (10 U.S.C. 6952), the United States Military Academy (10 U.S.C. 4331), the United States Air Force Academy (10 U.S.C. 9331), the Naval Postgraduate School (10 U.S.C. 7044), the Naval War College (10 U.S.C. 7478), the Army War College (10 U.S.C. 4021), the Air University (10 U.S.C. 9021) and the George C. Marshall European Center for Security Studies (10 U.S.C. 1595) have such authority for their civilian faculty.

The Asia-Pacific Center for Security Studies is a new institution chartered by the Secretary of Defense to be under the authority, direction and control of the Commander in Chief, U.S. Pacific Command. The center's mission is to facilitate broader understanding of the U.S. military, diplomatic, and economic roles in the Pacific and its military and economic relations with its allies and adversaries in the region. The center will offer advanced study and training in civil-military relations, democratic institution and nation building, and related courses to members of the U.S. military and military members of other Pacific nations. The mission of this critically important and innovative center will require first-rate faculty and scholars with international reputations.

Under current legislation and authority available to the Commander in Chief, U.S. Pacific Command, civilian faculty for the Asia-Pacific Center for Security Studies must be appointed, administered and compensated under title 5, United States Code. This means the faculty must be classified under the General Schedule (GS) and recruitment and compensation must be limited to GS grade, occupational series, and pay rates. However, the GS grading system does not meet the needs of the traditional academic ranking system wherein faculty members earn and hold rank based on educational accomplishment, experience, stature and other related academic and professional endeavors. The GS grading system also does not allow the center to hire non-U.S. citizen academics from international institutions. Legislation is required for the Commander in Chief, U.S. Pacific Command to utilize title 10 excepted service authority to appoint, administer and compensate the center's civilian faculty.

Section 1595, title 10, United States Code provides for employment and compensation of civilian faculty at certain Department of Defense schools. There is no provision for civilian faculty of the Asia-Pacific Center for Security Studies.

The proposed legislation provides excepted service authority for appointing, administering and compensating the civilian faculty of the Asia-Pacific Center for Security Studies.

Enactment of this legislation will not increase the budgetary requirements of the Department of Defense.

Section 1012. Currently, article 143(c) of the Uniform Code of Military Justice (10 U.S.C.

943(c)) authorizes the United States Court of Appeals of the Armed Forces to make excepted service appointments to attorney positions in the same manner as appointments are made to other executive branch positions of a confidential or policy-determining character. This proposal would extend the authority to cover appointments to non-attorney positions established in a judge's chambers which presently are made under the Schedule C, excepted service authority of 5 C.F.R. 213.3301 for positions of a confidential or policy-determining character. This would consolidate the court's appointing authorities and eliminate the administrative efforts currently required to obtain U.S. Office of Personnel Management approval for any new or changed position in a judge's chambers. As a note, Schedule C authority is automatically revoked upon vacancy, thereby requiring approval of both the position establishment and appointment.

Under this proposal, the United States Court of Appeals for the Armed Forces could make appointments to attorney positions established in the court and to non-attorney positions established in a judge's chambers. The non-attorney positions established in a judge's chambers would include such positions as personal and confidential assistant, secretary, paralegal, and law student intern which provide direct, confidential support to a judge These positions are relatively small in number (i.e., typically would not include other non-attorney positions outside a judge's chambers for which employment in the competitive service remains appropriate. The proposal is cost neutral since the administrative paperwork in terms of the number of positions envisioned is not significant; however, a more timely and streamlined process will result.

Section 1013. Section 1032 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 429) requires the Secretary of Defense to convert 10,000 military positions within the Department of Defense to civilian positions. A military position is one noted as being authorized to be filled by a member of the Armed Forces on active duty.

The Secretary of Defense is cognizant of his management requirements and of the costs of military personnel *vis a vis* civilian personnel. Because of the unique activities and operations of the Department of Defense, many positions require the skills, experience, and knowledge of members of the Armed Forces. The Department has an optimum balance of military and civilian manpower in its current structure, and any nonprogrammatic numerical adjustment will only serve to upset that balance.

Subtitle Miscellaneous Reporting Requirements

Section 1020 would amend Section 10541(b)(5)(A) of Title 10, United States Code, to delete the requirement to break out the full war-time requirement of each item of equipment over successive 30-day periods following mobilization. The requirement to show the full war-time requirement and inventories of each item of equipment will remain in law. Under current war planning methodology to respond to multiple major regional contingencies, a fixed approach employing 30-day increments is no longer applicable. In the post-Cold War environment, the requirement for flexible design and employment of responses renders rigid 30-day increment planning out of date.

Section 1021. The purpose of the proposed legislation is to amend the statutory requirement for an Annual Report on Strategic Defense Initiative (SDI) programs to reflect the current Ballistic Missile Defense (BMD) mission.

The Annual Report to Congress provides congressional committees with an assessment of the progress of the Ballistic Missile Defense Organization (BMDO) in fielding a ballistic missile defense and a road map that BMDO intends to follow for the future. The statutory provision, which prescribes an Annual Report, requires the BMDO to report on actions that are no longer pertinent to the direction of the BMD program and the current world situation. This proposed legislation would amend those requirements to reflect the current mission of BMDO.

Sections 224(b)(3) and 224(b)(4) require that the Annual Report to Congress detail objectives for the planned deployment phases and the relationships of the programs and projects to the deployment phases. The deployment phases were germane when the SDI was developing a system to be fielded in phases, with each phase (after phase 1), designed to offset expected Soviet countermeasure and add to U.S. ballistic missile defensive capabilities. The current focus of the BMDO program is to field improve theater missile defense systems and maintain a technology readiness program for contingency fielding of a national missile defense. The concept of phased additions to offset Soviet countermeasures and provide large incremental improvements to U.S. ballistic missile defense capabilities no longer exists.

Section 224(b)(7) requires an assessment of the possible Soviet countermeasures to the SDI programs. With the demise of the Soviet Union and the shift in focus of the BMD program to fielding theater missile defense systems, this requirement is no longer applicable.

Section 224(b)(9) and 224(b)(10) require details on the applicability of SDI technologies to other military missions. The missions addressed have largely become the primary focus of BMDO and reporting how SDI technologies could be applied to other military missions is no longer relevant. These two subparagraphs should be repealed, as they are redundant with reporting the status of today's BMD.

Enactment of the proposed legislation will not result in any increase in budgetary requirements. Our analysis of the costs incurred and the benefits derived is that this legislation is budget neutral.

Section 1022 would repeal the requirement at 10 U.S.C. 2706(c) for the Department to submit an annual report to Congress on its reimbursement of environmental response action costs for the top 100 defense contractors, as well as on the amount and status of any pending requests for such reimbursement by those same firms.

The Department recommends repeal of this statutory reporting requirement because the data collected are not necessary, or even helpful, for properly determining the allowableness of environmental response action costs on Government contracts. Moreover, the Department does not routinely collect data on any other categories of contractor overhead costs. As a minimum, if repeal is not feasible, the law should be amended to limit data collection to the top 20 defense contractors, which would still capture most environmental response action cost reimbursements by DoD.

This reporting requirement is very burdensome on both DoD and contractors, diverting limited resources for data collection efforts that do not benefit the procurement process. Not only are there 100 different firms involved, but for most of these contractors, data must be collected for multiple locations in order to get an accurate company-wide total. Contractor personnel at these numerous locations must collect the required data (which is not normally categorized in this fashion in contractor accounting systems); the cognizant DoD administrative contracting officers must request, review, assemble, and forward these data through their respective chains of command; the Defense Contract Audit Agency must validate the data submitted; and the Secretary of Defense's staff must consolidate this large amount of data into the summary report provided to Congress. We estimate that more than 20,000 hours of contractor and DoD effort were required to prepare the Department's February 6, 1995 report.

In addition, the summary data provided to Congress in the February 6, 1995 report did not show large amounts of contractor environmental response action costs being reimbursed on DoD contracts. For overhead rate proposals settled in FY93, the DoD share of such costs was approximately $6 million for that year's top 100 defense contractors; while for FY94 settlements, the comparable figure was approximately $23.6 million—with $17.9 million of that being attributable to the settlement of a single long-standing, multi year dispute at one contractor location.

Section 1023 would repeal the requirement at 10 U.S.C. 2391 note (Section 4101 of Public Law 101–510) that the heads of appropriate Federal agencies promptly notify the appropriate official or other person or party that may be substantially and seriously affected as a result of defense downsizing.

This provision requires that notices be sent to a long list of officials, persons or other parties if: (1) the annual budget of the President submitted to Congress, or long-term guidance documents, or (2) public announcements of base or facility closures or realignments, or (3) cancellation or curtailment of a major contract will have a serious and substantial affect. Determining every community, business and union that may be significantly adversely affected by any of these actions is almost impossible to accomplish. The information does not exist to determine every city, county, state, company and union that may be significantly adversely affected by any action taken under one of the three categories listed in the law. In addition, recipients may be unnecessarily confused by potentially incorrect notices because the budget of the Department that is passed by the Congress is very different from the budget that the President submits. Also, the Department can not predict the actions that every company or community may take in response to Congressional funding decisions. One budget action may have offsetting affects of another budget action and only the community or the company will be able to determine a best course of action. The decision not to fund military construction in one community versus another may have an adverse employment affect. Attempting to make these determinations means that some notices may be sent incorrectly for events that never happen and some places and groups will be left out—both events causing considerable unnecessary stress and disruption to the cities, towns, companies, families and individuals that receive them. The intent to provide places and people with advance notice and information about Defense-prompted employment declines can not be accomplished fairly and equitably by this requirement and therefore, should be repealed.

This section would also repeal the notification requirement (section 4201 of Public Law 101–510) that the Secretary of Defense provide the Secretary of Labor information on any proposed installation closure or substantial reduction, any proposed cancellation of or reduction in any contract for the production of goods or services for the Department of Defense if the proposed cancellation, closure, or reduction will have a substantial impact on employment. The current requirement is that large prime or subcontractors

notify the Department of Defense whenever a downsizing action of the Department will have a substantial and serious adverse employment impact. This is a burden to the Department and its contractors.

Since the requirement to implement this provision has been in place in the Federal Acquisition Regulations in 1992, there have been only four notifications made by contractors. The requirements of the law are confusing, overlapping, and narrowly defined. Many worker reductions are not in response to Department of Defense actions but rather are as a result of the overall downsizing of the defense industry. Many contractors have multiple contracts with the Department of Defense. Although some contracts may be canceled, others may be increasing thereby offsetting the adverse affects of a particular cancellation. Only the company can make the decisions about necessary work force requirements. Such decisions often are not tied to a specific action such as a particular cancellation. The statutory requirement is not resulting in the advance notice requirements being made regarding layoffs.

Subtitle D—Matters Relating to Other Nations

Section 1025 would change section 401 of title 10, United States Code, to authorize the Department of Defense to:

To use funds appropriated for Overseas Humanitarian, Disaster, and Civic Aid to cover the costs of travel, transportation and subsistence expenses of personnel participating in such activities and to procure equipment, supplies and services in support of or in connection with such activities.

To transfer to foreign countries or other organizations equipment, supplies, and services for carrying out or supporting such activities.

Such changes would allow the Department of Defense to continue to carry out its humanitarian demining program, one of the unified commanders' most visible and cost-effective peacetime activities. The program is particularly important given the worldwide attention that has been focused on landmines and the need to remedy their effect on civilian populations in affected countries.

Subtitle E—Other Matters

Section 1030. The Department strongly supports the policy objectives of Chapter 148, National Defense Technology and Industrial Base, Defense Reinvestment, and Defense Conversion. As noted in Industrial Capabilities for Defense, forwarded to Congress on September 29, 1994, the Department has initiated a coordinated effort to identify and analyze industrial concerns, and ensure technology and industrial issues are effectively integrated into its key budget, acquisition, and logistics processes. However, the Department believes that the objectives of Chapter 148 would best be met by performing the analyses and establishing only the organizations necessary to support the Department's key budget, acquisition, and logistics processes. Therefore, the Department is proposing the following changes.

Subsection (a) amends section 2502 of title 10 by revising the responsibilities of the National Defense Technology and Industrial Base Council (NDTIBC) to conform to our proposed amendments to section 2505 below.

Subsection (b) amends section 2503 of title 10 by deleting various references to the National Defense Technology and Industrial Base Council and section 2506 periodic plans; (2) deleting subsections (a)(2), (a)(3) and (a)(4) dealing with administration of the National Defense Program for Analysis of the Technology and Industrial Base and coordination requirements; and (3) deleting subsection (b) dealing with supervision of the program.

Subsection (c) amends section 2505 of title 10, establishing specific requirements for Department of Defense technology and industrial capability assessments. In particular, it requires the Secretary of Defense to prepare selected assessments through fiscal year 1998 to attain national security requirements, and describes the scope of the required assessments. This subsection also requires that such assessments be fully integrated into the Department's resource planning guidance.

Subsection (d) amends section 2506 of title 10 to substitute revised language which requires the Secretary of Defense to issue guidance to achieve national security requirements. It also requires Departmental senior-level oversight to ensure technological and industrial issues are integrated into key budget decisions. Finally, it requires a Department report to Congress on its implementation of industrial base policy.

Subsection (e) adds a new section 2508 to title 10 which requires an annual report to Congress, for 2 years commencing March 1997 to enable Congress to monitor technology and industrial issues. The report would include descriptions of the Department's policy guidance, the methods and analysis used to address technological and industrial concerns, and assessments used to develop the Department of Defense's annual budget; it would also identify any programs designed to sustain essential technology.

Subsection (f) amends section 2514 of title 10 to remove the requirement for the Secretary of Defense to coordinate the program to encourage diversification of defense laboratories with the National Defense Technology and Industrial Base Council.

Subsection (g) amends section 2516 of title 10 to place the responsibility with the Secretary of Defense for establishing the Military-Civilian Integration and Technology Advisory Board.

Subsection (h) amends section 2521 of title 10 by removing subsection (b) which refers to the relationship of the National Defense Manufacturing Technology Program to the National Defense Technology and Industrial Base Plan.

Subsection (i) makes conforming repeals of sections 4218, 4219, and 4220 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2315).

Subsection (j) makes clerical amendments.

Section 1031 would amend Title II, Section 204(b) of the Defense Authorization Amendments and Base Closure and Realignment Act of 1988 (Title II of Public Law 100–526, U.S.C. 2687 note), as amended by Title XXIX of the National Defense Authorization Act for Fiscal Year 1994, Public Law 103–160 by restoring inadvertently eliminated provisions of then-subparagraph (3), which in considerably more extended language provided the Defense Department the basic authority for inter Service and similar transfers of real and personal property. The 1994 deletion from the 1988 Act was an inadvertent technical legislative drafting error.

Section 1032. A primate research complex has existed at Holloman Air Force Base for several decades. It originated as an Air Force laboratory supporting the named space program which is what generated the requirement for chimpanzees. It was later operated under contract. The complex consists of a number of buildings and facilities located generally on two separate but relatively close sites on the base. The main structure and the center of the complex is the recently completed facility constructed with $10,000,000.00 in federal grant money provided through the General Services Administration. Virtually all the chimpanzees are housed in the new facility. Because the facility is only a few years old, and because there is no other available facility to house the Air Force owned chimpanzees, it is impractical to remove the laboratory from the base at this time.

The Air Force has not had a requirement for its chimpanzees for at least two decades but has had no significant expenses in maintaining them because they were maintained by the operating contractor at no cost to the Air Force. The contractor used them for scientific and medical research and as part of the National Institutes of Health breeding program for chimpanzees. The breeding program is responsible for the growth in the Air Force owned population over the years.

The current lease provides that any chimpanzees born to Air Force owned animals will become the property of the lessee, not the Air Force. Consequently the Air Force population will not grow; however, the long life of chimpanzees will guarantee the colony will survive for decades to come. The legislation will remove a substantial liability to the Government. The chimpanzees, because of their general age and past use in research, have no significant value as a colony. Estimates the Air Force has received indicate that the only alternative to continuing their current use is to retire them presumably at Government expense. The cost of such retirement has been estimated from tens of millions of dollars up to $100,000,000.00. Nevertheless, if a qualified and capable offeror is willing to assume the care and maintenance of the chimpanzees and the facilities, at no cost to the Air Force, there is no reason to refuse such an entity the option to compete for the facilities and chimpanzees.

Subsection (a) of this section authorizes the Secretary of the Air Force, on a competitive basis and without regard to the requirements of the Federal Property and Administrative Services Act of 1949, to dispose of, at not cost, all interests the Government has in the primate research complex and Air Force owned chimpanzees located at or managed from Holloman Air Force Base. The underlying real property is excluded from transfer. The laboratory was largely built with Government grant funds. The current lessee and operator of the laboratory is the Coulston, Foundation, a not-for-profit entity. The laboratory's location within the Base makes it impractical to create a privately owned enclave inside the Base boundaries by excessing the underlying real property.

Subsection (b) conditions the conveyance by requiring the recipient to utilize the chimpanzees for scientific research, medical research, or retirement of the chimpanzees and provide adequate care for the chimpanzees. The Air Force owned chimpanzees were originally obtained and later bred for scientific and medical research and the new facility was funded for continuation of these purposes.

Subsection (c) provides standard language for a survey to establish the legal description of the property conveyed.

Subsection (d) provides the standard language that the Secretary may require such additional terms as necessary to protect the interests of the United States.

Section 1033 would amend section 172 of the National Defense Authorization Act for Fiscal Year 1993. Section 172 requires the Secretary of the Army to establish a Chemical Demilitarization Citizens Advisory Commission for each State in which there is a low-volume chemical weapons storage site and for any State with a chemical storage site other than a low-volume site, if the establishment of such a commission is requested by the Governor of the State. The Secretary must provide a representative to meet with the commissions to receive citizen and State concerns regarding the Army's program to dispose of lethal chemical agents and munitions.

Currently, section 172 requires the representatives to be from the Office of the Assistant Secretary of the Army (Installations, Logistics and Environment). However, that office no longer has the responsibility for this program. That amendment will allow the Secretary of the Army to designate the representative to meet with the commissions from the office with current responsibility for the program, the Office of the Assistant Secretary of the Army (Research, Development and Acquisition).

Section 1034 would amend section 172 of the National Defense Authorization Act for Fiscal Year 1993. Section 172 requires the Secretary of the Army to establish a Chemical Demilitarization Citizens Advisory Commission for each State in which there is a low-volume chemical weapons storage site and for any State with a chemical weapons storage site other than a low-volume site, if the establishment of such a commission is requested by the Governor of the State. The Secretary must provide a representative to meet with the commissions to receive citizen and State concerns regarding the Army's program to dispose of lethal chemical agents and munitions.

Currently, section 172 requires the representative to be from the Office of the Assistant Secretary of the Army (Installations, Logistics and Environment). However, that office no longer has the responsibility for this program. This amendment will allow the Secretary of the Army to designate the representative to meet with the commissions from the office with current responsibility for the program, the Office of the Assistant Secretary of the Army (Research, Development and Acquisition).

Section 1035 would amend section 1044a of title 10, United States Code, to authorize all judge advocates of the Armed Forces, adjutants, assistant adjutants, and personnel adjutants, and all other members of the Armed Forces designated by regulations of the Armed Forces, to include members of the Coast Guard, to have the same notary public authority without regard to whether they are on active duty or performing inactive duty for training. All law specialists of the Coast Guard are lawyers. Under the current law, National Guard judge advocates and other otherwise authorized personnel do not have the general powers of a notary public while serving on annual training or on Active Guard and Reserve duty in a full-time National Guard duty status, nor do National Guard and Reserve judge advocates, adjutants, and others have such powers when not in a formal duty status. This amendment would authorize such powers regardless of duty status.

Reserve and National Guard judge advocates and Coast Guard law specialists are asked to perform notarial acts, both on and off duty, and to assist members of the Guard and reserves in preparing for mobilization and deployment. These judge advocates and law specialists are often in a position to prepare and execute Powers of Attorney and Wills at their private offices or at the command where the soldier is located, which may be distant from a military facility. Under the present statute they may not do so unless on active duty or performing inactive-duty for training.

Under the present law, civilians question the notary authority and request verification of duty status in order to assure compliance with section 1044a before accepting the Power of Attorney or other notarized document. The service member often has no way of reasonably discovering the whereabouts of the judge advocate or law specialist and cannot provide such information, resulting in rejection of the document. This proposal will bring uniformity and flexibility among the services in this area and be less confusing to the civilian community. It will eliminate litigation, especially in cases involving wills.

Subsection (b) would ratify notarial acts performed prior to the date of enactment of this section by persons authorized notarial powers under this amendment, provided such acts have not been challenged or negated in a formal proceeding prior to the date of enactment.

Section 1036 would shift the office of primary responsibility for all systems of transportation during time of war from the Secretaries of the Army and the Air Force to the Secretary of Defense. Such a change is in keeping with the integration of transportation systems in the commercial sector to intermodal methods of shipment. DoD, for efficiency purposes, has established a single manager for transportation, the United States Transportation Command. Activation of the Civil Reserve Fleet in time of war is from the President to the Secretary of Defense to the Commander, United States Transportation Command. The need for the Army or the Air Force independently to assume control of transportation systems for its members, munitions, and equipment, especially to the exclusion of the other services can no longer be justified.

If enacted, this proposal will not increase the budgetary requirements of the Department of Defense. By amending this section, monetary savings may be realized by authorizing more centralized control of the DoD transportation system.

Section 1037 would clarify that the period of limitations for the filing of claims before the various Boards of the Military Departments for the corrections of service records (10 U.S.C. 1552(b) of three years, that can be waived by the board ''in the interest of justice'') is not tolled by section 205 of the Soldiers' and Sailors' Civil Relief Act of 1940. Section 205 of such Act was amended by the Soldiers' and Sailors' Civil Relief Act Amendments of 1942 (section 5 of such Act (56 Stat. 770); 50 U.S.C. App. 525). It prescribes that military service is not to be computed in any period limited by law for the bringing of any action or proceeding before a court, board, etc. The recent judicial decision of *Detweiler v. Pena*, 38 F. 3d 591 (D.C. Cir. 1994) applied the tolling provision to the limitation of section 1552(b).

This provision would overturn that court decision and direct the military correction boards to consider the travails of military service in their findings ''in the interest of justice'' in waiving the limitation period. This result is necessary considering that the boards are examining military records. It underscores the need for a prompt resolution of requests for corrections, especially to avoid multiple successive corrections in the examination of records 20 to 30 years after a complained of error.

Section 1038 would update the statutory reference to the name upon which the Navy's central historical activity has operated for more than two decades. The original term was used in 1949 when the trust fund initially was started. Subsequently, the fund has evolved to include, among other things, the Navy Museum and Navy Art Gallery. This is a technical change conforming the statutory reference to the common title.

Section 1039. The George C. Marshall Center was established in 1993 to respond to the new security challenges which emerged at the end of the Cold War: e.g., promoting stability in Europe by helping the nations of Central Europe and the former Soviet Union to develop democratic institutions. The Center's formal mission is to foster the development of defense institutions and security structures compatible with democratic processes and civilian control. As its directive mandates, it does this by (1) providing appropriate defense education; (2) conducting research on security issues relevant to the task; (3) holding conferences and seminars on appropriate issues; (4) providing Foreign Area Officer (FAO) and language training; and (5) supporting NATO activities which are directed toward the same end.

To execute its mission, the Marshall Center conducted programs through three operational components: the College of Strategic Studies and Defense Economics (CSSDE); the Research and Conference Center (RCC); and the Institute for Eurasian Studies (IES). The CSSDE teaches a 19 week in-depth course in English, Russian, and German to future national security leaders in mid-level civilian and military positions from the nations of CE/FSU twice a year. The RCC holds conferences and seminars and sponsors research on issues of importance to current leaders at the ministerial and parliamentarian level from the North Atlantic Community, the nations of the NATO and PfP signatories. The IES trains US and NATO personnel (FAO and language students) who will work in and with these nations in the future. Each element synergistically reinforces the Center's overall objective of reinforcing and accelerating the democratization processes of the security establishments in the CE/FSU nations.

The work of the Marshall Center continues to receive international recognition. The innovative and ground breaking curriculum that teaches about many forms of democracy and looks at the principles that govern defense organization and management, in both western and the emerging democracies in the Central European and Former Soviet Union nations, is being used as a model for other schools. The Marshall Center, in promoting democratic principles and serving as a forum for promoting democratic principles and serving as a forum for European and Eurasian security and stability issues, clearly provides a service that benefits not only NATO countries but also neutral European nations. Both NATO and neutral nations, recognizing the importance and effectiveness of the Marshall Center, have expressed an interest in contributing to the program. From the Marshall Center academic perspective, the more view points that can be offered, the richer and better the program.

In 1994, the Marshall Center was given special permission by Congress to accept contributions from the German government under a formal; ''Memorandum of Agreement''. This arrangement is a tremendous success story. The German contribution of both funding and manpower enhances the conferences and research program and hence the prestige and effectiveness of the Marshall Center. Enabling the Marshall Center to accept contributions from other nations would only serve to further enhance the breadth and quality of the Marshall Center program as it works to strengthen U.S. interests and spread democratic values in the Central and Eastern European and Former Soviet Union nations.

As addressed above, the Marshall Center is an educational institution. In accordance with U.S. strategic interests, it is dedicated to stabilizing and thereby strengthening Post-Cold War Europe. Specifically, the Marshall Center provides education to defense and foreign ministries' officials to develop their knowledge of how national security organizations and systems operate under democratic principles. The Marshal Center program recognizes that even peaceful, democratic governments require effective national defenses; that regional stability will be enhanced when legitimate defense and that a network of compatible democratic security structure will enhance the continent's prospects for harmony and stability.

The Marshall Center additionally seeks to create an enduring and ever expanding network of national security officials who understand defense planning in democratic societies with market economies and to provide those officials with ever greater opportunities to share their perspectives on current and future security issues. The Marshall Center, with its international faculty and students from over 26 nations, and it active conference program serves as an important forum for discussion of European and Eurasian security and stability issues.

Unfortunately, the very nations that can be viewed as perhaps the most in need of what the Marshall Center offers, in both education and as a forum for defense cooperation contacts, are excluded from participation. Inviting national security officials from nations such as Bosnia, Yugoslavia, and Azerbaijan to Marshall Center programs would expose them to the very ideas and changes the U.S. is seeking to influence and promote.

If the U.S. strategic goals of promoting stability through defense cooperation are to be achieved, all the newly emerging governments of the Central and Eastern and States of the Former Soviet Union (CE/FSU) nations must be allowed, even encouraged, to attend and participate in the Marshall Center program. Participation of all CE/FSU nations in the Marshall Center program can only enhance the U.S. objective of increasing the continent's prospects for harmony and stability.

The Secretary of Defense has requested that a Board of Visitors be established to advise him on Marshall Center programs. Distinguished citizens from both the United States and other nations are being asked to participate without compensation other than remuneration for their travel expense to serve on the Board twice a year. Having to make financial disclosures or foreign registration will discourage their participation and make it extremely difficult in recruiting volunteers with exceptional diplomatic experience.

Section 1040 would direct the transfer and exchange of lands between the Departments of Army and Interior, which will allow those departments to more efficiently manage their property and also will provide for the orderly development of additional lands for the benefit of Arlington National Cemetery, which currently is slated for closure to initial interments by 2025.

Subsection (a) of this provision directs the Secretary of the Interior to transfer to the Secretary of the Army lands that are currently under the jurisdiction of the National Park Service (NPS) to the Army for the use of Arlington National Cemetery. On February 22, 1995, the Army and the Department of the Interior entered into an Interagency Agreement for the purpose of ultimately effecting a transfer of these lands. These lands are part of what is known as ''Section 29,'' an area that became part of the National Park System in 1975 when the Army reported the property as excess and transferred it to the NPS pursuant to the Federal Property and Administrative Services Act, subject to a 1964 Order by the Secretary of the Army that it be set aside in perpetuity to preserve an appropriate setting for the Custis-Lee Mansion (subsequently renamed the Arlington House, The Robert E. Lee Memorial) and be maintained in a parklike manner.

Section 29 includes approximately 24.44 acres that are divided into two zones, the approximately 12.5-acre Robert E. Lee Memorial Preservation Zone and the approximately 12-acre Arlington National Cemetery Interment Zone. Because it is unnecessary for the Interment Zone, and possibly portions of the Preservation Zone as well, to be maintained in a parklike manner for the NPS to provide a proper setting for Arlington House, or for the proper administration and maintenance of it and its adjacent buildings as a national memorial, this property may be transferred to the Army for use as part of Arlington National Cemetery.

Under the Interagency Agreement signed on February 22, 1995, the NPS agreed to allow the Army to use the lands in the the Preservation Zone that are suitable for transfer and all lands in the Interment Zone until the transfer is effected, for the purpose of studying and surveying the property and planning for its use as a cemetery.

Subsection (a) directs the Secretary of the Interior to transfer these lands directly to the Secretary of the Army in accordance with the Interagency Agreement.

Subsection (b) of this provision directs the exchange of specific parcels of land located in and adjacent to Arlington National Cemetery between the Departments of Army and Interior. This transfer is designed to meet the respective agencies' needs and will provide for the optimum use of these Federal lands.

Section 1041. The existing language of section 2643, title 10, United States Code, subverts the Department of Defense consolidated contracting for overseas transportation and may result in higher overall costs, with less flexibility and control.

Section 1042. The Sikes Act (P.L. 99–561) permits the use of cooperative agreements to ''provide for the maintenance and improvement of natural resources'' on DoD installations. Similar language is not available to support DoD's cultural resources program.

Cooperative agreements are an essential instrument used to enter into partnerships with other Federal, State, and local governments, and with nongovernmental organizations to share personnel and fiscal resources for the mutual benefit of all participating parties. Partnership opportunities have been lost or deferred because the Military Departments do not feel they can enter into such agreements for cultural resources management, except for Legacy Resource Management Program-funded projects. Furthermore, the Legacy program was established as a short-term enhancement initiative. A broader, more permanent fix is required to ensure stability and inclusiveness of such efforts for DoD's cultural resources management program.

New partnership oppportunities would be available with this legislative change. Resource stewardship on DoD lands would be enhanced. This proposal has no fiscal or budgetary impact to the Department of Defense.

Section 1043 would authorize the President to award the Medal of Honor to seven named African American soldiers who served in the United States Army during World War II. It would authorize the award notwithstanding the time restrictions in section 3744 of title 10, United States Code. Those restrictions require that the award be made within three years of the act justifying the award and that a statement setting forth the distinguished service and recommending official recognition of the service be made within two years after the distinguished service. The Army recently conducted a study of the awarding of the Medal of Honor to African American soldiers during World War II. The waiver of the time limitations for the presentation of the Medal of Honor to the named former soldiers is a result of that study.

Section 1044 would amend section 2543 of title 10, United States Code, to make permanent the temporary authority the Secretary of Defense had during fiscal years 1992 and 1993 to provide assistance to the Presidential Inaugural Committee and to the joint committee of the Senate and House appointed to make the necessary arrangements for the Inauguration of the President-elect and the Vice President-elect. Section 307 of the National Defense Authorization Act for 1992 and 1993 authorized the Secetary of Defense to lend materials and supplies, and to provide materials, supplies, and services of personnel, during that period to the Inaugural Committee and joint committee.

Section 1045 cites a continuing need for military use of the affected lands and sets forth certain definitions.

Subsection (b) withdraws certain federal lands in Imperial County generally known as the East Mesa and West Mesa ranges from all forms of appropriation under the public land laws, subject to existing rights and certain conditions. The lands would be reserved for use by the Navy in accordance with the current memorandum of understanding between the Bureau of Land Management and the Department of the Navy, and for other defense-related purposes consistent with the memorandum.

The provision requires the publication and filing of maps and descriptions of the affected lands, gives those maps and descriptions the same effect as if they were included in the Act, and provides for public inspection.

It would require management of the withdrawn lands by the Secretary of the Interior pursuant to the Federal Land Policy and Management Act and other applicable law, with the concurrence of the Secretary of the Navy. The lands could be managed to permit wildlife protection and management, fire suppression, geothermal leasing by the Department of the Navy and power production and continued grazing. Nonmilitary use could not interfere with military use consistent with the Act. The Secretary of the Interior could issue a lease, easement, right of way, or otherwise authorize nonmilitary use of the lands, with the concurrence of the Secretary of the Navy and under the terms of the cooperative agreement. The Secretary of the Navy would close the withdrawn lands to the public if required by military operations, national security of public safety. Withdrawn lands would be used for purposes other than those specified in the memorandum of understanding, however, the Secretary of the Navy would be required to notify the Secretary of the Interior. Withdrawn lands and minerals within them would be managed in accordance with the existing cooperative agreement, which would be revised as soon as practicable after the enactment of this legislation to implement the provision of the section.

By Mr. GRASSLEY (for himself, Mr. PRESSLER, and Mr. BAUCUS):

S. 1674. A bill to amend the Internal Revenue Code of 1986 to expand the applicability of the first-time farmer exception; to the Committee on Finance.

THE AGGIE BOND IMPROVEMENT ACT

Mr. GRASSLEY. Mr. President, as you might expect, as I so often do on the floor of the Senate, I rise to speak about agriculture because it is a very important industry in my State. The legislation that I am introducing today, with Senators PRESSLER and BAUCUS, is bipartisan in sponsorship and changes the treatment of what are referred to as the aggie bond provisions of our tax statutes. We call this the Aggie Bond Improvement Act.

This legislation is important because of the changing scene of agriculture,

the inability of young farmers to get started in farming, and particularly because today the average age of farmers. In my State of Iowa, and I think in most agricultural States, farmers average in their upper fifties. In 5 to 6 years we will have 25 percent of the farmers retiring. Hence, the necessity for improving programs to encourage young people to go into farming is clear. We introduce this bill today for with this purpose in mind.

This legislation will recondition and strengthen the popular first-time farmer programs administered by various State authorities. These authorities issue tax-exempt bonds to finance first-time farmers' loans. This combined agriculture and tax legislation enjoys the company of a companion bill in the House to be introduced by my colleagues from Iowa, Congressman LIGHTFOOT and Congressman GANSKE and the remainder of the Iowa House delegation. Joining me in our efforts in the Senate, as I have already said, are Senators PRESSLER of South Dakota and Senator BAUCUS of Montana. These two Senators are very interested in the problems of agriculture. The problems in their States are similar to those in mine.

We encourage all of our colleagues in the Senate to join us as sponsors in this Aggie Bond Improvement Act. Many beginning farmers and ranchers utilize low-interest loans authorized by aggie bonds to get started in farming and ranching. With the help of State authorities, these usually younger farmers must secure a participating private lender. This is a Government-private sector partnership. This private lender assumes all of the loan risk.

A Federal law limits the use of aggie bonds for first-time farmer purchases and restricts them to a maximum of $250,000 per family, per lifetime. I know that sounds like a lot of money to people that do not understand agriculture, but with that sort of loan you create one job. We are not talking about a massive farming operation with a massive amount of hired help. It takes that much capital to create one job in agriculture because of the nature of the investment.

State laws usually impose additional restrictions in addition to those that we do in the Federal Government. They might do this from the standpoint of net worth, material participation, and residence requirements—all very legitimate requirements. Therefore, there is no risk of any misappropriation of any underlying tax benefit.

These State programs present American taxpayers with a new generation of farmers to ensure that our grocery stores continue to stock the greatest food bargains in the world. However, to fully succeed, the States need the improvements offered by this legislation.

First, cosponsors to this bill will help family members purchase the family farm by changing the current rule prohibiting aggie bond financing for family member transactions.

Senators from agriculture States know that the high startup costs for farming and the unique expertise required of farmers, cooperate to ensure that only the children and family members of present farmers can themselves become farmers. Therefore, disallowing aggie bond financing for family member transactions has operated as an unintended obstacle to the success of aggie bond programs.

Second, cosponsors to this bill will help more first-time farmers become lifetime farmers by allowing more young people to qualify for aggie bond financing. Present law disqualifies beginning farmers who have previously owned and farmed any parcel of land that is 15 percent or more of the median-size of a farm in the same county. Depending on the size of other farms in the county, many young farmers cannot utilize beginning farmer loans because of this restriction. Therefore, this legislation would qualify a beginning farmer who had previously owned and operated any farm that is no more than 30 percent of the average size of a farm in the same county. In Iowa, this means where present law disqualifies an average beginning farmer for having farmed only 35 acres, with this legislation, average beginning farmers can farm up to 100 acres and still qualify for aggie bond financing.

Having been a farmer all of my adult life, I can attest that no farmer can make a living to support even himself on 100 acres, not to mention supporting a family. These persons truly are just starting out in the farming trade and desperately need the first-time farmer's loans financed by these aggie bonds.

Mr. President, farm State Senators know the average age of farmers is increasing. Presently, our farmers in Iowa average in their late fifties. This aging trend is common in every State in this country. Last year, the Iowa Agriculture Development Authority—the authority that issues these aggie bonds in my State along with comparable agencies in about 20-some other States—issued 177 of these loans in my State, and nearly 80 percent of the applicants were under 35 years of age.

Truly, there is an aging generation of farmers still on the land who would like to retire and there is a younger generation of farmers who want to begin. This legislation to improve the State aggie bonds programs simply makes the necessary transactions possible. Seeing these possibilities, the National Counsel of State Agriculture Finance Programs, and a farming organization called Communicating for Agriculture, strongly endorse this legislation. It is also important to note that the Federal Government shoulders absolutely no financial risk in aggie bonds, and their cost, after these improvements, will be minimal.

I urge my colleagues to join me and the other cosponsors of this bill in supporting America's beginning farmers.

Mr. President, I ask unanimous consent to have printed in the RECORD the legislation.

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

S. 1674

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXPANSION OF FIRST-TIME FARMER EXCEPTION.

(a) ACQUISITION FROM RELATED PERSON ALLOWED.—Section 147(c)(2) of the Internal Revenue Code of 1986 (relating to exception for first-time farmers) is amended by adding at the end of the following new subparagraph:

''(G) ACQUISITION FROM RELATED PERSON.—For purposes of this paragraph and section 144(a), the acquisition by a first-time farmer of land or personal property from a related person (within the meaning of section 144(a)(3)) shall not be treated as an acquisition from a related person.''

(b) SUBSTANTIAL FARMLAND DEFINITION MODIFIED.—Clause (i) of section 147(c)(2)(E) of the Internal Revenue Code of 1986 (defining substantial farmland) is amended by striking ''15 percent of the median'' and inserting ''30 percent of the average''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

By Mr. FAIRCLOTH (for himself and Mr. HELMS):

S. 1676. A bill to permit the current refunding of certain tax-exempt bonds; to the Committee on Finance.

THE EASTERN BAND OF CHEROKEE INDIANS ACT OF 1996

Mr. FAIRCLOTH. Mr. President, I rise today to introduce legislation for the Eastern Band of Cherokee Indians in my home State of North Carolina.

In 1982, the Congress passed legislation that would allow Indian tribes to issue tax exempt bonds just like other units of governments, such as States, counties, and cities. The 1982 act acknowledged that Indian tribes are in fact legitimate units of government with wide ranging responsibilities.

Using the act, the Cherokee Indians in my State issued $31 million in tax-exempt bonds to purchase the Carolina Mirror Co. The tribal leadership viewed the purchase of Carolina Mirror Co. as a means to promote jobs and economic development for their tribe and its members.

In 1986, however, the Congress passed new legislation that narrowed the interpretation of the original act so that tax exempt bonds could only be used to finance ''essential governmental functions.''

Mr. President, the Cherokee Tribe in my State would like to take advantage of lower interest rates and refinance the bonds. Under a ''green eye shade'' view of the law, the IRS has ruled that a refinancing would be a reissue, and the tribe could not issue tax exempt bonds again. By reissuing bonds at a lower rate, the company could save nearly $1 million a year—or nearly half of its annual profit.

In my view, this is as great a savings that can be attained for this company,

but for this narrow interpretation of the law.

The legislation that I am introducing today is a technical bill that would allow Indian tribes to refinance tax-exempt bonds issued on or before October 13, 1987. This bill has safeguards to ensure that the temporary tax-exempt status of the bonds are not taken advantage of. Most importantly, this bill would be revenue neutral.

It is my hope that the Senate could consider this legislation.

By Mrs. BOXER:

S. 1677. A bill to amend the Immigration and Nationality Act to establish the United States Citizenship Promotion Agency within the Immigration and Naturalization Service, and for other purposes; to the Committee on the Judiciary.

THE CITIZENSHIP PROMOTION ACT OF 1996

• Mrs. BOXER. Mr. President, what do Saul Bellow, Itzhak Perlman, Elie Wiesel, Elizabeth Taylor, Mikhail Baryishnikov, Alistair Cooke, I. M. Pei, Hakeem Olajuwan, Patrick Ewing, and General John Shalikashvili have in common? They're all naturalized Americans, people who came to our country as immigrants and made major contributions to American life after receiving the precious gift of American citizenship.

Naturalization—the process by which a legal immigrant is granted the full rights and responsibilities of citizenship—represents the final step in a journey toward the American dream, a journey played by the rules.

As a firm believer in the American dream, and as a U.S. Senator whose mother became a naturalized citizen, I am pleased to introduce the Citizenship Promotion Act of 1996 which will put the ''N'' back in INS. This much-needed legislation will reform our current system of naturalization so that it can better serve those who want to follow the rules and become full participants in American society.

California has much at stake in improving the current delivery of naturalization services due to the high number of immigrants in the State who wish to naturalize. The latest surge in naturalization applications submitted is nowhere more evident than here. In fiscal year 1995, an estimated 1 million people applied for naturalization in the United States; over 380,000 of them live in the State of California. This is a 500-percent increase over the totals for fiscal year 1991.

Although Doris Meissner, the Commissioner of INS, is actively addressing the naturalization backlog, the wait for a naturalization application to be processed is still a year or longer in cities such as San Francisco and San Jose. Efforts by INS to cut waiting periods in heavily impacted cities continue to be delayed by lack of funding and outdated agency structures. We owe it to those who patiently follow the rules to do better. That is why my legislation is needed.

The first component of the legislation will create a citizenship promotion agency within INS. Headed by a new associate commissioner for citizenship, the citizenship promotion agency [CPA] will be responsible for carrying out all of the naturalization activities of the INS.

Currently, the INS lumps responsibility for naturalization with their other responsibilities. A separate agency for naturalization within INS will not only elevate the importance of the function but it will clear up the backlog of applications. The naturalization fees will be used to fund the naturalization process only, as they should be.

My legislation further provides for funds in the naturalization examinations fee account to be used for English language instruction. Today, there is an overwhelming need for more English language classes catering to immigrants trying to naturalize. The current availability of such classes is inadequate to meet the growing need for this type of instruction. In Los Angeles, for example, more than 20,000 people are now on waiting lists for English classes.

My legislation recognizes that learning English is not only an important component of naturalization, but also the key to opening all of America's opportunities to our new citizens.

The CPA will be encouraged to enter into cooperative agreements with other Government entities as well as private and nonprofit organizations to help carry out its naturalization outreach responsibilities. This will help maximize the capabilities of organizations that perform valuable naturalization outreach services at the local level.

My legislation also creates a citizenship advisory board to work with the Citizenship Promotion Agency. This board will give INS the benefit of advice and assistance from people with diverse experiences and perspectives on the naturalization process through the issuance of two reports a year.

Many of our most acclaimed Americans have been naturalized citizens. This is particularly true in San Francisco and the bay area. For instance, Lofti Mansouri, director of the San Francisco Opera is a naturalized citizen. Helgi Tommason, the director and choreographer for the San Francisco Ballet, is in the process of becoming one. Leo McCarthy is a naturalized citizen.

The last four Nobel Prize winners at UC Berkeley as well as UC Berkeley Chancellor Chang Lin-Tien and UC Santa Barbara Chancellor Henry T. Yang are all great thinkers and naturalized Americans. Our Nation has bestowed the gift of citizenship on them; they have repaid our culture and society with the priceless gifts of their knowledge and creativity.

These individuals are not only the leading lights in the bay area; they have received accolades the world over for their talents and contributions.

From the people we have invited today, you will hear the stories of what they have been through and what naturalization means to them. And while all of our naturalized citizens are not famous, many of them embody the best of America's traditions and values.

Take the example of Joyce Cheng, a naturalized citizen who came from Hong Kong in 1965 to settle in California's central valley. Ms. Cheng worked at her family's restaurant and two other jobs in order to pay for her education at the University of California at Berkeley. After receiving her degree in sociology, she worked in community service agencies and counseled other newcomers in employment and adjustment to American life.

Later Ms. Cheng joined the financial industry and was credited with building her bank's net worth tenfold in less than 2 years. In 1988 she founded her own successful mortgage loan and financial planning company in Oakland which generates millions of dollars in revenues each year

Ever since she naturalized in 1970, Ms. Cheng has participated in every election and helped encourage her community to be active participants in the democratic process. She serves on over 20 civic and professional boards and organizations.

Or take Eliana Osorio, who immigrated to the United States from Chile in 1963. She overcome the cultural barriers most newcomers face, such as unfamiliarity with English, and raised four very successful American children. Patricia is a graduate of UC Berkeley and will be attending the University of Chicago in the fall to pursue a masters degree in public policy. Mrs. Osorio's son is a photographer for the Chicago Tribune and a graduate of San Francisco State University.

Much like Mrs. Osorio, Felisa Lam came to the United States many years ago to begin a new life. She came to study accounting and remained in America as a legal resident. She founded a printing shop in 1979, after attending a start-up business conference. After 17 years, her San Francisco business, Trans Bay Printing, has grown dramatically. Her clients range from major corporations to local community groups. Her efforts have not only allowed her to claim a piece of the American dream, they have enabled her two children to claim a piece of their own by attending Yale University.

These are only a few short examples of the kind of new citizens who enrich our communities throughout the country. They not only demonstrate the strong work ethic and family values inherent in most of our foreign-born citizens, but also a firm commitment to their civic responsibilities as American citizens.

I am a strong supporter of efforts to regain control of illegal immigration. It must be done at the border and in the workplace. But that effort should not overshadow other responsibilities of the Immigration and Naturalization Service.

My bill will make needed improvements to the often-neglected function

of naturalization, acting as an important balance to proposed immigration reform and remaining true to the promise of the American dream.

Many of us have directly witnessed the contributions of naturalized citizens in our communities and our families. I was fortunate to see in my own home, with my own mother, how much a naturalized American treasured her U.S. citizenship.

After my mother passed away in 1991, I found a very special pouch that she had left for me. In it were this wedding band and a one-page document wrapped in cellophane. It was her naturalization certificate. America was her land, her home. Her papers were all in order—but that one paper in that separate pouch with her wedding band was the one she wanted me to have, and I have saved it to share with her great-grandchildren.●

By Mr. GRAMS (for himself, Mr. FAIRCLOTH, Mr. ABRAHAM, and Mr. STEVENS):

S. 1678. A bill to abolish the Department of Energy, and for other purposes; to the Committee on Energy and Natural Resources.

THE DEPARTMENT OF ENERGY ABOLISHMENT ACT OF 1996

● Mr. GRAMS. Mr. President, I am pleased to be introducing the Department of Energy Abolishment Act of 1996. I do this on behalf of the ratepayers and taxpayers in my home State of Minnesota and across America who have handed over their hard-earned dollars for years in exchange for a bloated bureaucracy. It is for their sake that we embark on this journey to bring real accountability to the Federal Government—the first step is the elimination of the Energy Department.

In 1977, the U.S. Department of Energy, or DOE, was created to address the energy crisis which had paralyzed our Nation throughout that decade. It was assumed then that the creation of a Cabinet-level Energy Department would serve as a preemptive strike against future energy emergencies. But I'm sure that no one who served in Congress at that time envisioned the problems that DOE would create, rather than solve.

I do not doubt that the DOE was established with good intentions, but like many of the relics of the seventies, it has outlived its usefulness and public support. And like many of the outdated and wasteful taxpayer-funded programs of that era, the DOE should come to an end.

In my opinion, there are three main reasons for eliminating the DOE.

First, the DOE serves no real mission.

The DOE was created in response to the energy crisis and to protect us from similar emergencies in the future, a noble cause. Yet, the problems for which the DOE was established to address never materialized. Oil supplies eventually rose while prices dropped. The need for a national energy department became less apparent. Even so, the DOE continued to grow, with its bureaucrats working overtime to justify the Department's existence by branching out into areas only marginally related to national energy policy.

Their effort is readily apparent when you realize that 85 percent of the DOE's budget is spent on activities with no direct relation to energy resources. The bulk of those dollars go toward the cleanup of radioactive waste from nuclear weapons facilities and for overseeing storage of our Nation's nuclear waste—programs better suited respectively for the Defense Department and the Army Corps of Engineers.

I share the sentiments expressed by former Defense Secretary Caspar Weinberger who says: ''The Department of Defense, today, with the appropriate leadership and management, is the best place for responsibility for the nuclear weapons stockpile in all its aspects, to be vested, including clean-up activities. Maintaining a separate chain-of-command, and all associated overhead in DOE is a costly and cumbersome arrangement that we can no longer afford.''

The DOE is also responsible for national energy research—such as the development of alternative energy; promoting energy conservation; and ensuring affordable power and access to it by consumers. But after nearly 20 years and hundreds of billions of tax dollars, the DOE has little to show for it, except a few porkbarrel programs and a lot of excuses.

Second, the DOE has failed to carry out the duties it has been handed.

Perhaps the best example of this failure is the DOE's refusal to address the responsibility to accept and store our Nation's nuclear waste. There are 34 States, including my home State of Minnesota, with nuclear facilities in danger of running out of storage space for their spent nuclear fuel. In spite of this impending crisis and the DOE's legally mandated deadline of accepting nuclear waste by 1998, it has taken no real action in addressing the problem.

Worse yet, through a surcharge on their monthly energy bills, electric utility customers have already contributed $11 billion to a nuclear waste trust fund established to create a permanent storage facility, nearly half of which the DOE has already spent. But as we approach 15 years of inaction on the part of the DOE, the waste still sits, posing a potential environmental risk to the people of Minnesota and across the country.

Finally, the DOE is an affront to the taxpayers who are forced to watch nearly $16 billion of their hard-earned dollars go each year to feed this bureaucratic monstrosity.

It currently takes 20,000 Federal bureaucrats and another 150,000 contract workers to carry out the DOE's agenda. Even in the absence of another energy crisis like that which led to its creation, the DOE's budget has grown by 235 percent since 1977—a particularly alarming figure given our current national debt of over $5 trillion.

In his State of the Union Address, President Clinton declared that ''the era of big government is over.'' And I agree. What better way to carry out this pledge than to start dismantling an agency with no mission, no purpose and no legitimate future? That is exactly what the Department of Energy Abolishment Act does.

As this chart shows, our legislation would dismantle the DOE, while transferring the legitimate functions of government to other agencies and departments. In doing so, it will eliminate DOE's upper-level bureaucracy, saving taxpayers an estimated $19 to $23 billion over 5 years and $5 to $7 billion annually thereafter—a refreshing change for the millions of Americans who filed their tax returns yesterday.

At the same time, it will peel away another level of Federal bureaucracy which has grown at the expense, not benefit, of the taxpayers, while addressing the future energy needs of this Nation.

Most importantly, it will send a clear signal to the American people that Congress heard their message in the elections of 1994 and is prepared to protect the taxpayers by giving them a smaller, more effective Government.

First, the Department of Energy Abolishment Act accomplish these goals by immediately eliminating the Cabinet-level status of the DOE and creating a 3-year resolution agency to oversee the transfer, privatization and elimination of the various DOE programs and functions. Then, the legislation sets about dismantling the DOE structure.

Under title I of the bill, the Federal Energy Regulatory Commission [FERC] is transformed into an independent agency. This is similar to the FERC status prior to the creation of the DOE.

The pending cases before the Energy Regulatory Administration [ERA] are transferred to the Department of Justice with a 1-year resolution deadline. Furthermore, the DOJ is instructed to utilize alternative dispute resolution whenever possible.

The activities of the Energy Information Administration [EIA] are transferred to the Department of Interior [DOI], which will have the discretion of maintaining or privatizing EIA activities.

The basic science and energy programs within the DOE structure are handled in two ways. Those activities not being conducted by the DOE laboratory facilities are transferred immediately to the DOI. Once at the DOI, the Secretary of Interior has the discretion of determining which functions or programs constitute basic research and can recommend transfer to the National Science Foundation [NSF] for further study and recommendation by an independent science commission which is also established to look at the DOE labs.

For those activities which are more commercial in nature, the Secretary has 1 year to recommend to the Congress a plan for permanent disposition of these functions. These activities can then be assumed by the private sector, focusing Government dollars toward fundamental research initiatives.

Under title II of the bill, the three defense labs—Sandia, Lawrence Livermore, and Los Alamos—are all transferred to the Department of Defense under the civilian management and control of a new defense nuclear programs agency. The remaining nondefense laboratories are transferred to the NSF for review by a non-defense energy laboratory commission. The Commission can recommend restructuring, privatization or concur with the bills closure language.

Furthermore, if the commission identifies additional labs or functions which are national security related, the commission can recommend a transfer of functions to one of the defense labs or a transfer of those facilities to the DOD.

Once the commission has submitted its recommendations, Congress has fast-track authority to consider the report and enact the recommendations. Failure by Congress to act will result in closure of facilities within 18 months of the reports issuance.

Under title III of the bill, the Power Marketing Administrations [PMA's]—Bonneville, Southeastern, Southwestern, and Western—are transferred to the U.S. Army Corps of Engineers. The General Accounting Office is then instructed to conduct an inventory of the PMA assets and liabilities. The GAO is then instructed to perform a study of the options available which protect the interests of the current customers and taxpayers and submit it to the Congress.

The Strategic Petroleum Reserve [SPR] and the Naval Petroleum Reserve are addressed under title IV of the bill. The SPR is transferred to the DOD where a GAO study is ordered to determine alternatives to maintaining the reserves. Once complete, the Secretary of DOD has the discretion to determine the amount to maintain or sell. The Naval Petroleum Reserve, however, is ordered to be sold within 3 years under the direction of the resolution administrator. If the sale is not completed within this timeframe, the Secretary of Interior is instructed to administer the balance of the sale.

The largest portion of the DOE's budget, defense-related provisions, are addressed under titles V & VI of the legislation. All national security and environmental management programs are transferred to a newly created, civilian-controlled Defense Nuclear Programs Agency [DNPA]. This includes stewardship of the weapons production facilities and the stockpile.

The environmental restoration activities at the defense nuclear facilities are also transferred to the new DNPA to coordinate ongoing DOD cleanup activities. DOE's current cleanup programs have wasted billions of dollars with little progress in their efforts at sites such as Hanford. This transfer is aimed at refocusing taxpayer dollars to cleanup, rather than duplicative bureaucracies.

Title VII of the legislation transfers the civilian waste program to the Army Corps of Engineers. Site characterization activities continue at the Yucca Mountain site, and Area 25 of the Nevada Test Site is named as the interim storage site. This temporary site is consistent with legislation currently pending before the U.S. Senate. Also, the GAO is instructed to conduct a study of options for program privatization initiatives. These changes to the civilian waste program represent the best way to ensure the Federal Government meets its obligation to begin accepting waste by 1998.

The merits and importance of this legislation have been recognized not only by Secretary Weinberger, but also by two men who know the DOE inside and out—former Energy Secretaries Donald Hodel and John Herrington. I am delighted that our legislation has their support, as well as the support of the Cato Institute, the Competitive Enterprise Institute, and Citizens Against Government Waste.

I would like to close by quoting Nobel Prize-winning economist Milton Friedman who in 1977 likened a national energy agency to a Trojan Horse, saying ''[I]t enthrones a bureaucracy that would have a self-interest in expanding in size and power and would have the means to do so.''

Over the years, we have witnessed Dr. Friedman's prediction come true—and all at the cost of hundreds of billions of wasted taxpayers' dollars. As a result, the DOE has managed to see its 19th anniversary this year. It should not be around for its 20th. It is time to put this Trojan Horse out to pasture.●

ADDITIONAL COSPONSORS

S. 39

At the request of Mr. STEVENS, the names of the Senator from South Dakota [Mr. PRESSLER], the Senator from Mississippi [Mr. LOTT], the Senator from Hawaii [Mr. INOUYE], and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of S. 39, a bill to amend the Magnuson Fishery Conservation and Management Act to authorize appropriations, to provide for sustainable fisheries, and for other purposes.

S. 258

At the request of Mr. PRYOR, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 258, a bill to amend the Internal Revenue Code of 1986 to provide additional safeguards to protect taxpayer rights.

S. 304

At the request of Mr. SANTORUM, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 304, a bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation.

S. 494

At the request of Mr. KYL, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 494, a bill to balance the Federal budget by fiscal year 2002 through the establishment of Federal spending limits.

S. 568

At the request of Mr. COATS, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 568, a bill to provide a tax credit for families, to provide certain tax incentives to encourage investment and increase savings, and to place limitations on the growth of spending.

S. 607

At the request of Mr. WARNER, the names of the Senator from New York [Mr. D'AMATO], and the Senator from Oregon [Mr. WYDEN] were added as cosponsors of S. 607, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify the liability of certain recycling transactions, and for other purposes.

S. 684

At the request of Mr. HATFIELD, the names of the Senator from Maine [Ms. SNOWE], the Senator from Iowa [Mr. HARKIN], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 684, a bill to amend the Public Health Service Act to provide for programs of research regarding Parkinson's disease, and for other purposes.

S. 814

At the request of Mr. MCCAIN, the names of the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of S. 814, a bill to provide for the reorganization of the Bureau of Indian Affairs, and for other purposes.

S. 874

At the request of Mr. GRAMS, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 874, a bill to provide for the minting and circulation of $1 coins, and for other purposes.

S. 948

At the request of Mr. DORGAN, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 948, a bill to encourage organ donation through the inclusion of an organ donation card with individual income refund payments, and for other purposes.

S. 1028

At the request of Mrs. KASSEBAUM, the names of the Senator from Iowa [Mr. HARKIN], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Louisiana [Mr. BREAUX], the Senator from New York [Mr. D'AMATO],

and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 1028, a bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

S. 1189

At the request of Mr. DEWINE, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 1189, a bill to provide procedures for claims for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immuno-deficiency virus due to contaminated blood products.

S. 1289

At the request of Mr. KYL, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 1289, a bill to amend title XVIII of the Social Security Act to clarify the use of private contracts, and for other purposes.

S. 1506

At the request of Mr. ABRAHAM, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1506, a bill to provide for a reduction in regulatory costs by maintaining Federal average fuel economy standards applicable to automobiles in effect at current levels until changed by law, and for other purposes.

S. 1512

At the request of Mr. LUGAR, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 1512, a bill to amend title 23, United States Code, to improve safety at public railway-highway crossings, and for other purposes.

S. 1610

At the request of Mr. BOND, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1610, a bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining whether individuals are not employees.

S. 1612

At the request of Mr. HELMS, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1612, a bill to provide for increased mandatory minimum sentences for criminals possessing firearms, and for other purposes.

S. 1623

At the request of Mr. WARNER, the names of the Senator from Maryland [Mr. SARBANES] and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of S. 1623, a bill to establish a National Tourism Board and a National Tourism Organization, and for other purposes.

S. 1624

At the request of Mr. HATCH, the names of the Senator from Virginia [Mr. ROBB] and the Senator from North Dakota [Mr. DORGAN] were added as cosponsors of S. 1624, a bill to reauthorize the Hate Crime Statistics Act, and for other purposes.

S. 1646

At the request of Mr. DOMENICI, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1646, a bill to authorize and facilitate a program to enhance safety, training, research and development, and safety education in the propane gas industry for the benefit of propane consumers and the public, and for other purposes.

S. 1653

At the request of Mr. CONRAD, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 1653, a bill to prohibit imports into the United States of grain and grain products from Canada, and for other purposes.

SENATE CONCURRENT RESOLUTION 41

At the request of Mr. INOUYE, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from New Mexico [Mr. DOMENICI], the Senator from Hawaii [Mr. AKAKA], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of Senate Concurrent Resolution 41, a concurrent resolution expressing the sense of the Congress that The George Washington University is important to the Nation and urging that the importance of the University be recognized and celebrated through regular ceremonies.

SENATE RESOLUTION 226

At the request of Mr. DOMENICI, the names of the Senator from Missouri [Mr. BOND], the Senator from Iowa [Mr. GRASSLEY], the Senator from Nevada [Mr. REID], and the Senator from Texas [Mrs. HUTCHISON] were added as cosponsors of Senate Resolution 226, a resolution to proclaim the week of October 13 through October 19, 1996, as ''National Character Counts Week.''

SENATE RESOLUTION 243—TO DESIGNATE NATIONAL CORRECTIONAL OFFICERS AND EMPLOYEES WEEK

Mr. ROBB submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 243

Whereas the operation of correctional facilities represents a crucial component of our criminal justice system;

Whereas correctional personnel play a vital role in protecting the rights of the public to be safeguarded from criminal activity;

Whereas correctional personnel are responsible for the safety and dignity of human beings charged to their care; and

Whereas correctional personnel work under demanding circumstances and face danger in their daily work lives: Now, therefore, be it

Resolved, That the Senate designates the week of May 5, 1996 as ''National Correctional Officers and Employees Week''. The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Mr. ROBB. Mr. President, I submit a Senate resolution to designate the week of May 5, 1996 as ''National Correctional Officers and Employees Week.''

Mr. President, this resolution is a small gesture to recognize the vital role that correctional personnel play in our communities.

Correctional officers and employees put their lives on the line every day to protect the public from dangerous criminals. These brave men and women also protect incarcerated individuals from the violence of their circumstance, and they help prisoners work toward returning to lawful society.

I urge my colleagues to join with me to recognize the indispensable contributions of our Nation's correctional officers and employees.

SENATE RESOLUTION 244—RELATIVE TO THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION CHAMPIONSHIP

Mr. FORD (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 244

Whereas the University of Kentucky Wildcats men's basketball team defeated Syracuse University's team on April 1, 1996, in East Rutherford, New Jersey, to win its sixth National Collegiate Athletic Association (NCAA) championship;

Whereas the senior members of this team, during their four-year varsity careers, were also NCAA semi-finalists and three-time champions of the Southeastern Conference.

Whereas Coach Rick Pitino, his staff, and his players displayed outstanding dedication, teamwork, unselfishness, and sportsmanship throughout the course of the season in achieving collegiate basketball's highest honor, earning for themselves the nickname ''The Untouchables''; and

Whereas Coach Pitino and the Wildcats have brought pride and honor to the Commonwealth of Kentucky, which is rightly known as the basketball capital of the world: Now, therefore, be it

Resolved, That the Senate commends and congratulates the University of Kentucky on its outstanding accomplishment.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the president of the University of Kentucky.

SENATE RESOLUTION 245—MAKING MAJORITY PARTY APPOINTMENTS TO THE LABOR AND HUMAN RESOURCES COMMITTEE

Mr. LOTT (for Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 245

Resolved, That notwithstanding any provision in Rule 25 or 26, the following be the majority party membership on the Committee on Labor and Human Resources for the 104th Congress, or until their successors are appointed:

Labor and Human Resources: Mrs. Kassebaum (Chairman), Mr. Jeffords, Mr. Coats, Mr. Gregg, Mr. Frist, Mr. DeWine, Mr. Ashcroft, Mr. Gorton, and Mr. Faircloth.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will conduct a business meeting on Tuesday, April 23, 1996, to mark up the committee's letter to the Senate Committee on the Budget containing the committee's budget views and estimates on the President's budget request for fiscal year 1997 for Indian programs. The business meeting-markup will be held at 9 a.m. in room 485 of the Russell Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will conduct a hearing during the session of the Senate on Thursday, April 25, 1996 on S. 1264, a bill to provide certain benefits of the Missouri River Basin Pick-Sloan Project to the Crow Creek Sioux Tribe and for other purposes. The hearing will be held at 9 a.m. in room 485 of the Russell Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 10 a.m. on Tuesday, April 16, 1996, in open session, to receive testimony on the Department of Energy's atomic energy defense activities and the fiscal year 1997 budget request and Future Years Defense Program.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Tuesday, April 16, 1996 session of the Senate for the purpose of conducting a hearing on the Reauthorization of the National Transportation Safety Board and the Pipeline Safety Act.

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

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, April 16, 1996, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2 p.m. The purpose of the hearing is to consider S. 1646, a bill to authorize and facilitate a program to enhance safety, training; research and development, and safety education in the propane gas industry for the benefit of propane consumers and the public, and for other purposes.

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

SUBCOMMITTEE ON NEAR EASTERN AND SOUTH ASIAN AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, April 16, 1996, at 10 a.m.

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

ADDITIONAL STATEMENTS

FEDERAL-TRIBAL NEGOTIATED RULEMAKING

● Mr. MCCAIN. Mr. President, I rise to inform my colleagues that later today I will ask their unanimous consent to hold at the desk and pass H.R. 3034, a measure that was passed by the House by consent. H.R. 3034 is identical to S. 1608, a measure I and Senator INOUYE introduced on March 12, 1996. S. 1608 was referred to the Committee on Indian Affairs, which I chair.

My full statement explaining the bill appeared at page S1867 of the March 12 CONGRESSIONAL RECORD. While I regret that it is necessary, I support the 60-day extension of authority to the Secretary of the Interior and the Secretary of Health and Human Services to promulgate regulations implementing the Indian Self-Determination Contract Reform Act of 1994 under negotiated rulemaking procedures.

In the 1994 act, the Congress required the administration to involve the Indian tribes, under negotiated rulemaking procedures, in the development of these regulations within an 18-month period that expires on April 25, 1996. The pending bill would extend that period to June 25, 1996.

Many of the Indian tribes who have been involved in the negotiated rulemaking process have sought the extension in order to provide them adequate time to respond to the public comment received from the draft regulations published on January 24, 1996. The administration has joined them in requesting a 2-month extension to the 18-month period provided by the statute to promulgate regulations. Their request is worthy of support and I urge my colleagues to consent to its passage.●

CONGRATULATIONS CORNHUSKERS BASKETBALL

● Mr. KERREY. Mr. President, I come to the floor today to congratulate the University of Nebraska Cornhuskers Men's Basketball Team on their thrilling championship victory over St. Joseph's of Pennsylvania, 60 to 56, in the National Invitational Tournament, the Nation's oldest postseason tournament, at Madison Square Garden on March 28. With their victory, the men's basketball team joins an impressive list of championship seasons this school year for UNL that already includes national champions in football and women's volleyball.

Coach Danny Nee and his players overcame considerable adversity this season, having entered the NIT with 10 losses in their last 11 games. But they defeated Colorado State, Washington State, Fresno State, and Tulane in route to the NIT final, and finished what could have been a disappointing season on a very successful note.

Mr. President, this is UNL's first ever basketball championship and although some may consider the NIT a second-tier tournament, only two teams in men's NCAA Division One basketball can end their season on a winning note. And I am proud to say, one of them this year is my Alma Mater—the University of Nebraska at Lincoln.

Congratulations to Coach Nee, senior guard and NIT MVP Erick Strickland, and the entire Cornhusker men's basketball team on a successful season and a terrific victory. Nebraska is, indeed, proud.●

CRUMBS FOR THE MAJORITY

● Mr. SIMON. Mr. President, I felt like starting these observations by saying three cheers for Mort Zuckerman.

Recently, Mortimer B. Zuckerman, editor-in-chief of U.S. News & World Report, had a superb column called ''Crumbs for the Majority'', which I ask to be printed in the CONGRESSIONAL RECORD after my remarks.

He talks about our income disparity, our growing problems with poverty, and the need to do something about it.

He advocates a grant program similar to the old GI bill after World War II.

It is interesting that if you were to add an inflation factor to the average grant made under the GI bill after World War II, it today would average $9,400 a year. The most anyone can receive today in a grant from the Federal Government is $2,400, and you have to meet strict standards of poverty to receive that.

Even for a modest program like the Direct Loan Program, we have to struggle to see it survive.

If you were to combine the kind of suggestion that Mort Zuckerman has with a WPA type of program that would say to people: You can stay on welfare 5 weeks, but after that you have to work 4 days a week at minimum wage, as in the old WPA, and the fifth day you should be out trying to find a job in the private sector, we would put to work hundreds of thousands—probably millions—of Americans who are now left out of our process and who can be made productive. The demand for unskilled labor is going down and to talk about welfare

reform without talking about creating jobs for people of limited skills is public relations and nothing more.

Such a WPA program should tie in with the education recommendation of Mort Zuckerman. People who come into the program should be screened, and if they can't read and write, we should get them into the program. We have 23 million Americans who cannot fill out an employment form and who cannot read the newspaper. That is a huge drag on our productive capacity.

Those who come into the WPA type of program who have a remarkable skill should be given an opportunity to enhance that skill, whether through an apprentice program or a technical school or community college.

Mort Zuckerman ends his column by saying ''but it is hope that will sustain and enrich us.'' He is correct.

The great division in our society is not between black and white or Hispanic and Anglo or many of the other divisions that people talk about. It is between those who have hope and those who have given up. We need programs that give people the spark of hope.

We have shown very little creativity in dealing with the problems of poverty in our Nation. We have been pandering to those who make the big campaign contributions and who are politically articulate.

It is about time we pay attention to those who make no campaign contributions and who are getting more and more disillusioned with our Government.

The editorial follows:

[From U.S. News & World Report, Feb. 26, 1996]

CRUMBS FOR THE MAJORITY

(By Mortimer B. Zuckerman)

The stock market is up over a trillion dollars in the past 14 months. The United States is five years into an economic recovery. But the opinion polls reveal the public to be in a foul mood and pessimistic about the future. What is going on?

The cake has gotten bigger, but it is not being shared equitably. The technological and educated aristocracy, and the owners of financial assets, are sharing the cream with a highly skilled and well-educated minority, a little more than a third of the work force, who have full-time, full-benefits jobs. But there are only crumbs for the majority of the population who lack a college education or specialized skills. Incomes have been falling or stagnating as this group has remained mired for more than 20 years in what has been called ''the silent depression.'' As social analyst Daniel Yankelovich points out, we are in the midst of the erosion of one of the greatest achievements of the post-World War II era, in which not only people with a college degree could make a good living but also people without one. This gave us a middle class and a prosperous country with a sense of fairness and hope.

That optimism and faith in America have been eroded. Too many Americans cannot afford health insurance; too many can barely save; too many cannot afford to send their children to college; and as 1995's Christmas sales indicate, too many cannot afford gift buying. Both spouses have to work, and the one-earner, middle-class family is becoming extinct. Parents are now spending about 40 percent less time with their children than they did 30 years ago. To support the children who need ever more costly education for ever longer periods of time, parents have to be willing to make larger and larger sacrifices. What's more, too many men are bailing out of these obligations.

This erosion of family life has led to a widespread sense of moral confusion and a breakdown in the shared norms that hold our society together. No value has suffered more than individual responsibility. A nation whose creed is individualism courts disaster if it then proceeds to weaken the moral responsibility of the individual by a philosophy of entitlement. The social conservatism that has re-emerged in response has found its political expression in a bipartisan readiness to cut social services and other programs, which is understandable. Americans ask, If we are spending so much, why aren't we seeing better results? Many Americans see themselves as subsidizing well-organized special-interest groups that are excessively influential in shaping the decisions of our rulers once they are in office.

The voters are rebelling not just against big government—everyone's villain these days—but against bad government. The government has proved inadequate in grappling with the problems of corporate downsizing and declining incomes that now affect tens of millions of workers. We have civil servants who are not civil, public schools that do not teach the public, a criminal justice system that neither reduces crime nor produces justice and economic insecurity even in a rapidly growing economy.

Merely cutting this and that is hardly a sufficient response. There are areas where only government can lead. Higher education and continual learning are a place to start. Higher education is an investment in the greatest strength a country has, its people. We need a modern version of the GI Bill, which provided mass higher education for more than 20 million veterans and dependents. Any student able to meet minimum standards upon graduation from high school should qualify for a scholarship for higher education for the information age, providing family income does not exceed a maximum amount of, say, $125,000. This would be a constructive way to shrink the gap between the haves and the have-nots—much better than doing it only by taxation.

Such a program would cost billions of dollars. But government must find a way to reorder its priorities, to shift money from less valuable programs. Without positive policies to arrest our national decay, the deep anxiety that now seizes much of our society may well turn to fear, or even panic. It is fear that has provided the political basis for the success of Pat Buchanan. But it is hope that will sustain and enrich us.●

INCREASING THE FEDERAL DEBT LIMIT

●Mr. GRAMS. Mr. President, I wanted to express my concern over the increase in the public debt limit which occurred under a unanimous-consent agreement on the Thursday before the Easter recess. Having earlier expressed in a letter to the Republican leadership my intention to oppose an increase in the debt limit if it was not directly connected to a balanced budget. I believe this unanimous-consent agreement hangs over this Congress like a black cloud, marking a dark day for the American taxpayers.

The Congress had done the hard work of putting together a balanced budget that would have put this Nation on the glidepath to eliminating the deficit. Furthermore, it represented our best hope for tackling our $5 trillion debt.

Yet the President carelessly vetoed the bill and its key reforms which would have restored solvency to our Medicare System and ended welfare as we know it. All the while, he has sat at the other end of Pennsylvania Avenue, clamoring for more spending.

Mr. President, I believe yesterday's vote was a white flag of surrender, and a retreat on our pledge to protect the American taxpayers. Nothing in this bill ensures any progress will be made with this Administration in attempting to reach a balanced budget agreement.

Instead, we promised this President we would increase the credit limit on the Nation's charge card by $600 billion—an amount the Congressional Budget Office estimates will be exceeded by next summer. And what did the taxpayers receive in return? The promise of bigger government, a bigger debt, and more of the status quo.

I will acknowledge that the bill did contain two riders which I have supported. The Small Business Regulatory Enforcement Fairness Act is similar to a measure I had supported earlier this month. And as a cosponsor of the Senior Citizens' Right to Work Act, I had advocated passage of this bill earlier this year. But I do not believe seniors or small business should be held hostage to an increase in the debt limit. Unfortunately, they were used to mask the fact that yesterday's vote dragged us deeper into financial chaos.

While the Federal Government's impending financial crisis may have been averted by this debt limit increase, the President must understand that our action does not absolve him of his responsibility in derailing the first real balanced budget produced by a Congress in over 25 years. Given that track record, we cannot allow another increase to occur without the enactment of a balanced budget plan. The Nation's credit card is ready to snap under the heavy load we have already heaped upon it—the American taxpayers are no longer willing to shoulder that burden.●

CANADA, BACKED BY MEXICO, PROTESTS TO UNITED STATES ON CUBA SANCTIONS

● Mr. SIMON. Mr. President, I cast 1 of the 22 votes against the Cuban sanction bill that passed the Senate and has been signed by the President.

I read the story in the New York Times, by Richard Stevenson, titled ''Canada, Backed by Mexico Protests to United States on Cuba Sanctions,'' which I ask to be printed in the CONGRESSIONAL RECORD after my remarks.

Canada is right, Mexico is right, and the Senate, House, and the President are wrong on this one.

We are capitulating to emotion, and we will have done not one thing to discourage Castro.

Our policy to remove Castro has failed for decades, in fact it has had the opposite affect. We simply are compounding the problem.

We are like an accident victim who has suffered a gash, and we think we can stop the bleeding by cutting ourselves some more.

The column follows:

[From the New York Times, Mar. 14, 1996]

CANADA, BACKED BY MEXICO, PROTESTS TO UNITED STATES ON CUBA SANCTIONS

(By Richard W. Stevenson)

WASHINGTON, March 13.—In a sign of the growing tensions between the United States and its trading partners over stepped-up American sanctions against Cuba, Canada said today that it had lodged a trade protest with the Clinton Administration, and Mexico immediately asked to join Canadian-American discussions on the issue.

Responding to a new American law that seeks to tighten the economic vise on Cuba by putting pressure on other countries not to do business with Fidel Castro's Government, Canada said it asked for consultations with the United States under the terms of the North American Free Trade Agreement.

Canada has extensive trade with Cuba, and has vigorously protested what it sees as unfair efforts by the United States to penalize Canadian companies and business executives who operate there.

Canadian officials said the law, sponsored by Senator Jesse Helms of North Carolina and Representative Dan Burton of Indiana, both Republicans, and signed on Tuesday by President Clinton, could violate the free trade agreement in several ways.

In Ottawa, Canada's Trade Minister, Arthur Eggleton, said his government would ''seek clarification of U.S. intentions'' in introducing the bill.

''Canada finds objectionable the Helms-Burton bill, which could interfere with companies engaged in legitimate business and which attempts to extend U.S. law to other jurisdictions,'' Mr. Eggleton said.

Mexican officials, expressing similar misgivings, said they supported the Canadian action, and wanted to take part in the consultations to get a clearer idea how the United States would carry out the legislation's most contentious measures.

A request for consultations is the first step in resolving trade disputes under Nafta, and could lead to a formal ruling on whether the American legislation violates the pact.

The legislation was passed by Congress and signed by President Clinton after the drowning of two small civilian aircraft by Cuban fighters last month. Among other things, it allows American citizens to sue foreigners and foreign companies that ''act to manage, lease, possess, use or hold an interest in'' property confiscated by the Cuban Government from people who are now American citizens.

It also permits the United States to bar entry to foreign corporate officers and controlling shareholders who take part in using such property and foreign executives whose companies do business in Cuba.

The United States Trade Representative, Mickey Kantor, said the American position ''is entirely consistent'' with both the rules of Nafta and the world trade talks.

In an interview, Mr. Kantor said that under the trade agreement the United States reserved the right to protect its security interests and to bar from entry people who have committed crimes of moral turpitude under United States laws.

''The combination of those two, or either standing alone depending on the situation, would support our position,'' Mr. Kantor said.

Federico Salas, the minister for political affairs at the Mexican Embassy in Washington, said ''The Canadians have taken the initiative and we have requested to participate in these consultations.'' The European Union said last week that the law would ''represent the extraterritorial application of U.S. jurisdiction and would restrict E.U. trade in goods and services with Cuba.''

Russia also objected to provisions in the law linking American foreign aid to Russia to Moscow's cutting its military and economic ties to Mr. Castro.●

INTERNATIONAL BRIBERY

Mr. FEINGOLD. Mr. President, export promotion is a critical component of both domestic economic growth in this country and of our foreign policy. One of the barriers to more trade for U.S. companies has been a virtual subsidy by the governments of many of our trade competitors for offering bribes to win foreign contracts. Of course, U.S. business is prohibited from engaging in bribery by the Foreign Corrupt Practices Act. While there have been calls to repeal the FCPA, for almost 2 years, I have been working to promote universal acceptance of the principles of the FCPA. I introduced legislation and a sense of the Senate resolution last year to move forward in that direction. A version of the proposals were included in the Senate State authorization bill, but not included in the conference agreement.

For a problem that no one seems to want to talk about publicly, there has been some important movement to help eradicate this practice in Europe. Two years ago the Organization for Economic Cooperation and Development a group of 26 major industrialized countries, passed a resolution to ''deter, prevent, and combat bribery.'' Now it has expanded on that by recommending that members terminate the tax-deductibility of bribes, such as allowed in Germany and elsewhere.

This is a significant step toward leveling the playing field for U.S. exports. It is also important that major newspapers, such as the New York Times and the Washington Post, have carried opinion pieces in the past couple of days on this issue. I ask that the articles be printed in the RECORD and commend them to my colleagues for their review. Bribery and corruption are serious impediments to our exports, and promote bad business practice. We should be supportive of efforts, such as the recent initiatives by the OECD to help protect American business.

The articles follow:

[From the Washington Post, Apr. 16, 1996]

AN END TO CORRUPTION

(By Robert S. Leiken)

If a German bribes a German, he gets thrown in jail; if he bribes a foreign official he gets a tax deduction. Only American businessmen can be prosecuted at home for bribing foreigners.

But the day when U.S. business was a solitary straight arrow seems to be ending. This is not because the Foreign Corrupt Practices Act (FCPA) has become a dead letter. IBM-Argentina, now under federal investigation, can testify to that. What may be opening a new chapter in commercial diplomacy is a revolution in public opinion, the repudiation of bribery and kickbacks by societies that once tolerated them.

Last week the Organization for Economic Cooperation and Development (OECD), the league of wealthy industrial nations, recommended that is members stop allowing tax write-offs for bribes. Sources close to those protracted negotiations said that the public reaction to recent bribery scandals helped overcome resistance to the measure led by France, Germany and Japan.

The end of the Cold War, the spread of democracy, the rise of civil societies have sparked disclosure of corruption East and West. This is the case not only in the former Soviet bloc but also among Western allies where military regimes or ruling-party dominance has given way to competitive politics.

An intriguing community of interests is forming between U.S. corporations and democracy. For the solution to translational bribery lies not in a futile attempt to repeal the Foreign Corrupt Practices Act but in universalizing it and supporting reforms in emerging countries.

Corruption is being challenged by opposition parties, and unmuzzled press, religious groups and other nongovernment organizations, as well as prosecutors, magistrates and other civil servants. Anti-corruption movements have emerged in countries as diverse as Argentina, Cambodia, Italy, Hungary, Pakistan, Saudi Arabia, El Salvador, South Korea, Switzerland, Taiwan, Tanzania, Thailand, New Zealand and Zimbabwe. Citizens who have silently endured corruption for generations now take to the streets to protest corrupt practices, to elect anticorruption candidates and to impeach corrupt presidents, vice presidents, premiers, cabinet ministers and party leaders.

Many countries have appointed national commissions to recommend reforms and have established government agencies to prosecute abuses. Small countries are beginning to make known their anticorruption sentiments. Recently, for example, Malaysia and Singapore each declared several foreign firms caught bribing officials ineligible for bidding on future contracts.

The stakes are enormous for U.S. companies and workers. As emerging nations drop trade barriers and privatize state monopolies, more than $200 billion of export and investment contracts will be open to international bidding. Our trade rivals understand that these contracts will determine who builds tomorrow's economies. The U.S. Department of Commerce has calculated that from April 1994 to May 1995 nearly 100 foreign contracts worth $45 billion were lost to foreign competitors through graft. The most egregious bribers, according to U.S. government and business officials, include companies from Japan, France, Germany, Spain, Britain, Taiwan and South Korea.

These bribes cost Americans jobs, and since less competitive firms must bribe to win contracts, they cost emerging countries efficiency—which is what they need most. Studies show corrupt procurement practices deter foreign investment while as much as doubling the price that emerging countries pay for goods and services.

As globalization offers corporations more options, corruption has come to be a factor in choosing where to invest. Meanwhile, emerging nations wishing to shed bad reputations have begun to court firms with ''squeaky clean'' images. In some emerging markets, U.S. firms now advertise their liability to the FCPA as surety of their integrity. Several governments have engaged the ''credibility services'' of reputable Western

firms in such tasks as procurement, accounting and auditing.

Bribery and corruption are no longer unmentionables in international diplomacy. A Convention Against Corruption will soon criminalize ''transnational bribery'' throughout the Western Hemisphere. The treaty provides for extradition of corrupt officials and urges transparency in hiring and procurement as well as laws against the ''illicit enrichment'' of government officials. When the United States goes to international forums to demand a level playing field it can take Canada and the developing nations of the hemisphere with it. Along with its success at the OECD, Washington is also making headway in getting the new World Trade Organization to universalize transparent procurement practices. Top administration officials want the United States to press for a recommendation at the next G–7 meeting to criminalize transnational bribery—in other words, to universalize the Foreign Corrupt Practices Act.

The way impatience with corruption is crossing frontiers recalls the human rights campaigns of past decades. Transparency International, modeled on the human rights organization Amnesty International, was formed in Germany in 1993.

Yesterday the guilty's first line of defense was that human rights was ''an internal matter.'' But dissidents welcomed and were emboldened by international attention. Human rights subsequently became a universal watchword. Today opponents of corruption insist that ''sunlight is the best disinfectant.'' During this crucial stage when democracy and must institutionalize or perish, ''transparency'' may emerge as a banner.

For the first time in 60 years, there is no international danger of tyranny. Our national interest is more immediately menaced today by such ''unconventional'' dangers as international crime cartels, the smuggling of weapons of mass destruction, drug trafficking, the spread of pestilent viruses—all of which entail corrupt government officials. Corruption has been provided the pretext for tyrants to topple fledgling democracies. Already, pervasive corruption has paved the way for reaction in and around Russia. Today's decisive battles for democracy and development may be fought on the terrain of corrupt practices.

[From the New York Times, Apr. 16, 1996]

A DEFEAT FOR BUSINESS BRIBERY ABROAD

The United States has successfully pressured its allies to stop subsidizing corruption. Western European governments routinely allow companies that pay bribes to win business contracts from foreign officials to deduct those kickbacks from their taxable income. Last week the Organization for Economic Cooperation and Development, a group of 26 major industrialized countries, agreed to end tax-deductible bribes. That does not go nearly as far as America, which outlaws foreign bribery altogether, would like, but it is a big first step.

Industrial countries outlaw bribes within their borders, but only the United States bars companies from paying bribes to foreign officials. That noble stance puts American business at a disadvantage when competing for a foreign contract against businesses that operate under no such constraints. The United States has labeled the payment of bribes a trade barrier and is fighting to get its trade partners to end the practice completely. The Administration says it has identified about 100 cases between April 1994 and May 1995 in which American companies lost business to those that paid bribes to foreign officials in order to win contracts in the construction, telecommunications and other lucrative industries.

So far, the United States has acted unilaterally—losing business but having a limited impact on corruption. By bringing the other major industrialized countries along, the anti-corruption campaign will pack more wallop and remove American companies as a special target of retaliation. The best way to fight corruption is to present a united front. That way the pressure on offending governments to clean up their act is maximized and the businesses of no one country are victimized. The Administration's lobbying may not end foreign bribes. But its multilateral approach is smart.●

IS IT NOT ENOUGH TO BE A RACIST

● Mr. SIMON. Mr. President, on Martin Luther King's birthday, the Washington Post had an op-ed piece by a long time friend of many of us, Hyman Bookbinder.

It was so good, I set it aside and I have now just re-read it.

For those of you who have read it before, it is worth reading again. For those who have not read it, they should.

I say this as one who participated in the civil rights struggle three and four decades ago. I visited the South as well as participated in programs in the North.

One of the things that has troubled me is the willingness of some to create a division between the black community and the Jewish community. When I was involved in the civil rights struggle, those in the white community who were most active in behalf of the rights of African-Americans were not Lutherans—which I am—nor Catholic—which my wife is—nor Baptist nor Presbyterian nor Episcopalians. They were people of the Jewish faith.

With the name of SIMON, people assume that I am Jewish and particularly when I get on some call-in radio program when there is a predominately African-American audience, I will occasionally get some of the haters on the phone. I have to add that happens occasionally in white communities.

I am pleased to say that compared to 50 years ago, anti-Semitism is not as great a problem today as it was then.

But we have to learn to become one Nation under God, indivisible and reach out to one another regardless of our personal background.

I ask that Hyman Bookbinder's article be printed into the CONGRESSIONAL RECORD.

The article follows:

IT IS NOT ENOUGH NOT TO BE RACIST

(By Hyman Bookbinder)

I'll never forget that moment 12 years ago. I recall it with special poignancy every Martin Luther King Day.

I was sitting in a reserved Senate gallery, and proud to find myself right behind Coretta Scott King, widow of the slain civil rights leader. The senators had just given overwhelming approval to the King holiday bill, which had already secured House approval. President Reagan, after long hesitation, had stated that he would now sign such legislation. So the Senate vote meant that the long campaign had finally succeeded.

At that moment, the senators all rose, turned to face Mrs. King, waved at her and applauded for some time. Mrs. King acknowledged the applause and then turned to her children sitting by her side and embraced each in turn. She then turned around and hugged me. We were not personal friends, but she knew I had done whatever I could on behalf of the American Jewish Committee to mobilize support for the legislation. As she hugged me, she spoke words I have cherished all these years:

''This is your holiday too.''

I do not know whether Coretta King, at that moment, meant ''your'' to mean white American or Jewish American. But whichever, or both, her words were most gratifying because they reflected precisely what I had been urging for years—hoping, and I still do, that my fellow Jews and all Americans could feel that way.

On the several occasions that I had testified on behalf of the holiday, I had expressed the hope that the holiday would not only recognize the extraordinary attributes of an extraordinary black American, but would also provide the occasion for celebrating the unique cultures of our many religious, ethnic and racial groups even as we seek to enhance the common culture that binds us all as Americans.

Dr. King never failed to define his quest for racial justice as part of the goal of universal justice for all people. In his historic ''Dream'' speech, his ringing peroration called for speeding up ''that day when all of God's children, black men, and white men, Jews and gentiles, Protestants and Catholics, will be able to join hands and sing in the words of the Negro spiritual, 'Free at last, free at last, thank God Almighty, we are free at last.' ''

In Martin Luther King Jr., American Jews always had a friend and an ally who understood Jewish agony even as we tried to understand the agony of his people. Only months before he died, he wrote. ''It is not only that antisemitism is immoral—though that alone is enough. It is used to divide Negro and Jews—who, have effectively collaborated in the struggle for justice.''

That collaboration can and most endure despite some difficult policy differences that have developed over how best to overcome the discrimination and disadvantage and inequality that persist. Dr. King would undoubtedly share his widow's satisfaction in knowing that every King holiday since 1985 has prompted more and more interracial and interreligious commemorations during which his life and work are remembered and commitments renewed to help realize his dream.

In the nation's capital, two events have always been particularly moving. At one, the Embassy of Israel fills its auditorium with several hundred invited guests from the political community, the Jewish community and the black community. Each year, one African American and one Jewish American are cited for their special contributions to civil rights. The other event, a collaboration with the city's principal black churches, fills the sanctuary of Washington Hebrew congregation at a Friday evening Sabbath service. The church choirs enrich the moving ceremony.

At this year's events, the year just ended provides grounds for much despair but also for some hope. The bigots and racists, the antisemites and hate groups are still doing their dirty work. Two much-reported events in 1995 painfully reminded us of the racial divide that persists. When Susan Smith said that ''a black man'' had kidnapped her children, she counted on anti-black stereotyping to add credibility to her story; when the lie was revealed, black Americans were furious.

And, of course, the opposite reactions to the O. J. Simpson verdict among blacks and whites told us more than we wanted to believe. How many more Mark Fuhrmans were there?

But if there are racists in America, it does not mean that we are a racist nation or that most Americans are racists. If this were so, could a Colin Powell be odds-on favorite public personality in the country? Would the Congress of a racist country enact a legal holiday for a black civil rights champion?

But it is not enough not to be racist. It is incumbent upon all of us to isolate and repudiate those who are. It is essential that we insist upon full compliance with the laws enacted to counteract discrimination and inequality. And it is our responsibility to see that our schools and workplaces and churches do their part in closing the gap between ''majority'' and ''minority'' Americans.

All this, and much more, we must do, but not in a patronizing, paternalistic spirit. We owe it to ourselves to help create a society that, as Dr. King admonished us, judges its people by the content of their character, not by the color of their skin. We would all be the winners.

To Coretta King's gracious, generous comment that today is ''your holiday too,'' every American should respond, ''Yes, racial disadvantage is our problem too.''●

THE 50TH ANNIVERSARY OF THE NUREMBERG WAR CRIMES TRIBUNAL

Mr. DODD. Mr. President, about a month ago, the survivors of the Nuremberg Tribunal met here in Washington for their 50th reunion. The Nuremberg War Crimes Tribunal holds a special significance for me because of the role my father, Senator Thomas Dodd, played as an executive trial counsel at the tribunal.

Those who participated in the Nuremberg tribunal deserve a special place in our Nation's history. At the end of World War II, when the heinous atrocities of the Holocaust were revealed to the world, the inevitable impulse to lash out in retaliation against those responsible would have been understandable.

But, in Nuremberg the hand of vengeance was steadied by the belief in the rule of law. Thus, our triumphs on the battlefield led to the ultimate triumph of our ideals in the Palais of Justice in Nuremberg. This is the legacy of Nuremberg and all those who participated in the tribunal. I ask to have printed in the RECORD a list of all those who were attended the recent reunion as well as my remarks at the 50th reunion celebration.

The material follows:

REMARKS OF SENATOR CHRISTOPHER J. DODD, THIRD NUREMBERG REUNION, MARCH 22, 1996

Let me first say what a great pleasure it is to be here this afternoon and surrounded by so many people who played such an important role in my father's life.

My father often said that his participation in the Nuremberg trials was the seminal event of his public life. The fifteen months he spent in Germany, prosecuting Nazi war criminals, defined the type of lawmaker he would become and dictated the issues that he so passionately fought for throughout his career in the Senate.

My father came away from Nuremberg with a greater understanding and fervor for the need to uphold freedom and human rights and to speak out against intolerance, tyranny and violence wherever it may rear its head.

It's why he campaigned so vigorously to establish genocide and crimes against humanity as violations of international law. It's why, he was such a fervent advocate for the civil rights movement in this country. And it's why he fought so hard as a United States Senator to eradicate the scourge of gun violence and drug use from our nation's streets.

While I take great pride in the role my father played at Nuremberg, my appreciation for your efforts at Nuremberg is just as great. When the gas chambers, death camps and wanton destruction that Nazism had wrought on Europe was revealed, you were burdened with a grave responsibility. To not only punish the guilty but to reassure the world that future generations would never forget the horrors and atrocities of the Nazis.

It was no easy task, particularly when the weight of the living was compounded by the ghosts of history that stood behind you.

At Nuremberg, your voice spoke for the millions of innocents who drew their final breaths at Auschwitz, Treblinka, and Dachau. At Nuremberg, your vigor and energy guaranteed that the millions, who suffered so egregiously—from London to Leningrad—would see justice prevail. And at Nuremberg you affirmed that those who committed the worst atrocities the world has ever witnessed would ultimately be held accountable for their crimes.

Reading through my father's letters the frustration and challenges that all of you must have felt at one time or another comes through clearly. But, what is even more apparent are the deep character, humanity and integrity of all those who toiled so emphatically in the name of justice and the rule of law.

I think my father sums it up best in one of his letters: ''Sometimes a man knows his duty, his responsibility so clearly, so surely he cannot hesitate—he does not refuse it. Even great pain and other sacrifices seem unimportant in such a situation. The pain is no less for this knowledge—but the pain has a purpose at least.''

But as these words remain relevant and enduring today, so too are the legal doctrines and precedents that Nuremberg established.

Nuremberg enshrined into international law the principles that war crimes, crimes against humanity and genocide would not be tolerated. It declared that respect for human rights was an international responsibility to be maintained and venerated by all nations of the Earth. And, it held that evil would not be faceless. Those responsible for crimes against humanity would be exposed to the world.

I think the words of the chief prosecutor in Nuremberg, Supreme Court Justice Robert Jackson, are eloquent reminders of the goals of Nuremberg: The wrongs which we seek to condemn and punish have been so calculated, so malignant and so devastating, that civilization cannot tolerate their being ignored because it cannot survive their being repeated.

However, while my father left Nuremberg with invaluable lessons that compelled him to fight for freedom and human dignity around the world, the international community largely ignored the lessons of Nuremberg.

My father, like many of you in this room, left Nuremberg envisioning a world in which the rule of law would deter future tyrants, and where international tribunals would mete out fair, yet swift punishment to those who would commit crimes against humanity. Sadly, that vision for the future remains unfulfilled.

If we had taken the lessons of Nuremberg to heart, the ghastly killing fields of Cambodia might have been averted. If the international community had forcefully enshrined the legal precedents of Nuremberg, the perpetrators of atrocious violence in the past half-century, from Idi Amin and Pol Pot to Saddam Hussein and Chairman Mao would have been forced to explain their behavior under the harsh spotlight of international jurisprudence.

Regrettably in 1996, the legacy of intolerance and hatred that was prosecuted at Nuremberg lives on in the smoldering suburbs of Sarajevo and in the mass graves of Kigali.

But, commemorating your accomplishments of the past gives us reason to redouble our efforts for the future. Now, just as at the end of World War II, we stand on the cusp of a new international era. We have the opportunity to make good on the lessons of Nuremberg and enshrine into international law the notion that those who violate the norms of basic human rights will not escape from the long arm of the law.

Today we can see those efforts take flight, as the international community is working to bring suspected war criminals to trial in Bosnia and Rwanda. These tribunals seek to punish those responsible for genocide, war crimes and crimes against humanity while at the same time begin the process of reconciliation for countries torn apart by violence.

Without justice in Bosnia and Rwanda the cycle of violence may only continue. Effective and fair tribunals will silence the calls for retribution and remove the heavy burden of collective guilt from entire communities.

Let us remember that not all Serbs or Hutus are murderers. Most seek only to enjoy the ''quiet miracle of life.'' They strive for simple normalcy. They want only to raise their children in peace, and make an honest living among neighbors in which they have only trust, and not fear.

These tribunals will punish those Serbs and those Hutus who are guilty. But, at the same time it will allow the vast majority of people, who have committed no crime, to work with their neighbors in beginning the national healing process.

Yet, these tribunals serve another effective role: Demonstrate to future criminals that ultimately they will be held accountable.

Some scoff at the notion that international tribunals can prevent future genocides. But, the Hutu murderers in Rwanda took inspiration from the failure of the international community to act after similar ethnic massacres in Burundi. Much in the same way that Hitler took inspiration from the world's failure to react to the Armenian genocide in 1915.

In 1993, 50,000 ethnic Hutu and Tutsi were savagely murdered while the international community did nothing to stop the violence. In addition, they failed to establish any system whereby the perpetrators would be brought to justice. The result was an emboldened Hutu majority, who had little fear of punishment from the international community.

There is no better way to make this lesson clear to all the world's would-be tyrants and murderers than through the establishment of an permanent international tribunal to prosecute those responsible for war crimes, crimes against humanity or genocide.

At the dedication ceremony for the Thomas Dodd Research Center at the University of Connecticut, President Clinton called for the creation of a permanent international tribunal. I commend him for his foresight. And I call on all of us, who understand so well the

importance of international tribunals, to work with the President and other world leaders to permanently enshrine the legacy of Nuremberg into international law.

A permanent international tribunal would send a clear signal to those intent on committing terrible atrocities that they will be held culpable for their behavior.

Will an international tribunal stop all future atrocities? Regrettably, no. There will be more Yugoslavias, more Rwandas, and more Burundis.

But, a permanent international tribunal will create a lasting framework for the prosecution of war criminals. It will prevent justice from being contingent on ad hoc measures such as those we've seen in Bosnia. And it will quicken and normalize the implementation of humanitarian laws.

As I don t have to remind you, establishing an international tribunal and prosecuting war criminals can be a messy, patchwork operation.

In Nuremberg, there were few legal precedents by which to model the trial. In particular, new doctrines and concepts in international law had to be created. ''War crimes, may be familiar to us today,'' but in 1945 they were not defined in any international or even national legal sense.

The same can be said of crimes against humanity, which was a concept that remained untested in international law. In Nuremberg, you not only had to prosecute Nazi war criminals, but you had to establish the international laws under which they would be tried.

As Justice Jackson noted in his opening statement at Nuremberg: ''Never before in legal history has an effort been made to bring within the scope of a single litigation the developments of a decade, covering a whole Continent, and involving a score of nations, countless individuals, and innumerable events.''

But, the creation of a permanent tribunal would revamp the currently ad hoc nature of international tribunals. It would streamline the process of prosecuting those who commit crimes against humanity. But most important, it would serve as an enduring tribute to your tireless labors at Nuremberg on behalf of the international rule of law.

In many ways the question of international jurisprudence and the rule of law, while maybe mundane to some is the embodiment of the spirit of Nuremberg.

After the surrender of Germany and once the ghastly atrocities of the Holocaust had been revealed to the world the impulse to lash out in vengeance at those responsible for these crimes would have been understandable. Some leaders echoed these thoughts. Winston Churchill, in fact, called for the execution of Nazi leaders, without trial.

But, the United States and its Allies ended this war the same way they had fought it, by embodying, as Abraham Lincoln once said, ''the better angels of our nature.''

The struggle of World War II is as close as any civilization will find to a pure struggle between good and evil. And not only did the forces of good triumph on the battlefield, but they triumphed in the courtroom at Nuremberg as well.

When millions of innocent Jews stood on the railroad sidings at Auschwitz, Treblinka and Dachau to be chosen for the gas chambers they were unjustly stripped of their rights and their liberties.

They weren't granted the right of due process. They weren't given the right to defend themselves or speak on their own behalf. In the concentration camps, the only form of justice was down the barrel of a gun.

But at Nuremberg, the Allies recognized that the only antidote to savagery and inhumanity is justice. That s why defendants were given the right to defend themselves, that's why they were given the right to choose their own legal representation and that's why three of them were acquitted of all charges.

Whatever the legacy of Nuremberg on international law, my father and every person in this room can look back to Nuremberg and remember that when the deafening calls for vengeance were heard you silenced them with the sounds of justice.

Once again, I hark back to the words of Justice Jackson in describing these actions: ''That four great nations, flushed with victory and stung with injury stay the hand of vengeance and voluntarily submit their captive enemies to the judgment of the law is one of the most significant tributes that Power has ever paid to Reason.''

Looking through my father's letters, I came across a wonderful anecdote from his time in Nuremberg. After only a few weeks in the country he had the opportunity to go to a baseball game at the same Nuremberg stadium where ''Hitler corrupted and misled the youth of Germany.''

But on that day the voices of evil that had once found shelter in Nuremberg were replaced by 40,000 Americans doing the ''most American of things''; watching a baseball game and calling the umpires names and the players ''bums.''

In many ways, something as wholesome and American as baseball is a wonderful metaphor for the triumph of American optimism, American ideals and American democracy over the forces of intolerance and depravity, represented by Nazism.

In Nuremberg, America's commitment to democracy and the ideals enshrined in our Constitution remained intact even in the face of unspeakable horror. In many ways this is the ultimate legacy of Nuremberg; that our triumph in arms led to the triumph of our ideals.

When historians look back at the events that unfolded in the Palais of Justice in Nuremberg 50 years ago, it is that proud legacy they will remember. And today it is our responsibility to make sure that heritage lives on for the next generation.

For the past 50 years, through wonderful books such as Telford Taylor's ''The Anatomy of the Nuremberg Trials'' and now the research facilities at the Dodd Center in Connecticut, you've kept the events of a half-century ago burning bright in the world's eyes. Tirelessly, you've worked to illuminate the lessons of those bygone days to a world that so quickly forgets the lessons of history.

Our duty today is to build on that proud tradition with the creation of a permanent international tribunal to prosecute war crimes. I can think of now better way to give your labors at Nuremberg a truly lasting, enduring, and tangible imprint on human history and all of mankind.

PARTICIPANTS IN THE NUREMBERG TRIAL AND THIRD NUREMBERG REUNION

Joan McCarter Adrian, John M. Anspacher, Esq., Beatrice Johnson Arntson, Marvin F. Atlas, Carrie Burge Baker, Ruth Holden Bateman, Henry Birnbaum, Esq., Dr. John Boll, Madelaine Bush, Helen Treidell Carey, Edith Simon Coliver, James S. Conway, Esq., Donald H. Cooper, Esq., Raymond D'Addario, Esq., Mr. & Mrs. Vernon W. Dale, Christiane Deroche, Mary Turley Lemon Devine, Nicholas R. Doman, Esq., Mr. & Mrs. Arthur Donovan, Esq., Allan Dreyfuss, Esq., Mr. & Mrs. Demetrius Dvoichenko-Markov, Mary Crane Elliott, Hedy Wachenheimer Epstein, Margo Salgo Fendrich, Theodore F. Fenstermacher, Esq., Mr. & Mrs. Benjamin Ferencz, Dr. Paul G. Fried.

Miroslav Galuska, Anne Royce Garcia, William H. Glenny, Judge Cecilia Goetz, Greta Kanova Goldberg, Elisabeth Stewart Hardy, Professor Whitney R. Harris, Richard Heller, Esq., Mary Madelaine Trumper Husic, William E. Jackson, Esq., Peter & Annette Jacobsen, Arnold Joseph, Esq., Arthur A. Kimball, Henry T. King, Jr., Esq., Florence B. Kramer, Richard H. Lansdale, Esq., Prof. John K. Lattimer, MD, ScD, Jennie Lazowski, Jane Lester, Margot Lipton, Andy Logan Lyon, Herbert Markow, Esq., Maxine Martin.

Ralph S. Mavrogordato, Esq., Alice Blum Mavrogordato, Mary May, Alma Soller McLay, Pat Gray Pigott Mowry, Lady Marjorie Culverwell Murray, Gwen Heron Niebergall, Jeanette Stengel Noble, Betty Richardson Nute, Arthur L. Peterson, Esq., Mlle. Marta Pantleon, Joan Wakefield Ragland, Siegfried Ramler, Esq., William Raugust, Esq., Dorothy Owens Reilly, Jack W. Robbins, Esq., Walter J. Rockler, Esq., Robert Rosenthal, Esq., Phillis Heller Rosenthal, Howard H. Russell, Jr., Esq., Gunther Sadel, Esq., Mildred Clark Sargent, Walter T. Schonfeld, Julian R. Schwab, Victor Singer, Esq.

Vivien R. Spitz, Drexel A. Sprecher, Esq., Prof. Alfred G. Steer, Ruth M. Stolte, Joseph M. Stone, Esq., Annabel Grover Stover, Prof. Telford Taylor, Claire Bubley Tepper, Fred Treidell, Esq., Jean Tuck Tull, Lt. Col.(ret.) Peter Uiberall, Dr. Herbert Ungar, Patricia Jordan Vander Elst, Inge Weinberger, Lorraine White, Rose Korb Williams, M. Jan Witlox, David J. Smith, John M. Woolsey, Esq., Hon. & Mrs. Wiliam Zeck, Werner Von Rosenstiel, and Lawrence L. Rhee.●

ANGELS WITH HAMMERS

●Mr. HATFIELD. Mr. President, my home State of Oregon has been hit hard in recent months. With the damage wrought by this winter's violent windstorms and recordbreaking floods, many Oregonians were left to wonder if God was somehow angry with us. The helping hand that a Mennonite group has provided to a small Oregon town reminds us how faith can be a powerful healer for a community.

A recent feature in The Oregonian newspaper, titled ''Angels With Hammers'' by Bryan Denson, related the assistance the Christian Aid Ministries Disaster Response Service has brought to the tiny town of Vernonia, OR. Vernonia suffered $9 million worth of damage last February, when the cresting rivers flowed into the community's schools, homes, and businesses. Emergency services pulled out of town when the immediate crisis of the flood passed, and Vernonia's 2,250 residents faced the daunting task of rebuilding their community.

They found help from a most unexpected source. The first of a wave of Mennonites arrived, led by Paul Weaver and Dan Hostetler. These volunteers were soon joined by some New Order Amish and Apostolic Christians. they offered to repair the dining hall of a local outdoor school in return for shelter. Then they volunteered their free labor and construction expertise for a number of the community's rebuilding needs. For the last 6 weeks, the Mennonites have worked side by side with the people of Vernonia, rebuilding homes destroyed by the flooding.

By late May, the group expects to have renovated at least 30 Vernonia homes. Then they will quietly move on to another community in need of the same assistance. The Ohio-based Cristian Aid Ministries Disaster Response Service was formed in 1992 in the wake of Florida's Hurricane Andrew. They have helped rebuild hundreds of homes in disaster-stricken communities all over the Nation.

I am always heartened by stories about the generosity of strangers, and the help these good samaritans have brought to one Oregon town is exceptional. I want to take this opportunity to publicly thank these Mennonite brethren and the volunteers working with them for the healing aid they have brought to Vernonia. Through their quiet and unexpected efforts, they have relieved a community in great need and inspired many with their faith. The mayor of Vernonia, Tony Hyde, summed up this act of selflessness perfectly when he said, ''It's pretty special—Christianity at its best.''

As an aside, I would also like to commend the reporter that produced the account of this effort in Vernonia, Bryan Denson, and The Oregonian for publishing this piece. Oftentimes reading the morning paper causes one to want to crawl back in bed. The inspirational tone of this article would make any reader anxious to greet a new day and to lend a hand to their neighbor.●

THE JANE ADDAMS INTERNATIONAL WOMEN'S LEADERSHIP AWARD FOR 1996

● Mr. SIMON. On May 8, 1996, in Chicago, the Jane Addams International Women's Leadership Award for 1996 will be presented. For the first time, this award will be given jointly to two women.

The International Women's Leadership Award is named for Jane Addams, the first American woman to receive the Nobel Prize for Peace. It honors women whose strong leadership makes a practical difference across national boundaries and cultural divisions.

This year's winners are Dr. Hanan Ashrawi and Rita E. Hauser. These women act daily in the spirit of Jane Addams, breaking down the national and cultural barriers that can work against peace. Their efforts have been a major factor in the progress toward peace in the Middle East. In a time of ever increasing partisanship, the cooperative spirit and work of these two women is inspiring.

Dr. Hanan Ashrawi, a Palestinian professor, is currently Commissioner General of the Palestinian Independent Commission for Citizens Rights. She was recently elected to the Palestinian Parliament. As spokesperson for the Palestinian delegation to the Middle East talks until 1993, she was instrumental in forging the peace. Dr. Ashrawi received her B.A. and M.A. from American University of Beruit and her PhD. from the University of Virginia.

Rita E. Hauser is an American attorney, currently president of the Hauser Foundation. She is chair of the board at the International Peace Academy and chair of the Advisory Board of the Greater Middle East Studies Center at RAND. From 1986 to 1992, she was a member of the advisory panel on international law at the U.S. Department of State. From 1983–91, she served as the U.S. Chair for the International Center for Peace in the Middle East.

I know my colleagues join me in honoring these two women who are well deserving of receiving the Jane Addams International Women's Leadership Award for 1996.●

COMMENDING THE UNIVERSITY OF KENTUCKY'S MEN'S BASKETBALL TEAM ON ITS SIXTH NATIONAL CHAMPIONSHIP

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 244, a resolution to commend and congratulate the University of Kentucky on its men's basketball team winning its sixth National Collegiate Athletic Association championship, submitted earlier today by Senators FORD and MCCONNELL.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

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

Mr. FORD. Mr. President, there is a scene in the movie ''Butch Cassidy and the Sundance Kid'' where the heroes, successful and unchallenged for years, suddenly find themselves chased by an unshakeable posse.

Each time the posse reappears, the pressure builds on the heroes and they feel a little less invincible, their pursuers' skills a little more impressive. ''Who are those guys?'' they keep asking.

Over the 3 weeks leading up to the weekend of the National Collegiate Athletic Association Championships' final four, fans found themselves watching upset after upset, crossing off one favored pick after another, scratching their heads and saying, ''Who are those guys?''

Those upsets are testament to the incredible talent we saw on display during the NCAA championships this year. And the incredible pressure. That's why after going through nickname after nickname for his team, the University of Kentucky's Coach Rick Pitino finally settled on the ''untouchables,'' because they never let any of that pressure touch them.

Game after game during the tournament, those players came out professional, poised, and untouched by the pressure that had the most devoted of Wildcat fans cautious in their predictions for Monday night's final outcome.

But as Sports Illustrated pointed out, not even the magnificently courageous Syracuse team they would suit up against on April 1, 1996, would be able to shake the Cat's unapologetic defense.

In the end, even the upset magic that was in the tournament's air from the first jump ball, was simply no match for their depth and their talent.

The fans were right to ask ''Who are those guys?'' But, the Wildcats have a coach that knew how to take raw talent, combine it with an unmatched professionalism, sportsmanship, and some downright dangerous weapons—from Derrick Anderson's three-pointers to Walter McCarthy's thunderous dunks to Ron Mercer's slashing drives to Anthony Epps' ball handling—to turn back the challengers, one by one.

And of course there was Tony Delk. He had 7 three-pointers and 10 rebounds in the final game against Syracuse's scrappy Orangemen. But, as he bent down to help up a fallen Syracuse player, he came to epitomize not just the outstanding playing that marked this tournament, but the outstanding sportsmanship as well.

But, this was one player's victory.

Those five starters weren't the whole team by any means. With no player averaging much over 20 minutes per game the whole season, the Wildcats succeeded because of their ability to rely on one another's strengths, no matter what a player's position in the lineup.

That's because this was a team in every sense of the word, with a depth and wealth of talent that was the envy of the entire NCAA. Rick Pitino said more than once that his players checked their egos at the door. And because of that, when they went back out that door, they went as winners.

They rib us a bit about taking our basketball too seriously in Kentucky. And apocryphal stories about fans being buried in their Wildcat sweat suits or calling on Coach Pitino to help settle their marital spats, sometimes make it seem so.

But, when you see a team of such gifted athletes work together in a way that seems almost effortless—and combine it with a professionalism on and off the court that makes them true role models to their peers and their young admirers—then Kentucky's devotion to her basketball doesn't seem misplaced one bit.

The University of Kentucky's year was marked by one amazing statistic after another. They not only had a 34 and 2 record—the best record since the 1953–54 Cats went 25 and 0, but at one point had strung together 27 consecutive wins, the longest in the country. And they finished a very, very tough SEC regular season undefeated, the first time that's been done in four decades. The Wildcat's average margin of victory in the NCAA tournament was 21.5 points per game—the fourth best margin of victory in the history of the game.

And, while the players' incredible talent and the unmatched coaching

skills of Rick Pitino are enough to assure that no one will be asking ''who are those guys?'' about the Kentucky Wildcats anytime soon, I believe it is only right that the U.S. Senate should be on record saluting their accomplishments.

And so I urge my colleagues in joining me in the adoption of a resolution commending the University of Kentucky basketball team.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to, and motion to reconsider be laid upon the table, that the preamble be agreed to, and that any statements relating thereto be placed in the RECORD at the appropriate place as if read.

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

So the resolution (S. Res. 244) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 244

Whereas the University of Kentucky Wildcats men's basketball team defeated Syracuse University's team on April 1, 1996, in East Rutherford, New Jersey, to win its sixth National Collegiate Athletic Association (NCAA) championship;

Whereas the senior members of this team, during their four-year varsity careers, were also NCAA semi-finalists and three-time champions of the Southeastern Conference;

Whereas Coach Rick Pitino, his staff, and his players displayed outstanding dedication, teamwork unselfishness, and sportsmanship throughout the course of the season in achieving collegiate basketball's highest honor, earning for themselves the nickname ''The Untouchables''; and

Whereas Coach Pitino and the Wildcats have brought pride and honor to the Commonwealth of Kentucky, which is rightly known as the basketball capital of the world: Now, therefore, be it

Resolved, That the Senate commends and congratulates the University of Kentucky on its outstanding accomplishment.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the president of the University of Kentucky.

MEASURES INDEFINITELY POSTPONED—CALENDAR NOS. 124, 164, AND 247

ORDER REGARDING S. 1124, S. 1125, AND S. 1126 VITIATED

Mr. LOTT. Mr. President, I ask unanimous consent that the following calendar numbers be indefinitely postponed: 124, 164, and 247. I further ask that the unanimous consent order of September 6, 1995, regarding S. 1124, S. 1125, and S. 1126 be vitiated.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

REGARDING MAJORITY PARTY MEMBERSHIP OF THE LABOR AND HUMAN RESOURCES COMMITTEE

Mr. LOTT. Mr. President, I send to the desk a resolution regarding majority party membership of the Labor and Human Resources Committee and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 245) making majority party appointments to the Labor and Human Resources Committee.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

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

Mr. ABRAHAM. Mr. President, I rise in support of adoption of Senate Resolution 245 which will have the effect of removing me from membership on the Labor and Human Resources Committee. Although I would have liked to retain my assignment on the Labor Committee, I support this action in deference to rule XXV of the Standing Rules of the Senate. Rule XXV limits the number of committees on which each Member may serve during a Congress. In combination with rule XXV, and the seniority considerations within the Senate Republican conference, which dictate the basis by which Members obtain waivers to serve on more than two ''A'' committees, I am not eligible at this time to continue to serve on the Labor Committee during the remainder of the 104th Congress.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to, and the motion to reconsider be laid upon the table.

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

So the resolution (S. Res. 245) was agreed to, as follows:

S. RES. 245

Resolved, That notwithstanding any provision in Rule 25 or 26, the following be the majority party membership on the Committee on Labor and Human Resources for the 104th Congress, or until their successors are appointed:

Labor and Human Resources: Mrs. KASSEBAUM (Chairman), Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. FRIST, Mr. DEWINE, Mr. ASHCROFT, Mr. GORTON, and Mr. FAIRCLOTH.

THE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 354, H.R. 255; calendar No. 355, H.R. 860; calendar No. 356, H.R. 1804; calendar No. 357, H.R. 2415; and calendar No. 358, H.R. 2556, en bloc, the bills be deemed read the third time, and passed, the motions to reconsider be laid upon the table, all occurring en bloc, and that any statements relating to the bills be placed at the appropriate place in the RECORD.

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

THE JAMES LAWRENCE KING FEDERAL JUSTICE BUILDING DESIGNATION ACT

The bill (H.R. 255) to designate the Federal Justice Building in Miami, Florida, as the ''James Lawrence King Federal Justice Building,'' was considered, ordered to a third reading, read the third time, and passed, as follows:

H.R. 255

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal Justice Building located at 99 Northeast Fourth Street in Miami, Florida, shall be known and designated as the ''James Lawrence King Federal Justice Building''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the ''James Lawrence King Federal Justice Building''.

THOMAS D. LAMBROS FEDERAL BUILDING AND UNITED STATES COURTHOUSE DESIGNATION ACT

The bill (H.R. 869) to designate the Federal building and U.S. Courthouse located at 125 Market Street in Youngstown, Ohio, as the ''Thomas D. Lambros Federal Building and U.S. Courthouse,'' was considered, ordered to a third reading, read the third time, and passed, as follows:

H.R. 869

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building and United States courthouse located at 125 Market Street in Youngstown, Ohio, shall be known and designated as the ''Thomas D. Lambros Federal Building and United States Courthouse''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the ''Thomas D. Lambros Federal Building and United States Courthouse''.

JUDGE ISAAC C. PARKER FEDERAL BUILDING ACT

The bill (H.R. 1804) to designate the United States Post Office-Courthouse located at South 6th and Rogers Avenue, Fort Smith, Arkansas, as the ''Judge Isaac C. Parker Federal Building,'' was considered, ordered to a third reading, read the third time, and passed, as follows:

H.R. 1804

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office-Courthouse located at South 6th and Rogers Avenue, Fort Smith, Arkansas, shall be known and designated as the ''Judge Isaac C. Parker Federal Building''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office-Courthouse referred to in section 1 shall be deemed to be a reference to the ''Judge Isaac C. Parker Federal Building''.

THE TIMOTHY C. MCCAGHREN CUSTOMS ADMINISTRATIVE BUILDING

The bill (H.R. 2415) to designate the United States Customs Administrative Building at the Ysleta/Zaragosa Port of Entry located at 797 South Zaragosa Road in El Paso, Texas, as the ''Timothy C. McCaghren Customs Administrative Building,'' was considered, ordered to a third reading, read the third time, and passed, as follows:

H.R. 2415

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Customs Administrative Building at the Ysleta/Zaragosa Port of Entry located at 797 South Zaragosa Road in El Paso, Texas, shall be known and designated as the ''Timothy C. McCaghren Customs Administrative Building''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the ''Timothy C. McCaghren Customs Administrative Building''.

VINCENT E. MCKELVEY FEDERAL BUILDING DESIGNATION ACT

The bill (H.R. 2556) to redesignate the Federal building located at 345 Middlefield Road in Menlo Park, California, and known as the Earth Sciences and Library Building, as the ''Vincent E. McKelvey Federal Building,'' was considered, ordered to a third reading, read third time, and passed, as follows:

H.R. 2556

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The Federal building located at 345 Middlefield Road, in Menlo Park, California, and known as the Earth Sciences and Library Building, shall be known and designated as the ''Vincent E. McKelvey Federal Building''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the ''Vincent E. McKelvey Federal Building''.

CLOTURE MOTION

Mr. LOTT. Mr. President, I now move to proceed to Senate Resolution 227, the Whitewater legislation, and send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the the motion to proceed to Senate Resolution 227, regarding the Whitewater extension.

Alfonse D'Amato, Dan Coats, Phil Gramm, Bob Smith, Mike DeWine, John H. Chafee, Jim Jeffords, Frank H. Murkowski, Robert F. Bennett, Spence Abraham, Conrad Burns, Alan K. Simpson, William V. Roth, Bill Cohen, Lauch Faircloth, Slade Gorton.

Mr. LOTT. Mr. President, I ask unanimous consent that the vote occur on Thursday, April 18 at a time to be determined by the two leaders and the mandatory quorum under Rule XXII be waived.

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

Mr. LOTT. I now withdraw the motion.

ORDERS FOR WEDNESDAY, APRIL 17, 1996

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:15 am, on Wednesday, April 17; further, that immediately following the prayer, the Journal of the proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business until the hour of 10 a.m., with Senators permitted to speak therein for up to 5 minutes each, with the following exceptions: Senator LEAHY for 10 minutes, Senator GRAMM for 20 minutes, and Senator Grams for 10 minutes; further, that the Senate then immediately resume consideration of the conference report to accompany S. 735, the terrorism bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LOTT. Mr. President, I further ask unanimous consent that immediately following the vote on adoption of the terrorism conference report, there be 60 minutes of debate, equally divided in the usual form, to be followed by a vote on cloture on the motion to proceed to the Whitewater committee resolution.

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

PROGRAM

Mr. LOTT. Mr. President, for the information of all Senators, the Senate will resume the terrorism conference report tomorrow. Under a previous consent agreement, there will be a limited amount of debate in relations to motions to recommit the conference report. Members can anticipate rollcall votes throughout the day on or in relation to the conference report prior to a vote on adoption.

Following final disposition of the terrorism conference report, there will be 1 hour of debate to be followed by a vote on cloture on the motion to proceed to the Whitewater resolution.

It is also still possible that the Senate would resume consideration of the immigration bill, if an agreement can be reached with respect to that measure.

The Senate may be asked to turn to any other legislative items that could be cleared for action.

ORDER FOR ADJOURNMENT

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order following the remarks of the distinguished Democratic leader, Senator DASCHLE.

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

TRIBUTE TO COMMERCE SECRETARY RON BROWN

Mr. DASCHLE. Mr. President, as I understand it, the resolution which honors the memory of Ron Brown is still pending, and I want to make a couple of remarks in regard to that resolution and Secretary Brown before we close tonight.

Mr. President, it is with sadness—and tremendous gratitude for the work their lives exemplified—that I add my voice to those honoring Commerce Secretary Ron Brown and the extraordinary men and women who died with him on that plane.

I am sure each of us will long remember just where we were and what we were doing when we heard that Secretary Brown's plane was missing over Croatia, and then, moments later, when we learned the plane had crashed.

In my case, I was at home—packing to leave for Bosnia, Croatia and Serbia myself.

So many thoughts raced through my mind. . . .

I thought of the meeting I was supposed to have had the following evening in Zagreb with Secretary Brown.

I thought of how, just a few weeks earlier, Secretary Brown had helped an electronics company in Rapid City work out the final details of a contract with a group in South Africa, and of all the people in my state who will be able to work because he went the extra mile for us.

But mostly I thought, what a loss. What a terrible loss our Nation had just suffered.

Ron Brown and the 32 brave Americans who accompanied him on that noble mission to Bosnia represented what is best about our Nation:

A ''can do'' sense of optimism and determination.

A generosity of spirit.

And an unshakable belief in democracy.

The men and women on that plane did not go to Bosnia simply to bring contracts to America—as important as that is.

They went to bring hope and prosperity to Bosnia so that the fragile peace there might take root and grow, and democracy might replace tyranny.

Hours after Secretary Brown's plane crashed into that mountain, I was on another plane with Senators HATCH and REID. We spent 9 days in Bosnia, Croatia and Serbia and four neighboring states, assessing progress in the implementation of the Dayton peace plan.

Every world leader with whom I met stressed the importance of both promoting economic growth and building democratic institutions to achieving a sustainable peace in the Balkans. Those were the very goals to which Ron Brown's trip to Bosnia was dedicated.

In an article I read, a woman who had worked with Secretary Brown said it wasn't just that he saw a glass half-full when others saw it half-empty. His optimism was bigger than that. Where others saw a half-empty glass, she said, he saw a glass overflowing with possibilities.

It would take that kind of vision to see the path to a lasting peace in Bosnia.

Ron Brown was able to see that path. And, he was able to make others see it.

He was a good salesman. What he sold was America—not just American goods and services, but American ideals.

The reason he could sell America with such confidence is that he believed in America, and in the goal of making America—and the world—better.

Ron Brown spent his life transcending boundaries.

Boundaries of race.

Boundaries of party.

Boundaries drawn on maps.

And in transcending those boundaries, he made them less formidable for all of us. That is part of the great legacy he has left us.

I have been reminded these last few days of a scene in the Shakespearean play, Julius Caesar. It is the scene at Caesar's burial. Caesar has just been falsely maligned by Brutus as a traitor.

Then Mark Antony rises to recall the Caesar he knew.

He was, Mark Antony said, a man who loved his country so much he gave his life for it.

Then he stunned the crowd by reading them Caesar's will. He had left all of his possessions to the people of Rome.

Even more precious, he had left his fellow citizens a legacy of greatness and the ability, to quote Shakespeare, ''to walk abroad and recreate yourselves.''

Ron Brown and the men and women on that plane died trying to recreate the American spirit of democracy and opportunity in a land torn apart by war.

It is right that we offer these tributes to them. But, in the end, the best tribute we can pay them is to keep alive their determination to recreate what is best about America wherever people long for freedom and justice and opportunity.

Let us today rededicate ourselves to that noble cause.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I wish to commend the distinguished Democrat leader for his remarks. I would like to ask unanimous consent that I might add just a few comments of my own.

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

TRIBUTE TO COMMERCE SECRETARY RON BROWN

Mr. WARNER. Mr. President, I, too, like the distinguished minority leader, remember where I was when this tragic message came. I first thought to myself that not too many months prior thereto I was with our distinguished colleague on a similar mission in that region. Senator BOB KERREY and I were over there, and we actually landed at the same airport. This was my fifth trip. I was the very first Senator to make a trip to Sarajevo some more than 3½ years ago. The thought came to my mind where the Secretary had given his life, together with the aircrews'—aircrews that all of us have traveled with. I traveled with those crews and their predecessors for 20-plus years formerly as Secretary of the Navy and now in the U.S. Senate. They are a very dedicated and well trained group of officers and enlisted men. The finest the Air Force has, really, are dedicated to those missions. Those aircraft are somewhat old, but they are well kept. They are not palatial.

Of course, with the Secretary were a very distinguished group of Americans from the private sector, and journalists also, who were going to examine that war-torn region, to help provide for those less fortunate than ourselves, who have suffered the tragedies of that conflict, a conflict of which to this day, although I have studied it, I cannot understand the root causes.

But, nevertheless, I had known the Secretary. While we are of opposite political persuasions, I always remember him as a man of great humor. I never saw him without a twinkle in his eye. Always he put forward his hand. There were several stressful periods in his life and I always stretched out my hand, because those of us in public office know from time to time there are periods that put us to the test. But he met the tests and he served his Nation.

I join the distinguished minority leader and my colleagues in paying our tribute to him as a fine American, to the aircrews, to all passengers who were on that plane. We give our heartfelt compassion to the families that must survive this tragedy and go on to lead constructive and meaningful lives.

Mr. President, I thank the Chair and distinguished minority leader.

ADJOURNMENT UNTIL 9:15 A.M. TOMORROW

The PRESIDING OFFICER. The Senate, under the previous order, will stand adjourned until 9:15 a.m., Wednesday, April 17, 1996.

Thereupon, the Senate, at 7:55 p.m., adjourned until Wednesday, April 17, 1996, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate April 16, 1996:

GENERAL SERVICES ADMINISTRATION

DAVID J. BARRAM, OF CALIFORNIA, TO BE ADMINISTRATOR OF GENERAL SERVICES, VICE ROGER W. JOHNSON, RESIGNED.

NUCLEAR REGULATORY COMMISSION

HUBERT T. BELL, JR., OF ALABAMA, TO BE INSPECTOR GENERAL, NUCLEAR REGULATORY COMMISSION, VICE DAVID C. WILLIAMS.

DEPARTMENT OF STATE

JOHN CHRISTIAN KORNBLUM, OF MICHIGAN, TO BE AN ASSISTANT SECRETARY OF STATE, VICE RICHARD HOLBROOKE, RESIGNED.

BARBARA MILLS LARKIN, OF IOWA, TO BE AN ASSISTANT SECRETARY OF STATE, VICE WENDY RUTH SHERMAN, RESIGNED.